

**RESOLUTION NO. 2020-02-CC**

**CITY OF SOUTH GATE  
LOS ANGELES COUNTY, CALIFORNIA**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE,  
CALIFORNIA, APPROVING AND ADOPTING THE HOME INVESTMENT  
PARTNERSHIPS PROGRAM AND COMMUNITY DEVELOPMENT  
BLOCK GRANT PROGRAM POLICIES AND PROCEDURES MANUALS**

**WHEREAS**, the U.S. Department of Housing and Urban Development (“HUD”) requires entitlement jurisdictions to adopt and implement policies and procedures manuals for each of the federal programs it administers; and

**WHEREAS**, in order to comply with federal requirements, the City Council (“City Council”) of the City of South Gate (“City”) has been presented with proposed forms of management policy for consideration; and

**WHEREAS**, the City Council now desires to approve and adopt the HOME Investment Partnerships Program and Community Development Block Grant Program Policies and Procedures Manuals in the forms presented;

**NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds and declares that the above recitals are true and correct, and incorporates them into this Resolution.

**SECTION 2.** The City Council hereby approves and adopts the HOME Investment Partnerships Program Policies and Procedures Manual in the form presented attached hereto as Exhibit “A.” The policy approved hereunder supersedes any policies previously adopted by the City.

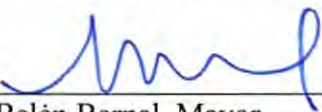
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**SECTION 3.** The City Council hereby approves and adopts the Community Development Block Grant Program Policies and Procedures Manual in the form presented attached hereto as Exhibit "B." The policy approved hereunder supersedes any policies previously adopted by the City.

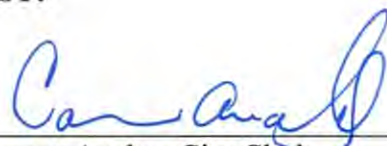
**SECTION 4.** The City Clerk shall certify to the adoption of this Resolution which shall be effective upon its adoption.

**PASSED, APPROVED and ADOPTED** this 14<sup>th</sup> day of **January 2020**.

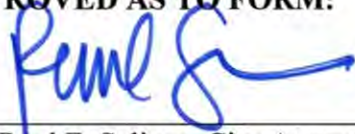
**CITY OF SOUTH GATE:**

By:   
Belén Bernal, Mayor

**ATTEST:**

By:   
Carmen Avalos, City Clerk  
(SEAL)

**APPROVED AS TO FORM:**

By:   
Raul F. Salinas, City Attorney

**RESOLUTION CERTIFICATION PAGE**

**STATE OF CALIFORNIA            )**  
**COUNTY OF LOS ANGELES    )     SS**  
**CITY OF SOUTH GATE         )**

I, Carmen Avalos, City Clerk of the City of South Gate, California, hereby certify that the whole number of Members of the City Council of said City is five; that Resolution No. 2020-02-CC was adopted by the City Council at their Regular Meeting held on January 14, 2020, by the following vote:

- Ayes:            Council Members:    Bernal, Diaz, Davila, De Witt and Rios
- Noes:           Council Members:    None
- Absent:         Council Members:    None
- Abstain:        Council Members:    None

Witness my hand and the seal of said City on January 16, 2020.



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Carmen Avalos, City Clerk  
City of South Gate, California

City of South Gate

HOME Investment Partnerships Program  
**POLICIES AND PROCEDURES**  
**MANUAL**

City of South Gate  
Community Development Department  
Housing and Grants Division

January 2020

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS.....</b>	<b>2</b>
<b>CHAPTER 1: OVERVIEW OF THE HOME PROGRAM.....</b>	<b>5</b>
<i>Introduction.....</i>	<i>5</i>
<i>Purposes and Goals.....</i>	<i>5</i>
<i>Allocation of Funds (92.50 and 92.102).....</i>	<i>7</i>
<i>HOME-Funded Activities.....</i>	<i>7</i>
<i>Obligations (24 CFR 92.218-92.222).....</i>	<i>9</i>
<i>Conflict Resolution.....</i>	<i>9</i>
<b>CHAPTER 2: HOME PROGRAM RULES.....</b>	<b>11</b>
<b>PART 1: GENERAL PROGRAM RULES.....</b>	<b>11</b>
<i>Definition of a Project.....</i>	<i>11</i>
<i>Subsidy.....</i>	<i>11</i>
<i>Eligible Costs.....</i>	<i>15</i>
<i>Prohibited Activities.....</i>	<i>17</i>
<i>Hierarchy of the use of funds.....</i>	<i>19</i>
<i>Eligible Repairs and Rehabilitation.....</i>	<i>19</i>
<i>Property.....</i>	<i>21</i>
<i>Applicants and Beneficiaries.....</i>	<i>25</i>
<i>Long-Term Affordability.....</i>	<i>27</i>
<b>PART 2: COST ALLOCATION AND SUBSIDY LAYERING.....</b>	<b>29</b>
<i>Cost Allocation.....</i>	<i>30</i>
<i>Subsidy Layering.....</i>	<i>31</i>
<i>Other Requirements.....</i>	<i>32</i>
<i>Termination or Denial of Program Assistance.....</i>	<i>32</i>
<i>Additional Funds.....</i>	<i>34</i>
<i>Death of Applicant.....</i>	<i>34</i>
<i>Repayment.....</i>	<i>35</i>
<i>Assumption.....</i>	<i>35</i>
<i>Subordination.....</i>	<i>35</i>
<i>Monitoring.....</i>	<i>36</i>
<b>CHAPTER 3: CHDO REQUIREMENTS AND ACTIVITIES.....</b>	<b>37</b>
<b>PART 1: HOME PROGRAM REQUIREMENTS.....</b>	<b>37</b>
<i>CHDO Set-Aside Requirement.....</i>	<i>37</i>
<i>CHDO Qualifying Criteria.....</i>	<i>37</i>
<i>CHDOs Set-Aside Roles: Owner, Developer, and Sponsor.....</i>	<i>47</i>
<i>CHDO Eligible Uses.....</i>	<i>49</i>
<i>CHDO Special Assistance.....</i>	<i>50</i>
<b>PART 2: PROGRAM DESIGN AND IMPLEMENTATION.....</b>	<b>51</b>
<i>CHDO Capability.....</i>	<i>52</i>
<i>Types of Projects.....</i>	<i>52</i>
<i>Application Period.....</i>	<i>52</i>
<i>Pre-Application for CHDO Status.....</i>	<i>53</i>
<i>CHDO Determination Worksheet.....</i>	<i>57</i>
<i>CHDO Checklist.....</i>	<i>59</i>

<i>Project Application</i> .....	62
<i>Projects</i> .....	62
<i>CHDO Proceeds</i> .....	64
<i>CHDO Certification</i> .....	66
<i>Monitoring</i> .....	67
<i>Default</i> .....	68
<b>CHAPTER 4: HOMEOWNER REHABILITATION ACTIVITIES</b> .....	<b>70</b>
PART 1: HOME PROGRAM REQUIREMENTS (GENERAL).....	70
<i>Eligible Activities</i> .....	70
<i>Forms of Finance Assistance</i> .....	71
<i>Eligible Costs</i> .....	72
<i>The Property</i> .....	72
<i>The Applicant/Beneficiary</i> .....	74
<i>Other Federal Requirements</i> .....	74
PART 2: PROGRAM DESIGN AND IMPLEMENTATION.....	79
<i>Objectives</i> .....	79
<b>HOMEOWNER REHABILITATION ACTIVITIES</b> .....	80
<i>Form of Assistance</i> .....	80
<i>Eligible Applicant</i> .....	82
<i>Qualifying Households</i> .....	83
<i>Application Intake/Screening/Determination of Household Adjusted Gross Income</i> .....	83
<i>Qualifying Properties</i> .....	85
<i>Eligible Costs</i> .....	85
<i>Staffing Plan</i> .....	86
<b>CHAPTER 5: PROCESSING PROCEDURES</b> .....	<b>92</b>
PART 1: APPLICATION PROCESS .....	92
PART 2: APPLICATION INTAKE .....	93
PART 3: PROCUREMENT.....	105
<i>Construction Management</i> .....	110
<i>Environmental Requirements and Procedures</i> .....	139
<b>CHAPTER 6: ADMINISTRATIVE REQUIREMENTS</b> .....	<b>178</b>
PART 1: GENERAL REQUIREMENTS .....	178
<i>Eligible Administrative and Planning Costs</i> .....	178
<i>Uniform Administrative Requirements</i> .....	179
<i>Written Agreements</i> .....	180
<i>Conflict of Interest</i> .....	187
<i>Religious Organizations</i> .....	189
<i>HOME Investment Trust Fund Account</i> .....	189
<i>HOME Program Income</i> .....	191
<i>Pre-Award Costs</i> .....	192
<i>HOME Program Draws</i> .....	192
PART 2: FINANCIAL MANAGEMENT .....	193
<i>Policies Regarding Cash Management</i> .....	193
<i>Procedures for Reflecting Prior Period Adjustments and Accruals</i> .....	194
<i>Policy Regarding Rebates, Refunds and Credits to Federally Funded Programs</i> .....	195
<i>Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program</i> .....	195

*Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Admin Account* ..... 195

*Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Rehab Account*..... 195

*Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Microenterprise Activities (18-305-300)*..... 196

*Procedures for Determining Cost Reasonableness*..... 197

*Process for Approval of Subrecipient Reimbursement Requests for Public Services* ..... 197

*Process for Approval of Reimbursement Requests for Consultant Services* ..... 198

**FINANCIAL REPORTING** ..... **200**

*FFATA Reports* ..... 200

*Open Balance Review* ..... 200

*Monthly Reconciliation*..... 200

*Federal Cash Transactions Report*..... 200

*Policy Regarding Rebates, Refunds and Credits to HUD CPD Programs* ..... 201

*Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program*..... 201

*Schedule of Federal Expenditures*..... 202

ASSET MANAGEMENT ..... 203

*Real Property*..... 203

*Recordkeeping*..... 205

*Program Income*..... 205

*Reimbursement Process in IDIS* ..... 206

TIMELINESS REVIEW ..... 206

*Internal Controls*..... 206

*Record-Keeping* ..... 207

*Reporting Requirements*..... 211

*Monitoring*..... 212

DESK REVIEWS ..... 218

ON-SITE MONITORING ..... 218

PRE-SITE VISIT PREPARATION IS PREPARED BY HOME..... 218

*Integrated Disbursement and Information System (IDIS)* ..... 235

**CHAPTER 7: OTHER FEDERAL REQUIREMENTS** ..... **237**

*Non-Discrimination and Equal Access* ..... 240

*Employment and Contractor* ..... 244

*Section 3*..... 247

*Site and Neighborhood Standards*..... 249

*Lead-Based Paint Safe Housing Rule* ..... 250

**GLOSSARY OF HOME TERMS** ..... **253**

**CITY OF SOUTH GATE LIST OF FORMS**..... **261**

**CITY OF SOUTH GATE LIST OF EXHIBITS** ..... **263**

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## CHAPTER 1: OVERVIEW OF THE HOME PROGRAM

### Introduction

The HOME Program is a federal block grant program directed by the U.S. Department of Housing and Urban Development (HUD) and is designed to create affordable housing for low-income households. The City of South Gate is responsible for the administration of its HOME Program.

The purposes of the HOME Program include expanding the supply of affordable housing for low- and very low-income persons; improving the means of state and local governments to implement strategies to achieve adequate supplies of decent, affordable housing; and providing both financial and technical assistance to participants to develop model programs for affordable, low-income housing.

HOME grants are awarded each year through a competitive application process to construct, acquire and/or rehabilitate housing, or develop new housing for homeownership. Successful grant applicants have included Community Housing Development Organizations (CHDOs).

### Purposes and Goals

The HOME Program purposes and goals are:

1. Expanding the supply of decent, safe, sanitary, and affordable housing for very low-income and low-income families in South Gate (those at or below 80 percent of area median income).
2. Mobilizing and strengthening the abilities of units of local governments, public housing authorities, and community housing development organizations to implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing.
3. Providing participating entities, on a coordinated basis, with various forms of federal housing assistance.

The City of South Gate will focus on the following purposes and goals:

1. Assisting in preserving existing or constructing decent, safe, sanitary, and affordable housing in areas of greatest demonstrated need in the community in the City of South Gate, ensuring geographic distribution, where and when possible, taking into consideration the historical information of the property and area, the current housing market, and the prospects for future demand.
2. In areas where the greatest need is identified, giving preference to those projects which provide the greatest number of qualified, affordable units relative to the



HOME funds allocated, while giving consideration to serving lower-income families in South Gate.

3. Making sure units are affordable to households for the applicable period of affordability.
4. Allocating only the minimum amount of HOME funds that the City of South of Gate determines to be necessary for the financial feasibility of the project and its viability as a qualified, affordable housing project throughout the period of affordability.
5. Assisting in providing housing to meet the needs and priorities outlined in the City's Consolidated Plan and its corresponding Annual Action Plan.
6. Providing opportunities for CHDOs to access the HOME Program on behalf of low- and very low-income residents.
7. Encouraging innovative approaches in planning, designing, constructing, enhancing energy efficiency, and financing that are cost-effective in providing affordable housing.
8. Giving preference to those applications that show a greater degree of readiness to proceed with the development.
9. Allowing applicants the ability to self-monitor their capabilities based on geographic area, population, need and capacity.
10. Maximizing the investment of private capital to leverage HOME funds and use existing agencies and private sector mortgage financial institution resources, while retaining the affordability of housing with local and private investment.

In accordance with these stated purposes and goals, the City of South Gate **will not process** any application that is not consistent with the purposes and goals of the City's Consolidated Plan. The City of South Gate will consider the capacity of its management team, and the availability of contractors and subcontractors in assessing the viability of each proposed project.

#### **DISCLAIMER**

This manual is a tool created for City of South Gate Community Development Department staff, participants and/or any related parties as a support and practical guidance related to the HOME Program.

This manual is not intended to change, enlarge, or restrict any requirement found in the contracts, HUD Final Rule, City of South Gate rules and policies, and/or any related federal or state rule governing this program.

This manual is not meant to be a substitute for HOME Program regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of HOME Program funds. While careful consideration and due care has been used in developing the manual, HOME Program participants are encouraged to consult with the City of South Gate HOME Program staff to ensure correct interpretation of policies, regulations, and procedures. The City of South Gate reserves the right to implement additional policies as needed.

### Allocation of Funds (92.50 and 92.102)

HOME funds are allocated annually by formula to State and local governments by HUD. The City of South Gate receives funds through this formula and the Economic Development Department is the lead agency that administers those funds. Under the HOME Program, the City of South Gate is designated as a "Participating Jurisdiction" (PJ).

The City of South Gate is subject to several HOME Program requirements when allocating funds to other entities. These requirements affect the way the City of South Gate and its recipient's run its HOME Program.

### Timeframes

The City of South Gate has 24 months to enter into written agreements with developers, owners, contractors, Subrecipients, and CHDOs to commit HOME funds and 5 years to expend HOME funds. If the City does not meet these timeframes, it risks losing the allocated HOME funds.

### Use of Funds

The HOME Program places the following limits on the "use" of funds:

1. **Planning and Administration (92.207):** The City of South Gate may use up to 10 percent of their HOME Program allocation and program income received for eligible and reasonable planning and administration costs.
2. **CHDOS:** The City of South Gate must reserve a minimum of 15 percent of its annual allocation for activities undertaken by qualified Community Housing Development Organizations (CHDOs).

### HOME-Funded Activities

The City's HOME funds may be used to support the following general affordable housing activities:

1. **Homeowner rehabilitation:** HOME funds may be used to assist existing owner-occupants with the repair, rehabilitation, or reconstruction of their homes.

2. **Homebuyer activities:** HOME funds can be used to finance the acquisition and/or rehabilitation or new construction of homes for homebuyers.
3. **Rental housing:** Affordable rental housing may be acquired, rehabilitated, and/or constructed. The City's HOME funds do not currently support rental housing.

## HOME Program Roles and Relationships

The City of South Gate may rely on numerous partners to create affordable housing under its HOME program. Partners play different roles at different times, depending upon the project or activity being undertaken. Defined below are some of the types of partners:

1. **CHDOs:** A CHDO is a private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations. The City of South Gate must use a minimum of 15 percent of its annual allocation for housing owned, developed, or sponsored by CHDOs. The City will evaluate the organizations' qualifications and designate them as CHDOs. CHDOs also may be involved in the program as Subrecipients, but the use of HOME funds in this capacity is not counted toward the 15 percent set-aside.
2. **Subrecipient:** A Subrecipient is a public agency or nonprofit organization that may be selected by the City to administer all or a portion of the City's HOME Program. It may or may not also qualify as a CHDO. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not considered a Subrecipient.
3. **Developers, Owners, and Sponsors:** Individuals, for-profit entities and nonprofits can participate in the HOME Program as owners, developers, or sponsors of housing. When CHDOs use HOME funds as owners, developers or sponsors, this use of HOME funds counts toward the 15 percent CHDO set-aside.
4. **Private Lenders:** One of the goals of the HOME Program is to establish strong public/private partnerships. The City is required to make all reasonable efforts to maximize participation by private lenders and other members of the private sector. The Community Reinvestment Act (CRA) requirements provide an incentive to private lending institutions to become involved in HOME Program activities.
5. **Faith-Based Organizations:** Faith-based or religious organizations are now able to compete on an equal footing with other organizations for HUD funding. Funding may be provided directly to any Recipient, as long as those funds are not used to support inherently religious activities. As of the September 30, 2003 Final Rule for 24 CFR Part 92, HUD identified regulations for eight programs, including the HOME

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Program, to eliminate barriers and ensure that these programs are open to all qualified organizations regardless of their religious character.

6. **Third-Party Contractors:** The City may contract with a private for-profit contractor to administer all or part of its HOME Program. Unlike public agencies or nonprofits, contractors must be procured through a competitive process in accordance with applicable Office of Management and Budget (OMB) procurement requirements. These requirements are found in 24 CFR Part 85 (for PJs) and Part 84 (for nonprofits).

### Obligations (24 CFR 92.218-92.222)

Generally, the City must make contributions to housing that qualifies as affordable housing under the HOME program throughout a fiscal year.

### Recordkeeping, Reporting, and Monitoring (992.508 and 92.509)

1. Program staff is to establish and maintain a permanent "master file" for each application. Master files are to be kept for five years for all programs and legal loan files an additional five years after a loan has been paid in full. Applications that were given a program number and were denied, withdrawn, or canceled will be kept for five years. Applications that were submitted, without all proper information and were canceled, information will be inputted into the database and kept for a one year. Master files are to be stored according to the type of program: grant, rebate, loan, legal file, or paid.
2. The City of South Gate is required to keep records that enable HUD to determine whether they have met program and project requirements. The City is also responsible for enforcing these requirements with all its HOME Program Recipients. Monitoring and record-keeping requirements are outlined in Chapter 6; Part II: Recordkeeping, Reporting, and Monitoring of this manual.
3. The City of South Gate must also submit an annual performance report to HUD known as the Consolidated Annual Performance and Evaluation Report (CAPER.) The City requires that all Recipients (including CHDOs) meet certain reporting obligations to assist with this annual responsibility. (See Chapter 6: Recordkeeping, Reporting, and Monitoring for further information on reporting requirements.)

### Conflict Resolution

The City of South Gate meets all the requirements of 24.CFR, PART 570 (CDBG) and 24.CFR, PART 92.350 of HOME final rule, as amended 2013. Whenever a relationship is declared between applicants, contractor, and program staff, the Program Administrator must submit a memo to the Director explaining the nature of the relationship and asking for directive in the assignment of the case to appropriate staff. Ordinarily the case is to be assigned to staff that do not have preexisting

relationships with the applicant. A preexisting relationship will not disqualify an applicant from participating in the program, provided the applicant meets all eligibility criteria.

No member of the City government, other City officials, employees, or agent of the City who exercise policy, decision-making functions, or responsibilities in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program unless the application for assistance has been reviewed and approved according to applicable HUD policies. This ineligibility remains for one year after an individual's relationship with the City ends.

DRAFT

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## CHAPTER 2: HOME PROGRAM RULES

### PART 1: GENERAL PROGRAM RULES

The City of South Gate allocates funds to develop eligible HOME projects. The HOME program contains a number of basic rules that apply to all program activities. These rules involve:

1. The definition of a project;
2. The form and amount of subsidy;
3. Eligible costs;
4. The property;
5. The applicant or beneficiary;
6. The long-term affordability of the project; and
7. Applicability of other federal requirements.

The following two definitions are critical to understanding the requirements that are outlined in the following sections.

#### Definition of a Project

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

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

#### Subsidy

##### Eligible Forms of Subsidy

HOME allows virtually any form of financial assistance, or subsidy, to be provided for eligible projects and to eligible beneficiaries through the City.

The HOME regulation lists the following forms of subsidy as eligible:

1. **Interest-bearing loans or advances:** These loans are amortizing loans. Repayment is expected on a regular basis, usually monthly, so that over a fixed period of time, all of the principal and interest is repaid.

- a. Such loans may have interest rates at or below the prevailing market rate. Often, very low-interest rates (i.e., one to three percent) can make monthly payments affordable to the borrower.
  - b. The property or some other assets are used as collateral.
  - c. The term of the loan may vary. For home purchase, a term of up to 30 years is common while rehabilitation and construction loans tend to have terms of 15 years.
2. **Non-interest-bearing loans or advances:** The principal amounts of such loans are paid back on a regular basis over time, but no interest is charged.

As with interest-bearing loans, these loans will use the property or other assets as collateral and the term of the loan will vary depending on the nature of the activity funded. Such loans are made when the borrower is able to make regular payments but even a small amount of interest is not affordable.

3. **Deferred loans (forgivable or repayable):** These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred to some point in the future. Deferred loans can be structured in many different ways.
- a. Deferred payment loans can be forgivable or repayable.
  - b. If forgivable, the forgiveness might be structured to occur at one point in time (such as at the end of the affordability period), or forgiven incrementally (such as forgiving one-fifth of the loan each year over five years).
  - c. If repayable, repayment might be required at the sale or transfer of the property or at the end of a fixed period of time.
  - d. Like the amortizing loans discussed above, these loans can accrue interest or be non-interest bearing.
  - e. Deferred payment loans require the property or some other form of collateral to be used as security for repayments.
  - f. Deferred payment loans are also referred to as “soft seconds.” They are increasingly being used to leverage private first mortgage financing in homeownership. They may also be used to help rental projects by allowing deferral of loan payments for the first few years until the project becomes stable.
4. **Grants: Grants are provided with no requirement or expectation of repayment.**
- a. Grants require no liens on the property or other assets.
  - b. Grants are most commonly used for down payment and closing cost assistance in homebuyer programs or to provide assistance to very low-income owner-occupants for rehabilitation.
5. **Interest Subsidies:** This is usually an up-front discounted payment to a private lender in exchange for a lower interest rate on a loan. An interest subsidy may also be a deposit in an interest-bearing account from which monthly subsidies are drawn and paid to a lender along with the homeowner’s monthly payment.

6. **Equity Investments:** An equity investment is an investment made in return for a share of ownership. Under this form of subsidy, the City 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.
7. **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 a loan guarantee account ensures payment of a loan in case of default.
  - a. A loan guarantee is a written promise to pay the lender some percentage of the outstanding principal balance of a loan in the event the borrower defaults. It may be held for a specified period of time or reduced by a specific amount over time as the loan principal is repaid.
  - b. A loan guarantee account is a loan loss reserve held by the lender in an amount equal to some percentage of the outstanding principal.
  - c. The lender holding the loan guarantee account may require a minimum balance, as well as a percentage of the principal amount of the loan. The percentage of the loan amount held as guarantee may vary from loan to loan, or from program to program.

HOME rules require that the amount of money in a loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans and may not exceed 20 percent of the total outstanding principal guaranteed, except that the account may include a reasonable minimum balance.

8. **Other forms approved by HUD:** Other forms of assistance require HUD approval. If the City intends to use a form of assistance not listed above, the City's Consolidated Plan or Action Plan should describe the proposed form of assistance. Once approved by HUD as part of the Plan, no other HUD approval is required.

### Project Subsidy Limits

The HOME Program has established a minimum subsidy amount of \$1,000 and a maximum subsidy of \$50,000. The subsidy limits are published by HUD each year. However, the City has the option to set-up different limits, as long as they comply with those limits established by the HOME Program. Therefore, the City has set the following parameters for the Program.

1. **Minimum HOME investment:** The minimum amount of HOME funds is an average of \$1,000, multiplied by the number of HOME-assisted units in the project.
  - a. The minimum **only** relates to the HOME funds, and **not** to any other funds that might be used for project costs.
  - b. The minimum HOME investment does not apply to TBRA.



2. **Maximum HOME Investment:** The maximum per-unit HOME subsidy limit varies by PJ. HUD determines the maximum amounts, which are based on the City's Section 221(d)(3) program limits for the metropolitan area each year. In all instances, the loan amount must be in accordance with the loan-to-value ratios explained below.

The Loan Committee has the authority to approve projects that exceed the standard maximum loan amount when the standard maximum loan limit is not sufficient to bring the unit into code compliance and/or a health and safety standard conditions. These special approvals are to be recommended on an "as needed" basis and are subject to the maximum subsidy limits for the HOME Program.

3. **Loan to Value (LTV) Ratio:** Total indebtedness on the property cannot exceed 80% of the "after rehabilitation" value of the property.
4. **Maximum per-unit subsidy limit is:**
  - a. 100 percent of the dollar limits for a Section 221(d)(3) nonprofit sponsor, indexed for base city high cost areas, and adjusted for the number of bedrooms.
5. **Actual HOME Investment:** The actual subsidy provided will depend on the following factors:
  - a. The proportion of the total project cost that is HOME-eligible -- some planned project costs may not be eligible expenses under the HOME Program.
  - b. The number of units in the project is HOME-assisted -- projects may have a mix of HOME- and non-HOME-assisted units.
  - c. The financial needs of the project -- HOME projects may not receive more subsidy than is required to make them financially feasible.
6. Costs in excess of the Program amounts may be supplemented with personal funds.
7. **Affordability Percentage:** Monthly housing costs should not be more than 30% of total income. HUD has developed the Housing Affordability Data System (HADS) to provide consistent measures of affordability over a long period of time. The HADS system analyzes the affordability of housing from several perspectives, including the fraction of income that a household spends on housing each month. HADS uses the standard assumption that a unit is affordable if the household spends no more than 30% of its income on housing. In this context, "housing" includes utility payments and, for owner-occupied housing, real estate taxes, hazard insurance, and fees such as condo fees or homeowner's association fees.

(<https://www.huduser.gov/portal/datasets/hads/hads.html>)

The American Housing Survey (AHS), released by HUD and the US Census Bureau every two years, determines monthly housing costs by “summing, when applicable, utility costs, real estate taxes, cost of homeowner insurance, condominium/homeowner’s association fees, land/site rent, other mortgage charges, other required mortgage fees, mortgage payments, routine maintenance costs, and rent payments”. (<https://www.census.gov/programs-surveys/ahs.html>)

**PROCEDURE:** To determine what is required and reasonable, the City of South Gate will complete a cost allocation and subsidy layering analysis. HOME project awards are based on the completed cost allocation and subsidy layering analysis.

Cost allocation and subsidy layering are impacted by any changes in the number of HOME-assisted units, total number of units in the project, development cost, and/or financing sources.

**NOTE:** Because of these requirements, all of the City of South Gate HOME Recipients are obligated to contact the City as soon as there are any changes in project size, scope, cost, or financing sources.

### Eligible Costs

Eligible costs depend on the nature of the program activity. A general list of eligible costs includes the following:

1. **New construction:** HOME funds may be used for new construction of both rental and ownership housing. Any project that includes the addition of dwelling units outside the existing walls of a structure is considered new construction.
2. **Rehabilitation:** This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure but adding a housing unit is considered new construction.
3. **Reconstruction:** This 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.
4. **Reconstruction and Environmental Review (24 CFR Part 58):** Reconstruction may take place anywhere on the lot; however, reconstruction of a single-family unit in a

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new location on the lot is classified as new construction for purposes of environmental review. Reconstruction of multi-family is viewed as new construction for the purposes of environmental review if the number of units is increased or decreased by more than 20 percent and/or the cost of reconstruction is more than 75 percent of the total estimated cost of the replacement after the work is completed.

5. **Conversion:** Conversion of an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls (envelope) of an existing structure, the entire project will be deemed new construction. Conversion of a structure to commercial use is prohibited.
6. **Site improvements:** Site improvements must be in keeping with improvements to surrounding standard projects. They include new, on-site improvements (sidewalks, utility connections, sewer and water lines, etc.) where none are present. They are essential to the development or repair of existing improvements. Building new, off-site utility connections to an adjacent street are also eligible. Off-site infrastructure is not eligible as a HOME expense but may be eligible for match credit.

Example: Infrastructure, such as sewer and water lines in a public street in front of a HOME-assisted property, cannot be paid for with HOME funds. However, the connections that run from the HOME-assisted property to the street are eligible HOME costs since they are essential to the property.

7. **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. After acquisition, rental units must meet HOME rental occupancy, affordability, and lease requirements.
8. **Acquisition of vacant land:** HOME funds may be used for acquisition of vacant land only if construction will begin on a HOME project within 12 months of purchase. Land banking is prohibited.
9. **Demolition:** Demolition of an existing structure may be funded through HOME only if construction will begin on the HOME project within 12 months.
10. **Relocation costs:** The Uniform Relocation Act and Section 104(d) (also known as the Barney Frank Amendments; see the appendix for detailed information on these requirements) apply to all HOME-assisted properties. Both permanent and temporary relocation assistance are eligible costs. Staff and overhead costs associated with relocation assistance are also eligible.

**11. Project-related soft costs:** These costs must be reasonable and necessary. Examples of eligible project soft costs include:

- a. Finance-related costs;
- b. Building and planning permits;
- c. Plans and specifications;
- d. Fees – property assessment; recording and filing; and private lender processing;
- e. Reports – termite inspection; soils; geologic; and credit;
- f. Lead-related costs – testing; assessment; hazard reduction work; relocation; clearance
  - i. Lead-related costs, such as testing/assessment, hazard reduction work, relocation, and clearance will be paid as a lead grant. Lead testing and assessment must be in conjunction with other rehabilitation work. Stabilization/removal is limited to the items as specified in the work write up to comply with the lead regulations.
- g. Architectural, engineering and related professional services;
- h. Tenant and homebuyer counseling, provided the recipient of counseling ultimately becomes the tenant or owner of a HOME-assisted unit;
- i. Project audit costs;
- j. Affirmative marketing and fair housing services to prospective tenants or owners of an assisted project; and
- k. PJ staff costs directly related to projects (not including TBRA).

Project-related soft costs, such as title reports, appraisal costs, cost of third-party verifications, recording fees, etc., will be paid by the City as project delivery cost and will not be included as part of the loan, grant or rebate, provided the applicant follow through with the program. If homeowner cancels assistance or fails to meet provisions, they may be subject to reimburse the City for these costs. Exception for reimbursement would be loss of job, illness of homeowner or family member residing in the home.

### Prohibited Activities

The HOME Program regulations explicitly prohibit certain activities, including:

1. **Project reserve accounts:** HOME funds may not be used to provide project reserve accounts (except for initial operating deficit reserves) or to pay for operating subsidies.
2. **Tenant-based rental assistance for certain purposes:** HOME funds may not be used as rental assistance in conjunction with the federal Rental Rehabilitation Program (Section 17) to prevent displacements. They also may not be used for certain

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mandated existing Section 8 Program uses, such as Section 8 rent subsidies for troubled HUD-insured projects.

3. **Match for other programs:** HOME Program funds may not be used as the “nonfederal” match for other federal programs except to match McKinney Act funds
4. **Development, operations, or modernization of public housing:** HOME Program funds may not be used to provide assistance authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds).
5. **Properties receiving assistance under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages):** Properties receiving assistance through the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) or the Emergency Low Income Preservation Act (ELIHPA) are not eligible for HOME assistance except if the HOME assistance is provided to priority purchasers. These programs are no longer funded.
6. **Double-dipping:** During the first year after project completion, the City may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a HOME-assisted project during the relevant period of affordability, except for:
  - a. Rental assistance to families may be renewed.
  - b. Rental assistance may be provided to families that will occupy housing previously assisted with HOME funds.
  - c. A homebuyer may be assisted with HOME funds to acquire a unit that was previously assisted with HOME funds.
7. **Acquisition of a City-owned property:** The City may not use HOME Program funds to reimburse itself for property in its inventory or property purchased for another purpose. However, in anticipation of a HOME project, the City may use HOME funds to:
  - a. Acquire property.
  - b. Reimburse itself for property acquired specifically for a HOME project with other funds.
8. **Project-based rental assistance:** HOME funds may not be used for rental assistance if receipt of the funds is tied to occupancy in a particular project. Funds from another source, such as Section 8, may be used for this type of project-based assistance in a HOME assisted unit. Further, HOME funds may be used for other eligible costs, such

as rehabilitation, in units receiving project-based assistance from another source -- for example, Section 8 or state-funded project-based assistance.

9. **Pay for delinquent taxes, fees, or charges:** HOME funds may not be used to pay delinquent taxes, fees, or charges on properties to be assisted with HOME funds.

### Hierarchy of the use of funds

Program funds must be used in the following order of priority:

1. Life-Threatening or Safety Repairs.
2. Health and Safety Hazards.
3. Livability Improvements.
4. Non-critical Improvements.
5. Other eligible general property rehabilitation work.

### Eligible Repairs and Rehabilitation

Program funds are to be used for the rehabilitation of homes occupied by eligible owners/occupants. Rehabilitation means repairing or improving deteriorated or outdated houses. Deteriorated materials and components must be replaced with like materials. No luxury upgrades are allowed. Eligible repairs and improvements include:

1. Repairs that rectify the most urgent health and safety hazards, such as:
  - a. Unsafe structural parts of a house, which are likely to collapse in the immediate future if not supported. (e.g. porch, roof, stairways)
  - b. Electrical conditions that is likely to result in a fire or threaten human life in the immediate future. (e.g. overloaded circuits, and hazardous fixtures, switches, outlets, or wiring.)
  - c. Plumbing and septic systems repairs, which involve exposed sewage, leaking supply lines, and inoperable water heaters.
  - d. Mechanical system repairs that create conditions likely to result in a fire or leakage of gas or fumes.
  - e. Other conditions determined by staff that could result in a life-threatening situation in the immediate future.

Incipient means that the fixture or system is functional now, but it is likely to fail in a few years.

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2. Repairs that improve deteriorated or inadequate features of the structure that pose no immediate threat to life but will damage the dwelling if ignored, such as:
    - a. Defects in electrical, plumbing, and mechanical fixtures
    - b. Unsafe entrances and exits
    - c. Lack of smoke detector or similar device
    - d. Deteriorating or inadequate structural conditions (e.g. crumbling foundations, dry rot, and termite damage)
    - e. Roofing
    - f. Heat exchanger in the furnace may become inoperative or hazardous
    - g. Flooring
    - h. Driveway
    - i. Fumigation
    - j. Modifications that aid the mobility of the elderly and physically disabled.
    - k. Other California Building Code deficiencies.
  
  3. Improvements intended to improve the quality of life for dwellings, such as:
    - a. Overcrowding
    - b. Addition or renovation of bedrooms or bathrooms. (See Item 6 below.)
    - c. Renovation of kitchen
    - d. Addition or renovation of laundry facility
    - e. Lack of energy or water-saving devices (replacement of existing items only)
    - f. Heater
  
  4. Improvements that do not address life-threatening or quality of life issues but are eligible, provided that items a and b listed below are in conjunction with work performed:
    - a. Sandblasting/stucco
    - b. Painting
  
  5. Rehabilitation work not related to rectifying life-threatening and urgent safety issues, fixing health and safety hazards, improving livability, and improving non-critical conditions is considered general property rehabilitation.

General property improvements for reconstruction would allow for the construction of a garage and/or a driveway.
  
  6. The construction of additional bedrooms and bathrooms is allowed if the need can be demonstrated per the guidelines listed below. The accepted standard definition of overcrowding is more than 1.5 people per room or more than 2 people per bedroom. The program will not fund additions to a home for a den or family room.

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**GUIDELINES FOR ROOM AND BATHROOM ADDITIONS**

Maximum No. of Persons in the Household	Number of Bedrooms	Number of Bathrooms
1	0	1
1-2	1	1
3-4	2	2
5-6	3	2
7-8	4	2
9-10	5	3
11-12	6	3

The following costs are **not eligible** for the use of proceeds for the City of South Gate HOME program:

1. Materials, fixtures, equipment, or landscaping of a type and quality that exceeds adequate service, or that is not customarily used for properties in the same general area. No luxury upgrades are allowed
2. Appliances
3. Construction, rehabilitation or modification to detached garages or structures under HOME program
4. Recreational items such as barbecues, bathhouses, greenhouses, swimming pools, saunas, television antennae, and tennis courts
5. Acquisition of land
6. Room or bathroom additions, except for addressing overcrowding conditions
7. Property taxes
8. Reimbursement of costs incurred prior to the approval of assistance
9. Assistance related costs
10. Repairs related to outstanding insurance claims or claims already paid

### Property

The HOME Program rules concerning the type and value of properties eligible for assistance are:



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## 1. Property Types

- a. Property must be a single-family home, condominium (interior only), and townhome (interior only)
- b. Property must be owner-occupied
- c. Property must have a fee simple title (clear title) or a 99-year leasehold interest
- d. There must be sufficient equity in the property to ensure compliance of the loan-to-value requirements
- e. Property must be located within City boundaries
- f. Property must contain a legal residential structure intended for continued residential occupancy
- g. The after-rehabilitation value of the property cannot exceed the HOME Homeownership Value Limits, or those established by a local market survey conducted by the City and approved by HUD (applies to HOME program)
- h. All taxes and assessments currently due or in arrears on the real estate must be paid before project can be considered eligible
- i. Property cannot be located in a 100-year storm flood hazard area as identified on the effective Flood Insurance Rate Map (FIRM) in accordance with 43 CFR 6030. If property is located in AO flood zone, then flood zone insurance will be required

## 2. Property Value

For owner-occupied and homebuyer properties, HOME limits the value or purchase price of the property. In summary, the price or, in the case of rehabilitated properties, the value may not exceed 95 percent of the area median purchase price.

## 3. Property Standards

City-owned rental projects are to be maintained in compliance with HUD regulations during the affordability period. These policies and procedures will be distributed to property management firms to ensure they comply and conduct regular inspections to avoid future deterioration of the properties and keep them in a healthy, livable condition.

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HOME-funded properties must meet the following minimum property standards (MPS):

1. **State and local standards:** State and local codes and ordinances apply to any HOME funded project regardless of whether the project involves acquisition, rehabilitation, or new construction.
2. **Model codes:** For rehabilitation or new construction projects where there are no state or local building codes, the City must enforce national model code.
3. **Housing quality standards:** For acquisition-only projects, if there are no state or local codes or standards, the City must enforce Section 8 Housing Quality Standards (HQS).
4. **Rehabilitation standards:** The City is required to develop written rehabilitation standards to apply to all HOME-funded rehabilitation work. These standards are similar to work specifications, and generally describe the methods and materials to be used when performing rehabilitation activities.
5. **International Energy Conservation Code:** New construction requires compliance with the International Energy Conservation Code.
6. **Handicapped accessibility:** In some cases, handicapped accessibility requirements apply Section (504).
7. **Site and neighborhood standards:** The site and neighborhood standards of 24 CFR 983.6(b) applies only to the new construction of rental housing.
8. **Universal Design standards:** The City of South Gate requires units to adhere to the City of South Gate Rehabilitation Standards for Housing:
  - a. The applicable standards vary by the type of activity. Exhibit 1 explains the minimum property standards that apply to each type of HOME activity.
  - b. All *new* manufactured housing units must meet the construction and safety standards of 24 CFR 3280. New manufactured housing units must be installed according to state or local codes or the manufacturer's written instructions.

<b>EXHIBIT 1</b>	
<b>MINIMUM PROPERTY STANDARDS BY ACTIVITY TYPE</b>	
<b>ACTIVITY</b>	<b>MINIMUM PROPERTY STANDARD TO BE MET</b>
<b>Acquisition of Existing Housing (no rehabilitation or construction)</b>	<p>Applicable state or local housing quality standards and code requirements.</p> <p>If no local standards/codes apply, Section 8 HQS.</p>
<b>Rehabilitation of Housing</b>	<p>Local written rehabilitation standards.</p> <p><b>AND</b></p> <p>State and local code requirements.</p> <p>If no local codes apply, one of the following national model codes:</p> <p>Uniform Building Code (ICBO) National Building Code (BOCA) Standard Building Code (SBCCI)</p> <p><b>OR</b></p> <p>Council of America Building Official one- or two-family code (CABO)</p> <p><b>OR</b></p> <p>Minimum Property Standards at 24 CFR 200.925 or 200.926 (FHA)</p> <p><b>AND</b></p> <p>Handicapped accessibility requirements, where applicable</p>
<b>New Construction of Housing</b>	<p>State and local code requirements.</p> <p>If no state and local codes apply, one of the following national model codes:</p> <p>Uniform Building Code (ICBO) National Building Code (BOCA) Standard Building Code (SBCCI)</p> <p><b>OR</b></p> <p>Council of America Building Official one- or two-family code (CABO)</p> <p><b>OR</b></p> <p>Minimum Property Standards (FHS) at 24 CFR 200.925 (for multi-family) or 200.926 (for one- and two-unit dwellings)</p> <p><b>AND</b></p> <p>Handicapped accessibility requirements, where applicable.</p>

New construction of rental housing must meet site and neighborhood standards at 24 CFR 893.6(b)

**Note:** The City of South Gate using MPS may rely on inspections performed by a qualified person.

## Applicants and Beneficiaries

The HOME Program is designed to provide affordable housing to low-income and very-low-income families and individuals. Therefore, the program has rules about targeting program resources and establishing applicant eligibility.

### 1. Program Targeting:

The City of South Gate will use 100 percent of its HOME funds to assist families with incomes below 80 percent of the area median income.

### 2. Rental Housing or TBRA:

If the City elects to use HOME funds for rental housing or for TBRA, additional targeting requirements apply:

- a. For each annual HOME allocation, the City of South Gate will require that 90 percent of the occupants of HOME-assisted rental units and households assisted with HOME-funded TBRA must have incomes that are 60 percent or less of the area median.
- b. 20 percent of the units in each rental housing project containing five or more units must be occupied by tenant families with incomes at or below 50 percent of median income.
- c. Owners must adopt written tenant selection policies and procedures.

### 3. Applicant Income Eligibility

- a. **Income eligibility:** Beneficiaries of HOME funds (homebuyers, homeowners, or tenants) must be low-income or very-low-income. Their income eligibility is determined based on their annual income. The income limits are published by HUD each year. All homeowners must certify that they meet the household income eligibility requirements and have their household income documented. The income limits in place at the time of approval will apply when determining applicant income eligibility. Income documentation must

be the most recent available and at least within six months of the approval date.

- b. **Annual income:** Annual income is the gross amount of income anticipated by all adult household members during the 12 months following the effective date of the determination.

**NOTE:** Annual income is sometimes referred to as gross income or annual (gross) income.

### Definition of Annual Income

In accordance with 2013 HOME Final Rule, the City of South Gate has selected a single definition of income for each of its HOME-assisted programs (e.g. 0% Deferred Loan, Homebuyer Assistance Program, etc.) administered by the City.

Annual income will be determined by examining at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family. Furthermore, when determining whether a family is income-eligible, the City will use the following definition of “annual income”:

- (1) Annual income as defined at 24 CFR 5.609 will be utilized while applying exclusions from income established at 24 CFR 5.611 as further required by the 2013 HOME Final Rule.

The City will calculate the annual income of the family by projecting the prevailing rate of income of the family at the time that the City determines that the family is income eligible. Annual income will include income from all persons in the household and income or asset enhancement derived from the HOME-assisted project will not be considered in the calculation.

The City will not re-examine the family’s income at the time the HOME assistance is provided, unless more than six months has elapsed since the City determined that the family qualified as income-eligible.

**Note:** The definition listed above provides guidance on what items to include in annual income calculation (for example, wages, salaries, tips, etc.). They do not affect the method in which income is verified (discussed under “Income Verifications” below).

### Income Verification

1. **Initial Verification:** To determine if program applicants are income-eligible, Recipients must verify their income using source documentation such as wage statements, interest statements, and unemployment compensation statements.

- a. Income eligibility is based on anticipated income. When collecting income verification documentation, also consider any likely changes in income.

**Note:** A last year’s tax return does not establish anticipated income; nor is it adequate source documentation.

- b. Once initial income verification is completed, a Recipient is not required to re-examine the applicant’s income unless six months has elapsed before assistance is provided.

- 2. **Annual Re-examinations:** For rental programs, annual re-certifications of income are required. While the HOME Program regulations require that income must be verified with source documentation every five years, the City of South Gate requires income be verified with source documentation annually.

**Long-Term Affordability**

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

**Affordability Periods**

For homebuyer and rental projects, the length of the affordability period depends on the amount of the HOME investment in the property and the nature of the activity funded. Exhibit 2 below provides the affordability periods.

EXHIBIT 2 HOME INVESTMENT PER UNIT	LENGTH OF THE AFFORDABILITY PERIOD
LESS THAN \$15,000	5 YEARS
\$15,000 - \$40,000	10 YEARS
MORE THAN \$40,000	15 YEARS
NEW CONSTRUCTION OF RENTAL HOUSING	20 YEARS
REFINANCING OF RENTAL HOUSING	15 YEARS

**Occupancy**

Throughout the affordability period, the HOME-assisted housing must be occupied by income-eligible households.

- 1. **Rental housing:** When units become vacant during the affordability period, subsequent tenants must be income-eligible and must be charged the applicable HOME rent. (See Chapter 6 for more information.)

2. **Homebuyer assistance:** If a home purchased with HOME assistance is sold during the affordability period, resale or recapture provisions apply to ensure the continued provision of affordable homeownership.

### **Property and Occupancy Eligibility Requirements**

1. Property must be a single-family home, condominium (interior only), and townhome (interior only).
2. Property must be owner-occupied.
3. Property must have a fee simple title (clear title) or a 99-year leasehold interest.
4. There must be sufficient equity in the property to ensure compliance with the loan-to-value requirements.
5. Property must be located within City boundaries.
6. Property must contain a legal residential structure intended for continued residential occupancy.
7. The after-rehabilitation value of the property cannot exceed the HOME Homeownership Value Limits, or those established by a local market survey conducted by the City and approved by HUD (applies to HOME program).
8. All taxes and assessments currently due or in arrears on the real estate must be paid before a project can be considered eligible
9. Property cannot be located in a 100-year storm flood hazard area as identified on the effective Flood Insurance Rate Map (FIRM) in accordance with 43 CFR 6030. If property is located in AO flood zone, then flood zone insurance will be required.

### **Homeownership Exceptions**

Homeownership means ownership in fee simple title in a one- to four-unit dwelling or in a condominium unit or 99-year leasehold interest except:

1. Housing located in insular areas must have a ground lease for at least 40 years.
2. Housing located on land owned by a community land trust for at least 50 years.

Ownership interest must be in good, marketable title, subject to only certain restrictions. The following situations also meet the ownership definition subject to only certain conditions:

1. Inherited property with multiple owners. This provision is for housing for which title has passed, by inheritance, to several heirs, not all of whom reside in the housing. This most often occurs when siblings inherit a family home that is occupied by one sibling. Rehabilitation assistance will be provided to the owner-occupant when he/she: (a) is low- income, (b) occupies the housing as his or her principal residence, and (c) pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).
2. Life Estate. Under a life estate, the occupant of the property has the right to live in the housing for the remainder of his or her life and does not pay rent. This might be a situation where a disabled adult occupies a dwelling owned by another family member under a life estate, or in which a deceased spouse leaves a property to the children of a previous marriage but permits the other spouse to occupy the property for the remainder of his or her life. Rehabilitation assistance may be provided to the person holding the life estate, provided the person is low-income and occupies the housing as his or her principal residence.
3. Inter vivos trust, also known as living trust. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust holds legal title and the beneficiary holds equitable title. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. This is a common estate planning tool. Rehabilitation assistance may be provided to a property if all beneficiaries of the trust qualify as a low- income family and occupy the property as their principal residence. The contingent beneficiaries, who receive no benefit from the trust and have no control over the trust assets until the beneficiary is deceased, need not be low-income. The trust must be valid and enforceable and must ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life.
4. Beneficiary Deed. A beneficiary deed conveys an interest in real property, including any debt secured by a lien on real property, to a grantee beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon the death of the owner, the grantee beneficiary receives ownership in the property, subject to all conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner's lifetime. Rehabilitation assistance may be provided to the owner if he or she qualifies as low-income and occupies the property as his or her principal residence.

## **PART 2: COST ALLOCATION AND SUBSIDY LAYERING**



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The City of South Gate performs a cost allocation and subsidy layering review of HOME projects to determine the appropriate subsidy amount to the project. The actual HOME Investment in a project depends on:

1. The proportion of the total project cost that is HOME-eligible -- some planned project costs may not be eligible expenses under the HOME Program.
2. How many of the units in the project are HOME-assisted -- Projects may have a mix of HOME- and non-HOME-assisted units.
3. The financial needs of the project -- HOME projects may not receive more subsidy than is required to make them financially feasible.
4. Cost allocation and subsidy layering are impacted by any changes in the proportion of the HOME-assisted unit to total units in the project, development cost, or financing sources.
5. Because of these requirements, CHDOs, developers or sub-recipients must contact the City of South Gate as soon as there are any changes in project size, scope, cost, or financing sources at any point during the development of the project.

### Cost Allocation

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

### Determining a HOME Assisted Unit

HOME rules create a floor (minimum) for the number of HOME-assisted units a project must-have. This floor is based on the proportional share of total eligible costs to be paid with HOME funds.

1. Before determining the allowable HOME subsidy amount, the City will establish the total HOME-eligible cost for the project.
2. Once the total HOME-eligible costs are established for the project, the City must allocate costs across units.
3. If both the assisted and non-assisted units are comparable in size, features, and number of bedrooms, the HOME-eligible costs can be pro-rated across units. (Since floating units, by definition, must be comparable, costs should always be pro-rated.)

4. If the assisted and non-assisted units are not comparable, the actual costs must be determined and allocated unit-by-unit. The specific units identified to “receive” HOME funds must be fixed -- that is, designated as HOME-assisted.

### Subsidy Layering

HUD establishes limits on the amount of HOME funds that may be invested in affordable housing on a per-unit basis for specific areas as specified below:

1. Before committing funds to a project that combines the use of any other local, State or Federal assistance, the City of South Gate will evaluate the project in accordance with guidelines that it has adopted, to ensure that the City does not invest any more HOME funds than are necessary to provide affordable housing.
2. The City of South Gate will conduct a subsidy layering review in accordance with the guidelines presented in HUD Notice CPD-98-01. These guidelines include review of the following project documents:
  - a. Sources and/or uses of funds: CHDOs/Developers/Subrecipients are required to provide the City of South Gate the sources/uses of funds statement for the project with supportive documentation. This statement should reflect the project development budget and should list:
    - i. All proposed sources (both private and public) of funds and the dollar amounts for each respective source;
    - ii. Construction costs; and
    - iii. Financing costs and professional fees associated with the project.
  - b. Certification of governmental assistance: CHDOs/Developers/Subrecipients must provide a formal certification as to whether or not additional governmental assistance will be provided to the project, and if so, what kind of assistance.
  - c. Project development budget: CHDOs/Developers/Subrecipients must provide the City of South Gate the project development budget so that the City can determine whether the development costs are necessary and reasonable. The budget should include all costs associated with the development of the project, regardless of the funding sources.
  - d. “Reasonableness” of costs will be based on all of the following three factors:
    - i. Costs of comparable projects in the same geographical area;
    - ii. Qualifications of the cost estimators that developed the various budget line items; and

- iii. Comparable costs published by recognized industry cost index services.
- e. Proforma: The City of South Gate will determine the reasonableness of the rate of return on an equity investment by looking at the CHDOs/Developers/Subrecipients proforma (project income and expense statement).
  - i. The proforma should include achievable operating expenses.
  - ii. It should also specify the consequences of tax benefits, if any, and any other assumptions used in calculating the project cash flow.
  - iii. The proforma should represent, at a minimum, the term of the HOME affordability requirements, or longer if other funding sources require longer affordability terms.

### Other Requirements

1. Property owners must submit an application and obtain approval prior to beginning repairs. Costs of repairs completed prior to assistance approval are not eligible for reimbursement.
2. 100% of financial assistance must be used to rehabilitate the home. No cash is provided to homeowner.
3. The loan is to be recorded as a trust deed on the property and cannot be lower than 2nd position. Open lines of credit must be closed prior to loan approval.
4. There is a maximum of \$100,000 asset limitation in order to apply for the program. The value of homeowner's permanent residence not to be included as part of assets. Income derived from assets must be included in the income calculation.
5. Fire insurance: The homeowner must maintain fire insurance on the property for the duration of the program loan(s). This insurance must be an amount adequate to cover all encumbrances on the property. The insurer must identify the City as Loss Payee for the amount of the program loan(s). A binder must be provided to the City and maintained in the project master file.
6. Flood insurance: For homes in a 100-year flood zone, the homeowner must maintain flood insurance in an amount adequate to secure the Program loan and all other encumbrances. This policy must designate the City as Loss Payee and a binder must be provided to the City and maintained in the project master file.

### Termination or Denial of Program Assistance

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Applicants may be terminated from Program or denied assistance for the following reasons. This is not a complete list. It only includes those areas for which the applicant has direct control.

1. Terminated from a federal, state, or local program, such as Section 8.
2. If applicant owes any money to the City or any housing authority under any program. If there is a repayment agreement, applicant can be terminated for not honoring the terms of the agreement.
3. False or withholding information.
4. Lack of proper paperwork.
5. The value of cash and investments exceeds \$100,000, except under the following circumstances:
  - a. The account is a qualified retirement account (IRA, annuity, deferred compensation)
  - b. The account is used for regular retirement income as shown over a 2-year history, and
  - c. Balance in the account does not exceed \$300,000, and
  - d. The monthly disbursement is the largest source of monthly income
6. If any member of the family commits fraud, bribery or other corrupt or criminal act in connection with any federal, state or local housing and assistance programs.
7. Not following procedures.
8. Un-permitted structures that are not eligible improvements and will not be addressed as part of the project.
9. Lack of maintenance of previously program funded improvements.
10. If applicant participated in the Program in the past, cannot reapply within seven years after the case close date for the grant and or loan program.
11. If any member of the family engages in or threatened abusive or violent behavior toward City staff.
12. If any member refuses to sign or submit any forms.

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**Termination Procedures:**

- a. Notify applicant in writing
- b. Informal hearing meeting with Economic Development Director
- c. If applicant wishes to appeal the termination, the case will be submitted to the Loan Committee for further review and final decision.

**Additional Funds**

**Loans**—Due to unforeseen expenses during construction, which exceed the allocated contingency fund, it may be necessary to lend additional monies to complete the project. This is possible as long as the additional funds will not cause the loan to exceed the maximum loan amount, and the maximum LTV. The homeowner must execute a new Deed of Trust and Promissory Note prior to receiving additional funds.

**Grants**—Any funds that will not be covered by the program and will be the homeowner's responsibility, must be paid directly to the contractor in a form of a cashier's check or money order made out to the contractor. The proof of payment is to be submitted to the City at the completion of the project.

**Death of Applicant**

1. If an applicant passes away during the process of the application and no other persons are on the title, and no work has started, assistance will be terminated
2. If other person(s) are on title and reside in the property, assistance will continue so long as household remains income eligible.
3. Additional titleholders that do not reside in the property and property is not occupied, assistance will be terminated.
4. If work has started and applicant passes away and no one else is on title or resides at the property:
  - a. Continue with assistance, Executor to repay the program from trust
  - b. Continue with assistance, establish a repayment plan
5. If work has started and other person(s) are on title, but do not reside in the property:
  - a. Continue with assistance, property to be occupied by additional title holder as specified in the agreement and will be considered owner-occupied.

- b. Continue with assistance, if the property is not owner-occupied, assistance is to be repaid based on repayment plan.

## Repayment

Loans and grants are to be paid in full if the property is not maintained. All loans must be repaid according to terms.

All loans are subject to the following acceleration clause:

The City loan plus all accrued interest becomes due and immediately payable if any of the following occurs:

1. Sale or transfer of the property, including lease, exchange or other disposition of the property, whether voluntary or involuntary.
2. The refinancing of existing first deed of trust for a loan amount in excess of the then-current loan balance. Refer to Subordination Requirements.
3. When the borrower is in default of any other obligation under the Loan Agreement.
4. When the borrower no longer occupies the property as the principal residence.
5. Death of borrower. The loan is due and payable within three (3) months of the date of death.
6. Lack of maintenance on the property.

The City will be the receiver of loan payments and must maintain a financial record-keeping system to record payments and file statements on payment status. Payments must be deposited and accounted for in the City's appropriate Program Income Account, as required by HUD. The City will accept loan payments from borrowers prepaying deferred loans, and from borrowers making payments in full upon sale or transfer of the property. The City may at its discretion, enter into an agreement with a third party to collect and distribute payments and/or complete all loan servicing aspects of the Program.

## Assumption

Loans are not assumable, in whole or in part. In the event that a homeowner sells, transfers title, or discontinues residence in the rehabilitated property for any reason, the loan becomes due and payable. Original borrowers can be deleted from title, but no additional persons can be added.

## Subordination

A subordination request may be approved, at the City's sole discretion, only if it meets the following terms and conditions:

1. Property to become part of a Trust under original borrower(s).

## 2. Refinancing

- a. The new loan must reduce the overall housing expenses.
- b. No cash-out is permitted, which means that new loan proceeds must be used only to pay off the existing senior debt and reasonable closing costs. Cash-out for debt consolidation, vacations, etc. is not allowed.
- c. The total LTV ratio cannot exceed 80% of the property-appraised value.
- d. The new loan must have a lower fixed interest from the current.
- e. The new loan shall include an impound account for property taxes and insurance.
- f. The new loan must be amortized over at least 15 years.
- g. The City loan's position must not be diminished from its original position; for example, if the City loan is a second trust deed, the City will not subordinate to a third position.
- h. No lender prepayment penalties are allowed.
- i. A complete subordination package must be submitted to the City for review of compliance, and recommendation. The subordination package must include:
  - i. Letter of explanation for the subordination request
  - ii. Copy of new loan application
  - iii. Copy of new lender approval
  - iv. Copy of underwriting and transmittal summary
  - v. Copy of certified escrow instructions
  - vi. Copy of estimated closing statement (estimated HUD-1)
  - vii. Copy of preliminary title report
  - viii. Copy of current property appraisal (no older than 6 months)
  - ix. Copy of most recent mortgage statement

### Monitoring

Continued residency will be monitored each year for the term of the loan. For loans, the homeowner must submit an annual certification that the property continues to be their principal place of residence, and attach appropriate verification of residency, such as utility bill and insurance renewal that evidences owner-occupancy.

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## CHAPTER 3: CHDO REQUIREMENTS AND ACTIVITIES

Part I of this chapter details the CHDO set-aside requirements, the qualifications of a CHDO, CHDO set-aside roles, and the types of assistance the City of South Gate may provide CHDOs while Part II of this chapter covers the City's CHDO selection process.

### PART 1: HOME PROGRAM REQUIREMENTS

**A Community Housing Development Organization (CHDO)** is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves.

The City of South Gate is committed to support City-approved certified Community Housing Development Organizations (CHDOs) that have the appropriate capacity and consent to develop quality affordable housing throughout the City of South Gate. Therefore, the City of South Gate continues to encourage qualified nonprofit organizations to apply for certification as a CHDO.

#### CHDO Set-Aside Requirement

Reservation of Set-Aside of Funds for CHDOs:

1. The City of South Gate has up to 24 months from after the last day of the month in which HUD signs the HOME Investment Partnerships Agreement transmittal letter to identify and designate the CHDOs they plan to work with, and to reserve funds for the CHDOs' use.
2. The City of South Gate may set aside 15 percent of their funds for housing owned, developed, or sponsored by CHDOs.
3. CHDOs may engage in other HOME-eligible activities in which they are not the owners, developers, or sponsors of the housing. However, the HOME funds committed to those activities will not count toward the set-aside.
4. The CHDO reservation of funds can be made by the City before specific projects are identified.

#### CHDO Qualifying Criteria

The City of South Gate will certify a nonprofit agency as a CHDO to qualify for the CHDO set-aside. As such, the City of South Gate will accept applications for certification on a continuous basis and the certification is valid for one (1) year.

A **CHDO** is a specific type of private nonprofit entity. CHDOs must meet certain requirements pertaining to their:



1. Legal status;
2. Organizational structure; and
3. Capacity and experience.

(HUD Notice CPD 97-11 details these requirements).

## 1. Legal Status

- a. **Organized under State/local law:** CHDOs must be organized under State and local law.
- b. **Purpose of organization:** Provision of decent housing that is affordable to low- and moderate-income persons must be among the purposes of the organization. This commitment must be evidenced in the CHDO's:
  - i. Charter;
  - ii. Articles of incorporation;
  - iii. By-laws; or
  - iv. A resolution of the CHDO's board of directors.
- c. **No individual benefit:** No part of the CHDO's earnings (profits) may benefit any members, founders, contributors, or individuals.
- d. **Clearly defined service area:** A CHDO should have a clearly defined geographic service area.
  - i. CHDOs do not need to represent a single neighborhood.
  - ii. For urban areas, a CHDO may include in its service area a neighborhood or neighborhoods, city, county, or metropolitan area.
  - iii. For rural areas, a CHDO may include in its service area a neighborhood or neighborhoods, town, village, county or multi-county area (but not the entire State.)
  - iv. Nonprofits serving special populations must also define the geographic boundaries of their service areas in order to qualify as CHDOs.
- e. **Nonprofit status**
  - i. A CHDO must have received a tax-exempt ruling from the IRS under Section 501(c)(3) of the Internal Revenue Code of 1986 in order to be designated by the PJ as a CHDO.

- ii. There are many incorporation options under Section 501(c), depending on the type and purpose of the organization seeking the designation for tax-exemption.

**f. The 501(c) designation status:**

The 501(c) designation status permissible under HOME is:

- i. 9 501(c)(3) -- a charitable, nonprofit corporation;
- ii. 9 501(c)(4) -- a community or civic organization;
- iii. 9 Section 905 -- a subordinate organization of a 501(c) organization.

**g. IRS standards for granting a 501(c)(3):**

- i. Designation for housing development organizations are narrowly applied, lengthening the time it can take to receive a 501(c)(3) designations.
- ii. Designation can take 9 to 24 months.
- iii. The timeframe varies by IRS region.

**h. Conditional designation:**

- i. The IRS will usually grant new applicants a conditional designation of 501(c) status, valid for a specified period of time (usually three years.)
- ii. During that period of time, the organizations may operate legally as 501(c) organizations, with all benefits pursuant to that designation, while the IRS monitors their operations.

**i. Final designation:**

Assuming the CHDO operates in compliance with applicable regulations during this period, the IRS will grant them final 501(c) designation.

NOTE: The City of South Gate requirement for a 501(c) designation can only be fulfilled by having a final designation from the IRS.

NOTE: Pending 501(c) Status Documentation that the CHDO has an application for 501(c) status pending at the IRS will not suffice to fulfill the nonprofit status requirement.

## **2. Organizational Structure**

The City's requirement for a CHDOs organization structure is:

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- a. The structure of the board of directors of a CHDO is viewed as the main indicator of community control over the CHDO. With that, a CHDOs Board of Directors must be composed of the following:
- i. At least one-third must be representatives of the low-income community.
  - ii. No more than one-third may be public officials or employees of the City.
  - iii. The balance is unrestricted and may include people such as human and social service providers, lenders, individuals with access to philanthropic resources, or others willing to contribute their professional expertise.
  - iv. There are also maximum limits on representation and control by a for-profit entity when the CHDO is sponsored by a for-profit entity.
- b. Low-income community representation: As noted above, a minimum of one-third of the board must consist of representatives of the low-income community. There are three ways to meet this requirement:
- i. Residents of low-income neighborhoods in the community.
    - Low-income neighborhoods are defined as neighborhoods where 51 percent or more of the residents are low-income.
    - Residents of low-income neighborhoods on CHDO boards do not have to be low income themselves.
  - and/or***
  - ii. Low-income residents of the community.
    - In urban areas, "community" is not necessarily limited to a single neighborhood, but may include several neighborhoods, the city, county or metropolitan area.
    - In rural areas, "community" may also cover a multi-county area (but not the whole state). The board need not include low-income residents from each county in the multi-county area.
    - Low-income residents of low-income neighborhoods in the community do not need to submit proof of their income.
    - If low-income residents of the community who do not live in low-income neighborhoods are necessary to meet this threshold, the

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CHDO must obtain a certification from the resident that the resident does qualify as low-income.

*and/or*

- iii. Elected representatives of low-income neighborhood organizations.
  - A low-income neighborhood organization is an organization composed primarily of residents of a low-income neighborhood.
  - The primary purpose of the organization must be to serve the interests of the neighborhood residents.
  - Block groups, town watch organizations, civic associations, neighborhood church groups, and NeighborWorks organizations can be examples of low-income neighborhood organizations.
  - The governing body of the low-income neighborhood organization may elect the representative(s) to serve on the CHDO board.
- c. Low-income input: Input from the low-income community is not met solely by having low-income representation on the board. The CHDO must meet the requirements as follows:
  - i. The CHDO must also provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development, and management of the organization's by-laws or a board resolution.
  - ii. 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 board representation from every neighborhood in which the CHDO will develop, own, or sponsor housing.
  - iii. CHDOs should establish systems for community involvement in parts of their service areas where housing will be developed, but which are not represented on their boards. Such systems might include special committees of neighbors of a proposed development site, neighborhood advisory councils, or open town meetings.
- d. Public-sector limits: A maximum of one-third of the governing board may consist of representatives of the public sector.
- e. This limitation is intended to ensure that separation exists between the City and CHDOs, and that CHDOs are indeed community-based and community-controlled organizations.

- i. A member of the governing board of a CHDO would be considered a representative of the public sector if he or she is a public official, including:
  - ii. Elected officials of the City of South Gate - council members, aldermen, commissioners, state legislators, members of a school board, etc.
  - iii. Appointed public officials - members of a board or State commission or of any other regulatory and/or advisory boards or commissions that are appointed by the State.
  - iv. Public employees of the City - all employees of public agencies (including the schools) or departments of the local government (e.g., a clerk in the water and sewer department, a public facility janitor or a secretary in the tax assessment office); or
  - v. Appointed by a City official - any individual who is not necessarily a public official, but who has been appointed by a City official to serve on the CHDO board
  - vi. Members of the board appointed by public officials cannot select other members of the board.
- f. If the public official is low-income: Public officials and/or appointees who themselves are either low-income community residents or residents of a low-income neighborhood count against the one-third maximum limit of public sector representatives. However, they do not count toward the one-third minimum requirement of community representatives.
- g. Cities, public bodies, or instrumentalities: Cities, public bodies or instrumentalities of public bodies cannot be considered CHDOs. Examples of instrumentalities of public bodies include public housing authorities (PHAs), urban renewal agencies, redevelopment authorities, and downtown development authorities.
  - i. The limits on public-sector representation on CHDO boards only serve to define CHDOs. There are other (not specific to HOME) restrictions on the participation of public officials on the boards of nonprofit organizations seeking public funds. The City should observe their conflict-of-interest guidelines in this regard as well.

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- h. Sponsored CHDOs: Nonprofits that have been sponsored by other nonprofits, charities, religious organizations, local or state government, public agencies, or for-profit corporations may qualify as CHDOs, but certain additional requirements and board limitations can apply.
  - i. Nonprofit and charity sponsors:
    - i. There are no limits on the proportion of the board that may be appointed by nonprofit or charity sponsors, as long as the minimum one-third community representation is met and the maximum one-third public representation is not exceeded.
    - ii. A one-year minimum history of service to the community by the sponsoring nonprofit or charity may help a new nonprofit to qualify as a CHDO.
  - j. Religious organization sponsors:
    - i. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOME Program. Government entities are not to discriminate against an organization on the basis of the organization's religious character or affiliation.
    - ii. However, organizations directly funded under HOME may not engage in inherently religious activities. If the organization conducts such activities, they must be offered separately and participation must be voluntary for the beneficiaries of the assistance provided.

*Additional guidance regarding religious or faith-based organizations is provided in 24 CFR 92.2.57 of the HOME final rule.*
  - k. Local, state government and public agency sponsors:
    - i. A local or state government and/or a public agency cannot qualify as a CHDO but may sponsor the creation of CHDOs.
    - ii. Government officials and appointees of the government cannot exceed one-third of the members of the board.
    - iii. All other CHDO rules and requirements also apply.
  - l. For-profit corporate sponsors:

- i. A CHDO cannot be controlled by, nor be under the direction of, for-profit entities or individuals seeking profit from the organization.
- ii. CHDOs may be sponsored or organized by a for-profit if:
  - The primary purpose of the for-profit sponsor is not the development or management of housing (that is, a builder, developer or real estate management firm may not spin off a CHDO);
  - The for-profit appoints no more than one-third of the CHDO's governing board and the board members appointed by the for-profit do not appoint the remaining members of the board; and
  - The CHDO is free to contract for goods and services from any vendors it selects.

### 3. Experience and Capacity

- a. CHDO experience: A CHDO must demonstrate that it has at least *one year* of experience serving the community where it intends to develop the HOME-assisted housing.
  - i. Newly created organizations wishing to become CHDOs can meet this requirement if the parent (or sponsoring) organization is a nonprofit and has provided services to the community for at least one year.
  - ii. The year of service does not have to be directly related to housing.
  - iii. Prior service to the community cannot consist of a for-profit organization's work in that community.
- b. CHDO capacity: A CHDO must demonstrate the capacity of their key staff to carry out the HOME-assisted activities they are planning. This means that CHDOs must have:
  - i. Experienced key staff who have successfully completed projects similar to those proposed by the CHDO; or
  - ii. Key staff with limited or no experience, and who will use experienced consultants for the planning and development activities, as long as there is a plan in place for the consultant to train the key staff.
- c. Differences in required experience and capacity: There are significant differences in the type of experience and capacity that is required to carry out the variety of housing development activities eligible under the HOME

program. Therefore, "experience in having completed similar projects" is different for development/management of rental housing and development/sale of housing for homebuyers.

- i. Because the purpose of the CHDO capacity requirement is to build staff expertise, CHDOs must have their own professional staffs. This means that the key staff required to demonstrate CHDO capacity cannot be:
  - ✓ Municipal, county or state employees; or
  - ✓ Consultants (paid or volunteer) not planning to train the CHDO's key staff.

#### 4. Financial and Accounting Systems

- a. **Financial standards:** CHDOs must have financial accountability standards that conform to 24 CFR 84.21, "Standards for Financial Management Systems."
  - i. If a CHDO or nonprofit is in the role of a subrecipient, it must comply with certain provisions of 24 CFR Part 84 and OMB Circular A-122 "Cost Principles for Non-Profit Organizations." Both publications are included in the appendices.
  - ii. If a CHDO is acting as an owner, sponsor, or developer of HUD HOME assisted housing, the requirements at 24 CFR 84.21, "Standards for Financial Management Systems" apply. This means the CHDO must relate financial data to performance data and develop unit cost information.

The systems include the following:

- Accurate, current, and complete financial results;
- Records that identify the sources and uses of the funds;
- Control over and accountability of all funds and assets;
- Comparison of actual expenditures against budgets;
- Written procedures to minimize time between the transfer of funds in and the payment of funds out;
- Written procedures for determining reasonableness, allocability, and allowability of costs; and
- Accounting records including cost accounting records supported by source documents.



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- b. **Accounting systems:** CHDOs/Nonprofits should establish accounting systems that include at a minimum the following reporting reports:
- i. A chart of accounts that includes
    - ✓ The categories of accounts;
    - ✓ The name of the account;
    - ✓ The number of the account;
  - ii. Cash receipts journal that includes
    - ✓ The date the funds were received listed in chronological order;
    - ✓ The amount received;
    - ✓ The source of the funds;
    - ✓ The purpose of the funds;
  - iii. Cash disbursements journal that includes
    - ✓ The date funds were paid out listed in chronological order;
    - ✓ The date the expense was incurred;
    - ✓ The purpose of the expense;
    - ✓ The amount paid;
    - ✓ To whom it was paid;
  - iv. Payroll journal that includes
    - ✓ A listing of employees;
    - ✓ Amounts paid to the employees;
    - ✓ Benefit expenses paid;
  - v. General ledger that includes
    - ✓ A summary of all account activities listed in chronological order; and
    - ✓ The financial status of all the accounts of the organization.
- c. **Source documentation:** Costs charged against the HOME program must be supported by source documentation that shows that the costs were:
- i. Incurred during the effective period of the agreement;
  - ii. Actually paid out;
  - iii. Expended on eligible items and activities; and
  - iv. Approved by the appropriate officials of the organization.

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## CHDOs Set-Aside Roles: Owner, Developer, and Sponsor

The City of South Gate provides CHDO set-aside funds to CHDOs acting as owners, developers, and sponsors of projects that create new units of affordable housing in their communities. To qualify for the set-aside funds, the CHDO must have effective decision-making authority.

CHDO set-aside funds may be used by CHDOs for those HOME activities where the CHDO acts as the owner, developer, or sponsor of the housing.

1. **Owner:** The CHDO is an “owner” when it holds valid legal title to or has a long-term (99-year minimum) leasehold interest in a rental property. The CHDO may be an owner with one or more individuals, corporations, partnerships or other legal entities.
  - a. The CHDO may be the owner and developer of its own project.
  - b. The CHDO may own a property in partnership with either a majority or minority interest. However, the CHDO -- in partnership with a wholly owned for-profit or nonprofit subsidiary -- must be the managing general partner with effective control.
2. **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. If the CHDO owns the property, it must obtain financing and rehabilitate or construct the project.
    - i. For HOME-assisted rental housing: At project completion, the CHDO may maintain ownership and manage the project over the long-term, or it may transfer the project to another entity for long-term ownership and management.
    - ii. For HOME-assisted homebuyer project: The CHDO transfers title of the property and the HOME obligations to an eligible homebuyer within a specified timeframe of project completion.
  - b. If the CHDO does not own the property, it must be under a contractual obligation with the owner to obtain financing and rehabilitate or construct the project. Under this scenario, the CHDO assumes all of the risks and rewards associated with being the **most** detail the CHDO’s specific obligations.
    - iii. For HOME-assisted rental housing: The CHDO may, at project completion, manage the project for the owner.

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- iv. For homebuyer housing: The owner must transfer title of the property and the HOME obligations to eligible homebuyers within a specified timeframe of project completion.
  - c. If the CHDO develops the property for an owner pursuant to a written or other agreement with the City, the CHDO is acting in the capacity of a subrecipient.
- 3. Sponsor:** A CHDO is a “sponsor” for HOME-assisted rental or homebuyer housing according to the circumstances outlined below.
- a. For HOME-assisted rental housing: The CHDO develops a project that it solely or partially owns and agrees to convey ownership to a second nonprofit organization at a predetermined time. The conveyance may take place prior to, during, or upon completion of the development phase.
  - b. The HOME funds are invested in the project owned by the CHDO sponsor.
  - c. The CHDO sponsor identifies the particular nonprofit organization that will obtain ownership of the property prior to commitment of HOME funds.
  - d. The other nonprofit will assume from the CHDO at a specified time all HOME obligations (including repayment of loans and tenant and rent requirements) for the project. If the property is not transferred to the nonprofit organization, the CHDO sponsor will remain liable for the HOME obligations.
  - e. The other nonprofit organization must be financially and legally separate from the CHDO sponsor. (The second nonprofit may have been created by the CHDO; nevertheless, it is a separate entity from the CHDO.)
  - f. The CHDO sponsor must provide sufficient resources to the nonprofit organization to ensure the completion of development and long-term operation of the project.
- 4. Similar roles:** The developer and sponsor roles are similar in many ways.
- a. In both the developer and sponsor roles, the CHDO carries out some or all of the principal project development activities -- such as acquisition, financing, construction management and putting together a capable development team -- to bring project from conception to completion.
  - b. However, as developer, the CHDO need not own the property.

- c. As sponsor, the CHDO must own the property and shift the responsibility from the CHDO to another specific nonprofit at some specified time in the development process. Transfer could occur, for example, at:
  - i. Initiation of the construction;
  - ii. Completion of the construction; or
  - iii. Issuance of the certificate of occupancy.

The HOME long-term affordability requirements for the project are the responsibility of the owner or subsequent owners of the property.

## 5. CHDOs vs. Subrecipients

A community-based nonprofit organization may meet all of the regulatory requirements to be designated as a CHDO. However, in order for CHDO activities to count toward the CHDO set-aside, the CHDO must be the developer, sponsor and/or owner of the HOME-assisted housing.

## 6. CHDO as a Subrecipient:

CHDOs may play the role of a "subrecipient" undertaking all other HOME-eligible activities, even if these activities do not count toward the CHDO set-aside.

- a. A HOME subrecipient is an entity selected by the City to administer aspects of a HOME program (that is, screen projects, market activities, review and certify tenant income, counsel potential homebuyers) or an entire HOME activity (review requests for HOME funds for the rental housing production set-aside.).
  - i. Restrictions: When a CHDO is acting in the capacity of a HOME subrecipient, it may not also receive HOME funds to develop, sponsor or own housing funded through the subrecipient activity the CHDO administers. Doing so would constitute a conflict-of-interest for the CHDO.

## CHDO Eligible Uses

With the City of South Gate approval, CHDOs may use HOME funds for **all** eligible HOME activities. However, only certain types of activities count toward the minimum 15 percent set-aside.

### 1. Eligible Uses:

Eligible set-aside activities include the following when carried out by a CHDO acting as an **owner, developer or sponsor**:

- a. Acquisition and/or rehabilitation of rental housing;
- b. New construction of rental housing;
- c. Acquisition and/or rehabilitation of homebuyer properties;
- d. New construction of homebuyer properties; and
- e. Direct financial assistance to purchasers of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.

## 2. Ineligible Uses:

The following activities are ineligible set-aside activities, but may be carried out by the CHDO as a **subrecipient**:

- a. Tenant-based rental assistance;
- b. Homeowner rehabilitation; and
- c. Brokering or other real estate transaction.

## CHDO Special Assistance

The City of South Gate may use HOME funds to provide special assistance to CHDOs that include:

1. Project pre-development loans;
2. Use of HOME project proceeds; and
3. Capacity-building assistance.

NOTE: In contrast to the 15 percent set-aside, which is mandated, the City has total discretion over whether to provide these special forms of assistance.

1. **Project Pre-development:** The City of South Gate *may* set-aside a portion of CHDO set-aside funds to be provided to the CHDO for project-specific pre-development assistance (see Part II: Program and Design).
  - a. The project specific pre-development assistance is intended to assure that CHDOs have access to funds for up-front, eligible project expenditures. This assistance provides a form of project feasibility "line of credit" that many nonprofit developers need, but often have difficulty obtaining from private sources.

- b. All costs must be related to a specific project which, if deemed feasible, would receive HOME funds for development.
  - c. Project pre-development costs may not exceed customary and reasonable project preparation costs.
2. **Types of pre-development assistance:** The two primary types of project pre-development assistance are:
    1. Technical assistance and site control loans, and
    2. Seed money loans.

## **PART 2: PROGRAM DESIGN AND IMPLEMENTATION**

This section discusses the City's CHDO program design and implementation procedures.

### **PROCEDURES (General)**

1. City of South Gate CHDO applicants must request a specific amount in the Project Application.
2. All pre-development loans must be repaid or rolled over into the permanent subsidy at on construction close.

### **Operating Assistance**

3. The City of South Gate permits CHDO proceeds and pre-development loans but does not provide CHDO operating expenses.
4. Applicants requesting pre-development loans must complete both the CHDO Pre-Application and the Project Application as defined below before a loan can be considered or authorized.

### **Eligibility Determination**

1. Once the CHDO candidates are identified, the City of South Gate will determine whether organizations meet the CHDO qualifications outlined in the HOME regulations.

#### **a. Eligible Applicant**

The only eligible applicant for the city's HOME CHDO Program is a Community Housing Development Organization ("CHDO") as defined by the HOME Investment Partnerships Act and the regulations adopted by the US Department of Housing and Urban Development (HUD) is a private

nonprofit, community-based organization that meets the definition at 24 CFR 92.2. The governing law and regulations may be found at 24 CFR 92.2 and 92.300-303, and in CPD Notice 97-11, CPD Notice 97-09, and HUD CPD Notice 96-09.

To assist the City of South Gate in determining the qualifications and capacity of a CHDO organization the City designed a CHDO Determination Worksheet (see Exhibit 3). The worksheet is designed to assist the City in processing a CHDO application in the minimum time necessary. Each section is a table which can be filled out and the table will adjust to the length of the CHDO's response.

### CHDO Capability

1. Once an organization has been determined eligible as a CHDO, the City of South Gate will establish whether the CHDO is actually capable of carrying out the responsibilities of a CHDO by assessing the CHDOs capacity. Determining the CHDOs capacity assists the City to determine which organization(s) are qualified and capable of carrying out CHDO-eligible activities, and which ones need to make changes or build capacity to quality.

### Types of Projects

1. The City permits CHDOs to bring any type of project which is an eligible CHDO activity as follows:
  - a. Acquisition and/or rehabilitation of rental housing;
  - b. New construction of rental housing;
  - c. Acquisition and rehabilitation of homebuyer properties for resale to eligible, qualified buyers;
  - d. New construction of homebuyer properties for sale to eligible, qualified buyers; and
  - e. Direct financial assistance to purchasers of HOME-assisted housing sponsored or developed by a CHDO with HOME funds.
2. The City permits CHDO proceeds and pre-development loans, but does not provide CHDO operation expenses. Applicants requesting a pre-development loan must complete both the CHDO Pre-Application and the Project Application as defined below before a loan can be considered or authorized.

### Application Period

1. The City of South Gate welcomes applicants for CHDO status at any time during the calendar year.

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## Pre-Application for CHDO Status

1. The City of South Gate pre-application process procedures require the applicant to meet ALL of the requirements of being a CHDO as defined by the “CHDO Determination Worksheet” provided by the City.
2. All documentation necessary for meeting the requirements contained in the CHDO Determination Worksheet must accompany the pre-application form. The documents necessary for determination include:
  - a. The CHDO Determination Worksheet;
  - b. A copy of the Articles of Incorporation;
  - c. A copy of the By-Laws;
  - d. A copy of the Conflict of Interest Policy;
  - e. Any applicable signed Board Minutes or resolutions required by the CHDO Determination Worksheet;
  - f. A Board Form for each Board member, signed and dated by the Board member
  - g. A current financial statement and the most recent annual audit; and
  - h. A statement of the applicant’s capacity to undertake a project of the scope and size proposed;
  - i. Including staff resumes
3. The City will review the application for compliance, completeness, and capacity.
4. The Pre-Application Process results in Pre-Qualification letter from the City HOME Program Administrator to the CHDO advising the CHDO to submit a qualifying CHDO project within 180 days of the date of the Pre-Qualification letter.
5. The City certifies CHDO’s only at the point where the CHDO has an approved City CHDO project.
6. Completion of the pre-application process for CHDO status does not guarantee funding by the City.
7. In the event any of the items contained in the CHDO Determination Worksheet change between the time of the Pre-Qualification letter and the submission of a CHDO project, the CHDO must notify the City in writing of the change (at the time of project application) and provide the documentation necessary to assess whether or not the CHDO remains compliant with the CHDO requirements.



8. Changes in the Board of Directors require the CHDO submit the Board Form for any new Board member and identify any Board members who have left the CHDO at the time of project application and again at the HOME closing.

### **RECAPTURED AND RESALE FUNDS**

As discussed in the City's Annual Action Plan, the following requirements relate to *CHDOs only*. *This is not required for rental or homebuyer programs.*

#### **RECAPTURED FUNDS (24 CFR 92.254(a)(5)(ii)(A)(4))**

Recapture is defined as the recovery of HOME funds upon the sale or transfer, rental or lease, refinancing, or the Borrower(s) no longer being a physical occupant of the property.

### **GENERAL PROVISIONS**

- a. Any amount repaid as a result of a homebuyer property being sold within the affordability period.
- b. The recaptured provisions must be stated in written agreements between Recipients and the income of any eligible homebuyers.
- c. Recaptured funds are a return of the original HOME investment and are technically not program income.
- d. Therefore, unlike program income, 10 percent of recaptured funds **cannot** be used for planning and administrative costs and must be returned to the City.

### **PROCEDURE**

- a. The City of South Gate will impose HOME recapture provisions on any property sold by a Community Housing Development Organization (CHDO) to a homebuyer when the City provides a direct subsidy for down payment and or closing costs to the homebuyer.
- b. The balance of the loan shall be due and payable upon sale or transfer, rental or lease, refinancing, or the Borrower(s) no longer being a physical occupant of the property.
- c. This recapture provision shall remain in force from the date the legal documents are executed at loan closing until the expiration of the affordability period.
- d. Net Proceeds from Sale for the purpose of Recapture are defined as follows:

- i. Sales Price
  - ii. Less Seller's Closing Costs
  - iii. Less First Mortgage Balance
  - iv. Less documented Capital Improvements in excess of \$500
  - v. Less Down payment and closing costs paid from the Homebuyer's cash at purchase
  - vi. Equals Net Proceeds from Sale
- e. The City shall recapture from the net proceeds from sale, the remaining Development, and/or Homebuyer direct subsidy and return the recaptured funds to the HOME Investment Trust.
  - f. Funds remaining after Recapture shall accrue to the Homebuyer.
  - g. If there are no Net Proceeds from Sale, then the City shall forgive the remaining balance of the loan.

#### **RESALE PROVISIONS [24 CFR 92.254(a)(5)(ii)(5)]**

##### **PROCEDURE**

- a. The City of South Gate will impose HOME resale provisions on any property sold by a Community Housing Development Organization (CHDO) or any other entity receiving a HOME development subsidy from the City, to a homebuyer when the City does not provide a direct subsidy for down payment and or closing costs to the homebuyer.
- b. Resale is defined as the recovery of HOME funds upon the sale or transfer, rental or lease, refinancing, or the homebuyer(s) no longer being a physical occupant(s) of the property:
  - i) In instances where the home has been rented or leased, refinanced, or the Borrower(s) are no longer are physical occupant(s) of the property the total outstanding balance of the HOME loan shall be immediately due and payable to the City;
  - ii) In instances where the Homebuyer's home is sold to a qualified low-income buyer at an affordable price, the HOME loan balance shall be transferred to the subsequent qualified buyer and the affordability period shall remain in force;
- a. The resale provision shall remain in force from the date the legal documents are executed at loan closing until the expiration of the affordability period defined in the Written Agreement between the City and the homebuyer(s).

b. Resale requires the homeowner to sell the home to a low-income family and at an affordable price as defined below:

i) A low-income family is defined as a family whose income at the time of purchase from the homebuyer is no greater than 80% of the area median income as defined by HUD under the Part V income definition.

(1) The contract for sale of the home must include a provision requiring the family acquiring the home to be qualified by the City prior to acquiring the property.

ii) The affordable sales price of the HOME assisted property shall be determined as follows:

(1) The City shall determine 80% of area median income (AMI) for:

- (a) A family of two (2) if the unit is a one (1) bedroom unit
- (b) A family of three (3) if the unit is a two (2) bedroom unit
- (c) A family of four (4) if the unit is a three (3) bedroom unit
- (d) A family of six (6) if the unit is a four (4) bedroom unit

(2) The applicable AMI shall be multiplied by twenty-five percent (25%) to determine the annual housing expense ("HE") and divided by twelve (12) to determine the monthly HE.

(3) The mortgage interest rate shall be the average fixed rate, thirty (30) year mortgage interest rate as published by the Federal Housing Administration (FHA) at the time of determination.

(4) The term shall be thirty (30) years.

(5) The present value of an affordable mortgage shall be calculated utilizing the monthly HE, the determined interest rate, and the term.

(6) The present value shall be divided by 95 and multiplied by 100. The result shall be the affordable sales price.

iii) The homeowner must list the property at or below the City determined affordable price.

#### **1. Fair Return and Appreciated Value [24 CFR 92.254(a)(5)(i)]**

a) Determination of Fair Return

- i) Fair Return shall be the sum of:
  - (1) Down payment and closing costs paid from the buyer's cash at purchase.
  - (2) Seller's (homeowner's) closing costs at sale.
  - (3) Principal payments only made by the buyer in excess of the amount required by the loan.
  - (4) Documented capital improvements in excess of \$500.
- b) Fair Return is paid to the buyer at sale once first mortgage debt is paid and all other conditions of this agreement are met.
  - i) In the event there are no funds for fair return, then fair return does not exist.
  - ii) In the event there are partial funds for fair return, then fair return shall remain in force.
- c) Appreciated value is:
  - i) The Affordable Sales Price
  - ii) Less first mortgage debt
  - iii) Less Fair Return
  - iv) Equals appreciated value.
    - (1) If appreciated value is zero, or less than zero, then no appreciated value exists.
- d) Appreciated Value is shared with the homebuyer based on the City's initial investment of HOME funds as follows:
  - i) The homeowner's initial investment of down payment and closing costs divided by the City of HOME investment equals the percentage of appreciated value that shall be paid to the homeowner.
  - ii) The balance of appreciated value shall be paid to the City.

### CHDO Determination Worksheet

The CHDO Determination Worksheet is designed to assist the City in processing your CHDO application in the minimum time necessary. Each section is a table which can be filled out and will adjust to the length of the CHDOS response. Please remember to save this document as (Acronym of the CHDO) CHDO Application.

**EXHIBIT 3  
CHDO DETERMINATION WORKSHEET  
APPLICANT INFORMATION**

Applicant Name			
Applicant Address			
City	State		Zip
Contact Person		Office Phone	
Cell Phone		E-mail	

**BOARD OF DIRECTORS LIST**

<b>CHAIR</b>	Name		
Home Address			
City/State		Zip	
Telephone		E-mail	
<hr/>			
<b>PRESIDENT</b>	Name		
Home Address			
City/State		Zip	
Telephone		E-mail	
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<b>VICE-PRESIDENT</b>	Name		
Home Address			
City/State		Zip	
Telephone		E-mail	
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<b>TREASURER</b>	Name		
Home Address			
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<b>SECRETARY</b>	Name		
Home Address			
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<b>BOARD MEMBER</b>	Name		
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BOARD MEMBER	Name		
Home Address			
City/State		Zip	
Telephone		E-mail	
BOARD MEMBER	Name		
Home Address			
City/State		Zip	
Telephone		E-mail	

**CHDO Checklist**

The information contained in the CHDO Checklist refers to the definition of Community Housing Development Organizations (CHDOs) in Subpart A, 92.2 of the HOME Rule.

- 9. The City of South Gate requires the CHDO to fill the Checklist out completely stating where the response to each requirement may be found in the accompanying documentation.

<b>I. LEGAL STATUS</b>	
A. The nonprofit organization is organized under State or local laws, as evidenced by either Charter (Articles of Incorporation) or By-Laws	

<p>B. No part of its net earnings inures to the benefit of any member, founder, contributor, or individual, as evidenced by:</p>	
<p>C. Has a tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986, as evidenced by a 501(c)(3) or (4) Certificate from the IRS. OR Is classified as a subordinate of a central organization non-profit under section 905 of the Internal Revenue code, as evidenced by a group exemption letter from the IRS that includes the CHDO.</p>	
<p>D. Has among its purposes the provision of decent housing that is affordable to low- and moderate-income people, as evidenced by an organization statement:</p>	
<p><b>II. CAPACITY</b></p>	
<p>A. Conforms to the financial accountability standards of 24 CFR 84.21, "Standards for Financial Management Systems", as evidenced by a notarized statement by either the president or chief financial officer of the organization; OR a certification from a Certified Public Accountant, OR a HUD approved audit summary.</p>	
<p>B. Has a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by either resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds, OR contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization.</p>	
<p>C. Has a history of serving the community within which housing to be assisted with HOME funds is to be located, as evidenced by either a statement that documents at least one year of experience in serving the community, OR for newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year of experience in serving the community. The CHDO or its parent organization must be able to show one year of serving the community prior to the date the participating jurisdiction provides HOME funds to the organization. In the statement, the organization must describe its history (or its parent organization's history) of serving the community by describing activities which it provided (or its parent organization provided), such as, developing new housing, rehabilitating existing stock</p>	

and managing housing stock, or delivering non-housing services that have had lasting benefits for the community, such as counseling, food relief, or childcare facilities. The statement must be signed by the president or other official of the organization.	
D. A defined service area which includes or overlaps the City of South Gate as evidenced by: A resolution of the Board of Directors; the Charter, or the By-Laws	
E. A current financial statement of the CHDO	
<b>III. ORGANIZATIONAL STRUCTURE</b>	
A. Maintains at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations as evidenced by the Organization's By-Laws, Charter, OR Articles of Incorporation.	
B. Provides a formal process for low-income, program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects, as evidenced by: the organization's By-laws, a resolution of the Board of Directors, OR a written statement of operating procedures approved by the governing body.	
C. A CHDO may be chartered by a State or local government, but the following restrictions apply: (1) the State or local government may not appoint more than one-third of the membership of the organization's governing body; (2) the board members appointed by the State or local government may not, in turn, appoint the remaining two-thirds of the board members; and (3) no more than one-third of the governing board members are public officials (including any employees of the PJ), as evidenced by the organization's: By-laws, Charter, OR Articles of Incorporation.	
LOCAL REQUIREMENT: A Board Information Form must be submitted for each Board member	
D. If the CHDO is sponsored or 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, as evidenced by the CHDO's: By-laws, Charter, OR Articles of Incorporation.	



<b>IV. RELATIONSHIP WITH FOR-PROFIT ENTITIES</b>	
A. The CHDO is not controlled, nor receives directions from individuals, or entities seeking profit from the organization, as evidenced by the organization's By-laws, OR a Memorandum of Understanding (MOU).	
B. A Community Housing Development Organization may be sponsored or created by a for-profit entity, however: (1) the for-profit entity's primary purpose does not include the development or management of housing, as evidenced in the for-profit organization's By-laws	
(2) the CHDO is free to contract for goods and services from vendor(s) of its own choosing, as evidenced in the CHDO's By-laws, Charter, OR Articles of Incorporation	
<b>V. OTHER FEDERAL REQUIREMENTS</b>	
(1) Has a conflict of interest policy for Board of Directors and Staff that meets the requirements of 24 CFR Part 92.356 of the HOME Regulations	

**Project Application**

10. Once the City has provided the CHDO with a Pre-Qualification letter, the CHDO applicant **must** submit a viable, compliant CHDO project to the City within **180 days**.

**Projects**

The following describes the required submissions for various types' projects allowed by the City:

**Single Family**

Single Family program applicants are required to submit a complete program description that Defines:

1. The buyer(s) to be served;
  - a. By family size and household income
  
2. The type of program activity:
  - b. Acquisition/Rehabilitation/Sale
  - c. New Construction
  - d. Other

3. The project timeframe and timeline
4. The total project costs
  - a. Including all Sources and Uses
5. The total subsidy per buyer
  - a. The City does not offer a separate down payment and closing costs assistance program. The applicant must define what portion of the funds requested will be a development subsidy and what portion of the subsidy will be down payment and closing cost assistance to the buyer.

### **Multifamily**

Multifamily program applicants are required to submit a site-specific project, including:

1. A development and operating pro forma.
2. The type of program activity:
  - a. Acquisition/Operation
  - b. Acquisition/Rehabilitation/Operation
  - c. New Construction
  - d. Special Needs
3. The project timeframe and timeline.
4. The total project cost:
  - a. Including all Sources and Uses for the development.
  - b. The total HOME subsidy requested.
5. An operating pro forma showing all income and expenses for the entire HOME required compliance period:
  - a. Rents must be compliant with the HUD allowable rents for the Los Angeles MSA.
  - b. Escalation rates must be 5 percent for expenses and 3 percent for income.
  - c. The project must have a positive cash flow for the entire HOME compliance period.

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## CHDO Proceeds

CHDO Proceeds result from the sale of a single family or multifamily property financed by the City through the HOME program. Proceeds include both HOME funds and any other funds from any source which are realized by the sale of property assisted in any form or fashion with HOME funds.

1. In single family sales, the total HOME funds provided by the City to the CHDO for any specific project under the HOME contract, less the actual expenses for the project, the buyer's down payment, the buyer's contribution, and any non-HOME or non-CDBG mortgages are defined as CHDO Proceeds, or Proceeds.
2. In multifamily sales, the total HOME funds provided by the City to the CHDO for any specific project under the HOME contract, less the actual expenses of the project, the buyer's down payment, the buyer's contribution, and any non-HOME or non-CDBG mortgages are defined as CHDO Proceeds, or Proceeds.
3. Allowable Uses of CHDO Proceeds:

An eligible activity defined by either the HOME program regulations or this agreement that directly supports the creation of affordable housing in our community shall be collectively known as an "allowable use." Allowable uses are further defined and limited by this agreement as follows:

- a. Any eligible use of HOME funds, as defined in 24 CFR Parts 91 and 92 of the Final HOME Rule shall be an allowable use under this contract, so long as the allowable use results in or supports the creation of new units of affordable single-family housing for purchase by HOME qualified buyers or for rent by HOME qualified tenants

### 4. Prohibited Uses

- a. Proceeds may not be used to fund, finance or pay for a loan counseling, debt counseling or homebuyer counseling programs or efforts as long as the City provides funding to any other organization or entity to provide these services.
- b. Proceeds may not be used to fund any operating reserves of the CHDO.
- c. Proceeds may not be utilized to make repairs, reconstruct, or rebuild any unit previously financed with HOME funds without the express written permission of the City.

### 5. Governing Law and Regulation

- a. Final HOME Rule: 24 CFR Parts 91 and 92;
- b. CPD Notice 97-9; and
- c. The City's Contract with the CHDO

#### 6. Accounting for Proceeds

- a. The CHDO shall retain proceeds in a separate bank account and shall provide an accounting of the use of proceeds to the City on a quarterly basis.
- b. The accounting shall designate the project and show the flow of funds into and out of the project account until all funds in the account are expended in accordance with the CHDO Contract and the CHDO Proceeds Addendum
- c. To facilitate proper accounting for the proceeds, the CHDO shall utilize the spreadsheet designated by the City and included here by reference.
- d. The auditor of the CHDO shall, at each annual audit, review the CHDO proceeds account of the CHDO and shall include in the annual audit specific language stating whether or not the CHDO has complied with the terms of the CHDO Proceeds Addendum to the Contract between the City and the CHDO.

#### 7. Allocation and Use of Proceeds

- a. Under the CHDO's contract with the City, the City provides the CHDO with a development subsidy to assist in the development of either multifamily or single-family housing within the City;
- b. The development subsidy is expended by the CHDO;
- c. Proceeds are realized upon the sale of the completed property to a qualified buyer as defined by the City's contract with the CHDO.
- d. Proceeds are realized on the date of the close of the property to the end owner.
- e. At the close of each project which yields proceeds to the CHDO, the CHDO shall allocate proceeds as follows:
  - i. If proceeds are less than \$5,000, then all proceeds from the associated property account shall be allocated by the CHDO to the general administration (salaries, benefits and/or administrative costs) of the CHDO for the support of the development of affordable housing.
  - ii. If proceeds are more than \$5,000, then:
    - 1. Ten percent (10 percent) of proceeds shall be immediately allocated to the general administration (salaries, benefits and/or administrative costs) of the CHDO for the support of the development of affordable housing;

2. Ninety percent (90 percent) of proceeds shall be allocated to land acquisition, site development, and/or construction financing.
  3. Each subsequent return of proceeds shall follow the same methodology until the proceeds are less than \$5,000, at which time the proceeds account for the project shall be closed.
- iii. To facilitate the quick rollover and expenditure of proceeds, the CHDO will invest proceeds in the next available project as soon as the proceeds are realized, and before a request for additional funds for development activity from the City.
8. Draw Requests
- a. Requests to the City for disbursement of funds for land acquisition, site development and/or construction financing on any subsequent project under this contract, shall include the following:
    - i. The full amount of the requested disbursement;
    - ii. The amount drawn from proceeds
    - iii. Including the project name or names, the amount is drawn from.
    - iv. The net amount of the requested disbursement.
9. CHDO proceeds must be specifically requested in the CHDO's Project Application.
10. The City of South Gate **will not** assign staff to a CHDO on either a full or a part-time basis in order to fulfill the CHDOs capacity requirement.
11. Allow CHDOs pay the City of South Gate for any technical assistance and/or training that the City provides.

## CHDO Certification

### CHDO Certification/Recertification Requirements:

Certified CHDOs or organizations that wish to be certified as a City of South Gate CHDO **must** use the City's application to apply for certification. Certified CHDOs must be **re-certified** on an annual basis, providing all documentation required for initial certification is up to date and accurate. Agencies meeting the CHDO certification requirements as indicated in the CHDO section of these operating procedures will be recommended by the City of South Gate staff for certification.

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A City of South Gate CHDO seeking recertification or an agency seeking certification as a City of South Gate CHDO must **currently** demonstrate **capacity** to carry out HOME assisted activities either with:

- a. Experienced staff who have successfully completed similar projects, that draws a distinction between development, management of rental housing and development, sale of housing for first-time homebuyers,  
OR
- b. Key staff with limited or no experience who will utilize experienced consultants (if consultants are in charge of development, there must be a written plan submitted yearly to the City of South Gate indicating how the consultant will train key staff during that funded year).

### Monitoring

The City of South Gate will monitor the performance of the CHDO to assist the City to identify:

- Strengths and weaknesses in CHDO operations and the support systems necessary for CHDOs to operate and for the HOME program to succeed.
- Identifying what needs to be changed, and for securing the appropriate technical assistance and training needed to do so.
- Determining the level, type, and areas of need will vary from CHDO to CHDO, and, within CHDOs, from year to year.

Monitoring CHDO performance will include a review of the following factors:

1. Compliance with HOME requirements;
2. A risk assessment of the CHDO;
3. Completion of funded projects;
4. Timeliness and ability to complete projects within established budget parameters;
5. Human resources;
6. Adequate financial resources;
7. Ability to leverage other resources;
8. Adequate financial systems;
9. Board operations;
10. Strategic plans;
11. Organizational work plans;
12. Record-keeping;
13. Compliance with HOME targeting requirements; and
14. Board composition and operations.

**PROCEDURE:**

1. The City will issue a letter ninety (90) days in advance of monitoring specifying a set of files, policies, procedures, and accounts the City will require the CHDO deliver to the City on a date certain;
  - a. Each year, within 120 days of the close of the CHDO's fiscal year, the CHDO shall deliver an audit by a certified public accountant to the City;
    - i. The audit shall contain the CHDO Proceeds provision noted under accounting, if applicable;
2. After the CHDO has submitted the required documents the City will conduct a desk review to insure compliance with the HOME and local requirements;
3. Upon completion of the desk review the City will establish a mutually acceptable date for the on-site monitoring;
4. The City will specify, at its' sole discretion, the items the City will review on-site.
5. The City will conduct on the on-site monitoring.
6. Within thirty (30) days of the on-site monitoring, the City will issue a Monitoring Report delineating any deficiencies found;
7. The CHDO shall have thirty (30) days to address or correct those deficiencies identified in the monitoring report.

**Default**

Any of the following conditions shall result in default by the CHDO:

1. Failure by the CHDO to deliver the audit within the prescribed period;
2. Failure by the CHDO to submit the required quarterly reports;
3. Failure by the CHDO to segregate the CHDO Proceeds in a separate account, or to properly account for the Proceeds to the standard provided by this agreement (if applicable);
4. Failure by the CHDO to meet the development or program benchmarks contained in the City's Contract with the CHDO.

5. Any action of the staff or Board of Directors which violates the laws and regulations of the United States; the laws and regulations of the State of California; and/or the laws and regulations of the City.

**NOTE:** If the CHDO defaults as defined herein, the City, may, at the City's sole discretion, end or suspend the Contract between the City and the CHDO.

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## CHAPTER 4: HOMEOWNER REHABILITATION ACTIVITIES

This chapter describes how HOME funds may be used to assist owners in the rehabilitation of owner-occupied housing. Eligible activities, forms of assistance and property types are covered in this chapter.

This chapter is divided into two parts: General HOME Program requirements, and the City of South Gate program design and implementation procedures focusing on how to determine 95 percent of median value, as well as subsidy type, and selection.

### PART 1: HOME PROGRAM REQUIREMENTS (GENERAL)

General HOME Program requirements include: eligible Homeowner Rehabilitation Activities, applicant eligibility requirements, forms of financial assistance, and property standards and value. A summary of the key homeowner rehabilitation rules and how to document compliance with these rules is provided as Exhibit 4.

#### Eligible Activities

HOME funds may be used to assist existing homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units.

Whenever HOME funds are used for rehabilitation, the work must be performed according to the City's written rehabilitation standards and the unit(s) must be brought up to the applicable state or local code. If a state or local code does not exist, the unit may be brought up to the standards of the national model codes.

This means that the City may **not** undertake some forms of special purpose homeowner repair programs, such as:

1. Weatherization programs;
2. Emergency repair programs; or
3. Handicapped accessibility programs.

However, these types of programs may be undertaken, if the property meets or will be brought up to the applicable HOME property standards.

1. The City's HOME funds will be used to assist existing homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units.
2. HOME funds that are used for rehabilitation must be performed according to the City's written rehabilitation standards and the unit must be brought up to the applicable state or local code.

## Forms of Finance Assistance

The City of South Gate may structure HOME assistance for owner-occupied rehabilitation using any of the following forms of assistance:

1. Grants;
2. Deferred-payment loans;
3. Non-interest-bearing loans; and
4. Interest-bearing loans.

There are several other less common forms of financial assistance that may be used in homeowner rehabilitation programs. These forms include interest subsidies and loan guarantees. Both methods enable the City to use small amounts of HOME funds to leverage private money for rehabilitation. They include:

5. Interest subsidies: Interest subsidies, also referred to as interest reduction grants or interest rate buydowns, are similar to principal reduction grants or loans except that the HOME funds are used to “buy down” the interest rate to an affordable level. In this case, the HOME subsidy is paid directly to the lender and not provided to the homeowner.
6. Loan guarantees: Loan guarantees are another way to leverage HOME funds for homeowner rehabilitation. A loan guarantee could be used as a credit enhancement when a borrower otherwise eligible for a private loan is denied because of a real or perceived risk factor. In these cases, the City could provide a loan guarantee that would ensure payment, thus making an otherwise risky loan acceptable to a private lender.

## Subsidy Limits

1. **Minimum HOME investment:** The minimum amount of HOME funds is an average of \$1,000, multiplied by the number of HOME-assisted units in the project.
  - a. The minimum **only** relates to the HOME funds, and **not** to any other funds that might be used for project costs.
2. **Maximum HOME investment:** The standard maximum loan amount is \$50,000.

The Loan Committee has the authority to approve projects that exceed the standard maximum loan amount, when the standard maximum loan limit is not sufficient to bring the unit into code compliance and/or a health and safety standard conditions. These special approvals are to be recommended on an “as needed” basis, and are subject to the maximum subsidy limits for the HOME Program.

Costs in excess of the Program amounts may be supplemented with personal funds.

In all instances, the loan amount must be in accordance with the loan-to-value ratios

3. The maximum per-unit HOME subsidy limit varies by PJ. HUD determines the maximum amounts, which are based on the City's Section 221(d)(3) program limits for the metropolitan area, each year. An economist in a local HUD field office can provide these limits.

The maximum per-unit subsidy limit is \$50,000. This amount is the standard maximum loan amount.

### Eligible Costs

Under HOME, both the actual cost of rehabilitating the housing and related soft costs are eligible. Exhibit 4 lays out the specific eligible HOME costs under a homeowner rehabilitation program.

#### EXHIBIT 4 HOME-ELIGIBLE HOMEOWNER REHABILITATION COSTS

##### HARD COSTS

- Meeting the rehabilitation standards
- Meeting applicable codes, standards and ordinances
- Essential improvements
- Energy-related improvements
- Lead-based paint hazard reduction\*
- Accessibility for disabled persons
- Repair or replacement of major housing systems
- Incipient repairs and general property improvements of a non-luxury nature
- Site improvements and utility connections

*\*Note: Lead hazard reduction costs are not counted as hard costs for the purposes of determining the level of assistance under 24 CFR Part 35 (the Lead Safe Housing Rule).*

##### SOFT COSTS

- Financing fees
- Credit reports
- Title binders and insurance
- Recordation fees, transaction taxes
- Legal and accounting fees
- Appraisals
- Architectural/engineering fees, including specifications and job progress inspections
- Project costs incurred by the PJ that are directly related to a specific project
- Refinancing of secured existing debt if the housing is owner-occupied and refinancing allows the overall costs of borrower to be reduced and the housing is made more affordable

### The Property

#### Eligible Property Types

1. To be eligible for HOME assistance, a property must be:
  - a. Occupied by an income-eligible homeowner; and
  - b. The owner's principal residence.
2. The following property types may be included under the program:
  - a. Traditional single-family housing that is owned fee simple (current policy allows only one dwelling unit);
  - b. A townhouse unit;
  - c. A condominium unit;
  - d. A cooperative unit or unit in a mutual housing project (if state law recognizes these as forms of homeownership); or
  - e. A manufactured home, including mobile home (program currently inactive).
3. If HOME funds are used to assist the rental units in a two- to-four-unit residence, the HOME rental requirements apply--including provisions regarding tenant occupancy, initial rent levels, and long-term affordability.
4. If HOME funds are used to rehabilitate only the owner-occupied unit in a two-to-four-unit residence, the rental housing rules do not apply.

### Maximum Property Value

To use HOME funds, the value of the HOME assisted property **after rehabilitation** must not exceed 95 percent of the median purchase price for the area, as published by HUD, or, in accordance with the Final Rule, as determined locally through market analysis.

1. **Determining after-rehabilitation value:** To establish project eligibility, after-rehabilitation value must be established prior to any work being performed. The after-rehabilitation value may be established by one or more of the following methods:
  - a. Estimates of value: Estimates of value by the City or subrecipient may be used. Project files must contain the estimate of value and document the basis for the value estimates.
  - b. Appraisals: Appraisals, whether prepared by a licensed fee appraiser or by a staff appraiser of the City, may be used. Project files must document the appraised value and the appraisal approach used.
2. Tax assessments: Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value **if** the assessment is current and accurately reflects market value **after** rehabilitation.

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## Determining the 95 Percent of Median Purchase Price Limit

The Final Rule offers the City two options for determining the 95 percent of median purchase price limit for owner-occupied single-family housing.

The City may either perform a:

1. A local market survey, or
2. Use the figures published by FHA for its 203(b) program. (The national cap established by the 203(b) program does not apply.)

## Property Standards

As with all HOME-assisted properties, properties that are rehabilitated with HOME funds must meet certain standards.

The City is required to have written rehabilitation standards describing the methods and materials to be used when performing rehabilitation. All HOME-assisted rehabilitation projects must meet the City's written rehabilitation standards.

## The Applicant/Beneficiary

### Principal residence

Loan documents or other forms of written agreement between the purchaser and the City must incorporate this requirement. This includes:

1. Owning or having a membership in a cooperative or mutual housing project that constitutes homeownership under state law; or
2. Maintaining an equivalent form of ownership approved by HUD.
3. Life estates and land contracts/contracts for deeds are not approved by HUD as eligible forms of ownership.

## Other Federal Requirements

Exhibit 5 identifies the other federal requirements that must be followed when HOME is used for rehabilitation of homeowner properties, while Exhibit 6 identifies rules on how to document a homeowner rehabilitation program. These exhibits are meant to serve as checklists only.

<b>EXHIBIT 5 OTHER FEDERAL REQUIREMENTS</b>			
<b>Other Federal Requirements</b>	<b>Apply to Homeowner Rehabilitation?</b>	<b>Special/Issues/Considerations</b>	<b>Regulatory Citations and References</b>
<b><i>Non-Discrimination and Equal Access Rules</i></b>			
Fair Housing and Equal Opportunity	Yes. Must affirmatively further Fair Housing.		<ul style="list-style-type: none"> <li>➤ 92.202 and 92.250</li> <li>➤ Title VI of Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.)</li> <li>➤ Fair Housing Act (42 U.S.C. 3601-3620)</li> <li>➤ Executive Order 11063 (amended by Executive Order 12259)</li> <li>➤ Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)</li> <li>➤ 24 CFR 5.105(a)</li> </ul>
Affirmative Marketing	No		<ul style="list-style-type: none"> <li>➤ 92.251</li> </ul>
Handicapped Accessibility	No. (Note: Accessibility improvements are eligible costs.)		<ul style="list-style-type: none"> <li>➤ Section 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8)</li> <li>➤ For multi-family buildings only, 24 CFR 100.205 (implements the Fair Housing Act)</li> </ul>
<b><i>Employment and Contracting Rules</i></b>			
Equal Opportunity Employment	Yes	Small projects offer opportunities for minority and resident-contractors.	<ul style="list-style-type: none"> <li>➤ Executive Order 11246 (implemented at 41 CFR Part 60)</li> </ul>
Section 3 Economic Opportunity	Yes, if amount of assistance exceeds \$200,000 OR contract or subcontract exceeds \$100,000.	Include Section 3 clause in contracts and subcontracts.	<ul style="list-style-type: none"> <li>➤ Section 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 135)</li> </ul>
Minority/Women Employment	Yes	Must develop procedures and	<ul style="list-style-type: none"> <li>➤ Executive Orders 11625, 12432 and 12138</li> <li>➤ 24 CFR 85.36(e)</li> </ul>

		include in contracts and subcontracts.	
Davis-Bacon	No		<ul style="list-style-type: none"> <li>➤ 92.354</li> <li>➤ Davis-Bacon Act (40 U.S.C. 276 276a-5)</li> <li>➤ 24 CFR Part 70 (volunteers)</li> <li>➤ Copeland Anti-Kickback Act (40 U.S.C. 276c)</li> </ul>
Conflict of Interest	Yes		<ul style="list-style-type: none"> <li>➤ 92.356</li> <li>➤ 24 CFR 85.36</li> <li>➤ 24 CFR 84.42</li> </ul>
Debarred Contractors	Yes	Check HUD's list of debarred contractors.	<ul style="list-style-type: none"> <li>➤ 24 CFR Part 5</li> </ul>
<b>Other Federal Requirements</b>			
Environmental Reviews	Yes	<ul style="list-style-type: none"> <li>➤ Neighborhood reviews may facilitate targeted programs, but individual checklist still required for each project site</li> <li>➤ Special attention should be paid to flood insurance and historic requirements.</li> </ul>	<ul style="list-style-type: none"> <li>➤ 92.352</li> <li>➤ 24 CFR Part 58.35 a(4)</li> <li>➤ National Environmental Policy Act (NEPA) of 1969</li> </ul>
Flood Insurance	Yes for PJs that are cities/counties. No for state programs.	Must obtain flood insurance if located in a FEMA designated 100-year flood plain. Community must be participating in FEMA's flood insurance program.	<ul style="list-style-type: none"> <li>➤ Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106)</li> </ul>
Site and Neighborhood Standards	No.	24 CFR 893.6(b)	<ul style="list-style-type: none"> <li>➤ Site and Neighborhood Standards</li> </ul>
Lead-Based Paint	Yes for pre-1978 units.	<ul style="list-style-type: none"> <li>Notices to owners.</li> <li>➤ Paint testing of surfaces to be disturbed.</li> </ul>	<ul style="list-style-type: none"> <li>➤ 92.355</li> <li>➤ Lead Based Paint Poisoning Prevention Act of 1971 (42 U.S.C. 4821 et.seq.)</li> <li>➤ 24 CFR Part 35</li> </ul>

		<ul style="list-style-type: none"> <li>➤ Risk assessment, if applicable, based on level of rehabilitation assistance.</li> <li>➤ Safe work practices and clearance.</li> <li>➤ Provisions included in all contracts and subcontracts.</li> </ul>	<ul style="list-style-type: none"> <li>➤ 982.401 (j) [except paragraph 982.401 (j)(1)(i)]</li> </ul>
Relocation	Yes	<p>Relocation <b>is</b> required if tenants are living in the other units. Relocation <b>is not</b> required for owner-occupied units.</p>	<ul style="list-style-type: none"> <li>➤ 92.353</li> <li>➤ Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655)</li> <li>➤ 49 CFR Part 24</li> <li>➤ 24 CFR Part 42 (subpart B)</li> <li>➤ Section 104(d) “Barney Frank Amendments”</li> </ul>

**EXHIBIT 6  
SUMMARY OF HOMEOWNER REHABILITATION RULES AND HOW TO DOCUMENT**

	Key HOME Requirement	Documentation
<b>Eligible Participants</b>		
Owner Income	<ul style="list-style-type: none"> <li>➤ Gross income &lt;80 percent of median income based on the upcoming 12 months.</li> <li>➤ Income is defined by one of three options: Section 8 annual income; annual income under Census long form; or adjusted gross income under IRS Form 1040.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Completed application in the project file.</li> <li>➤ Source documentation (wage statements, interest statements) in the project file.</li> </ul>
Owner Occupancy	<ul style="list-style-type: none"> <li>➤ Applicant must occupy unit as his/her principal residence.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Client must sign a clause on the application form certifying that the property is the principal residence.</li> </ul>
Ownership of	<ul style="list-style-type: none"> <li>➤ Applicant must have ownership of the property through:                             <ul style="list-style-type: none"> <li>▪ free simple title,</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Title check documentation in project file.</li> <li>➤ Copy of deed or other ownership document in the project file.</li> </ul>



	<ul style="list-style-type: none"> <li>▪ 99-year leasehold interest (50 years on trust or restricted Indian lands), or</li> <li>▪ ownership/membership in a cooperative or mutual housing project.</li> </ul>	
Homeowner's Insurance Endorsement	<ul style="list-style-type: none"> <li>➤ Applicant must have evidence of homeowner's insurance</li> </ul>	<ul style="list-style-type: none"> <li>➤ Homeowner's Insurance Endorsement</li> </ul>
<b>Eligible Property</b>		
Property Type	<ul style="list-style-type: none"> <li>➤ Eligible property types include:                             <ul style="list-style-type: none"> <li>▪ one-to-four-unit property;</li> <li>▪ condominium unit;</li> <li>▪ cooperative or mutual housing unit, if recognized by state law; or</li> <li>▪ manufactured or mobile home.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ If two-to-four units, indicate status of non-owner-occupied units in the application.</li> <li>➤ If non-owner units were assisted with HOME funds, provide agreement with homeowner regarding rental requirements and reference to the property's rental monitoring file.</li> </ul>
Property Location	<ul style="list-style-type: none"> <li>➤ Property must be located within geographic area of the PJ.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Application should include address in PJ's geographic area.</li> </ul>
HOME Minimum	<ul style="list-style-type: none"> <li>➤ A minimum of \$1,000 in HOME funds must be invested in each assisted unit.</li> <li>➤ The maximum per-unit subsidy limit is determined by HUD.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Maintain records in project file demonstrating that the per-unit HOME investment exceeded \$1,000.</li> <li>➤ Maintain records in the project file indicated total HOME subsidy did not exceed maximums provided by HUD.</li> </ul>
Property Value	<ul style="list-style-type: none"> <li>➤ After-rehabilitation value must not exceed 95 percent of the area median purchase price.</li> <li>➤ Use 203(b) limits; OR</li> <li>➤ Establish local limits and obtain HUD approval</li> </ul>	<ul style="list-style-type: none"> <li>➤ If using local value limits, document data used to determine limits as well as evidence of HUD approval in the program file.</li> <li>➤ Document method for determining value in the project file.</li> <li>➤ Copy of value estimate held in project file.</li> </ul>
Property Standards	<ul style="list-style-type: none"> <li>➤ Property must meet PJ's written rehabilitation standards.</li> <li>➤ Property must meet applicable codes (state or local</li> </ul>	<ul style="list-style-type: none"> <li>➤ Document local code or model code used in program files</li> <li>➤ Maintain written rehabilitation standards in program files.</li> </ul>

	codes/standards or one of three nationally accepted codes/standards).	➤ Include inspection report or certification by inspector in project file.
		➤ Keep inspection checklist and work write-up in project file.
Eligible Activities	➤ Rehabilitation, reconstruction.	➤ Document all expenditures.

**PART 2: PROGRAM DESIGN AND IMPLEMENTATION**

**Objectives**

The City of South Gate receives an annual allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). HOME funds are designed to provide or preserve affordable housing for families at or below eighty (80 percent) percent of the Area Median Income (“AMI”). The City is included in the Los Angeles Metropolitan Statistical Area (“LA MSA”).

Under the HOME Program, the City of South Gate has elected to design and implement a homeowner rehabilitation program referred to as the HOME HOMEOWNER REHABILITATION ACTIVITIES. This program is designed to meet the following objectives:

1. Implement a City-wide program designed to serve very-low and low-income households,
2. Provide a valuable service to qualified homeowners and residents,
3. Preserve existing single-family homes, either detached, or attached, within the City limits.

**GOALS**

The City's Homeowner Rehabilitation Activities goals include:

1. Utilizing project selection criteria to establish criteria for determining which projects are chosen (i.e., the level of needed repair or ability of the owner to leverage other funds).
2. Assertively marketing the Homeowner Rehabilitation Activities to ensure the program information is widely and fairly distributed.

**ADMINISTRATIVE PLAN**

Under the supervision of the Economic Development Director, the City's Economic Development Analyst and HOME program Consultant will implement the Homeowner Rehabilitation Activities tasks including:

1. Implementing the methods and criteria for selecting applicants;

2. Administrating and tracking the waiting list (how it will be administered);
3. Utilizing and updating the appropriate forms for assistance and criteria in determining

## HOMEOWNER REHABILITATION ACTIVITIES

1. The HOME Program provides a 0% Deferred Interest Loan (Loan) up to \$50,000 for the rehabilitation of owner-occupied single-family homes or condominiums to the City's residential code ("Code") and the City's Rehabilitation Standards ("Standards"). Rehabilitation to Code and Standards are required.
2. Rehabilitation of a condominium unit for an owner(s) is limited to the unit itself, and may not include common areas, or areas that are the responsibility of the Homeowners' Association ("HOA");
3. Should areas which are common areas or areas that are the responsibility of the HOA not meet code, then the condominium unit shall be ineligible for rehabilitation unless the common area or items of HOA responsibility are corrected prior to or during rehabilitation funded by HOME funds;
4. Rehabilitation of a single-family unit is limited to the unit itself and does not include outbuildings. Outbuildings which do not meet code must be rehabilitated by the owner at the owner's expense prior to or during rehabilitation funded by HOME or be demolished by the City;
5. Non-conforming additions or structures must be demolished during rehabilitation with HOME funds. If permitted by local codes, the non-conforming structure or addition may be rebuilt using HOME funds.

### Form of Assistance

The City has carefully designed the HOME Program to both meet community needs and the program goals.

1. The entire Loan is due and payable to the City if any of the following conditions occur:
  - a. The property is sold;
  - b. The property is foreclosed on;
  - c. The property is refinanced;
  - d. The property is leased;

- e. The applicant(s) fail(s) to occupy the property as their primary residence;
- f. In the event that one of the Joint Tenants listed in the Deed of Trust dies, ownership as stipulated by California Real Estate Law, transfers to the surviving individual. This procedure is not a transfer of title. Consequently, the remaining joint tenant will assume the Loan pursuant to the original terms of the Loan.

## **LOAN CONDITIONS**

Both the City and the Applicant adhere to certain loan conditions as follows:

### The City

1. The City will comply with the Fair Credit Reporting Act that stipulates and guarantees the applicant's privacy and right to have all information regarding the loan transaction kept in a confidential manner;
2. The City shall not discriminate upon the basis of sex, age, race, creed, color, class, national origin, or ancestry in the awarding of financial assistance;

### The Applicant(s)

1. The Applicant shall use the financed loan to pay for the cost of rehabilitation as detailed on the work write-up or scope of work submitted by the program inspector;
2. The Applicant shall permit City inspections of the property to be renovated for compliance with all Federal, State, and City building standards;
3. The Applicant shall not award any contract for rehabilitation work to be paid in whole or in part with the proceeds of the loan to any general contractor who, at the time, is not on the City's approved contractors' list;
4. The Applicant shall allow no member of the City who exercises any function of responsibility in connection with the administration of the HOME funds to have any interest, direct or indirect, in the proceeds of the loan, or in any contract entered into by the applicant for the performance of work financed, in whole or in part, with the proceeds of the loan;
5. The Applicant shall not pay any bonus, commission or fee for the purpose of obtaining approval of the loan application;

6. The Applicant shall occupy and maintain the housing unit for the term of loan;

NOTE: The Applicant shall maintain fire, liability, and hazard insurance coverage on the housing unit in an amount that is at least the value of the after rehabilitation appraised value of the property.

7. The Applicant shall cause the City to be named a co-insured party on the fire, liability, and hazard insurance coverage.
8. The Applicant shall keep property taxes current for the term of the loan;
9. The Applicant shall not discriminate upon the basis of sex, age, race, creed, color, class, national origin, or ancestry in the awarding of the construction contract; and
10. The Applicant shall utilize funds within sixty (60) days of loan closing unless granted a written time extension by the City.

## DEFAULT

In the event that the Applicant fails to adhere to the conditions and restrictions contained within the Written Agreement between the Applicant and the City, the City reserves the right to terminate the individual's participation in the HOME Program and/or demand full repayment of the loan.

## Eligible Applicant

The HOME Program is open to all applicants who meet the eligible household requirements provided above. The City, in recognition of the high proportion of elderly and special needs families that reside in substandard housing within the City, will provide a priority to owner occupants that are elderly and/or disabled.

An Applicant(s) owns and occupies the property where proof of ownership is established through a legal Deed of Trust. Assistance from the City shall be available only to Applicants who:

1. Have the capacity and authority to competently enter into financial and contractual agreements;
2. Whose household income that does not exceed 80% of the area median income adjusted by family size (See Qualifying Households);
3. Whose monthly housing costs are not and will not be more than 30% of income
4. Agree to comply with any and all applicable permits, codes, and/or other City regulations;

5. Agree to sign and abide by the Written Agreement and Promissory Note between the City and the Applicant(s); and
6. Agree to vacate the property during the rehabilitation period at their own expense

NOTE: Elderly is defined as being above 55 years of age. Disabled is defined as having a recognized disability under the Americans Disabilities Act.

**Qualifying Households**

1. The 0% Deferred Interest Loan is targeted at owner-occupant households who have resided in their home for at least two (2) years, and
2. That are at or below 80 percent of the LA MSA AMI

The income limits for the Loan are:

Family Size	One Person	Two Person	Three Person	Four Person	Five Person	Six Person
<b>Maximum Income to Qualify</b>	\$58,450	\$66,800	\$75,150	\$83,500	\$90,200	\$96,900

NOTE: Income limits are adjusted annually.

1. Owner-Occupants are all persons listed on the deed.
2. A household includes all persons living in the unit at the time of application, except persons who are paid caregivers of elderly or handicapped individuals.
3. All members of the Household must be U.S. Citizens or Resident Aliens.
4. Each member of the household must provide a social security number at the time of application.

**Application Intake/Screening/Determination of Household Adjusted Gross Income**

The City utilizes the Part V definition of Adjusted Gross Income as defined in the Technical Guide to Determining Income and Allowances for the HOME Program (Third Edition, January 2005).

In calculating adjusted gross income, the applicant’s income and that of all other household members at the time of application shall be considered. The income of household members under eighteen (18) years of age will be excluded. The income of any persons who are paid caregivers of elderly or handicapped individuals will be excluded.

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A household member is any person residing in the household at the time of application.

Income is defined as follows:

1. The full amount before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services;
2. The net income from an operation of a business or profession, as calculated by averaging the net income as reported in their Federal Income Taxes for the past three years;
3. Interest, dividends, and other net income of any type from the real or personal property (where the family assets are in excess of \$50,000, excluding property, adjusted gross income shall include the greater of the actual income derived from all assets or percentage of such assets based on the current passbook savings rate);
4. The full amount of periodic payments received from social security, annuities, insurance policies, retirements funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;
5. Payment in lieu of earnings, such as unemployment, workers' compensation, severance pay, welfare assistance (NOTE: Such payments may be excluded by the lending institutions providing the first mortgage for purposes of underwriting, but shall be included in eligibility determinations for this Program);
6. Periodic and determinable allowances, such as alimony and child support payment, and regular contributions or gifts received from persons not residing in the dwelling to the extent that such payments are reasonably expected to continue;
7. All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the family, spouse, or other person whose dependents are residing in the unit;
8. Any earned income tax credit to the extent it exceeds income tax liability;
9. Any other income that must be reported for Federal and State income tax purposes; and,
10. Gross Self-Employed income as reported on Schedule C, IRS 1040, will be adjusted to reflect deductions for necessary and reasonable business expense.

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## Qualifying Properties

In order to qualify for the HOME Program, properties must be:

1. Located within the City limits;
2. Be held in fee simple by the applicant(s) as defined herein;
  - a. Properties held in a life estate, cooperative units or properties that include residential or commercial rental property are not eligible for the Loan.
3. The property shall be free of negative encumbrances on title.
  - a. All trustees must sign all the appropriate documentation required by the City.
4. Property taxes must be current on the property;
5. The property must have a rehabilitation cost that does not exceed ninety-five percent (95%) of the after-rehabilitation value of the property as determined by the City;
6. Total debt on the property, including the Loan, may not exceed 80% of the after rehabilitation appraised value of the property.

## Eligible Costs

The HOME Loan funds are available for the cost of improvements that are physically attached and permanent in nature within the following scope of work:

1. Appropriate remediation of Lead Based Paint, as required;
2. The correction of all code violations to the City Code;
3. The correction of any deficiencies to meet the City's Rehabilitation Standard;
4. The correction of incipient code violations;
  - a. An incipient code violation is defined as a condition that is likely to occur within the first ten years of the loan term. For example, a fifteen (15) year old roof will need to be replaced in year five (5) of the loan term, and is therefore an incipient code violation.
5. The addition of disability features to a property currently occupied by a disabled person or persons; and
6. Improvements to the overall energy efficiency of the property.



**INELIGIBLE COSTS**

1. The repair, purchase or installation of appliances that are designed and manufactured to be freestanding;
2. The repair, purchase or installation of recreational items such as barbecues, bathhouses, greenhouses, swimming pools, saunas, television antennae, tennis courts;
3. The repair, purchase or installation of luxury items such as burglar alarms, burglar protection bars, dumbwaiters, kennels, murals, ceiling fans, flower boxes, awnings, patios, decks and storage sheds/workshops;
4. The repair, purchase, or installation of other items deemed ineligible by the Director of Economic Development or his designated representative; and

**Staffing Plan**

It is the intention of the City to administer the majority of the Loan in-house. However, to the extent necessary the City *may* utilize other agencies including, consultants, and private lenders.

**City of South Gate Organization Roles and Responsibilities**

For questions concerning the HOME Program, individuals may contact the Economic Development Department staff directly by telephone, or e-mail. The mailing address is

City of South Gate  
 Director of Community Development  
 8650 California Avenue,  
 South Gate, CA 90208

Exhibit 7, on the following page summarizes the City of South Gate staff roles and responsibilities in administrating the City's HOME Program.

<b>EXHIBIT 7 CITY OF SOUTH GATE STAFFING PLAN</b>		
<b>Staff Members</b>	<b>Phone Number</b>	<b>E-Mail Address</b>
Michael S. Flad City Manager	(323) 563-9503	mflad@sogate.org
Joe Perez Director of Community Development	(323) 563-9566	jperez@sogate.org
Abel Torres Housing and Grants Analyst	(323) 563-9528	atorres@sogate.org
Vivian Garcia Housing Administrator	(323) 563-9585	vgarcia@sogate.org

Victor Ferrer Management Analyst	(323) 563-9592	vferrer@sogate.org
Jackie Acosta Director of Administrative Services	(323) 563-9523	Jacosta@sogate.org
Vinnie Timoteo Senior Accountant/Finance	(562) 804-1424 ext.2286	vtimotego@sogate.org

**City Manager** – City of South Gate certifying officer responsible for overall functions of the City of South Gate, including the functions of the Community Development Department and Finance Department.

**Director of Community Development** – Responsible for overall program management and evaluation of the operation of the program, facilitate the adoption of program policies and procedures and assign the necessary staff resources to carry out the program. As the City of South Gate certifying officer, signs CDBG and HOME Program certifications, grant documents, loan agreements, and wiring requests.

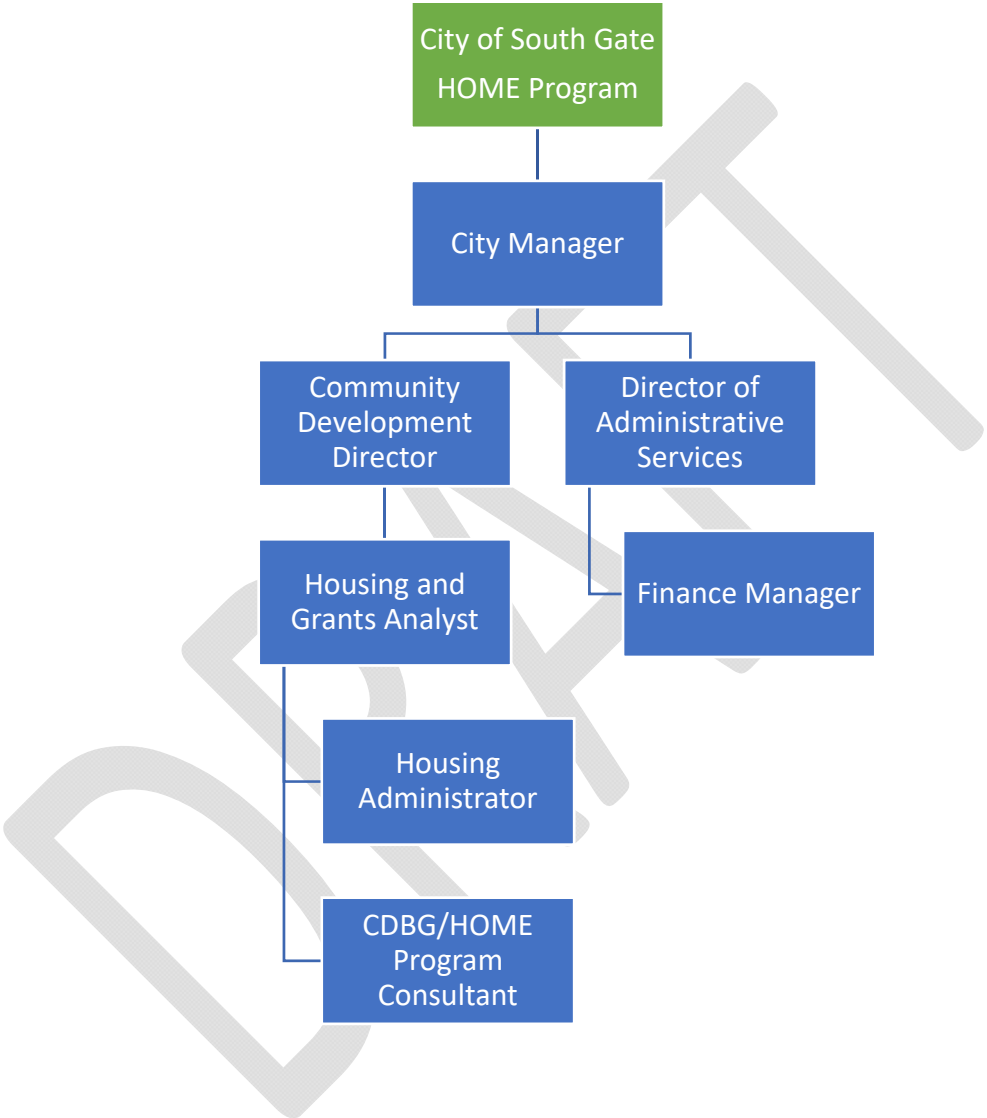
**Director of Administrative Services** – Responsible for overall financial operations of the City and evaluating and making recommendations on financial operations, such as the City's CDBG and HOME Programs.

**Housing and Grants Analyst** – Responsible for the CDBG and HOME program administrative oversight, including managing program consultants to ensure programs are being carried out in compliance with program requirements. Oversees and assists with the preparation of required reports and IDIS voucher preparation. Assists with the implementation of housing and community development programs including the implementation of projects. Working with the CDBG and HOME Program Consultant, the Housing and Grants Analyst is responsible for selection of program applicants, monitoring of the programs for regulatory compliance, and program marketing/outreach.

**Housing Administrator** – Reviews site inspection/work plan, prepares cost estimates, reviews for lead based-paint issues, inspects rehabilitation progress, evaluates requests for rehab disbursements, calculates after rehab value appraisal, serves as the project manager for HOME rehabilitation projects, prepares/reviews requests for disbursement, and prepares request for certificate of completion.

**CDBG and HOME Program Consultant** – Responsible for ensuring the administration and implementation of the CDBG and HOME programs is being carried out in compliance with program requirements. Assists, as assigned, with the preparation of required reports. Sets up activities in IDIS and prepares vouchers. Reviews the program to ensure compliance with CDBG and HOME regulatory commitment and expenditure requirements; ensures file documentation is maintained. Assists with the implementation of CDBG and HOME activities.

**Finance Manager** – Responsible for approving IDIS drawdowns and evaluating/approving financial requisitions and supporting documentation. Works with the Director of Finance and Housing and Grants Analyst to implement financial operations related to the CDBG and HOME programs and works with auditors for the completion of City audits.



## HOMEOWNER REHABILITATION ACTIVITIES PROCEDURES

1. Provide the Borrower with the 0% Deferred Loan application and other forms required by the Guidelines for participation in the Program.
  - a. The Homeowner Rehabilitation Activities Application Form must be completed by everyone who lives in the home to be rehabilitated (single family).
2. Complete a title search to identify all persons on title.
3. Verify of Income of every member of the household above the age of 18 (unless enrolled full time in school) who earns any income.
4. Verify benefits and employment and make sure the forms are signed by the borrower(s).
5. Obtain the borrower's signatures on the Loan application and all other appropriate application forms.
6. Review the borrower's most recent property tax information and identifying parcel number.
7. Verify borrower signature on Fair Lending Notice.
8. Verify borrower signature on Statement of Understanding (if applicable).
9. Obtain a credit report for all persons on the title.
10. Obtain a Limited Coverage policy of title insurance prior to closing any Program loan from a title insurance company doing business in Los Angeles County for all HOME loans.
11. Obtain a standard CLTA Lender Guarantee policy of title insurance from such title company for all Owner-Investor loans.
12. Prior to closing a Program loan, the Housing and Grants Analyst or Program Consultant shall review the condition of title and, based on that review, close the loan only if the title exception(s) disclosed do not materially affect the collateral given to secure the loan.
13. The Program Consultant shall prepare an Environmental Review in the form approved by the City. Said Review shall describe any adverse environmental effects of the loan-funded improvements that are likely to occur.
14. The completed Environmental Review will be submitted to the City's Economic Development Director for its review and approval prior to closing the loan.

- a. The Housing Administrator will not approve any proposed loan if the loan funded improvements are likely to have a significant adverse impact on the environmental, as defined by the National Environmental Policy Act (NEPA).

## APPLICATION REVIEW

1. The Housing Administrator or Consultant will review all loan application documents and based on the documents shall make a determination of eligibility consistent with the HOME Guidelines.
2. If additional information or documentation is required to evaluate the proposed loan, the Housing Administrator or Consultant shall request additional information from the borrower.
3. The Housing Administrator will maintain confidentiality with respect to all financial information received from the borrower to the maximum extent permitted by law.
4. Once the application package is complete, and provided the borrower, the property and the proposed improvements meet all the eligibility requirements set forth in the HOME Guidelines, the Housing Administrator will prepare a summary analysis of the loan request and make a recommendation to the Loan Committee.
5. These recommendations will be reviewed by the Director of Community Development based on the following criteria:
  - a. Priority will be determined:
    - i. according to the City's HOME waiting list;
    - ii. "first come, first serve" basis;
    - iii. immediate need;
    - iv. project readiness basis;
  - b. The borrower, property, and proposed improvements meet all eligibility requirements contained in Section 3 of these Guidelines.
  - c. The proposed loan meets the Loan Criteria contained in the HOME Guidelines.
  - d. The proposed loan meets all HOME loan underwriting conditions.
  - e. The proposed improvements comply with all local, state, and federal regulations, including but not limited to:
    - i. Land Use Zoning;
    - ii. Design Review;
    - iii. Building Permits;
    - iv. California Environmental Quality Act (CEQA);
    - v. National Environmental Policy Act [NEPA];

- vi. Davis Bacon Prevailing Wage; and
  - vii. Other regulations which may be applicable.
- f. No borrower shall be excluded or discriminated against because of race, color, religion, ancestry, sex, age, national origin, physical handicap, or any other legally prohibited basis.

### **EXCEPTION/SPECIAL CIRCUMSTANCES**

The following procedures shall be used when considering any action which would depart from policy and procedures developed in the HOME Guidelines:

1. Consideration of exceptional/special circumstances may be initiated by either the borrower, Housing Administrator, or the Director of Community Development.
2. A report will be prepared by the Housing Administrator or Director of Community Development that will be included in the borrower's loan application file, along with all other loan documents.
  - a. This report will contain a narrative, including relevant information provided by the borrower and the recommended course of action.
3. The City's Director of Community Development or his/her designated representative will review the report and make a determination regarding the exception/special circumstances.
4. The recommendation shall consider use of, HOME Program loan funds, Community Development Block Grant (CDBG), or other potential funding sources which may be used to address the exception/special circumstances.

### **APPEAL**

1. A borrower may appeal in writing the decision of the City with respect to the approval or denial of a HOME loan to the Loan Committee within 30 days of the decision.
2. The Loan Committee will review the matter and decide the appeal which shall be the final decision of the City and there shall be no further appeal from that decision.

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## CHAPTER 5: PROCESSING PROCEDURES

### PART 1: APPLICATION PROCESS

During the application process the program staff or Consultant must:

1. Certify income eligibility.
2. Verify property ownership.
3. Verify property is in the City of South Gate.
4. Verify that property is owner-occupied.
5. Verify that mortgage, property taxes, and insurance are paid up-to-date.
6. Re-calculate the LTV.
7. Verify the type of mortgage is held in first positions.
8. Create a file for each application, organized in the order provided in the File Checklist form. The file must be properly labeled.
9. Log application database.

All forms must be fully completed and signed accordingly. All supporting documentation must be current (no older than 3 months). The following is a list of the required supporting documentation:

1. Verification of dependent children living at home.
2. Proof of full-time student status for dependents 18+ of age.
3. Complete bank statements for the last two (2) months
4. Asset/investment statements for the last two months.
5. Complete federal and state income tax returns (including W-2's, 1099's etc). For loans and self-employed the most recent 2 years.
6. If self-employed, most recent certified quarterly financial report.
7. Documentation evidencing eligibility of other program requirements, such as ownership, occupancy, and property location.

8. EDD Notice for adult household members who do not receive income.
9. When available, a copy of current appraisal report (dated within 3 months).

**PART 2: APPLICATION INTAKE**

The purpose of the intake is to establish eligibility of the applicant. The Director of Community Development or Consultant conducts the intake. The intake is completed by the applicant submitting a complete application with supporting documentation. Non-complete applications will be returned to applicant with list of necessary items to process application.

It is crucial for the Community Development staff to estimate household income, LTV, the property preliminary after rehabilitation value, and the types of encumbrances on the property to determine eligibility. The income and LTV analysis completed during the intake process is not verified until further documentation is obtained to validate. Calculations are based on the review of proper documentation. LTV only applies to loans.

**Verification of Property Ownership and Status**

In addition to income documentation, Community Development staff or Consultant must obtain supporting documentation to determine eligibility for other program requirements.

Eligibility Requirement	Must verify with at least one of the following:
<p><b>Verification of ownership:</b> The property must be owned by the applicants</p>	<ul style="list-style-type: none"> <li>• Copy of grant deed or, quitclaim deed,</li> <li>• Title report or insurance issued within the last year, which verifies the vesting to be the applicants’ name(s)</li> </ul>
<p><b>Verification that property is owner-occupied:</b> The property must be the owner’s principal place of residence.</p>	<ul style="list-style-type: none"> <li>• Copy of current property tax bill that shows homeowner’s exemption and the subject property as the mailing address</li> </ul>
<p><b>Verification that mortgage payment is current:</b> Assistance cannot be provided if payment is not current.</p>	<ul style="list-style-type: none"> <li>• Copy of most recent mortgage statement that shows payment is current</li> <li>• Mortgage history printout</li> </ul>
<p><b>Verification of type of first mortgage:</b> No reverse mortgages, negative amortizations for loans. Reverse mortgages, negative amortizations are acceptable for grants only.</p>	<ul style="list-style-type: none"> <li>• Copy of most current mortgage statement</li> <li>• Copy of note specifying terms of repayment and interest rate</li> </ul>



<p><b>Verification that property taxes are up-to-date:</b> Assistance cannot be provided if taxes are not current.</p>	<ul style="list-style-type: none"> <li>• Printout from the Los Angeles County Tax Collector’s website that shows the tax as current. Website at <a href="http://ttax.co.la.ca.us/">http://ttax.co.la.ca.us/</a></li> <li>• Receipt of payment (if payment has been recently made and website has not been updated)</li> <li>• Copy of payment arrangements from tax collector for delinquent tax</li> </ul>
<p><b>Verification that insurance is up-to-date.</b></p>	<ul style="list-style-type: none"> <li>• Copy of current evidence of insurance or policy. It must show the expiration date, or specify that it is continuous</li> </ul>
<p><b>Verification of Loan-to-Value (LTV) (loan program)</b></p>	<ul style="list-style-type: none"> <li>• Copy of most current mortgage statement(s)</li> <li>• Copy of note(s) specifying loan amount</li> </ul>

**Property encumbrances:** The Community Development Staff or Consultant must verify the types of loans of the existing debt. Fixed rate loans are preferred. However, variable rates, and interest-only loans are acceptable. Properties with reverse mortgages, and negatively amortized loans are not eligible for loans, but are acceptable for grants.

### Income Calculation

The Program utilizes the annual income definition as defined in 24 CFR 5.609 (Part 5 annual income) to determine household income eligibility. Households must have income at or below 80% AMI, adjusted for family size, to be eligible for the program. The latest published income limits provided by HUD will be used.

During the Intake, the Economic Development Staff or Consultant must calculate household income earnings of all adult household members based on the requirements.

The preliminary income calculation must include income derived from:

- a. Employment (wages, salary, overtime, tips, bonuses, etc.)
- b. Self-employment / Business income
- c. Social security benefits
- d. Child and/or family support, alimony
- e. Rents
- f. Public assistance
- g. Income from assets or investment (interest, dividends, royalties, annuities, etc.)
- h. Pensions
- i. Unemployment, disability, or worker’s compensation
- j. Union benefits
- k. Other sources of income not specified above

Income may be certified based on information obtained from third party verifications and the review of documents provided at the time of application. The income certification is valid for a period of six months (validation period). It will not be required to re-certify income unless six months have lapsed from the time of certification and no expenditures have been incurred for the project. Funds must be expended or committed to project prior to the expiration of the validation period.

The Community Development Staff or Consultant is responsible for obtaining all the required income documentation for all the sources of income. The sources of income can be determined by:

1. The Income, Asset and Employment Disclosure portion of the application.
2. Tax returns may sometimes reveal relevant income sources, such as interest income, capital gains, dividends, etc., which may not have been disclosed in the loan forms that may require additional documentation.

Eligibility can be established by examining documentation on the different sources of income for the household. Applicants must supply at least 2 months of source documentation (e.g., wage statements, interest statements, or unemployment compensation). The following is a list of income sources, and examples of acceptable documentation:

<b>Type of Income</b>	<b>Documentation Source – not older than 3 months</b>
<b>Gross employment income:</b> <ul style="list-style-type: none"> <li>• Wages</li> <li>• Salary</li> <li>• Overtime</li> <li>• Tips</li> <li>• Commissions</li> <li>• Bonuses</li> </ul>	<ul style="list-style-type: none"> <li>• Employment verification from employer</li> <li>• Paycheck stubs (copies of the most recent 2 months of paycheck stubs)</li> <li>• Certified copies of tax returns and W-2's if within the first quarter of the new calendar year, requires a signed 4506 form</li> <li>• Copy of employment contract, which must specify the earnings amount and expiration date</li> </ul>
<b>Net self-employment or business income</b>	<ul style="list-style-type: none"> <li>• Certified copies of tax returns, with signed 4506 form for the previous 2 years (including all attachments, specifically Schedule "C")</li> <li>• Audited financial statement</li> <li>• Latest quarterly financial statement</li> </ul>
<b>Social security benefits</b> <ul style="list-style-type: none"> <li>• Including SSI payments</li> <li>• Including anticipated Cost of Living Adjustments (COLAs)</li> </ul>	<ul style="list-style-type: none"> <li>• Written verification from the Social Security Administration</li> <li>• Copy of award letter stipulating the benefit amount</li> <li>• Copy of bank statement verifying the direct deposit of the benefit amount</li> </ul>

<p><b>Periodic determinable allowances:</b></p> <ul style="list-style-type: none"> <li>• Child support</li> <li>• Alimony</li> </ul>	<ul style="list-style-type: none"> <li>• Copy of court decree that establishes amount of support</li> <li>• 2 months of statements from State office that verifies the amount of support</li> <li>• Affidavit of support with supporting documents (subject to proof that the foregoing methods of documents are not available).</li> <li>• If absent parent is incarcerated, provide proof of incarceration</li> </ul>
<p><b>Regular contributions received from organizations or persons not residing in the dwelling</b></p>	<ul style="list-style-type: none"> <li>• Notarized affidavit of support and amount shown on bank deposits.</li> </ul>
<p><b>Net rental income</b></p>	<ul style="list-style-type: none"> <li>• Tax returns, including schedule "E"</li> <li>• Copies of rental agreements/leases, along with a breakdown of monthly expenses to determine net income including mortgage statement</li> </ul>
<p><b>Welfare assistance:</b></p> <ul style="list-style-type: none"> <li>• Payments under CALWorks</li> <li>• Welfare or General relief</li> </ul>	<ul style="list-style-type: none"> <li>• Benefit award letter specifying the amount of the cash aid and/or food stamps</li> <li>• Verification from case worker stating the benefit amount</li> <li>• Copy of checks</li> </ul>
<p><b>Income from assets:</b></p> <ul style="list-style-type: none"> <li>• Savings account(s)</li> <li>• Checking account(s)</li> <li>• Investments</li> </ul>	<ul style="list-style-type: none"> <li>• Bank statements showing the last 3 months of interest</li> <li>• Savings passbook</li> <li>• Verification of deposit</li> <li>• Most recent income tax returns showing the interest earned</li> <li>• Investment statements showing the dividends earned and/or anticipated earnings</li> </ul>
<p><b>Gross amount of payments in lieu of earnings:</b></p> <ul style="list-style-type: none"> <li>• Unemployment</li> <li>• Disability compensation</li> <li>• Worker's compensation</li> </ul>	<ul style="list-style-type: none"> <li>• Benefit award letter showing monthly benefit</li> <li>• Copy of checks (2 months)</li> </ul>
<p><b>Gross amount of periodic payment:</b></p> <ul style="list-style-type: none"> <li>• Annuities</li> <li>• Pensions/Retirement</li> <li>• Disability benefits</li> <li>• Death benefits</li> </ul>	<ul style="list-style-type: none"> <li>• Statement of benefits</li> <li>• Benefit award letter</li> <li>• Verification from awarding agency/entity</li> </ul>

<p><b>Other sources of income:</b></p> <ul style="list-style-type: none"> <li>• Union benefits</li> <li>• Adoption Assistance</li> <li>• Other income not specified above</li> </ul>	<ul style="list-style-type: none"> <li>• Statement of benefit award that evidences benefit amount</li> <li>• Documentation to support declaration of other income</li> <li>• Check stubs (2 months)</li> </ul>
<p><b>No income:</b></p>	<ul style="list-style-type: none"> <li>• EDD Notice of Benefits</li> <li>• Verification of previous employment</li> <li>• Verification from IRS</li> <li>• Statement of Non-Earnings form</li> </ul>
<p><b>No tax returns:</b></p>	<ul style="list-style-type: none"> <li>• Affidavit pertaining to household income</li> </ul>

**Assets of an Absent Spouse** will be taken into consideration, the value to be determined.

**Third Party Verifications may be required.** The City contracts with Amerinat and all loans are serviced by Amerinat. If Amerinat recommends verification of income and/or assets, the Community Development Staff or Consultant will attach the Confidential Information Disclosure Authorization to the verification form which authorizes the third-party to release the information requested. Third-party written verifications may be in the form of original forms, facsimile copies, e-mail, or Internet. Although written requests and responses are generally preferred, conversations with a third party are acceptable if documented through a memorandum to the file, which specifies the contact person, information conveyed, and date of call. In all cases, the Community Development Staff or Consultant must make sure that the person verifying the information is a valid source. Fees associated with third-party verifications are paid by the City but may be reimbursed through activity delivery costs.

### Income Exclusions

The list of sources of income that should not be included in the income calculation is specified in 24 CFR Part 5.

### Assessing Information and Computing Income

The Community Development Staff or Consultant must calculate the household income based on the documentation obtained, and complete an Anticipated Income Determination form for each household.

When assessing the documentation, it is important to determine:

- a. The basis on which employees are paid, such as hourly, weekly, monthly, with or without overtime, etc.
- b. In the case of overtime, it is crucial to determine whether the overtime is irregular or a predictable part of the person's income.
- c. If the household member will continue to earn overtime pay on a regular basis, then the

Community Development Staff or Consultant must calculate the average amount of overtime pay earned over the period used to calculate income eligibility, and the average amount of overtime earnings must be included in the income projection for the household.

- d. If overtime work is not constant and will not be constant in the next 12 months, the Community Development Staff must request detailed overtime information from the employer in the Verification of Employment, and use the information supplied by the employer to determine how overtime is to be calculated.

Formulas used to determine annual income:

Frequency	Formula
Weekly	Multiply gross income by 52 weeks
Biweekly	Multiply gross income by 26 weeks
Twice-a-month	Multiply gross income by 24 weeks
Monthly	Multiply gross income by 12 months

Refer to the Technical Guide for Determining Income and Allowances for the HOME Program for household members who have variations in pay.

If the Community Development staff or Consultant has verification that the household member has been employed by the same employer from the beginning of the calendar year, then the monthly income can be calculated by dividing the year-to-date (YTD) annual earnings by the number of paychecks received. For example, if the paycheck stub indicates that the individual is paid bi-weekly and the pay date was June 28, 2016, and the YTD is \$18,500, then you divide \$18,500 by 13 paychecks, and annualize the calculated monthly earnings by multiplying the result by 26.

$$\begin{aligned} \$18,500 \div 13 &= \$1,423.08 \text{ per pay period} \\ \$1,423.08 \times 26 &= \$37,000.08 \text{ per year} \end{aligned}$$

The above method will only work if staff has verified that the household member has worked for that same employer since the beginning of the calendar year, and if the paycheck stub reflects the year-to-date earnings that include all overtime, bonuses, etc.

### Special Circumstances

If income cannot be calculated by using the documentation described above, then the income calculation must be handled on a case-by-case basis, as appropriate for the situation. For example: If the income is derived from the sale of recyclable materials, it will be necessary to provide enough documentation (i.e. sales receipts) to reasonably determine annual income. The documentation must be in a form acceptable to the Program staff. Self-certifications of income are not allowed.

Income shall be re-examined for eligibility if more than six (6) months have lapsed between the date the family was last qualified as income eligible and the first expenditure.

**Household Size**

Since income limits are adjusted by household size, it is crucial to accurately determine the size of the applicant’s household.

For income purposes, all household members’ income is to be counted regardless of relationship. This includes tenants, borders, permanent live-in caretakers, and non-eligible occupants. Foster children are not to be included as part of the total household members when determining the eligibility for the addition of bedrooms and bathrooms.

Undocumented (i.e. illegal residents) household members are not counted in determining household size unless they can provide a valid foreign government issued ID with sufficient proof of address.

A child who is subject to shared-custody may be counted as part of the household if the child resides with the household at least 50% of the time. Community Development Staff or Consultant must obtain verification of dependent children living at home, such as copy of birth certificate, court order awarding child custody, school records, or other documentation that will verify the dependent of part of the household.

Unborn children are not considered part of the household.

The Community Development Staff or Consultant must review the “breakdown of household members” portion of the application, which is where the borrower discloses all the members of the household. The Community Development Staff or Consultant must also look for “red flags” that indicate discrepancies in the household size disclosed by the applicant. For example, if the applicant claims that he has 3 dependent children, but the tax returns only show 2 children. In this case, the Community Development Staff must obtain more information and additional documentation to support the 3rd dependent child, such as a copy of the birth certificate for a newborn, a court order that grants custody of the child, or school records for the additional dependent.

For household members of 18 years of age and older who are full-time students, the Community Development Staff or Consultant must obtain verification of full-time student status, such as school records, registration, or other documentation that will evidence student status.

<b>Verification of Dependents</b>	<ul style="list-style-type: none"><li>• Copy of birth certificate(s)</li><li>• Copy of school records</li><li>• Court order warding custody</li><li>• Adoption documents</li><li>• Proof of full-time student status for dependents 18+ years of age</li></ul>
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## Comparing Household Income to Income Limits

Once the household size and anticipated household income has been determined, the information must be compared to the Income Limits issued by HUD to verify eligibility. The Community Development Staff or Consultant must make sure to use the most recent income limits chart.

Households must have incomes at or below 80% AMI, adjusted for family size, to be eligible for the Program.

## Monthly Housing Costs

Monthly housing costs should not be more than 30% of household income.

The Housing Affordability Data System (HADS) developed by HUD provides consistent measures of affordability over a long period of time. The HADS system analyzes the affordability of housing from several perspectives, including the fraction of income that a household spends on housing each month. HADS uses the standard assumption that a unit is affordable if the household spends no more than 30% of its income on housing. In this context, “housing” includes utility payments and, for owner-occupied housing, real estate taxes, hazard insurance, and fees such as condo fees or homeowner’s association fees. More information here:

[https://www.huduser.gov/portal/publications/pdf/Trends\\_hsg\\_costs\\_85-2005.pdf](https://www.huduser.gov/portal/publications/pdf/Trends_hsg_costs_85-2005.pdf)

In addition, the American Housing Survey (AHS) released by HUD and the US Census Bureau every two years determines monthly housing costs by “summing, when applicable, utility costs, real estate taxes, cost of homeowner insurance, condominium/homeowner’s association fee, land/site rent, other mortgage charges, other required mortgage fees, mortgage payments, routine maintenance costs, and rent payments”. More information here:

[https://www.census.gov/content/dam/Census/programs-surveys/ahs/tech-documentation/AHS\\_Codebook.pdf](https://www.census.gov/content/dam/Census/programs-surveys/ahs/tech-documentation/AHS_Codebook.pdf)

## Title Report

Amerinat or a third-party contractor will order a title investigation report through a Policy of Insurance of Record Title (PIRT) for loans. This report must be ordered on each loan application within five (5) business days from the time eligibility has been established. The PIRT will identify all deeds, liens, covenants, and other documents recorded against the subject property.

## Credit Reports

All occupants 18 and older are to complete the Authorization for Release of Information form. Credit reports will be ordered for all adult members of the household. Upon receipt of credit reports, they are to be reviewed to insure they coincide with reported income.

## Lead-Based Paint Assessment

Order lead testing assessment (when applicable) to comply with HUD's Lead Safe Housing Rule, a certified Environmental Company must perform a lead inspection to test surfaces to be disturbed during rehabilitation activities on properties built prior to 1978. A post lead clearance is also required. Refer to Appendix C: Lead- Based Paint Hazard Reduction Requirements.

## Preliminary Loan to Value (LTV)

The Community Development Staff or Consultant must verify the LTV in order to remain in compliance of maximum LTV requirements. The LTV is calculated by adding all of the indebtedness against the subject property, and the proposed Program loan. The total is then divided by the estimated value of the property. Total LTV not to exceed 80%.

Example/Scenario of LTV calculation:

\$125,000	1st mortgage
\$ 35,000	Proposed Program loan
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\$155,000	Total indebtedness
\$425,000	Estimated property value
$\$155,000 \div \$425,000 = 36\%$	

## Preliminary After Rehabilitation Value

The U.S. Department of Housing and Urban Development (HUD) requires documentation of the after-rehabilitation value (ARV) to show such housing is within Section 203(b) program limits.

In accordance with 24 CFR 92.254(b), housing currently owned by a family (i.e., owner- occupied housing) only qualifies as affordable housing under the HOME Program if the estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area (as established by HUD). The City must maintain files showing how ARV was determined and found to be within the applicable program limits. Property value must be determined prior to the provision of HOME Program assistance. The value will be established by appraisals prepared by a licensed fee appraiser. Project files must document the post rehabilitation appraised value and clearly indicate it in the appraisal report. This requires the City to provide the appraiser the written work write-up that includes the proposed rehabilitation for the subject property. An estimate of value also reflects the value of a standard property; this corresponds to the estimated post-rehabilitation value of the subject property, based on the proposed rehabilitation. The form called 95% Property Value Limit must be completed for each project.



**Application – Follow-up**

As needed, request all required third party verifications, such as verifications of mortgage, employment, benefits, or deposit.

Upon receipt and review of documentation (income, property information, credit report) the Community Development Staff or Consultant will notify the applicants of their eligibility or request additional documents for clarification. The homeowner will be notified in writing of the additional documentation and will be given (30) days to submit.

If the homeowner does not respond within the (30) calendar day deadline specified in the correspondence, the Community Development Staff or Consultant will cancel the file. If the file is canceled, the homeowner will not be eligible to re-apply for the program until a year from the closing of the file.

The City will only permit a file to be re-instated due to illness, hospitalization or death in the immediate family

Request for the re-instatement has to be done in writing within 30 calendar days of the cancellation of the file.

The Community Development Staff or Consultant must keep a calendar for timely follow-up after the initial intake.

**Denial of Application**

If during the application intake the Community Development Staff or Consultant determines that the applicant does not qualify for the Program, a denial letter must be mailed, indicating the reason for denial. The applicant will be given a 30-day period to appeal the denial.

**Approval of Application**

After the applicant's eligibility is established, the Community Development Staff or Consultant will notify applicant in writing of their eligibility for the program and indicate the assistance to be provided.

**Initial Property Inspection**

Program staff will schedule an initial property inspection with the property owner. The initial inspection will allow the property to be evaluated and determine which repair items will be addressed. In addition, after the inspection a determination will be made as to whether or not lead-based paint stabilization or abatement will be required. To facilitate the inspection the following steps should be taken:

1. Coordinate inspection with Building and Safety Inspector (if necessary).
2. In conducting the inspection, schedule a time with the property owner to conduct the formal property inspection. At the time of the inspection, the Community Development Staff should:
  - a. Review the property
  - b. Obtain a list of general property improvements desired by the homeowner
  - c. Check the dwelling for structural deficiencies. Physically walk through the dwelling identifying every substandard feature that may be observed and note all improvements necessary to bring the dwelling up to Code. (Un-permitted structures that do not meet program guidelines must be permitted before assistance can continue).
  - d. Inform the homeowner of deficiencies identified
  - e. Obtain homeowner preferences regarding options for correcting deficiencies.
  - f. Take thorough pre-construction photos of each area in which rehabilitation or repairs will occur. Additionally, if necessary for historical purposes, take photos of the subject property, property to the right and left and across the street.
3. When reviewing inspection notes the Economic Development Staff or Consultant shall take into account the following:
  - a. Overcrowded conditions. If it's determined that overcrowded conditions exist and there is a request for the construction of an additional bedroom/bathroom an explanation will be included in the file. Such report shall include the number of occupants in household, the age and gender of occupants in household, the age and gender of occupants in household, and the existing number of size of sleeping quarters.
  - b. Rehabilitation Feasibility. Community Development Staff shall make a determination on the rehabilitation feasibility of the property with the following factors taken into account:
    - i. Location of structure
    - ii. Excessive rehabilitation costs
    - iii. Type of improvements
    - iv. Type of structure
    - v. Condition of structure
    - vi. Homeowner's needs
4. Order termite inspection reports for all loans. Community Development Staff or Consultant must request at least three (3) qualified termite companies and keep the confirmation in the loan master file.

If the property has been inspected and treated for termites within the last 12 months, a new termite report is not required. In which case, the Community Development Staff or

Consultant must request a copy of the Notice of Work Completed from the homeowners.

Copies of Lead report/assessment and termite report must be provided to the homeowner. The Community Development Staff must also take into consideration the reports when preparing the work write-up.

### **Historic Preservation**

Historic preservation requirements apply to properties that are 50 years old or older. Historic properties are residential properties listed in or eligible to be listed in the National Register of Historic Places, state or local inventory of historic places, designated as a historic landmark, or designated as contributing to a historic district by local law or ordinance. Refer to Appendix G – Historic Preservation Forms. The Economic Development Staff or Consultant must determine if the property is subject to historic preservation requirements, as follows:

1. Verify the age of the property with a property profile. If the property is not 50 years old or older, then no further historic process is required.
2. If the subject property is 50 years old or older and the rehabilitation work will involve exterior work, the Community Development Staff or Consultant must submit a Historic Eligibility Determination to State Historic Preservation Office (SHPO) via regular mail. This consultation with SHPO is only for projects that will include exterior work. SHPO clearance is not needed for projects that will only address interior rehabilitation, or for properties that are not 50 years old or older. The consultation letter must include:
  - a. Photographs of the property as required by the State.
  - b. A list of the proposed rehabilitation.
  - c. Relevant information regarding the historic significance of the property.
3. SHPO must respond within 30 days. If no response is received, then rehabilitation work may proceed.
4. Complete of Historic and Architectural Assessment Form.
  - a. If the proposed rehabilitation involves only interior work or if the subject property is less than 50 years old, only Part A of the Historic and Architectural Assessment Form is necessary.
  - b. If the proposed rehabilitation involves exterior work to a property that is 50 years old or older, verify that proper consultation was submitted to SHPO. If no response is received from SHPO within 30 days, then project is able to proceed.
  - c. Complete Part B of the Historic and Architectural Assessment Form for projects that involve exterior rehabilitation of properties 50 years old and older.

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## Environmental Requirements

An Environmental Assessment to be completed for all properties. The Community Development Staff or Consultant must complete the Environmental Finding Report during the property inspection; it must be signed by the Economic Development Director or his/her designee.

## Relocation

In accordance with the Uniform Relocation Act, if the project will prevent the homeowner from accessing heat, bathroom facilities, or the kitchen, then the homeowner may request relocation assistance. The City will provide up to \$500 to assist in covering the costs of relocation advisory services to displaced tenants and owner occupants, moving expenses, and temporary living arrangements. Relocation costs incurred by the City are eligible for reimbursement through HUD. Written notice must be provided to the tenant or owner occupant a minimum of 90 days prior to the required date of the move.

## Work Write-up

The Community Development Staff or Consultant must prepare the Work Write-up, which is the set of instructions specifying the proposed rehabilitation work and will also serve as part of the contract. The Work Write-Up must describe and address any code violations, health and safety deficiencies, and lead hazards in a manner that is sufficiently detailed to serve as the basis for obtaining bids from contractors.

## PART 3: PROCUREMENT

This chapter provides an overview of the HUD standards for Federal procurement requirements at 2 CFR Part 200.317-326

The City of South Gate needs to ensure that all applicable Federal requirements are followed throughout the process. While the City has its own procurement and contracting requirements, the use of Federal funding requires compliance with Federal regulations at a minimum. The primary purpose of the procurement procedure is to assure free and open competition is achieved.

The City of South Gate and its Recipients must follow procurement procedures as they pertain to the HOME Program:

**OMB Standards** - Materials shall be procured in accordance with the requirements of 2 CFR Part 200.317-326, and shall subsequently follow the property standards, covering utilization and disposal of property.

**Use and Reversion of Assets** - The use and disposition of real property and equipment must be in compliance with the requirements of 24 CFR Part 200 and CFR 570.502, 570.503, 570.504, and HERA as applicable, which include but are not limited to the following:

Any HOME Program funds on hand and any accounts receivable attributable to the use of funds shall be transferred to the City of South Gate at the time of expiration, cancellation, or termination of the Agreement.

Real property under the "Recipients" control that was acquired or improved, in whole or in part, with funds under the Agreement shall be used to meet one of the HOME Program Activities.

## **PROCUREMENT TYPES**

### **1st Procurement Method: Competitive Sealed Bids (formal Advertising)**

The sealed bid method is required for procuring all construction contracts or for goods costing more than \$100,000. The only exceptions to this rule are single family housing rehabilitation projects where the total cost does not exceed \$100,000. These projects may be conducted under the Small Purchases Method. During this process, bids are publicly solicited and a firm fixed-price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

In order for sealed bidding to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. The procurement lends itself to a firm-fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

1. Publication Period: The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
2. Federal Funding Advertised: The advertisement should indicate that the project is being funded with HOME funds and that federal requirements will apply to the contracts.
2. Clear Definition: The invitation of bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
3. Itemized Costs: Bids must show the quantity and cost of each line item. Lump sum bids and/or bid items that are not specifically identified or are generally grouped as miscellaneous or contingency are not allowed.
4. Public Opening: All bids will be publicly opened at the time and place prescribed in the invitation for bids;
5. Selection and Contracting: A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder; and
6. Rejection of all Bids: Any or all bids may be rejected if there is a sound documented reason.

**Negotiations after Unsuccessful Competitive Sealed Bidding:** Negotiations are permitted within the following guidelines, which consider that time or other circumstances will not permit a re-solicitation of competitive sealed bids.

**Bids Over Construction Budget by 10 percent or Less:** When bids are received and the low bid exceeds available funds and it is determined in writing from the procuring agency that time or other circumstances will not permit the delay required to re-solicit competitive sealed bids, a contract may be negotiated with the lowest responsive and responsible bidder, provided that the lowest base bid does not exceed available funds by an amount greater than five percent of the construction budget established for that portion of work. The procuring agency may change the scope of the work (with prior approval from the Authority) to reduce the cost to be within the established construction budget.

**Bids Over Construction Budget by more than 10 Percent:** When bids are received and the low bid exceeds available funds by more than 10 percent of the construction budget and it is determined in writing from the procuring agency that time or other circumstances will not permit the delay required to re-solicit competitive sealed bids, a contract may be negotiated provided that:

- a. Each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate.
- b. The negotiated price is lower than the lowest rejected bid by any responsible and responsive bidder under the original solicitation.
- c. The negotiated price is the lowest negotiated price offered by any reasonable and responsible offeror.
- d. If the scope of services originally addressed has been significantly changed, prior Authority approval is required and a project amendment may be necessary.

## **2nd Procurement Method: Competitive Sealed Proposals (RFPs/RFQs)**

Competitive sealed proposals are used in two instances:

1. The acquisition of any engineering or architecture services, or
2. The purchase of other professional services where the total cost will exceed \$100,000.

Under this procurement method, the Recipient must publish a written request for submissions and then review these submissions based on established selection criteria. This method of procurement differs from the small purchases method in that the solicitation must be published and cannot be restricted to a smaller or limited number of bidders. Under this approach, there are two possible methods of soliciting proposals:

1. A **Request for Proposals** asks that officers submit both qualifications and cost information.

2. A **Request for Qualifications** only asks for information on the offeror's expertise/experience and not on cost.

When acquiring any service that is not architecture or engineering, the full RFP process must be used. For example, if the City were to hire a for-profit HOME Program contract administrator and that contract exceeded \$100,000, an RFP would be required.

When acquiring architectural or engineering services, either a RFP or a RFQ may be used. The City recommends the use of an RFP process when feasible or practical, since it provides the recipient additional information.

**Request for Proposals (RFP):** When a RFP process is required, the City must develop a written document outlining the scope of the services and the selection criteria. The scope must be sufficiently detailed so that potential bidders are able to develop effective pricing proposals and submit appropriate qualifications.

**Request for Qualifications (RFQ):** The RFQ process may only be used in two instances:

1. For complicated architectural or engineering services, or
2. When the RFQ is used to narrow a pool of potential bidders and a formal RFP will follow. In any other competitive proposal instance, the RFP must be used. The RFQ process does not request cost information at the time of solicitation.

### **3rd Procurement Method: Small Purchase Procedures**

The Small Purchase Procedures Method allows acquiring goods and services totaling no more than \$100,000, without publishing a formal request for proposals or invitation for bids. This method of procurement is typically used to purchase commodities such as equipment or other materials. In the highly unlikely event materials are purchased that will exceed \$100,000, they must use the Sealed Competitive Bid Method.

The Small Purchases Method can also be used to acquire eligible types of services, such as professional consulting, environmental review, or planning. This method cannot be used if the services contract will exceed \$100,000 in value. If the services contract will exceed \$100,000, an RFP must be issued under the competitive proposals approach. Note that engineering architectural and construction services cannot be procured using the small purchase method and must always be acquired using the competitive proposal approach. These acquisitions must occur under the competitive sealed bid method. In general, the small purchase procedure should not be used to acquire construction contractors. The only exception to this is when the City is contracting for single family rehabilitation, where the total cost of the rehabilitation will not exceed \$100,000.

### **4th Procurement Method: Noncompetitive Proposals**

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Procurement by noncompetitive proposals is procurement through solicitations of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The City authorizes noncompetitive proposals; or
- d. After solicitation of a number of sources, competition is determined inadequate.

## **OTHER CONSIDERATIONS**

Aside from selecting the method of procurement, there are several other considerations the City of South Gate adhere to when procuring goods or services with Federal funds including:

### **Conflict of Interest**

1. A written code of conduct must be maintained to help prevent conflicts of interest in procurement.
2. The written code of conduct must apply to all employees, officers, agents of the City or its Recipient, and members of their immediate family, and partners.
3. The code shall prevent financial interest or other benefits earned for any of these persons due to a HOME Program-related procurement action. These persons also cannot solicit or accept gratuities, favors or other items of monetary value from contractors.

### **Excluded Parties**

1. The City must adhere to the prohibitions in 2 CFR Part 2424 on the use of debarred, suspended, or ineligible contractors. A person who is debarred or suspended shall be excluded from Federal financial and non-financial assistance and benefits under Federal programs and activities.
2. Federal funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor during any period of debarment, suspension, or placement on ineligibility status.
3. The City should regularly check all contractors, subcontractors, and lower-tier contractors against the Federal publication that lists debarred, suspended, and ineligible contractors.



4. In addition, the City should check this list before signing any contract with contractors or subcontractors.
5. Information on parties excluded from Federal procurement and non-procurement programs is available at [www.sam.gov](http://www.sam.gov).

### **Minority/Woman Owned Business Enterprises**

1. The City of South Gate is required by Federal law to ensure that minority and women-owned business have information about and the opportunity to bid on federally funded competitive contracts.
2. Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632) and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

### **Construction Management**

In order to ensure HOME Program compliance and the overall success of projects, there are a wide number of critical tasks that the City must undertake to properly manage HOME-funded construction, including tasks such as formulating effective standards, managing inspections for quality, and the proper approaches to change orders, contingency funding, and periodic reporting by partners.

Part I of this section covers the applicable standards and codes while Part II addresses the City's HOME requirements related to the construction process and the procedures that the City has developed to effectively manage construction activities.

### **STANDARDS AND CODES RELATED TO CONSTRUCTION**

#### **PROPERTY STANDARDS (24 CFR 92.251)**

Property standards are required in the HOME Program to achieve two major purposes:

1. Set a minimum standard for habitability/functionality, for purposes of inspecting and specifying necessary improvements listed in the scope of work; and
2. Establish materials, methods, and standards for any work to be performed.

The property standards that are applicable to the City's HOME Program are described briefly below.

### **Housing Codes/Standards**

1. Housing codes/standards specify the basic living and structural conditions for existing properties. They are used to determine if an existing residence is habitable and identify health and safety conditions.
2. Housing codes/standards are used as the basis for initial inspections of existing properties to identify needed repairs and appropriate improvements. Their purpose is to ensure that existing housing is not occupied unless it is decent, safe, and sanitary.
3. Waivers can be requested for rehabilitation developments if structural constraints prohibit adherence to the minimum design standards. Waiver requirements are detailed as part of the City's Minimum Design Standards.

### **Building Codes**

1. Building codes are a series of requirements that specify how new construction or rehabilitation work is to be carried out. They inform contractors about how to do the work and are used by inspectors to check completed work.
  - a. The City of South Gate building codes are mandatory citywide. The City requires that, owners, and developers comply with the building codes adopted in the City's jurisdiction.
2. A number of related codes, such as the fire code and plumbing code, are incorporated into the City building codes.
3. Most work governed by building codes requires that licensed contractors obtain permits prior to starting the work.
4. A building permit alerts building officials and inspectors to the fact that certain types of construction are about to begin and completed work must be inspected to determine if it meets requirements.

### **Rehabilitation Codes**

1. Rehabilitation codes provide specific guidance about applying building codes to guide repair, remodeling, and rehabilitation of existing structures. Appendix J of the International

Residential Code provides the minimum requirements for existing structures being rehabilitated.

2. They serve the same purpose as building codes but are moderated to be reasonable approaches to existing conditions because it would be very expensive (perhaps impossible) to renovate an existing older building to meet the same standards for new constructed buildings.

### **Rehabilitation Standards**

1. A rehabilitation standard defines the quality of materials and workmanship that must be used when a particular repair is made. Rehabilitation standards (sometimes called construction standards) speak to the quality, durability, and aesthetics of the end product.
2. They define what methods and materials are eligible for HOME payment.
3. The City of South Gate has adopted written rehabilitation standards for rehabilitation of owner-occupied units, single-family and multi-family, whether the work is done by contractors, or nonprofits.

## **EXHIBIT 8 – City of South Gate Rehabilitation Standards**

### **SECTION I: SITE IMPROVEMENTS**

**NOTE: All work requires review by the Building Division regarding need for plans/permits.**

#### **SITE IMPROVEMENTS – OUTBUILDINGS**

REHABILITATION STANDARD: 75% or more salvageable

Minimum Life: 5 Years

Unsafe, illegal or unapproved structures, including outbuildings, additions and patio covers will be removed if it is not financially feasible (up to \$5,000) to complete rehabilitation required to make them structurally sound, leak free and building and zoning code legal.

REPLACEMENT STANDARD: No outbuilding shall be provided.

#### **SITE IMPROVEMENTS – PAVING AND WALKS**

NOTE: Any work may require a permit from the Engineering Division.

REHABILITATION STANDARD:

Minimum Life: 15 Years

Badly deteriorated, essential paving, such as front sidewalks, will be replaced to match. Deteriorated paving may be removed or replaced.

**REPLACEMENT STANDARD:**

Minimum Life: 20 Years

Essential walks and drives shall be replaced with 4" thick, 4% air entrained, 3000 PSI concrete with metal reinforcement.

**SITE IMPROVEMENTS – LANDSCAPING**

**REHABILITATION STANDARD:**

Site shall be graded to direct water to run away from foundation. Trees that are too close to the structure shall be removed.

**REPLACEMENT STANDARD:**

Only for-sale homes' front yards may be landscaped with a \$500 maximum allowance.

**SITE IMPROVEMENTS – FENCING/GATES**

**REHABILITATION STANDARD:**

Minimum Life: 5 Years

Fencing shall be rehabilitated to meet the local code.

**REPLACEMENT STANDARD:**

When funding is sufficient for nonessential improvement, additional wood or wrought iron fencing may be installed to create defensible space in conformance with neighborhood/homeownership association requirements.

**SITE IMPROVEMENTS – SWIMMING POOLS/HOT TUBS**

**REHABILITATION STANDARD:**

Minimum Life: 3 Years

Beyond scope of federal financing. Pools may be filled.

**REPLACEMENT STANDARD:** N/A

**SECTION II: EXTERIOR SURFACES**

**NOTE: All work requires review by the Building Division regarding need for plans/permits.**

**EXTERIOR SURFACES – EXTERIOR CLADDING**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

Siding and trim will be intact and weatherproof. All exterior wood components will have a minimum of one continuous coat of paint, and no exterior painted surface will have any deteriorated paint.

**REPLACEMENT STANDARD:**

Minimum Life: 25 Years

Historically sensitive vinyl siding with 45-year material warranty.

**EXTERIOR SURFACES – EXTERIOR PORCHES/BALCONIES**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

Unsafe or unsightly porches and balconies will be rehabilitated to conform closely with porches in the neighborhood. Porch rehabilitation will be structurally sound, with smooth and even decking surfaces.

**REPLACEMENT STANDARD:**

Minimum Life: 20 Years

Deteriorated porches and balconies shall be replaced with preservative treated structural lumber and tongue and groove pine or synthetic deck material. Replace with concrete if economically possible.

**EXTERIOR SURFACES – EXTERIOR RAILINGS**

**REHABILITATION STANDARD:** None

**REPLACEMENT STANDARD:**

Minimum Life: 20 Years

Railings that do not meet the current code shall be removed and replaced with wrought iron or synthetic wood.

**EXTERIOR SURFACES – EXTERIOR STEPS AND PATIOS**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

Steps, stairs and decks shall, be structurally upgraded to adopted building code; free from all significant deterioration.

**REPLACEMENT STANDARD:**

Minimum Life: 20 Years

Any replacement patio, deck or stoop shall be of a minimum functional size, design and construction.

**SECTION III: FOUNDATIONS & STRUCTURE**

**NOTE: All work requires review by the Building Division regarding need for plans/permits.**

## **FOUNDATIONS & STRUCTURE – FIREWALLS**

### **REHABILITATION STANDARD:**

Minimum Life: 15 Years

Party walls and garage ceilings shall be maintained without cracks and plaster deterioration and upgraded with 5/8" type X gypsum, glued and screwed to structure.

### **REPLACEMENT STANDARD:**

Minimum Life: 20 Years

All party walls shall conform to the 2010 edition of the California Building Code's new construction requirements for fire separation at both walls and roofs.

## **FOUNDATIONS AND STRUCTURE – FOUNDATIONS**

### **REHABILITATION STANDARD:**

Minimum Life: 20 Years

Foundations shall be rehabilitated to be sound and water resistant if financially feasible.

### **REPLACEMENT STANDARD:**

Foundation replacements above 25% are beyond the scope of the program and usually indicate an infeasible project.

## **FOUNDATIONS & STRUCTURE – STRUCTURAL WALLS**

### **REHABILITATION STANDARD:**

Minimum Life: 20 Years

All structural members shall be free from deterioration, rot and termite damage and be sized in conformance to building code. Any member not in conformance with code shall be re-supported as determined by a structural engineer.

### **REPLACEMENT STANDARD:**

Minimum Life: 40 Years

Walls shall be 2" x 4", 16" on center with at least R-19 insulation and solid sheathing to match existing.

## **SECTION IV: WINDOWS AND DOORS**

### **WINDOWS AND DOORS – INTERIOR DOORS PLACEMENT**

#### **REHABILITATION STANDARD:**

Minimum Life: 10 Years

All bedrooms, baths and closets shall have operating doors. Privacy locksets on bath and master bedroom. All other doors shall have passage locks. Recycle doors when possible.

**REPLACEMENT STANDARD:**

Minimum Life: 15 Years

Doors may be solid core or composite in paint grade jambs.

**WINDOWS AND DOORS – EXTERIOR DOORS**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

Exterior doors shall be 1 ¾ inch thick, solid core, insulated to minimum R-6, weather stripped, operate smoothly, including a peep site, a dead bolt, and an entrance lock set. Rod iron installations require review by the Building Division.

**REPLACEMENT STANDARD:**

Minimum Life: 20 Years

All replacement doors at the front of the property will be neighborhood sensitive, Energy Star, steel or fiberglass solid core doors with peep sight and deadbolt. Garage/house doors shall be 20-minute fire rated with self-closing hinges. Energy Star, solid core doors with peep sight, dead bolt, and entrance locksets shall be installed at entrances not visible from the front street. Garage doors shall be R-5, embossed metal with a lockable assembly.

**WINDOWS AND DOORS – WINDOW PLACEMENT**

**REHABILITATION/REPLACEMENT STANDARD:** Bedrooms shall have all operable windows with a screen and meet egress requirements (one per room) per California Building Code.

**WINDOWS AND DOORS – WINDOWS & SLIDING GLASS DOORS**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

All windows and sliding glass doors shall be weather tight, include a locking device, and where required for egress, be fully functioning/operational.

**REPLACEMENT STANDARD:** Energy Star

Minimum Life: 20 Years

Double glazed, PVC or fiberglass, a minimum R-value of 2.8 (U=.33), SHGC of 0.30 and DP of 45.

**SECTION V: ROOFING**

**ROOFING – FLAT AND LOW SLOPE ROOFING**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

Rehabilitate roofing when cost is less than 30% of total replacement cost.

Built-up roofing, flashing and accessories shall be rehabilitated per California Building Code 2010 wherever a 5-year leak free warranty is available from a certified roofing company.

**REPLACEMENT STANDARD:**

Minimum Life: 15 Years

The most cost effective Energy Star certified roof of: 3 ply hot built-up, T.P.O. or EPDM per California Building Code 2010.

**ROOFING – PITCHED ROOFS**

**REHABILITATION STANDARD:**

Minimum Life: 10 years with warranty

Rehabilitate when cost is less than or equal to 5% of total replacement cost.

Missing and leaking shingles and flashing shall be rehabilitated on otherwise functional roofs per California Building Code 2010. Concrete, metal and tile roofs shall be rehabilitated when at all possible. Antennae and communication disks shall be permanently removed.

**REPLACEMENT STANDARD:**

Moderate: Minimum Life: 30 Years

Fiberglass, asphalt, 3 tab, class A shingle weighing at least 235 and up to 270 lbs, architectural grade, 30-year warranty with ridge ventilation system per California Building Code 2010.

**SECTION VI: INSULATION AND VENTILATION**

**INSULATION AND VENTILATION – ATTIC VENTILATION**

NOTE: All new work requires permits from the Building Division.

**REHABILITATION STANDARD:**

Minimum Life: 5-Year

Any pre-installed ventilation shall be maintained or if powered and not functioning, replaced.

**REPLACEMENT STANDARD:**

Minimum Life: 20 Years

Attics will be ventilated with a minimum of one (1) square foot of free vent for each 150 square feet of roof area or be redesigned for integration with new insulation system. Solar powered roof vents may be used when possible.

**INSULATION AND VENTILATION – BATH VENTILATION**

REHABILITATION STANDARD: None

**REPLACEMENT STANDARD:**

Minimum Life: 10 Years



Energy Star, exterior ducted, 70 CFM, max 20 sones and separate switch or humidistat in all full and three quarter baths.

### **INSULATION AND VENTILATION – INFILTRATION**

REHABILITATION/REPLACEMENT STANDARD:

Minimum Life: 5 Years

All exterior doors and attic hatches shall be weather stripped. All visible cracks shall be caulked.

### **INSULATION AND VENTILATION – INSULATION**

REHABILITATION STANDARD: Not Applicable

REPLACEMENT STANDARD:

Minimum Life: 15 Years

Attic insulation goal is R-30, crawls spaces R19. New walls will be insulated to capacity with blown cellulose, fiberglass or closed cell foam to cavity capacity. Attic access panel must be insulated to R-30 with rigid foam.

### **INSULATION AND VENTILATION – KITCHEN VENTILATION**

REHABILITATION STANDARD: N/A

REPLACEMENT STANDARD:

Minimum Life: 5 Years

Energy Star, exterior ducted range hoods or exhaust fans with less than 10 sones, at least 120 CFM and capped with a functional back draft.

## **SECTION VII: INTERIOR STANDARDS**

### **INTERIOR STANDARDS – INTERIOR RAILINGS**

REHABILITATION STANDARD:

Minimum Life: 10 Years

Handrails will be present on one side of all interior steps or stairways with more than two risers and around platforms over 30" above floor level with adequate structural attachment, in compliance with the California Building Code 2010.

REPLACEMENT STANDARD:

Minimum Life: 15 Years

Hand and guardrails shall be replaced with universal design standard material and construction in compliance with the California Building Code 2010.

### **INTERIOR STANDARDS – INTERIOR WALLS AND CEILINGS**

**REHABILITATION STANDARD:**

Minimum Life: 5 Years

Walls shall be stripped of wallpaper, holes, cracks and deteriorated surfaces. All visual surfaces shall be patched and sanded as to create a smooth surface and recoated using premium, low VOC, vinyl acrylic paint.

**REPLACEMENT STANDARD:**

Minimum Life: 10 Years

Walls shall be plumb, ceiling level with a smooth finish on at least 1/2" gypsum with water resistant board in wet areas. 5/8" Type X over 16" on center studs installed per the American Gypsum Association. Kitchen tile backsplashes and wainscot in ceramic tile baths.

**INTERIOR STANDARDS – HAZMAT TESTING AND TREATMENT**

**REHABILITATION STANDARD:**

**SAFE PRACTICES**

Low: Minimum Life: 3 Months

Asbestos and lead paint hazards, when previously identified, shall be addressed in conformance with applicable local, state, and federal laws. Rehabilitated properties shall be cleaned to pass a Lead Dust clearance test to the levels prescribed by HUD regulations.

Moderate: Minimum Life: 1 Year

All properties shall be visually inspected for asbestos and lead suspect materials. No friable asbestos and all interior and exterior lead suspect surfaces shall be repainted using premium acrylic latex. Properties shall pass HUD lead dust clearance standards prior to occupancy.

High: Minimum Life: 1 Year

All properties shall undergo visual "Risk Evaluations" by rehab supervisors and be treated with the most affordable interior, exterior and site clean-up to clearance standards.

**REPLACEMENT STANDARD: IN PLACE MANAGEMENT & ABATEMENT**

High: Minimum Life: 20 Years

After an inspection by an EPA Certified Inspector, all hazardous material shall be removed from all moving parts, floors and mouthable surfaces. Encapsulants and enclosures may be used.

**INTERIOR STANDARDS – CLOSETS**

**REHABILITATION STANDARD:**

Minimum Life: 10 Years

Existing closets will be maintained.

**REPLACEMENT STANDARD:**

Minimum Life: 10 Years

All bedrooms shall have a closet with a door, clothes rod, and shelf. Baths must include linen storage and coat hooks must be near the front door.

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## **INTERIOR STANDARDS – FLOORING**

### **REHABILITATION STANDARD:**

Minimum Life: 10 Years

Ceramic tile flooring may be rehabilitated and wood floors sanded and refinished. Salvageable carpet may be cleaned. Minimum life for carpet is 5 years.

### **REPLACEMENT STANDARD:**

Minimum Life: 20 Years

Stone, tile or vinyl flooring may be installed over reinforced cement underlayment in baths. Wood or laminate flooring may be installed in living and dining rooms and halls. Kitchen and utility to be ceramic tile. FHA approved carpet over 6 lb rebond underlayment is allowed in bedrooms when economically feasible.

## **INTERIOR STANDARDS – APPLIANCES**

Assessment of existing appliances shall be made to determine if replacement is necessary.

**REPLACEMENT STANDARD:** Energy Star and Water Sense. The following appliances are eligible to be installed only when funding allows:

- Dishwasher: Energy Star rated;
- Washing Machine: Energy Star rated (required);
- Dryer: 7 CF with sensor dry system;
- Refrigerator: Energy Star rated (required);
- Range – Gas or electric, 4 burner;
- Garbage disposal – 1/2 hp, with minimum 3 year warranty;
- Microwave/Hood combination (if replacing current equipment); and
- Built-in Oven (to match) Energy Star rated.

## **INTERIOR STANDARDS – MINIMUM KITCHEN DESIGN**

### **REHABILITATION/REPLACEMENT STANDARD:**

Cabinet Storage: 2 bedroom – 8' minimum; 3 bedroom – 10' minimum; 4 bedroom – 12' minimum.

## **SECTION VIII: ELECTRIC**

**NOTE: All electrical work requires permits from the Building Division.**

### **ELECTRIC – SPECIALIZED CIRCUITS**

**REHABILITATION STANDARD:** Rehabilitate existing devices to operate.

### **REPLACEMENT STANDARD:**

Minimum Life: 15 Years

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Kitchen receptacles within 6 feet of a sink, all bath receptacles and at least one exterior receptacle shall be protected by a GFCI. Arc fault receptacles shall be installed in all bedrooms, family, dining, and living rooms, closets, hall walls, and recreation rooms per National Electric Code 2008.

### **ELECTRIC – KITCHEN ELECTRIC DISTRIBUTION**

#### **REHABILITATION STANDARD:**

Minimum Life: 15 Years

Electric service may be supplied to trash compactors, microwave ovens, double ovens, range grills, and any appliance proposed for installation.

#### **REPLACEMENT STANDARD:**

Minimum Life: 15 Years

Permanently installed or proposed stoves, refrigerators, freezers, dishwashers and disposals, washer and dryers shall have separate circuits sized to N.E.C. Two separate 20 amp counter circuits are required with each kitchen area.

### **ELECTRIC – FIXTURES**

#### **REHABILITATION STANDARD: None**

#### **REPLACEMENT STANDARD:**

Minimum Life: 20 Years

All halls, rooms necessary to cross to other rooms and stairways must be well lighted and controlled by a 3-way switch using concealed wiring. Attics must have utility fixtures. All fixtures shall be Energy Star. Replace all incandescent bulbs with fluorescent or LED bulbs. Exterior door lighting shall provide 100 lumens at ground level (motion detectors allowed). Garage doors shall be equipped with electric openers with laser safety devices. Bedrooms and living areas may receive Energy Star ceiling fans.

### **ELECTRIC – ALARMS**

#### **REHABILITATION STANDARD:**

Minimum Life: 5 Year

Existing fire and smoke, CO shall be rehabilitated to operating condition. Security system may be rehabilitated as needed. Exterior doors shall be alarmed when pools are present.

#### **REPLACEMENT STANDARD:**

Minimum Life: 15 Years

Directly wired, battery back-up smoke detectors are required on each dwelling floor. Interconnected smoke detectors are required for special needs and wheelchair users' homes. CO detectors are required with all fuel burning furnaces. Security systems may be installed at 1st floor doors and windows when economically feasible.

## **ELECTRIC – INTERIOR DISTRIBUTION**

REHABILITATION STANDARD: None

REPLACEMENT STANDARD:

Minimum Life: 20 Years

All rooms shall be rewired to the 2008 Edition of the National Electric Code using affordable fixture allowances and Energy Star fixtures. Minimum of one 20-amp circuit per room.

## **ELECTRIC – SERVICE AND PANEL**

REHABILITATION STANDARD:

Minimum Life: 15 Years

Distribution panels shall have a main disconnect, at least 10 circuit breaker protected circuits, a 100-amp minimum capacity and be adequate to safely supply existing and proposed devices. Electrical panel shall be replaced if not properly grounded, to local codes. All panel upgrades require approval by Southern California Edison.

REPLACEMENT STANDARD:

Minimum Life: 20 Years

Single Family: 200-amp service with a 24-circuit panel is allowed for homes of up to 1,800 SF. Homes larger than 1,800 SF or all electric require 200 amp service with a main disconnect panel containing at least 30 circuit breaker positions.

Two-Four Family: 100-150-amp service to each unit with a main disconnect panel containing at least 20-24 circuit breaker positions. All panel upgrades require approval by Southern California Edison.

## **SECTION IX: PLUMBING SYSTEM**

**NOTE: All plumbing work requires permits from the Building Division.**

### **PLUMBING SYSTEM – DRAIN, WASTE, VENT LINES**

REPLACEMENT STANDARD:

Minimum Life: 20 Years

ABS replacement lines shall be installed in accordance with the most recently approved version of the State of Illinois plumbing code.

### **PLUMBING SYSTEM – PLUMBING FIXTURES**

REHABILITATION STANDARD:

Minimum Life: 5 Years

All fixtures and faucets when replaced will be retrofitted with low flow aerators: kitchen faucets with a maximum flow rate of 2.0 gal/min; bath faucets with a maximum flow rate of 1.5 gal/min. Tub and shower valves shall have thermostatic or pressure balance valves.

**REPLACEMENT STANDARD:** California Water Sense

Minimum Life: 20 Years

Single lever, low flow, 2.0 gal/min kitchen and 1.6 gal/min bath, metal faucets and 2.5 gal/min maximum shower diverters with lifetime drip-free warranty. White ceramic, 1.1 GPF ultra low flow toilets, double bowl stainless steel or porcelain kitchen sinks, fiberglass tubs and surrounds and steel or porcelain enameled 5' tubs. Tub and shower valves shall have thermostatic or pressure balance valves.

### **PLUMBING SYSTEM – PLUMBING MINIMUM EQUIPMENT**

**REHABILITATION STANDARD:** None

**REPLACEMENT STANDARD:**

Minimum Life: 10 Years

Every dwelling shall contain a double or single bowl kitchen sink, and a 3-piece bath.

### **PLUMBING SYSTEM – FIRE SPRINKLERS**

**REHABILITATION STANDARD:** Rehabilitate all.

**REPLACEMENT STANDARD:** Required in homes for wheelchair bound populations when economically feasible.

### **PLUMBING SYSTEM – WATER HEATERS**

**REHABILITATION STANDARD:**

Minimum Life: 5 Years

The minimum capacity for units with two bedrooms or less shall be 30 gallons, larger units shall have a minimum capacity of 40 gallons. Water heaters shall have pressure relief valves with drip legs that extend to within one foot of the exterior ground, in copper pipe. All water heaters shall have seismic strapping.

**REPLACEMENT STANDARD:**

Minimum Life: 12 Years

Energy Star, high efficiency, pilotless, Energy Star, gas fired or dual element electric (0.97) water heaters with at least R-7 insulation and a 12-year replacement warranty. 40 gallons electric for 1 and 2-bedroom units and 40 gallons gas or 52 gallons electric for 3- and 4-bedroom units. Install heat pump water heaters when feasible. All water heaters shall have seismic strapping.

### **PLUMBING SYSTEM – WATER SUPPLY**

NOTE: No pipe, plumbing, fixture, fitting, or faucet intended to convey drinking or cooking water shall contain no more than .25 percent lead (AB 1953).

REHABILITATION STANDARD: 10 Years

Minimum Life:

All homes shall be tested to identify and eliminate all leaks. All fixtures must be supplied with 2 gallons per minute water flow and shut off valves must operate. Lead and galvanized pipe shall be replaced with copper, PVC or PEX, if local code allowed. All accessible hot water lines shall be insulated; maximum static pressure is 60 psi.

REPLACEMENT STANDARD:

Minimum Life: 20 Years

All fixtures shall have brass shut off valves. Exterior hose bibs with air gap are required.

## **SECTION X: HVAC**

**NOTE: All work requires permits from the Building Division.**

### **HVAC – CHIMNEY/FIREPLACE REHABILITATION**

REHABILITATION STANDARD:

Minimum Life: 20 Years

Unsound chimneys shall be rehabilitated or removed. When chimneys must be used for combustion ventilation, they shall be replaced.

REPLACEMENT STANDARD:

Minimum Life: 20 Years

Replacement furnace flues when required shall be metal double or triple walled as recommended by the equipment manufacturer.

If the service life of the chimney is comparable to service life of heating plant, then no replacement is necessary. If the chimney needs replacing or a new liner, the chimney will be eliminated and replaced with a high efficiency, power vented unit.

### **HVAC – DISTRIBUTION/VENTILATION SYSTEM**

REHABILITATION STANDARD:

Minimum Life: 5 Year

Central air conditioning shall be inspected, serviced and refurbished per diagnostic testing of unit and distribution system – per (BPI) technical standards for air conditioning and heat pump specialist as described in Chapter 6 of the Saturn Mechanical Systems Field Guide, 2006. Must meet 2008 Title-24 Standards.

REPLACEMENT STANDARD:

Minimum Life: 20 Years

All ductwork shall be insulated to R-4, seams sealed with Mastic and run in conditioned space within the building envelope. Air leakage and ventilation may be brought into conformance to Chapter 4 of HPSWC. Must meet Title-24 Standards.

## **HVAC – CENTRAL EQUIPMENT**

### **REHABILITATION STANDARD:**

Minimum Life: 5 Years

Heating plants that are less than 5 years old and rated 65 AFUE efficiency or better shall be tested and tuned-upper BPI. Energy Star setback thermostats are required.

### **REPLACEMENT STANDARD:**

Minimum Life: 20 years

Condensing gas furnaces rated over 86 AFUE and heat pumps over 13.5 SEER with 10-year warranty on parts and 5 years labor. Air to air heat exchangers are eligible for this program. HVAC system shall be sized to maintain 68°F measured 36" off the floor when the outside temperature is 84°F (the average yearly maximum), in all habitable and essential rooms. Interior design temperature used for heating and cooling load calculations per Title-24.

## **SECTION XI: SPECIAL CONSTRUCTION**

### **SPECIAL CONSTRUCTION – ACCESSIBILITY FOR SPECIAL NEEDS CLIENTS**

One of the following levels of accessibility shall be met dependent upon the clients' physical needs and financial resources:

Accessibility:

1. No-Step Entry;
2. Adequate Doorways; and
3. Usable Bathroom.

Usable Home: If requested by a physically disabled tenant, home shall meet this level of accessibility when funding is available:

1. Accessible Route into and through the Dwelling Unit;
2. Accessible Switches, Outlets & Controls;
3. Reinforced Walls for Grab Bar Installation;
4. Usable Kitchens; and
5. Ground Floor Bedroom.

Full Accessibility:



1. Wheelchair turning space in kitchen, bath and hall areas;
2. Doors – maximize space and lever hardware throughout;
3. Kitchen – accessible to wheelchair bound;
4. Bathroom fixtures per universal design standard;
5. Accessible controls in all areas; and
6. Communication devices in bath and at front and rear door.

### **SPECIAL CONSTRUCTION – LEAD SAFE REGULATIONS**

#### REHABILITATION STANDARD / REPLACEMENT STANDARD

In all federally-funded projects, the City shall follow the requirements listed on the attached “Summary of Lead-Based Paint Requirements.

#### **International Energy Conservation Code**

1. All new construction work must also conform to the International Energy Conservation Code (IECC) and applicable state or local energy conservation codes.
2. Additionally, the City requires that all new building construction complies with the State of California Energy Code.

#### **Section 504 and Fair Housing**

1. Section 504 and Fair Housing rules impact the design of your project by setting standards for the appropriate number and characteristics of accessible units in your project. The applicability of these standards depends on the size and type of the project.

### **CONSTRUCTION PROCESS REQUIREMENTS**

In addition to the requirements related to property standards discussed in Part I above, the City of South Gate HOME program has requirements that relate to the following aspects of the construction process itself:

1. Inspection protocols;
2. Screening contractors;
3. Construction Scheduling;
4. Pre-construction conferences: who is included, what is covered;
5. Processing and tracking payments;
6. Change order management and payment processes; and
7. Monitoring reports from partner organizations

### **INSPECTIONS AND SPECIFICATIONS**

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The City shall follow inspection procedures as described below to ensure that all work is being completed on time and within stated quality guidelines.

1. **Initial inspections:** establish scope of work and must be allotted sufficient time for interviewing the owner or others, delving into the properties functional characteristics, and to develop thorough, articulate scopes specific to the job inspected.
  - a. The specifications must include detailed drawings and reference material as needed to fully explain all aspects of the scope, especially special conditions requiring unusual steps in the repair.
2. **Final approval of plans and specifications:** The City requires that plans and specifications are submitted for final review and approval. The following must be addressed prior to approval:
  - a. The final plans and specifications must be consistent with the scope of work defined in the Recipient's agreement with the City.
  - b. Note that advertisements for construction contract bids may not be published until plans and specifications for such contract have been unconditionally approved by the City.
  - c. Final construction cost estimates, including deductive alternatives, must be provided. Estimates for line item bids must include estimated quantities, unit costs, and total costs.
3. **Progress inspections:**
  - a. The City and HUD requires that inspections be documented and include the signature of the inspector and the date.
  - b. An inspection will determine if work completed corresponds to the work write-up, the construction contract, and the schedule before payment is made to the contractor;
  - c. It may address a need for a change order and intervene in owner/contractor disputes in a rehabilitation project;
  - d. It ensures that safety and security measures are being taken and that all necessary code inspections have occurred;
  - e. It allows the inspector to view the project at key construction points.
4. **Timing of inspections:** The construction schedule will determine the expected times for progress inspections.
  - a. Key points in the construction process would include inspections by qualified persons before work is concealed to determine that it is satisfactory and meets the work specifications and contract.

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- b. An inspection should occur when reinforcing bars are installed; wiring, plumbing, and insulation are in place.
  - c. An unscheduled inspection may reveal a great deal about work quality and progress, as well as answer concerns a property owner may have.
  - d. It may be necessary when a dispute arises between the parties involved.
5. **Final inspection:** A final inspection must be made by the appropriate professional and work must pass this inspection before the retainage is released to the contractor.
6. **Logistics:** Upon substantial completion of the project, the City must confirm that a final inspection is requested.
- a. The City will schedule a final inspection to be attended by the owner, project administrator/consultant, contractor, and the City of South Gate Housing Inspector.
  - b. Notice of this inspection must be scheduled with the City at least 3-5 days prior to the scheduled date.
  - c. The final inspection shall consist of a field inspection to confirm that the project has been completed.

The following documents must be available at the final inspection:

- a. Punch List(s);
  - b. Certificate(s) of Final Inspection; and
  - c. Release of Lien Form for each contractor
  - d. General items of discussion at the final inspection include
  - e. Acceptance of work by all parties;
  - f. Transfer of insurance coverage to the owner;
  - g. Utility considerations;
  - h. Establishment of warranty period; and
  - i. Final payment (Disbursed by the City of South Gate 30 days from a successfully completed Final Inspection.)
7. **Punch list and close out:** Although a few punch list items may be pending at the time of the final inspection, all major problems should be resolved and a Certificate of Final Inspection should be issued at this time.
- a. The City requires that the project inspector and architect, if applicable, conduct a pre-final inspection to ensure that a comprehensive punch list is developed and that the project will be substantially complete at the time of the City's Final Inspection.
  - b. A schedule for completing these items should be negotiated with the contractor, and a corresponding percentage of the cost, plus retainage, should be held back until the punch list items are completed.
  - c. If an architect was used, he or she will issue a notice of substantial completion.
  - d. This notice verifies that the structure may be used for its intended purpose.

- e. The notice of substantial completion may be issued either before or after punch list items are completed, depending on the situation and the extent of remaining items. In all cases, the Certificate of Final Inspection must be signed by the City prior to release of final retainage payment.
  - f. Even when an architect signs off on work, the city will conduct its own inspection to verify that work is complete and complies with programmatic and other federal requirements.
  - g. The final inspection must be performed by the City of South Gate Economic Development staff.
  - h. After completion of the punch list items, and (if appropriate) the architect’s notice, the City should see that the contractor provides:
    - i. Cost certifications;
    - ii. Warranties of work performed;
    - iii. Operations manuals (for furnaces and other systems);
    - iv. Guarantees from manufacturers of materials and systems installed; and
    - v. Release of liens by suppliers, all subcontractors, and the general contractor.
  - i. No final payment will be made until all documents are received and lien releases are verified.
  - j. An IDIS completion report must be completed to close out the project.
8. **Warranty inspection:** A one-year warranty period must be instituted for each contract completed to ensure that the workmanship and materials of the contractor(s) and subcontractor(s) have been sufficient. Copies of warranties or a certification from the contractor that no warranties were issued for the project are to be kept in project files.
- a. A final warranty inspection must be conducted by the City of South Gate staff eleven months after the initiation of the warranty period to finalize any adjustments needed to correct covered deficiencies.
  - b. Any such deficiencies shall be noted by the City or architect, if applicable, and provided to the contractor in writing and corrected.

**EXHIBIT 9 – Timing and Purpose of Property Inspections**

<b>When to Inspect:</b>	<b>Purpose</b>
<b>Preliminary – before work begins</b>	<ul style="list-style-type: none"> <li>✓ Check existing conditions against drawings (for new construction) or against work write up/approve specification;</li> <li>✓ Review applicable codes and standards</li> </ul>
<b>During Construction</b>	<ul style="list-style-type: none"> <li>✓ Determine adequacy of work completed;</li> <li>✓ Assess compliance with approved drawings or specifications;</li> <li>✓ Assess completed work against construction schedule;</li> <li>✓ Determine completed work that is eligible for payment;</li> <li>✓ Resolve any disputes among parties.</li> </ul>

<b>Final</b>	<ul style="list-style-type: none"> <li>✓ Go over items in “punch list” to determine completion;</li> <li>✓ Document compliance with codes and standards.</li> </ul>
<b>Warranty Inspection</b>	<ul style="list-style-type: none"> <li>✓ Assess workmanship and materials used;</li> <li>✓ Document deficiencies</li> </ul>

## SCREENING CONTRACTORS: BIDDING AND CONTRACT AWARD PROCESS

The City of South Gate is expected pre-screen contractors and to use applications, bidding documents, agreements, and pre-bid/preconstruction conferences for screening contractors. In general, performance standards and consequences to meet them must be part of every construction program and must be covered in sufficient detail in bidding documents and the pre-construction conference. The City's specific requirements for the bidding and contract award process are detailed below:

### Debarment and Suspension Policy (24 CFR 85.35).

The City of South Gate complies by the debarment and suspension policy pursuant to 24 CFR, 85.35 Part 5.

### PROCEDURE

1. The City will verify that they and any or all persons, contractors, consultants, businesses, sub-recipients, etc., that are conducting business with the City are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered transaction.
2. The City will check the Excluded Parties Listing System, print and maintain evidence of the search results. In the event that the search results indicate, a prior or current debarment or suspension of the contractor, the City will include the printout in the application.
3. The City will certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction. Any contractor that remains in a debarred or suspended condition will be prohibited from participation in the City of South Gate HOME Program as long as they are classified in this manner.
4. The City will **not** award any HOME Program funds to applicants that are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation from the covered transaction.

The City takes the following steps to assure a contractor is qualified to work based on the California State Labor Board (CSLB) and the HUD debarment List:

1. If the contractor is NOT on the debarment list, the City makes a copy of the Debarment List and encloses the list in the contractor package.
2. If the contractor IS found on the debarment list, the contractor is disqualified further consideration.

## PROCEDURE

- a. The date of publication of the notice shall not be less than five (5) days nor more than 30 days before the date established for the receipt of bids.
  - b. In addition to citywide newspaper advertisement, the City may directly solicit prospective bidders and advertise in construction industry trade journals.
  - c. Note that advertisements may not be published until plans and specifications for such contract have been unconditionally approved by applicable agencies.
  - d. Additionally, wage determinations, if applicable, must be included as part of the contract documents for the project. The City requires to be contacted 10 days prior to the bid opening date.
1. **Interpretations of plans and specifications.** All questions regarding interpretation of the plans, specifications, drawings, and other contract documents should be addressed only to the design architect. Questions specific to the content of the Sample Bid Package for City of South Gate funded projects should also be addressed to:

City of South Gate  
Attn: Housing and Grants Division  
8650 California Avenue, South Gate, CA 90208

- a. Any inquiry or other action requiring written interpretation or instruction from the architect that will modify the plans and specifications and affect bidders (e.g., modified wage determination, redesigns, etc.) must be done so by addendum.

NOTE: An addendum is written instruction issued prior to the opening of construction bids that modifies or interprets contract documents, drawings, and specifications by additions, deletions, clarifications, or corrections. All addenda must be approved by the City prior to issuance.

- b. An Addendum must be issued **by certified mail at least five days prior to the date of bid opening**. Failure to attain approval may result in disallowance of affected costs.
2. **Receipt of all sealed bids** will be documented by date and time of receipt and the name of the submitting contractor. Bids received after the established deadline shall not be accepted.

3. **Bids in excess of project budget.** If the lowest base bid exceeds the amount of funds appropriated for project budget, then the application of deductive alternatives in numerical order will commence until the bid is within the appropriated amount.
4. **Apparent low bidder.** Once the apparent low bidder is identified, the City will determine if he/she is responsible.

NOTE: All prime contractors are responsible for ensuring that the subcontractors they employ are not debarred or suspended.

5. **Notification of bid award.** Once the apparent lowest responsive, responsible bidder(s) for each contract(s) is determined, the City will notify all bidders whether or not they were successful.
  - a. Successful bidders must be notified of acceptance of their bid within the time frame specified in the contract documents.
  - b. Such notification shall be made through issuance of a Notice of Award which requests the contractor to provide acceptable payment and performance bond(s) and certificates of insurance within 10 calendar days.
  - c. Upon reception of these documents, the City must determine if:
6. The contractor has **sufficient bonding and insurance.** The insured amounts must be consistent with requirements of state law as specified in the contract documents, e.g., 100 percent payment and 100 percent performance bond(s) coverage and sufficient liability coverage amounts.
  - d. Contracts must be awarded within the time frame specified in the contract documents.
  - e. If the contract has not been awarded within 90 days of bid opening, the Recipient must notify the City's Planning and Development Department to determine if the wage determination (if applicable) is still valid. Any applicable modified or superseded wage determinations will apply to the project.

Note: Licensing and underwriting limitations of insurance companies in the State of California can be checked by referencing U.S. Department of the Treasury, Circular 570 Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as updated in the Federal Register.

7. **Post award requirements.** After all contract documents have been executed and sufficient bonding and insurance is confirmed, a fully executed set of contract documents must be submitted by the City of South Gate.

### Pre-construction Conferences

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A pre-construction conference can be valuable in providing direction to the parties involved and prevent potential misunderstandings.

## **PROCEDURE**

1. The HOME Program Consultant or Housing and Grants Analyst shall coordinate scheduling the preconstruction conference with all applicable parties.
2. At a minimum, the City shall give 10 days' notice to persons who must attend the preconstruction conference, including:
  - a. City representative, if applicable
  - b. Executive Director of nonprofit entity, if applicable;
  - c. Developer/Owner,
  - d. Prime Contractors;
  - e. If applicable, the architect (especially the person representing the firm and the resident observer);
3. The preconstruction conference will be conducted in accordance with a Preconstruction Agenda and Report.
4. Signed copies of the report, with an attached attendance list, must be distributed to each of the parties identified above within five calendar days of the conference.
5. Location of the conference:

## **Working with Contractors**

### **PROCEDURE**

The HOME Program Consultant or Management Analyst will:

1. Retain a qualified person in charge of the work who understands the business and the constraints faced by those in the building trades.
2. Clearly inform contractors about work expectations, program requirements as they impact the project, about the payment process, and seek their feedback after project completion.
  - a. Timing of a pre-construction conference will take place after an Environmental Review and Release of Funds (ROF) have been completed, and
3. Distribute communicate of the project to all team members on his or her role and responsibilities;
4. Identify deadlines and critical phases of the work;
5. Review the scope of work and schedule to prevent future problems;
6. Explain basic operating procedures, including reports, meetings and other communications required and expected during construction;



7. Review applicable programmatic and federal requirements, such as Davis-Bacon, labor standards, and Lead Safe Housing Rules;
8. Review procedures for:
  - a. Inspections – when they must occur and who initiates them;
  - b. Warranties – copies of warranties or a certification from the contractor that no warranties were issued for the project shall be kept in project files;
  - c. Payment requests – when they should be submitted, who receives them, what they must include, when payment will be made if satisfactory;
  - d. Change orders – the process for requesting one; what would/ would not be considered in weighing the request;
  - e. Lien releases – the process and who is involved;
  - f. Monitoring of progress and reporting;
  - g. Dispute resolution; and
  - h. Closing out the project.
9. Review the construction contract and ensure all parties have read, understood, and signed it;
10. Confirm that subcontractors' names, addresses, and phone numbers are accurately listed;
11. For occupied structures:
  - a. Discuss the handling of service shut-offs and restricting access to bathrooms, kitchens, etc. during lead-paint work as well as other relevant rehabilitation work;
  - b. Define moving and relocation roles and schedules; and
  - c. Review/discuss safety and security measures during construction.
12. At the conclusion of the pre-construction conference and after the contractor has executed the construction contract, the City will issue a notice to proceed with work.
13. Construction should commence no later than 10 days after receipt of this Notice.

## **Construction Schedule**

### **PROCEDURES**

The HOME Program Consultant and/or the Housing and Grants Analyst will:

1. Maintain access to many information sources and have an understanding of construction methods, trades involved, and the sequence of tasks that must occur;
2. Retain knowledge of:
  - a. The building materials required for the project, ordering and delivery methods and protocols;
  - b. The various applicable building codes and standards.
  - c. Anticipate the key points at which an inspection is required;
  - d. Determine how weather variations can impact construction progress;
  - e. Understand each development team member's roles and responsibilities; and
  - f. Understand the development budget;

- g. costs can be paid from each source;
- h. When funds are available;
- i. How to request payment (including the form that will be used to request payments and the documentation to be provided.);
- j. Document each step in the process and list them sequentially, recognizing that some steps must occur simultaneously.

## **Timeliness and the Construction Schedule**

### **PROCEDURE**

1. Assure that construction will start within twelve months from the date of property or land acquisition;
2. Assure that funds will be expended within the required five-year timeframe of the allocation;
3. Maintain a construction schedule that is realistic – and enforceable.
4. If a project is behind schedule, the City may attempt one of the following options:
  - a. Eliminate or redesign the critical path activities (which may reduce the scope of the project);
  - b. Rearrange critical path activities so that some are performed simultaneously; or
  - c. Reduce the duration of critical activities (if the critical path is shortened, other activity paths through the network may become critical.)
  - d. If none of these options can be accomplished, the project completion date must be adjusted; this will most likely have cost or timeliness ramifications and is highly undesirable.
5. Comply with timelines in the construction schedule to avoid severe consequences to the project:
6. Ensure that timelines are met, or that there is ample recourse to pursue if they are not, schedules must be enforceable including:
  - a. Reference the schedule in the written agreement between the City and the developer;
  - b. Reference the schedule in the contract with the general contractor and all subcontracts;
  - c. Reference it in the architect's contract.
7. Cover the schedule and stress its importance during the pre-construction conference.

## **Change Orders**

### **PROCEDURE**

1. Any changes to construction documents must be reviewed and approved by the City.
2. Contractors must submit change orders when there is:
  - a. A change to the project design or work specification;
  - b. An alteration, addition, or deletion to the approved scope of work;
  - c. An addition or change to the work schedule; or
  - d. A change in cost for any reason.

3. Change orders must be written and address its completeness and appropriateness and its effect on budget, timeframe to the City.
4. The City requires that a Written Change Order is submitted any time that contract documents are changed, including additions, deletions, modifications, and time extensions after bid opening.
5. In addition, all change orders must be reviewed and approved by the City prior to issuance.
6. Changes that have no cost implications (or reductions in costs) require a change order.
7. Change orders will be evaluated for their impact on the project cost, schedule, and scope of work before they are approved by the City.

## Managing Payments

### PROCEDURE

1. Payments will be reviewed by:
  - a. The City, the property owner and the contractor prior to signing a rehabilitation contract;
  - b. The developer and contractor for smaller, uncomplicated new construction projects at the pre-construction conference; or
  - c. The entire development team for larger new construction projects at the pre-construction conference.
2. For all projects, a portion of all payments will be retained at 10 - 15 percent until 30 days after completion of the work or satisfactory completion of the final punch list items.
3. The draw schedule will include in the overall construction schedule to establish clear expectations for when the contractor may request and can expect payments.
4. Payment requests for housing rehabilitation projects will be submitted to the City by the general contractor at the completion of each stage of the schedule.
5. Payment requests will be provided to the City's Rehabilitation Consultant, and the property owner.
6. The property owner will sign off on the request before the City processes it.
7. For new construction projects, the developer assembles the draw requests for both hard and soft costs from the general contractor and other professionals involved in the project. The invoice should include:
  - a. Total budget obligated;
  - b. Amount of previous payments received to date;
  - c. Cost for materials stored;
  - d. Costs incurred during the particular pay period;
  - e. Total costs incurred to date (includes previous and current expenses);
  - f. Percentage of work completed to date;
  - g. Remaining budget; and
  - h. Amount of payment retained until project completion.
  - i. No payment should be made when there have been changes to the original contract or scope of work without approval of a relevant change order.

8. All payment request documentation will be logged in as soon as it is received and recorded as soon as it is released.
9. The City's Community Development Department and Finance Department will review payment requests and approve them.
10. The documentation that must accompany a payment request, includes:
  - a. For all projects, an inspection report that supports satisfactory completion of work according to the work write-up, specifications, and/or construction schedule;
  - b. Lien waivers as appropriate;
  - c. If needed, approved change orders;
  - d. For projects subject to Davis-Bacon requirements, signed certifications that demonstrate compliance.
  - e. Once a payment request has been approved by the City, it should be paid promptly in accordance with the agreed-upon schedule.
  - f. If payment delays occur from participating in public programs and if payment is delayed according to the construction schedule (through no fault of the contractor), the contractor is allowed to stop work.
11. Final payment and release of retainage less any liquidated damages shall be made to the contractor after:
  - a. Final inspection is completed;
  - b. A Certificate of Final Inspection is signed;
  - c. Certificate of Plumbing, Certificate of Electrical, Certificate of HVAC are signed;
  - d. Release of Liens are received, if applicable;
  - e. Receipt of copies of warranties or a certification from the contractor that no warranties were issued for the project;
  - f. All punch list items are resolved; and
  - g. Final payrolls and equal employment opportunity data are accepted by the City, if applicable.
12. Contingency funds may be set aside for a project for which there is no known specific use at the beginning for unforeseen problems that may require funds.
  - a. These funds may not be drawn or expended unless an appropriate written change order is executed.
  - b. Funding must be established at the beginning of project for unforeseen circumstances.
  - c. Set up is allowed but only work performed and documented through written change orders is paid.

## Periodic Reporting

### PROCEDURE

1. During the construction period, the City's HOME Program Consultant or Housing and Grants Analyst will require periodic status reports from partners such as contractors, private developers, and property owners.
2. The City will maintain a reporting system to track progress of meeting larger program goals, as well as tracking progress for individual projects.

- a. The City's reporting system includes:
  - b. milestones that need to be measured in the construction process and the draws against the contract;
  - c. When the milestones need to be measured (e.g., the critical points in a housing rehabilitation or development project); and
  - d. Measure and review the milestones.
3. Request essential information to track including:
- a. Performance milestones in the construction schedule or written agreement; or
  - b. Required documentation for IDIS or the CAPER reporting.
  - c. Provide clear, detailed report forms and instructions to those responsible for initiating the report.
4. Take immediate action if reports are late, inaccurate, or incomplete.
5. Inform partners that the information provided in reports is useful for:
- a. Preparing reports for City of South Gate;
  - b. Identify performance and timeliness issues early;
  - c. Plan on-site monitoring visits;
  - d. Making future funding decisions; and
  - e. Developing descriptions of projects for elected officials and citizens.
6. Measure progress in individual projects; or
7. Compare progress in similar projects to identify slower performers and take further action.
8. Examine funding requests to evaluate the fiscal aspects of performance against the construction schedule or written agreement.
9. Identify any missed milestones and which projects have or may put the City at risk of failing to meet timeliness requirements in the HOME program.

**Exhibit 10**  
**Rehabilitation of Owner-Occupied Progress Reporting**

<b>What to Track</b>	<b>How Often to report</b>	<b>How to Analyze information</b>
Date of application	At application	Look for demand (or lack) by targeted population
Date of requested income verifications; date received	When requested	Check for follow up activity if not received
Date of proof of ownership established	At time of proof	Check for determination of eligibility for assistance
Date of initial inspection	At time of initial inspection	Look for "fail" items and LBP

Date, name of contractor selected	At time of selection	Check for compliance with City's approved system
Date of Pre-construction conference	At time of conference	Look for subjects covered, who were present, notes taken
Date of Proceed Order	At time of order	Check against approved procedures
Date of initial progress Inspection	At time of inspection	Note items passed or failed
Pass/fail items in inspection	Same as above	Note for payment requests or change orders
Date of initial payment request; subsequent payments requested	Date of requests	Check for adequate documentation to support request
Date payments made	Date payments made	Check for time elapsed; is it late or on time
Date of final inspection	Date of inspection	Check against inspector's report of satisfactory work
Punch list items completed	Date of punch list	Check for completed work
Final release of liens received	Release date	Look for presence of all releases
Final payment	Date of payment	Check for timing; adequate documentation
Project closed	Date of close-out	Check for completion report and Interim reports in IDIS

### Grievances Between Participants and Construction Contractor

Contracts signed by the contractor and the participant include the following clause, which provides a procedure for resolution of grievances:

*Any controversy arising out of or relating to this Contract, or breach thereof, shall be submitted to binding arbitration in accordance with the provisions of the California Arbitration Law, Code of Civil Procedure 1280 et seq., and the Rules of the American Arbitration Association. The arbitrator shall have the final authority to order work performed, to order the payment from one party to another, and to order who shall bear the costs of arbitration. Costs to initiate arbitration shall be paid by the party seeking arbitration. Notwithstanding, the party prevailing in any arbitration proceeding shall be entitled to recover from the other all attorney's fees and costs of arbitration.*

### Environmental Requirements and Procedures

#### OVERVIEW

The purpose of this chapter is to provide guidance on the environmental review process required under federal HOME regulations. These regulations (24 CFR §92.352) require a formal assessment of possible environmental effects for each activity carried out with HOME funds. This assessment

must be done according to requirements found in 24 CFR Part 58. This chapter provides current rule requirements and clarifies review responsibilities of the City of South Gate, and Community Housing Development Organizations (CHDOs), with regard to the environmental review process.

The U.S. Department of Housing & Urban Development (HUD) places restrictions on project activities in accordance with 24 CFR §58.22, *Limitations on activities pending clearance*. Completion of the environmental review process is mandatory *before* taking physical action on a site or making a commitment or expenditure of HOME or non-HOME funds for property acquisition (purchase), rehabilitation, conversion, lease, repair, or construction activities. “Non-HOME funds” means *any* Federal, state, local, private, or other funds.

Since funds for a project will not be released until the environmental review has been completed and approved, the City will begin the environmental review process at the earliest possible time so that potential conflicts between program procedures and environmental requirements are identified at an early stage.

The Environmental Checklist in the Uniform Application submitted, as part of a competitive HOME grant application does **not** meet HUD requirements for an environmental review. The purpose of the checklist is to assist the City to initially evaluate environmental circumstances that may affect the proposed project and to raise awareness of possible problems if the grant is awarded.

This chapter details the HUD environmental review rules and related Federal laws and authorities that are applicable to all projects and activities receiving HOME assistance. It describes:

1. The roles and responsibilities of the City of South Gate and its Recipients, who have the primary responsibility for conducting environmental reviews;
2. The role of CHDO’s and nonprofit organizations as project partners in the environmental review process;
3. The primary procedures and operating principles that guide the environmental review process; and
4. The categories of environmental review that are required for various HOME funded activities and projects.

### **Roles and Responsibilities of City of South Gate**

As outlined in 24 CFR Part 58, units of local government are required to assume Federal environmental review responsibilities for compliance with the National Environmental Policy Act (NEPA), and related Federal laws and authorities. HUD’s environmental review regulations identify states and units of general local government as the “responsible entity” (RE) ---those entities having legal authority to assume this role because they exercise control over planning, permitting, and supplying infrastructure to support HUD-assisted projects for their jurisdictions. For the HOME

Program, the City receives a formula allocation of HOME funds directly from HUD. In addition, through a written agreement with the City of South Gate, assumes responsibility for compliance with NEPA and Part 58.

In cases where the City of South Gate does not have the technical capacity or administrative capability (§ 58.12) to assume the role of RE or an applicant (e.g., CHDO, or nonprofit or for profit organization) has applied directly to the City for HOME grant assistance, then the City of South Gate will take on this role of RE. In most cases the City of South Gate assumes the RE role.

In the role of responsible entity (RE), the City not only assumes the responsibility for environmental review, decision-making, documentation, and mitigation (if necessary), but also the legal responsibility for compliance with NEPA and all other applicable laws, regulations, and authorizations.

Whenever Recipients have assumed the role of RE, then the City is responsible for overseeing compliance with HUD's environmental review procedures, as well as providing assistance to those Recipients in meeting their compliance responsibilities under Part 58. The City's role in this capacity is to conduct post-review monitoring of the Recipient's Environmental Review Records (ERR); enforcing violations of Part 58; receiving certifications of compliance from the Recipients; accepting objections from the public or other agencies; and other responsibilities related to the release of funds process (§ 58.18 and Subpart H).

When the City assumes the role of RE, then HUD performs the oversight responsibilities described in the paragraph above (24 CFR 58, Subpart H).

#### **A. Environmental Review Process**

The City must ensure that activities or projects that are funded by HOME assistance, in total or in part, are in compliance with NEPA and Part 58 requirements. This means creating a written environmental review record (ERR) for every activity and project regardless of the level of review (§ 58.38). Later in this chapter, more details will be provided as to the appropriate levels of environmental review for every type of HOME assisted activity or project.

The ERR is a type of "environmental diary" that the City uses to substantiate its decisions and conclusions concerning protection and enhancement of the environment as a result of approving the project. Keeping good records and having complete documentation is necessary to fulfill the City's environmental review obligations. This is a public record. Legal challenges to a project's environmental compliance may be won or lost over how complete or incomplete the City's ERR documentation is; therefore, this administrative record is important.



The City of South Gate will periodically monitor the content of the environmental records to determine whether corrective actions or sanctions are necessary. In addition, the HUD Field Office will conduct a monitoring review of the City's project ERRs.

The City is required to maintain technical capacity and administrative capability to ensure compliance with NEPA and Part 58 is achieved (§ 58.12). With regard to technical capacity, the City staff needs to have sufficient knowledge of the Federal laws and authorities, as well as an understanding of Part 58 requirements in order to make informed decisions about whether:

1. The appropriate level of review has been completed;
2. Compliance with NEPA and Federal laws and authorities has been achieved;
3. The public notification requirements have been met (if required); and
4. When HUD approval is necessary.

This is true whether environmental reviews are completed by City staff, prepared by program partners, or a consultant is hired to perform the review. The City is still responsible for the content of the ERR and must make an independent evaluation of the environmental issues, take responsibility for scope and content of the compliance findings, and make the final environmental decision concerning project approval.

With regard to administrative capability, City staff should have sufficient knowledge about the Part 58 procedures to understand when funds may be committed and spent, the time periods for the public notification and release of funds process, and the minimum content of the ERR.

## **B. Environmental Decision-Making**

For purposes of compliance with NEPA and Part 58, the chief executive officer of the City, or its formal designee, is the certifying officer (CO) (§ 288 of the Act). The certifying officer is recognized as the “responsible Federal official under NEPA” (§ 58.13, 40 CFR 1508.12) and, therefore, the decision-maker as to whether a project is approved or rejected on the basis of the environmental review findings. This is a Federal legal responsibility. As such, if someone other than the chief executive officer for the City is designated to fulfill this role, HUD requires there be a formal designation by the governing body identifying this officer.

The CO represents the City in Federal court if there is legal challenge to the content of the environmental review record and the City's decision based upon that record [§ 58.13(a)].

The CO is also the only person with the legal authority to sign the Request for Release of Funds and Certification (HUD form 7015.15.).

Other responsibilities required of the certifying officer are:

1. To ensure that the City reviews and comments on all EIS document prepared for Federal projects that may have an impact on the City of South Gate HOME program [§ 58.13(b)];
2. Making health and safety decisions related to whether or not to approve residential construction projects that are exposed to high levels or noise from major roadways, railroads, and/or military or civilian airports [HUD regulation on Noise Abatement and Control, 24 CFR 51.104(a)(2) and (b)(2)]; and
3. Making health and safety decisions related to the construction, rehabilitation, or conversion of buildings exposed to blast overpressure or thermal radiation from aboveground storage tanks within line-of-site of the project (HUD regulation on placement of HUD- assisted projects in the vicinity of explosive or flammable operations, 24 CFR 51.206.).

### **C. Environmental Action**

The City of South Gate is also responsible for ensuring that any environmental conditions or safeguards resulting from completion and approval of the environmental review document are implemented. With that, the City has developed a monitoring plan to ensure conditions that are identified as necessary for protecting and enhancing environmental quality or minimizing adverse environmental impacts are included in agreements or other relevant documents, and implemented during completion of the project.

In addition, the City must re-evaluate its environmental findings and decision if:

1. Substantial changes in the nature, magnitude, or extent of the project are proposed by the project proponent (e.g., new activities not anticipated in the original project scope);
2. New circumstances and environmental conditions arise that were not previously considered or evaluated for effect (e. g, conditions discovered during implementation of the project, such as archeological resources, asbestos containing materials, endangered species, underground storage tanks, dry wells, etc.); or
3. The project proponent proposes selection of an alternative not previously considered.

Upon re-evaluating its original findings and conclusions, the City must decide whether or not its original determination is still valid, or that a new environmental review document must be prepared instead. If the original findings are still valid, document this in the ERR in writing.

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## Role of CHDO's and Nonprofit Organizations as Project Partners

Any other individuals and entities that utilize HOME program assistance fall into the category of project *participants* with regard to compliance with Part 58 (§ 58.22). This includes CHDOs, public or private nonprofit or for-profit entities, contractors, and individual borrowers receiving HOME grants and loans.

These partners must:

1. Not acquire, repair, rehabilitate, convert, demolish, or lease properties or undertaking construction prior to receiving approval from the City of South Gate;
2. Not commit non-HUD funds to project activities that would have an adverse environmental impact or limit the choice of project alternatives;
3. Carry out any mitigation and/or conditions associated with approval of the project;
4. Provide the City with information about the project.

The City may require by executed agreement that CHDOs or developers supply available, relevant information necessary for the City to perform the environmental compliance review. This could mean:

1. The CHDO or developer submits certain types of information to the City, or
2. The CHDO or developer prepares the environmental compliance review for submission to the City for its review and adoption, or
3. The CHDO or developer may decide to hire a consultant to prepare the environmental review for the City's review and adoption.

## D. Environmental Review Procedures

### Actions Triggering the Requirements of Part 58

Once a project participant (i.e., CHDO's, developers, owners, sponsors of housing, and third-party contractors) has submitted an application for HOME funds to the City or the City has designated funds for a specific project in its Consolidated Plan or Annual Action Plan ("AAP"), Part 58 requirements are applicable to the project. At this point, the City *must* request the participant to:

1. Cease all project activity until the environmental review (ER) has been completed. Part 58 prohibits further project activities and actions from being undertaken prior to completion of the ER and the determination of environmental clearance. Projects in violation of this prohibition risk the denial of HOME funds.

Where a project participant has begun a project in good faith as a private project, the City is not precluded from considering a later application for Federal assistance for the project, but must request the third-party applicant to:

2. Cease further actions on the project until the environmental review process is completed. Project participants may proceed with the project upon receiving approval from the City, after the environmental review process has been completed for the project.

There are certain kinds of activities that may be undertaken without risking a violation of requirements of Part 58. For example, the act of either hiring a consultant to prepare a Phase I Environmental Site Assessment (an investigative study for environmental hazards) or hiring a consultant to complete an engineering design study or plan, or a study of soil and geological conditions.

Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the project participant's own funds, prior to obtaining environmental clearance to use HUD funds. This process may include public notification and approval from HUD. If prohibited activities are undertaken prior to receiving approval from the City, the applicant is at risk for the denial of HOME assistance. Such actions include:

1. Purchasing real estate;
2. Demolishing structures or buildings;
3. Excavating or dredging soils;
4. Placing fill dirt on the site;
5. Rehabilitation or converting a new building; and
6. New construction.

NOTE: Undertaking any of these actions interfere with the City's ability to comply with NEPA and Part 58. If prohibited actions are taken prior to environmental clearance, then environmental impacts may have occurred in violation of the Federal laws and authorities and the standard review procedures that ensure compliance. Below is further discussion of issue under the heading, "Limitations Pending Environmental Clearance."

### **Limitations Pending Environmental Clearance**

According to the NEPA (40 CFR 1500-1508) and Part 58, the City is required to ensure that environmental information is available before decisions are made and before actions are taken. The City may not commit or expend resources, either public or private funds (HUD, other Federal, or non-Federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. In other words, the City must avoid any and all actions that would preclude the selection of

alternative choices before a final decision is made---that decision being based upon an understanding of the environmental consequences, and actions that can protect, restore, and enhance the human environment (i.e., the natural, physical, social, and economic environment.)

In order to achieve this objective, Part 58 prohibits the commitment of HOME funds by the City of South Gate until the environmental review process has been completed by the City and HUD approves the release of funds.

NOTE: until the City has completed the environmental review process (including receipt of HUD approval), neither the City nor project participant may commit non-HUD funds or undertake an activity if that action would have an adverse environmental impact or limit the choice of reasonable alternatives.

For the purposes of the environmental review process, “commitment of funds” includes:

1. Execution of a legally binding agreement;
2. Expenditure of HOME funds;
3. Use of non-HUD funds on actions that would have an adverse impact - e.g., demolition, dredging, filling, excavating; and
4. Use of non-HUD funds on actions that would be “choice limiting”-e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

NOTE: The standard for what constitutes a commitment of HOME funds for compliance with Part 58 is different from the HOME funds commitment and the CHDO reservation deadlines applicable under the HOME Program regulations in 24 CFR Part 92.

Prior to completion of the environmental review process and receiving HUD approval, the City may enter into a non-binding agreement to conditionally commit HOME funds--i.e., a contractual agreement between the City and project participant to use a specific amount of HOME funds to produce affordable housing, or an executed written agreement reserving a specific amount of funds to a CHDO. The conditional commitment must incorporate language that will ensure the project participant does not have a legal claim to any amount of HOME funds to be used for the specific project or site until the environmental review process is satisfactorily completed. In addition, the agreement must explicitly state that the agreement to provide funds to the project is conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review. (See CPD Notice 01-11, page 10 for suggested agreement language.)

Other types of actions that are not considered a commitment of funds for purposes of Part 58 compliance are statements of funding reservation, e.g., approval of Consolidated Plan or Annual Action Plan or planning for and reserving non-HUD funds, including tax credits for the project for HUD funding.

If the City is considering an application from a prospective participant and is aware that the participant is about to take an action within the jurisdiction that is prohibited by Part 58, then the City must take appropriate action to ensure that its objectives and procedures of NEPA and Part 58 are achieved [§ 58.22(c)].

The City of South Gate has established internal controls to enforce compliance with NEPA and Part 58.

#### **“CONTEMPLATE” AND “COMMITMENT” DEFINITION FOR THE ENVIRONMENTAL REVIEW**

Once the City *contemplates* assisting a project or activity with HUD funds, (§ 58.32), neither HUD funds nor non-HUD funds may be *committed* (§ 58.22) until compliance with Part 58 has been achieved and documented. The following guidance is provided to clarify the meaning of the terms *contemplate* and *commitment* as these apply to the environmental review process.

*Contemplated* HUD assisted action:

1. The City is considering an application from a prospective owner or beneficiary.
2. The City has identified a specific activity or project in its application.

*Commitment* of funds:

1. Execution of a legally binding agreement—e.g., awarding construction contracts, entering into project agreements with developer, etc.
2. Expenditure of HUD funds—e.g., purchase of materials by a force account crew, hiring a consultant to prepare a Phase I Environmental Site Assessment, etc.
3. Use of HUD funds or non-HUD funds on “choice limiting actions”:
  - a. Actions having an adverse impact—e.g., demolition, dredging, filling, excavation.
  - b. Actions limiting the choice of reasonable alternatives—e.g., real property acquisition, leasing, rehabilitation, demolition, related site improvements, relocating buildings or structures, conversion of land or buildings/structures.

A commitment of funds ***is not***:

1. Statements of funding reservation---e.g., approval of an application, CHDO reservations, planning for and reservation of non-HUD funds (including tax credits for the project for HUD funding.)
2. Non-legally binding agreements---e.g. An agreement with language such as, “Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by Recipient’s determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

### **AGGREGATION OF PROJECT ACTIVITIES**

To determine the appropriate level of environmental review for a project, the City must group together (aggregate) all related project activities, whether or not the project is funded entirely by HOME funds, or only certain portions of the project will be funded by HOME funds. An environmental review must evaluate all activities that are geographically or functionally related, or part of a multi-year project. The appropriate level of environmental review for an aggregated project will be determined by whichever activity or activities being undertaken by the City or its partners will have the greatest environmental impact. For example, real property acquisition will have less of a physical impact on the human environment than newly constructing 30 units of affordable housing.

Geographically related project activities, for example, might include a proposal to acquire four units for rehabilitation and resale to first time homebuyers. All the related activities are occurring on a single site. In aggregation, all these activities must be evaluated in a single review, regardless of the fact that HOME funds may only be used for rehabilitation. One activity cannot occur without the others, and therefore all the associated environmental impacts must be evaluated together. The environmental review for the acquisition of the properties cannot be separated from the environmental review for the rehabilitation of the properties.

Multi-year aggregation is a process that addresses phased project activities. For instance, consider a three-year project, during which, real property will be acquired in the first year, infrastructure improvements will be installed in years two and three, along with several phases of affordable housing construction. Again, a single environmental review must be completed for all phases of the project before any of the activities may be undertaken. Only one request for release of funds (covering all project phases) needs to be submitted to HUD for approval. After HUD approval is received, no other approval or environmental action is required, unless circumstances arise that require the City to re-evaluate its original environmental findings.

### **SOURCE DOCUMENTATION FOR ENVIRONMENTAL REVIEWS**

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**FIELD OBSERVATION** – A visit to the project site to make observations of the general site conditions.

1. There should be written documentation of the conditions observed.
2. Include the name and title of the observer and the date of the site visit.

**PERSONAL CONTACT** – Personal contacts are useful only when the individual contacted is an accepted authority on the subject or subjects. Documentation should include:

1. The name and title of the person contacted,
2. The date of the conversation, and brief notes of the key points.
3. Whenever the person that was contacted cites reports, records, or other document, the title, date, and source of the report should be noted.
4. Contacts can include staff experienced in a particular area (e.g., engineer, planner, historian, etc.).

**PRINTED MATERIALS** – Printed materials that are useful sources of detailed information may include:

1. Comprehensive land use plans, maps, statistical surveys, and studies are useful sources of detailed information.
2. The material must be current and reflect accepted methodologies.
3. Complete citations for all material must be included.

**REVIEWER'S EXPERIENCE** – Professional judgment by City staff is acceptable if their expertise is relevant to the compliance issue. For example, a reviewer's knowledge may include:

1. Reviewing previous projects in the same area.
2. Professional finding of the reviewer in subjects where he or she has the background to make judgments about a specific factor, or
3. Reviewers that have the expertise to evaluate soil conditions, while others will need to consult an engineer or other specialist.

**SPECIAL STUDY** – This is a study conducted for a particular project performed by qualified personnel using accepted methodologies. Some tests are relatively simple to perform but others may require elaborate equipment or personnel with additional expertise. The reviewer is responsible for obtaining assistance from others in order to have the appropriate tests or studies conducted. Examples of tests and/or studies include:

1. Archeological reconnaissance surveys,
2. biological assessment concerning threatened and endangered species, or
3. Phase I Site Assessments to determine site contamination.



## Sources of Compliance Documentation

There are several types of resources necessary to demonstrating compliance with NEPA and the Federal laws and authorities. These resources provide written documentation in the environmental review record that is credible, traceable, and supportive of the conclusions reached by the RE.

### E. Categories of Environmental Review

One of the primary purposes that the environmental review process serves is to require the City to include environmental impacts as part of the overall deliberation process surrounding proposed projects.

The HUD environmental review requirements at Part 58 were written so as to best strike a balance between the imposition of reasonable requirements upon the City (i.e., expediting the decision process for activities that clearly have no physical impact and requiring sufficient analysis for those that will alter environmental conditions), while ensuring that project decisions are well-documented.

Therefore, the environmental review requirements are divided on the basis of the level of impact that a proposed project might be anticipated.

There are four (4) levels of environmental review identified in Part 58. The criteria for these levels span the range of possible impacts, from none whatsoever to significant physical impact. The levels under Part 58 include:

1. Exempt (§ 58.34);
2. A. Categorically Excluded *subject* to (§ 58.35);  
B. Categorically Excluded *not* subject to § 58.5
3. Environmental Assessment (§ 58.36 and Subpart E); and
4. Environmental Impact Statement (§ 58.37 and Subparts F and G).

NEPA and the implementing regulations at 40 CFR 1500-1508 establish direction for these review levels. The bases for these review levels, and categorizing various HOME-funded activities into the review levels is to determine if there is potential to cause significant impact on the human environment (i.e., natural resources, ecosystems, aesthetic, historic, cultural, social, economic, health, etc.).

#### 1. Exempt

HUD has determined that exempt activities will have neither a physical impact, nor potential for altering any environmental conditions. Therefore, these actions are exempt from compliance with NEPA and the Federal laws and authorities cited at § 58.5.

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According to 24 CFR 58.34, the following types of activities have been categorized as exempt from NEPA and other environmental laws and authorities:

- a. Environmental and other studies, resource identification, and the development of plans and strategies;
- b. Information and financial services;
- c. Administrative and management activities;
- d. Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, and welfare or recreation needs;
- e. Inspections and testing of properties for hazards or defects;
- f. Purchase of insurance;
- g. Engineering or design costs;
- h. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threat to public safety including those resulting from physical deterioration; and
- i. Any of the categorical exclusions listed in § 58.35(a) provided there are no circumstances that require compliance with any other Federal laws and authorities cited in § 58.5.

NOTE: Under HOME program rules, 24 CFR 92, in order to qualify as project costs, these activities must be associated with a specific project. Otherwise, they are considered administrative costs.

#### **Content of ERR – Exempt Activities**

1. The City must document in writing its determination that an activity meets the conditions for exemption. The City does not have to issue a public notice or request release of funds (RROF) [§ 58.34(b)].
2. In addition to making a written determination of exemption, the City must also determine whether the activity triggers any of the other requirements at 24 CFR 58.6, which are the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

## **2. Categorical Exclusions**

This term refers to a category of actions that do not individually or cumulatively have potential for significant effect on the human environment (40 CFR 1508.4). Therefore, neither an environmental assessment (EA) nor environmental impact statement (EIS) is required to comply with NEPA.

Although these actions are categorically excluded under NEPA, a determination must still be made as to whether they would alter any environmental conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5.

The laws and authorities cited in § 58.5 are freestanding from NEPA, such as the National Historic Preservation Act of 1966, the Executive Orders on Floodplain Management and Wetlands Protection, and several regulations specific to HUD concerning the health and safety of project occupants, to name a few.

The City *must* certify that it has complied with the requirements under these laws and consider the criteria, standards, policies, and regulations of these laws and authorities. The section on “Compliance with NEPA and Related Federal Laws and Authorities” provides guidance on this.

However, HUD has determined that certain kinds of categorical exclusions, because of the nature of the actions, would never alter any environmental conditions to create circumstances requiring compliance with these laws and authorities. Therefore, §58.35 identify two types of categorical exclusions:

1. Categorical exclusions subject to §58.5, and
2. Categorical exclusions not subject to § 58.5.

### **3. Categorical Exclusions subject to §58.5.**

Categorical exclusions *subject* to §58.5 are excluded from compliance with NEPA, but must comply with the other related Federal laws and authorities cited in §58.5. It is generally evident from the nature and magnitude of such activities they do not have potential to have a significant impact on the human environment however, these types of activities are physical in nature and will alter environmental conditions that could, for example, affect historic properties, floodplains, wetland areas, and endangered species. Actions in this category include:

1. Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities (other than buildings)-e.g., replacement of water or sewer lines where the capacity is not changed more than 20 percent, reconstruction of curbs and sidewalks, and repaving of streets;
2. Removal of material and architectural barriers restricting the mobility of and accessibility to elderly and disabled persons;

3. Rehabilitation and improvement of single family (one-to-four unit) dwellings provided:
  - a. The unit density is not increased beyond four units,
  - b. The land use is not changed, and the footprint of the building is not increased in a floodplain or wetland;
4. Rehabilitation and improvement of multifamily dwellings provided:
  - a. the unit density is not increased more than 20 percent,
  - b. it does not change residential use to non-residential use,
  - c. and the estimated cost of rehabilitation is less than 75 percent of the replacement cost;
5. An individual action on one to four dwelling units where there is a maximum of four units on any one site. The term “individual action” refers to new construction, development, demolition, acquisition, disposition, or refinancing;
6. An individual action on five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site;
7. Acquisition (including leasing) or disposition of, or equity loans on, an existing structure provided the structure acquired, financed, or disposed of will be retained for the same use; and
8. Any combinations of the above activities.

#### **Content of ERR – Categorical exclusions subject to § 58.5**

The City of South Gate will complete the *Certification of Categorical Exclusion (subject to 58.5)* and the *Statutory Checklist* forms to document its environmental findings. Such documentation must support the City's determinations related to compliance with the Federal laws and authorities cited in § 58.5. (Guidance on compliance is provided below in “Compliance with NEPA and Related Federal Laws and Authorities”.)

Upon completion of the checklist, the City will make one of three environmental findings in writing:

1. The project converts to exempt and *does not* require public notification or approval from the City [§ 58.34(a)(12)];
2. The project invokes compliance with one or more of the laws and/or authorities and, therefore, *requires* public notification and approval from the City before funds are committed or spent; or
3. The unusual circumstances of the project may result in a significant environmental impact and, therefore, compliance with NEPA is required. Therefore, an environmental assessment (EA) must be completed.

The ERR must also contain:

4. Supporting documentation used to prepare the review (See Source Documentation for Environmental Reviews).
5. If the project did not convert to exempt, a copy of public Notice of Intent to Request Release of Funds that was issued.
6. Copy of the Request for Release of Funds and Certification (HUD form 7015.15); and
7. Copy of Authority to Use Grant Funds (HUD form 7015.16), issued by the City of South Gate (or HUD).

In addition to making a written determination of categorical exclusion, subject to § 58.5, the City must also determine whether the activity triggers any of the other requirements at 24 CFR 58.6, which are the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones. [See *Compliance Documentation Checklist (58.6)* form and discussion in "Other Requirements (§ 58.)6].

#### **4. Categorical Exclusions not subject to § 58.5.**

The activities that are categorically excluded *not subject to* § 58.5 have been determined by HUD not to have potential for altering any environmental conditions where a review or determination of compliance with the Federal laws and authorities would be required. Actions in this category include:

1. Tenant-based rental assistance;
2. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction---e.g., closing costs, down payment assistance, interest buydowns, and similar activities that result in the transfer of title;
3. Affordable housing pre-development costs with no physical impact---e.g., legal consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact; and
4. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if the approval is made by the same RE that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.

#### **Content of ERR – Categorical exclusion not subject to § 58.5**

The City will document in writing its determination that an activity meets the conditions for categorical exclusion not subject to § 58.5, and complete the *Certification of Categorical Exclusion (not subject to 58.5)* form to document designation of a HOME

project or activity in this category. The City does not have to issue a public notice or request release of funds (RROF) [§ 58.34(b)].

In addition to making a written determination of categorical exclusion, subject to § 58.5, the City *must* also determine whether the activity triggers any of the other requirements at 24 CFR 58.6, which are the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones. [See *Certification of Categorical Exclusion (not subject to 58.5)* form and discussion in "Other Requirements (§ 58.6)"]

## **5. Environmental Assessment.**

Environmental Assessment (EA) refers to a category of actions which, either individually or cumulatively, have potential for significant effect on the human environment (40 CFR 1508.4). Therefore, the potential environmental impacts on the human environment resulting from the proposed activity must be analyzed and evaluated according to NEPA procedures, as well as the other Federal laws and authorities cited at §58.5.

The environmental assessment (EA) is a public record that, upon completion, documents the City's findings and conclusions about environmental effects, and the reasons for its decision concerning those effects, as well as compliance with Federal laws and authorities.

Actions that may be funded by HOME and that fall into the category requiring an Environmental Assessment (EA) would include, but are not limited to:

1. New construction of five or more residential units on a single site;
2. New construction of five or more single family units on scattered sites that are less than 2,000 feet apart;
3. Major rehabilitation or reconstruction of residential units that increases or decreases the unit density more than 20 percent;
4. Expanding the footprint of a single-family unit into the floodplain or wetland area;
5. Conversion of a non-residential structure to create a residential use;
6. Acquisition of land for development of a housing subdivision; and
7. Categorical exclusions with "extraordinary circumstances"-i.e., actions that are unique or without precedent, actions that are substantially similar to those that normally require an Environmental Impact Statement (EIS), actions that are likely to alter existing HUD policy or HUD mandates, or action that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

## **Content of ERR – Environmental Assessment (EA)**

The City will complete a written determination that the project falls within this category. The EA includes the following information and analysis, according to NEPA regulations (40 CFR 1500-1508):

1. Determination of existing conditions;
2. Identification, analysis, and evaluation of all potential impacts on the human environment (i.e., social, economic and natural resources);
3. Examination and recommendation of feasible ways to eliminate or minimize adverse environmental impacts;
4. Examination of alternatives to the proposed action;
5. Compliance determination for all other Federal laws and authorities cited in §58.5; And Determination as to a finding of no significant impact (FONSI) or a finding of significant impact (FSI), which requires the execution of an Environmental Impact Statement (EIS).

The City will use the *Environmental Assessment* form in evidence of compliance with NEPA and the Federal laws and authorities cited in § 58.5.

Upon completion of the environmental assessment, the City will make either a finding of no significant impact (FONSI), or a finding of significant impact (FOSI) determination. In the event that a FONSI is made, the City *must* issue *two* public notices, submit a release of funds request and certification to HUD, and receive a release of funds from HUD before funds are committed or spent.

The ERR must also contain:

1. Supporting documentation used to prepare the review.
2. Copy of public Notice of Intent to Request Release of Funds, if project did not convert to exempt.
3. Copy of the *Request for Release of Funds and Certification* (HUD form 7015.15); and
4. Copy of the *Authority to Use Grant Funds* (HUD form 7015.16) issued by the City of South Gate (or HUD.)

In addition, the City *must* also determine whether the project triggers any of the other requirements at 24 CFR 58.6, which are the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

## **6. Environmental Impact Statement (EIS)**

It is not typical for a HOME project to trigger the Environmental Impact Statement requirements. If the City believes that a project it is contemplating as a possible HOME

project may in fact trigger these requirements, it should consult with HUD immediately before taking any further action.

## **COMPLIANCE WITH NEPA AND RELATED FEDERAL LAWS AND AUTHORITIES**

The following section provides guidance to assist the City in compliance with NEPA and the related Federal laws and authorities cited at § 58.5.

### **1. Historic Preservation (36 CFR Part 800)**

#### **Section 106 of the National Historic Preservation Act requires the City to:**

- a. Consider the effects of their undertakings on historic properties; and
- b. Provide the Advisory Council on Historic Preservation with a reasonable opportunity to comment with regard to such undertakings.

Compliance with Section 106 is achieved by initiating procedures the Advisory Council on Historic Preservation has outlined at 36 CFR Part 800. Section 800.2(a) recognizes the City's certifying officer as having authority to carry out these procedural responsibilities.

The focus of Part 800 is on the City making a determination whether a proposed project will affect buildings, structures, or places that are listed on or are eligible for listing on the National Register of Historic Places (NR). In making this determination, the City *must* follow a detailed review process in consultation with the State Historic Preservation Officer (SHPO). This process also provides an opportunity for interested persons, agencies, and Indian tribes to be part of the City's decision concerning historic properties that may be affected.

It is important to remember that before approval is given to proceed with HOME-funded projects, the environmental review record *must* show the Part 800 consultation process was completed.

Basic steps for compliance with the Section 106 Review Process (36 CFR Part 800) include:

1. Determine whether the project is an undertaking, or has no potential to cause effects on historic properties;
2. Define the area of potential effects (APE) for the undertaking;
3. Identify and evaluate historic properties in the APE;
4. Determine the effect of the undertaking;
5. Assess the effects on listed and/or eligible properties; and
6. Resolve any adverse effects.



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## Compliance Documentation Required – Historic Preservation

The ERR should contain one of these types of documentation:

1. Letter from SHPO that *no historic properties* will be affected;
2. The City adequately documented its finding of *no historic properties affected* and SHPO does not object within 30 days;
3. City documents that the project meets stipulations of a *Programmatic Agreement* executed with the SHPO; or
4. *Memorandum of Agreement* has been executed between the City and SHPO regarding mitigations measures that will be implemented to resolve adverse effects.

### 2. Floodplain Management (Executive Order 11988 and 24 CFR Part 55)

The purpose of Executive Order 11988 is to require the City to consider alternatives to developing projects in floodplains when other alternatives are available that achieve the same objective. This is to avoid risking lives and loss of property that results from occupying a floodplain, and to avoid losing the beneficial values of floodplains. Naturally vegetated floodplains can provide a broad area to spread and slow floodwaters, thereby reducing velocities and flood peaks. Slower floodwaters help maintain water quality because the slowed runoff allows sediments to be deposited. Floodplains are also important for recharging groundwater. Rainwater and surface water infiltrate through the generally porous soil of the floodplain into the groundwater.

The City of South Gate is required to avoid floodplain development whenever there are *practicable alternatives* to development in the floodplain. According to HUD regulation 24 CFR Part 55, floodplains are those land areas identified on maps published by FEMA as 100-year floodplain (Zones A or V). If the project is a “critical action,” the regulation also applies to areas in the 500-year floodplain (Zone B). Coastal high hazard areas are subject to high velocity waters, such as hurricane wave wash. FEMA maps designate these as Zones V1-30, VE, or V.

Most, if not all, communities in the U.S. have been mapped by FEMA. However, if a community has not been mapped by FEMA, the City must establish whether or not the area is subject to one percent or greater chance of flooding in any given year [Section 6(c) of the Executive Order]. The City *must* research the best available information to determine whether buildings or structures could be damaged by floodwaters because of their location.

The City may contract to have a special study completed or, use the following sources of information:

1. U.S. Corps of Engineers,

2. Community Flood Administrators;
3. U.S. Geological Survey Maps;
4. U.S.D.A. Natural Resources Conservation Service (formerly Soil Conservation Service); state departments of water resources;
5. county public works; or
6. Local flood control or levee districts.

The City of South Gate *must* follow and *comply* with the Basic steps for compliance with floodplain management requirements located at Section 55.20, which identifies the “eight-step” decision making process.

Executive Order 11988:

- |        |  |
|--------|--|
| Step 1 | Determine whether the proposed action is located in a 100-year floodplain;   |
| Step 2 | If the project is in a floodplain, publish notice of the proposal to consider an action in the floodplain (15 calendar day comment period);  |
| Step 3 | Evaluate practicable alternatives to locating the proposed action in a floodplain (“Practicable” means capable of being done within existing constraints);   |
| Step 4 | Identify the potential impacts associated with occupancy and modification of the floodplain;   |
| Step 5 | Design or modify the action to minimize adverse impacts and preserve the beneficial values of the floodplain;  |
| Step 6 | Reevaluate whether the proposed action is practicable;   |
| Step 7 | If the RE decides to proceed with the project, it must publish a notice of the decision, addressing why there is “no practicable alternative”, the alternatives that were considered, and the mitigation measures being adopted. (Seven calendar day comment period.); and |
| Step 8 | Implement the proposed action with mitigation measures.  |

HUD has determined that certain activities are **excluded** from the 8-step decision-making process, including:

1. HUD assistance for purchasing,
2. mortgaging or refinancing one-to four family properties, and
3. minor repairs or improvements on one-to four-family properties [§ 55.12].

NOTE: Part 55 is not applicable if FEMA has issued a Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) for the subject site in a floodplain.

### **Compliance Documentation Required – Floodplain Management**

The ERR should contain one of these types of documentation:

1. Evidence the proposed action is not within a special flood hazard area mapped by FEMA (i.e., 100-year floodplain or 500-year floodplain for critical actions);
2. Documentation of the decision-making process is not applicable (§ 55.12); or
3. The 8-step decision making process was completed and a decision made that there is *no practicable alternative*

### **3. Wetlands Protection (Executive Order 11990)**

The purpose of the Executive Order 11990 (Wetlands Protection, May 24, 1977) is to:

1. Avoid, if possible, any long and short-term adverse impacts associated with destruction or modification of wetlands; and
2. To avoid direct or indirect support of new construction in wetlands whenever there is a practicable alternative.

#### Compliance Requirements for Wetlands Protection

1. If new construction or conversion of vacant land is being proposed in a designated wetland, the RE should follow the decision-making process in § 55.20 (24 CFR Part 55) and conclude whether there is a practicable alternative to destroying or modifying the wetland.

NOTE: A permit from the U.S. Army Corps of Engineers *is required* if the wetland is within or adjacent to navigable waters of the U.S. or within the jurisdiction of the Corps.

#### **Compliance Documentation Required – Wetlands Protection**

The ERR should contain one of these types of documentation:

1. The proposed action does not include new construction or expanding the footprint of a building;
2. Evidence the new construction will not occur in a designated wetland or expand the footprint of a building into a wetland; or
3. There is *no practicable alternative*, according to the completed 8-step decision making process. (U.S. Army Corps of Engineers has issued a permit where they have wetland jurisdiction.)

### **4. Endangered Species (Endangered Species Act and 50 CFR 402)**

Section 7 of the Endangered Species Act requires that, when Federal assistance is used for a project, a determination must be made whether continued existence of *Federally-listed* endangered or threatened species is likely to be affected, and whether it will result in their Critical Habitats being destroyed or adversely modified. The regulation

implementing compliance with the Act is 50 CFR 402, issued by the Departments of Interior (U.S. Fish and Wildlife Service) and Commerce (U.S. National Marine Fisheries). The regulation also covers species or critical habitat that is *proposed for Federal-listing* and is likely to be jeopardized by the project.

### **Compliance Documentation Required – Endangered Species**

The ERR should contain one of these types of documentation:

1. Evidence the habitat will not be altered or species affected.
2. If the proposed action may affect species or their habitat, there is evidence the USFWS or NMFS has reviewed the biological assessment and agrees with the findings of *no effect*.
3. If the proposed action will likely adversely affect species or their habitat, the USFWS or NMFS has issued either a “no jeopardy” or “jeopardy” biological opinion.

### **5. Coastal Zone Management Act**

If the City chooses to use HOME funds for physical changes to properties or land within or adjacent to the coastal zone, the City *must* make a determination whether the project is *consistent* with the state’s approved coastal management program.

### **Compliance Documentation Required – Coastal Zone Management**

1. The ERR should contain a general location map or statement establishing there are no coastal zone management areas in the community or State of California, or use other documentation that may be available.

### **6. Sole Source Aquifers**

Aquifers are underground geological formations that yield a significant amount of water to a well or spring. The regulations at 40 CFR Part 149 requires the City to:

1. Determine whether a project is within a Critical Aquifer Protection Area designated by EPA; and
2. Whether project activities have the potential to contaminate the aquifer. For example, drilling water wells and constructing water treatment and industrial facilities have the potential of contaminating aquifers.

### **Compliance Documentation Required – Sole Source Aquifers**

The ERR should contain one of these types of documentation:

1. Documentation the proposed action is not within the boundaries of an EPA designated SSA;
2. Documentation the action is not a regulated activity within the boundaries of a SSA; or
3. Documentation that EPA has reviewed and commented on the proposed action within a SSA.

## 7. Wild and Scenic Rivers Act

Entire river systems or portions of rivers may be designated wild, scenic, or recreational and included in the National Wild and Scenic Rivers System (NWSRS) either by Act of Congress, or may be designated by a state or states if the U.S. Secretary of Interior finds it meets the criteria established by the Act.

In order to be in compliance with this Act, the City must:

1. Determine whether any river listed in the NWSRS, or that is designated for inclusion in the NWSRS, would be directly and adversely affected by development activities associated with the project; and
2. If the project is located above or below a listed river, the City must determine whether the project will impact the river management area or could unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area.

### Compliance Documentation Required – Wild and Scenic Rivers

The ERR should contain one of these types of documentation:

1. Evidence the proposed action is not within *one mile* of a designated Wild, Scenic, or Recreational River (<http://www.nps.gov/rivers/wildriverslist.html>); or
2. Documentation that contact was made with the Federal (or State) agency that has administrative responsibility for management of the river and that the proposed action will not affect river designation.

## 8. Clean Air Act

The Clean Air Act is a Federal law; however, the states do much of the work to carry out most of the Act. Each state develops state implementation plans (SIP) that contain its objectives and regulations for carrying out the Clean Air Act.

The purpose of an implementation plan is to ensure that ambient concentrations of any of six air pollutants are within the established levels of the National Ambient Air Quality Standards (NAAQS). The six pollutants are:

1. ozone,

2. carbon monoxide,
3. particulate matter,
4. sulfur dioxide,
5. lead, and
6. nitrogen

Sources for pollutants include transportation vehicles, industrial facilities, and farming operations.

Asbestos removal and abatement is a part of the Clean Air Act. Refer to 40 CFR 61, Subpart M, National Emission Standards for Hazardous Air Pollutants (NESHAP.)

### **Compliance Documentation Required – Clean Air Act**

The ERR should contain one of these types of documentation:

1. A resource expert has determined the proposed action is not of a type that would contribute air pollution;
2. The proposed action is within an area in *attainment* with the NAAQS for all six pollutants; or
3. The proposed action is within a *non-attainment* area for one or more of the pollutants but is in conformance with the State Implementation Plan (SIP).

### **9. Farmland Protection Policy Act (7 CFR Part 658)**

The purpose of the Farmland Protection Policy Act is to minimize the effect of Federal programs on the unnecessary and irreversible conversion of farmland to nonagricultural uses. The Act does not apply to lands already in, or committed to, urban development (i.e., 30 structures per 40 acres or water impoundment). However, land that meets the definition of prime or unique farmlands or is determined to be of statewide or local significance (with concurrence by the U.S. Secretary of Agriculture) is subject to the Act.

If the City cannot determine whether or not the land is classified as prime or unique, it should request the USDA Natural Resources Conservation Service (NRCS) to make the determination by submitting Form AD-1006, the Farmland Conversion Impact Rating form. These forms are available at NRCS offices.

### **Compliance Documentation Required – Farmland Protection**

The ERR should contain one of these types of documentation:

1. Evidence the current zoning classification is not for farmland use (i.e., residential use, commercial use, etc.);
2. Information from NRCS that shows the site is not prime or unique farmland; or

3. Evidence from NRCS shows the site is classified prime or unique agricultural land, and the RE completed and submitted form AD-1006 to NRCS and received its comments.

## **10. Environmental Justice (Executive Order 12898)**

The Executive Order on Environmental Justice directs each Federal agency, and in the case of Part 58 the RE, to make achieving environmental justice part of its mission by "identifying and addressing as appropriate disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." Presently, there aren't any regulations for implementing the Executive Order. However, HUD has issued a Strategy Plan for Implementing Environmental Justice, which it uses as guiding principle in deciding whether the project could result in disproportionate high and adverse effects on these populations.

During the environmental review process, health and environmental issues may arise concerning the suitability of the project site for its intended use, particularly its suitability for human habitation. The City should document how the Executive Order was given consideration in its final decision.

### **Compliance Documentation Required – Environmental Justice**

The ERR should contain ALL these types of documentation:

1. The proposed action is compatible with surrounding land uses;
2. The site or surrounding neighborhood does not suffer from adverse environmental conditions;
3. The proposed action would not create a negative environmental impact or aggravate an existing impact.

## **11. Site Contamination from Hazardous and/or Radioactive Materials [§ 58.5(i)(2)]**

Section 58.5(i)(2) states that all properties receiving HUD assistance must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances that *"could affect the health and safety of the occupants of conflict with the intended utilization of the property."*

Properties having clear health risks for the occupants or inhabitants should be rejected. For multifamily housing (5 or more dwelling units) compliance with this policy requires efforts to identify any hazardous substances and radioactive materials that may be on site or off site that could harm inhabitants, as well as an evaluation of previous uses of the properties.

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### Compliance Documentation Required – Site Contamination

The ERR should contain one of these types of documentation:

1. Evidence the site is not contaminated (For multifamily housing projects this includes on-site and off-site contamination and previous uses of the site);
2. Evidence supporting a determination the hazard will not affect health and safety of the occupants or conflict with the intended use of the site

### 12. Explosive/Flammable Operations (24 CFR 51, Subpart C)

The purpose of this HUD regulation is to ensure there is an *acceptable separation distance* between people and buildings from stationary aboveground storage tanks more than 100 gallons in size and that contain materials that are explosive or flammable in nature (e.g., gasoline, fuel oil, kerosene, crude oil, propane). This is to prevent injury to people and damage to property from industrial accidents.

The City *must* determine if there are hazardous liquids and gases being stored ***within one mile of the project***, and ***within line-of sight of the project***.

The regulation does not apply to rehabilitation of buildings that will not increase residential densities, convert buildings for habitation, or makes vacant buildings habitable (§ 51.201).

Neither does the regulation apply to individual fuel supply for one to four family housing units (Memorandum from Office of Environment and Energy, HUD, October 3, 1992).

### Compliance Documentation Required – Stationary Aboveground Storage Tanks

The ERR should contain one of these types of documentation:

1. Document the proposed action does not meet the definition of a “HUD assisted project” (§ 51.201);
2. Field review documentation or aerial photos show no aboveground tanks within *one mile*;
3. If tanks are within one mile:
4. There’s an effective barrier;
5. There’s an *acceptable separation distance* for people and buildings;
6. The people and buildings can be protected with mitigation measures.
7. Noise Abatement and Control (24 CFR 51, Subpart B)

### 13. Noise Abatement and Control (24 CFR 51, Subpart B)



The purpose of this HUD regulation is to encourage suitable separation between noise sensitive lands uses, particularly housing, and major noise sources (i.e., roadways, railroads, and military and civilian airports).

The City must determine whether there are any major roadways with 1,000 feet, railroads within 3,000 feet, and military or civilian airports (regulated by the Federal Aviation Administration) that are within 15 miles of the project.

HUD's noise standards are based on the Day-Night Average (DNL) Sound Level System--a system of calculating noise exposure instead of measuring it with instruments. This system is a 24-hour average sound level (expressed in decibels), with an additional 10 decibels added for nighttime noise. The calculation is based upon projected conditions that are expected at least 10 years beyond the project approval date.

Noise is considered *Acceptable* when the exterior noise level is *65 DNL or less*. Otherwise, attenuation measures must be incorporated into construction plans (*66-75 DNL, Normally Unacceptable*). If the exterior noise level is *above 75 DNL* (Unacceptable), the project requires special approval from the certifying officer, or it should be disapproved [24 CFR 51.104(a)(2)].

The City *must* determine whether the exterior noise level at the project site is within HUD's standard for acceptability, or whether noise attenuation is required or another site should be selected for the project. Making this determination may require completing a noise calculation for roadways, railroads, and/or airports according to guidelines provided in The Noise Guidebook [HUD-953-CPD(1)]. This guidebook is issued by and available from HUD online.

#### **Compliance Documentation Required – Noise Abatement and Control**

The ERR should contain one of these types of documentation:

1. Documentation the proposed action is not:
2. A *noise sensitive land use*, according to [§ 51. 101(a)(2)] (i.e., housing);
3. Within 1000 feet of a major roadway, 3,000 feet of a railroad, or 15 miles of a military or FAA-regulated civil airfield.
4. If within those distances, documentation shows there's an effective noise barrier;
5. If within those distances, documentation shows the noise level is *Acceptable* (at or below 65 DNL);
6. Documentation shows the noise generated by the noise source(s) is *Normally Unacceptable*, and noise attenuation requirements are identified and will bring the interior noise level to 45 DNL and/or exterior noise level to 65 DNL.

#### **14. Airport Clear Zones (24 CFR 51, Subpart D)**

Clear Zones, Runway Clear Zones, and Accident Potential Zones are designated areas at the end of airport runways where the greatest number of airplane accidents occur (about 75 percent). This HUD regulation prohibits using HUD assistance for:

1. New construction; and
2. Major or substantial rehabilitation and modernization activities if projects are located within a Clear Zone or Runway Clear Zone.

It also prohibits using HUD assistance for these activities in an Accident Potential Zone, if such activities would:

1. Change the current use of the facility;
2. Significantly increase the density or number of people at the site; or
3. Introduce explosive, flammable, or toxic materials to the area.

However, this prohibition does not apply to the purchase, sale, or rental of existing properties, nor to minor rehabilitation/modernization or emergency assistance activities.

NOTE: (Minor rehabilitation/modernization would mean, for Clear Zones and Runway Clear Zones, it does not significantly prolong the physical or economic life of a building. for Accident Potential Zones, it does not change its use, increase density, or introduce explosive, flammable, or toxic materials. See § 51.302.)

### **Compliance Documentation Required – Airport Clear Zones**

The ERR should contain one of these types of documentation:

1. Documentation there are no FAA-regulated airports within 2500 feet and/or Department of Defense airfields within 15,000 feet (about 2.8 miles) of the proposed project;
2. There's documentation the rule is not applicable to the proposed project (i.e., acquisition of an existing building, "minor" rehabilitation, or emergency action);
3. The project is within the specified distances, but the map of the airport/airfield shows the proposed action is not located within a Runway Clear Zone, Clear Zone, or Accident Potential Zone.

### **Compliance with NEPA**

The focus of NEPA is on addressing potential impacts related to the human environment (i.e., social, economic and natural resources). So, not only must the Environmental Assessment (EA) address compliance with the Federal laws and authorities (§ 58.5) that

were previously discussed in this chapter, but the City must also address additional environmental factors.

The City *must* determine the effects of the proposed project on the character, features and resources of the project area. Determinations of impact should be based on:

1. site observations,
2. information from relevant documents and reports,
3. special studies, or
4. correspondence with the appropriate government agencies.

The City of South Gate will visit the project site to assess or determine the presence/absence of the following factors included in the *Environmental Assessment Checklist* that includes:

1. Unique and natural features;
2. Site suitability, access, and compatibility with the surrounding environment;
3. Soil stability, erosion, and drainage;
4. Nuisances and hazards (manmade or built); and
5. Commercial/retail and transportation.

The City *must* contact the appropriate local agencies to assess the impact that the project will have on the areas listed in the checklist. Detailed guidance is provided in the HUD publication entitled *Environmental Review Guide for Community Development Block Grant Programs under Title I of the Housing and Community Development Act of 1974, as Amended (HUD-CPD-782(2), September 1991)*.

A summary of some of this guidance is includes:

1. **Unique and natural features.** To supplement the determination of unique and natural features, contact your state agency that deals with natural resources to determine if any designated Natural Areas or Rare Species Habitats will be affected by the project.
2. **Site suitability, access, and compatibility with the surrounding environment.** To supplement the determination of site suitability, accesses, and compatibility with the surrounding environment, contact the local planning agency or board.
3. **Soil stability, erosion, and drainage.** To supplement the determination of soil stability, erosion and drainage, refer to the Natural Resource Conservation Service (NRCS) County Soil Survey to determine if engineering restraints are indicated. The Soil Survey may be obtained by contacting the local NRCS office. Provide comments from the site engineer or local development department if engineering restraints are indicated based on the Soil Survey. Where applicable,

a review of a geologic map produced by the state geological surveys may be required.

4. **Water supply/sanitary sewers.** To assess water supply/sanitary sewers, contact the local public works department.
5. **Solid waste disposal.** To assess solid waste disposal, contact the local public works department.
6. **School services.** To assess school services, contact the local school board.
7. **Parks, recreation, and social services.** To assess parks, recreation, and social services contact the local planning department, parks and recreation department, and social services department.
8. **Emergency health care, fire and police services.** To assess emergency health care, fire, and police services contact the local fire department, police department, and emergency management organization.
9. **Transportation.** To assess transportation, contact the state or city transportation department.

Once determinations have been made, the appropriate impact code must be entered from the list provided in the EA that signifies:

1. No impact anticipated;
2. Potentially beneficial;
3. Potentially adverse;
4. Requires mitigation; and
5. Requires project modification.

The City *must* note names, dates of contact, telephone numbers and page references as well as any mitigation measures required. Attach additional source documentation to the EA as appropriate.

## **1. OTHER REQUIREMENTS (§ 58.6)**

The following section outlines other Environmental Review requirements.

### **A. Flood Insurance**

Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) requires that Federal funds shall not be provided to an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazard areas unless:

1. The community is participating in the National Flood Insurance Program, or it has been less than a year since the community was designated as having special hazards; and
2. Flood insurance is obtained.

The City of South Gate is responsible for ensuring that property owners receiving HOME assistance take flood insurance on properties located in a 100-year floodplain. Flood insurance must be taken for the life of a loan, or the useful life of an improvement funded by a grant.

### **B. Coastal Barriers**

HUD Assistance may *not* be used for HOME assisted activities proposed in the Coastal Barrier Resource System. The Act prohibits Federal assistance for development or improvement of barrier islands that are subject to frequent damage by hurricanes and high storm surges.

### **C. Runway Clear Zone or Clear Zone**

1. The City *must* advise buyers of existing property whether the property is located in a runway clear zone or clear zone.
2. The City *must* inform the buyer of the implications of such a location, and that there is a possibility that the property may, at a later date, or be acquired by the airport operator.
3. The buyer *must* sign a statement acknowledging receipt of this information. (A copy of this disclosure statement, *Notice to Prospective Buyers of Properties Located in Runway Clear Zones and Clear Zones/Accident Potential Zones*, is contained in the EA form.)

## **2. RELEASE OF FUNDS AND APPROVAL PROCESS**

The City of South Gate will adhere to the following steps related to the release of funds and approval process.

### **Public Notification**

The public notification process is an integral part of the environmental review process that allows the public, interested persons, and agencies to voice their opinions about the project's potential environmental impact and the City's environmental findings.

Public notices are required when the City determines that:

1. a project which is categorically excluded subject to § 58.5 cannot convert to exempt, or
2. when the City prepares an environmental assessment (EA) or environmental impact statement (EIS).

**A. Categorical Exclusions That Cannot Convert to Exempt**

The City *must* issue a *Notice of Intent to Request Release of Funds* if:

1. the proposed activity triggers compliance with any of the Federal laws and authorities, and
2. There is documentation supporting the finding, Publish or post/mail a *Notice of Intent to Request Release of Funds* (NOI/RROF), according to §§ 58.45 and 58.70.

**Public Comment**

1. A minimum of 7 calendar days must be allowed for public comment if the notice is published in a newspaper of general circulation in the affected community, or
2. A minimum of 10 calendar days if the notice is posted and/or mailed, according to established citizen participation procedures.

NOTE: If the notice is published, it only needs to appear once in the newspaper and does not have to be published again for each of the 7 days of the comment period. If posted, the notice must be maintained in place until after the public comment period has expired.

3. The public comment period begins at 12:01 a.m. local time on the day following the publication or posting/ mailing date of the notice (§ 58.21).

The City must consider and respond to any comments received, and resolve any outstanding issues before signing and submitting a *Request for Release of Funds and Certification* to HUD.

4. A copy of the public notice *must* accompany this request.
5. HUD has 15 calendar days from the date it receives the City's request (or 15 days from the date that it appears in the notice, whichever is later) before it may approve release of funds, (*Authority to Use Grant Funds* is issued).

Additionally, the City *must* when publishing or posting/ mailing the notice, at minimum distributes a copy of the notice, to:

1. individuals and groups known to be interested in the project/activities,

2. to the local news media,
3. to the appropriate tribal,
4. local, state and Federal agencies, and
5. Regional Office of the Environmental Protection Agency having jurisdiction, and to HUD (§ 58.45).

### **Environmental Assessments**

Upon completion of the EA, the City will make either:

1. A finding of no significant impact (FONSI), or
2. A finding of significant impact (FOSI) determination.

**In the event that a FONSI is made, the City *must* issue two public notices:**

1. *Finding of No Significant Impact (FONSI)* and
2. *Notice of Intent to Request Release of Funds (NOI/RROF)*.

NOTE: These notices may be published concurrently.

When there is a combined FONSI/NOI-RROF notice:

1. A minimum of 15 calendar days must be allowed for public comment if the notice is published in a newspaper of general circulation in the affected community, or
2. A minimum of 18 calendar days if the notice is posted and/or mailed, according to established citizen participation procedures.

NOTE: If the notice is published, it only needs to appear once in the newspaper and does not have to be published again for each of the 15 days of the comment period. If the notice is posted, it must be maintained in place until after the public comment period has expired.

The public comment period begins at 12:01 a.m. local time on the day following the publication or posting/mailing date of the notice (§ 58.21).

1. The City *must* consider and respond to any comments received and resolve any outstanding issues before signing and submitting a *Request for Release of Funds and Certification* to HUD.
2. A copy of the public notice must accompany this request.
3. HUD has 15 calendar days from the date it receives the City's request (or 15 days from the date that appears in the notice, whichever is later) before it may approve release of funds, (*Authority to Use Grant Funds* is issued.)

**In the event that a FOSI is made:**

1. The City *must* initiate an Environmental Impact Statement (EIS) in accordance with Subparts F and G of Part 58.

An EIS has additional public involvement and notification requirements.

Additionally, the City must at minimum when publishing or posting/ mailing the notice distribute a copy of the notice, to:

1. Individuals and groups known to be interested in the project/activities, to the local news media,
2. To the appropriate tribal,
3. Local, state, and Federal agencies,
4. To Regional Office of the Environmental Protection Agency having jurisdiction, and to HUD (§ 58.45).

NOTE: All projects involving the rehabilitation of existing buildings or structures must be free of friable asbestos. Testing by a state-certified asbestos testing company or individual for the presence of friable asbestos must be conducted before HOME assistance can be approved.

EXHIBIT 11—SUMMARY OF ENVIRONMENTAL REVIEW ACTION BY ACTIVITY			
Activity	Action	Documentation/Form	Notes
<b>Administration</b>	Exempt § 58.34 (a)	Complete <i>Certification of Exemption</i>	Under HOME rules, funds must be associated with a specific project to be considered a project cost rather than an administration cost.
<b>TBRA</b>	Cat. Ex. <i>Not subject to § 58.5</i> § 58.35 (b)(1)	Complete <i>Certification of Categorical Exclusion (not subject to § 58.5)</i>	Public notification and HUD approval is not required.
<b>Homeowner-Rehabilitation</b>	Cat. Ex. <i>Subject to § 58.5</i> § 58.35 (a)(3)(i)	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD approval is required prior to committing and expending funds.



<b>Homeowner-Reconstruction</b>	Cat. Ex. <i>Subject to</i> § 58.5 § 58.35 (a)(4)(ii)	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD approval is required prior to committing and expending funds.
<b>Homebuyer Acquisition existing unit</b>	Cat. Ex. <i>Subject to</i> § 58.5 § 58.35 (a)(5)	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD approval is required prior to committing and expending funds.
<b>Homeowner-New Construction development (single family 1-4 units)</b>	Cat. Ex. <i>Subject to</i> § 58.5	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD approval is required prior to committing and expending funds.
<b>New Construction development (5 or more single-family units on scattered sites:</b> <ul style="list-style-type: none"> <li>• The scattered sites are <i>more than</i> 2,000 feet apart, and</li> <li>• No more than 4 units per site</li> </ul>	Cat. Ex. <i>Subject to</i> § 58.5 § 58.35 (a)(4)(ii)	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD approval is required prior to committing and expending funds.
<b>Acquisition, Rehabilitation and Resale (single family 1- 4 units)</b>	Cat. Ex. <i>Subject to</i> § 58.5	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD Approval is required prior to committing and expending funds.
<b>Rental Acquisition existing building (single family 1-4 units or multifamily)</b>	Categorically Excluded <i>Subject to</i> § 58.5	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance</i>	If project does not convert to exempt, public notification and HUD approval is required prior to

		<i>Documentation Checklist (58.6)</i>	committing and expending funds.
<b>Rental Rehabilitation (multi-family 5 or more units):</b> ✓ Unit density will not change more than 20% as a result of rehab; ✓ Current use will not change from residential to nonresidential; and/or ✓ Estimated cost of rehab is less than 75% of replacement cost after rehab	Categorically Excluded <i>subject to § 58.5</i>	Complete <i>Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist, and Compliance Documentation Checklist (58.6)</i>	If project does not convert to exempt, public notification and HUD approval is required prior to committing and expending funds.
<b>Vacant Land Acquisition for New Construction (Rental or Single Family, 5 or more units on a site)</b>	Environmental Assessment	Complete <i>Environmental Assessment</i> (which includes NEPA and related Federal laws and authorities at § 58.5, as well as § 58.6 requirements)	Public notification and HUD approval is required prior to committing and expending funds
<b>New Construction development (5 or more single-family units on scattered sites):</b> ✓ The scattered sites are <i>less than 2,000 feet apart, and/or</i> ✓ There are more than 4 units per site	Environmental Assessment	Complete <i>Environmental Assessment</i> (which includes NEPA and related Federal laws and authorities at § 58.5, as well as § 58.6 requirements)	Public notification and HUD approval is required prior to committing and expending funds
<b>Homeowner-Rehabilitation</b> ✓ Footprint of building is increased in a	Environmental Assessment	Complete <i>Environmental Assessment</i> (which includes NEPA and related Federal laws and authorities at §	Public notification and HUD approval is required prior to committing and expending funds

<b>floodplain or wetland.</b>		58.5, as well as § 58.6 requirements)	
<b>Rental Rehabilitation (multi-family 5 or more units):</b> ✓ <b>Unit density is changed more than 20% as a result of rehab;</b> ✓ <b>Current use will be changed from residential to nonresidential or vice versa; and/or</b> ✓ <b>Estimated cost of rehab is more than 75% of replacement cost after rehab</b>	Environmental Assessment	Complete <i>Environmental Assessment</i> (which includes NEPA and related Federal laws and authorities at § 58.5, as well as § 58.6 requirements)	Public notification and HUD approval is required prior to committing and expending funds

*NOTE: Except for administrative costs, combinations of activities above that make up a project must be evaluated in a single environmental review. Whichever of the project activities requires the highest level of review dictates the type of review required for the entire project.*

**PROCEDURE**

1. The City of South Gate City Manager is the designated Certifying Official. The City Manager will sign all appropriate HUD certifications and the like.
2. The City's environmental review process will be completed by the Economic Development Department Director and/or his/her designator.
3. The City will ensure the proper classification, completeness, and accuracy of the environmental review preparation.
4. The HOME Program Consultant or Housing and Grants Analyst will execute the request of release of funds (RROF), and submitting it to HUD, which issues the environmental clearance, if applicable.
5. By the City's Certifying Official (CO) signing the RROF, he/she is certifying the City:
  - a. *Request of Release of Funds and Certification*—has carried out its responsibilities for environmental review, decision-making and action pertaining to the proposed HOME-funded project

- b. Has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969 (NEPA), as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR §58.5; and also agrees to comply with the authorities in 24 CFR §58.6 and applicable State and local laws.
- c. Has, after considering the type and degree of environmental effects identified by the environmental review completed for the proposed project, found that the proposal did not require the preparation and dissemination of an environmental impact statement (EIS). (Note: If it is an EIS is needed, contact the HOME Program immediately for further guidance.)

*NOTE: In certain limited instances, a project that is considered Categorically Excluded, and Subject to 24 CFR Part 58.5, may convert to Exempt after the Statutory Checklist has been completed. For more information, go to*

<http://housing.mt.gov/content/HM/docs/HMAdminManual/Chap2/2011/HMChap02Exh2G2CESTInstruct.doc>

- d. Has disseminated and/or published in the manner prescribed by 24 CFR §§58.43 and 58.55 a notice to the public in accordance with 24 CFR §58.70 and evidenced by the copy (copies) or evidence of posting and mailing procedure attached to the environmental review package submitted to the HOME Program.
- e. Is in compliance with procedures and requirements of 24 CFR Part 58 relating to the dates for all statutory and regulatory time periods for review, comment, or other action.
- f. Has, in accordance with 24 CFR §58.71(b), advised the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.
- g. As the duly designated certifying official of the responsible entity, the CO is also certifying that:
  - i. He/she is authorized to and consents to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR §58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making, and action that have been assumed by the responsible entity.
  - ii. He/she is authorized to and accepts on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in his/her capacity as certifying officer of the responsible entity.

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## CHAPTER 6: ADMINISTRATIVE REQUIREMENTS

### PART 1: GENERAL REQUIREMENTS

#### Eligible Administrative and Planning Costs

The City of South Gate will implement the following general administrative procedures:

1. Charge no more than the allowed maximum of 10 percent of the HOME allocation for reasonable administrative and planning costs including staff costs as well as other administrative costs.
2. Charge no more than the 10 percent cap for certain soft costs incurred that is project-related.
  - a. If a consultant is used, the consultant fee, if any, must be included in an amount not to exceed ten percent (10 percent) of the requested HOME Program allocation in the proposed development budget.
  - b. If a consultant is not used the amount must not exceed ten percent (10 percent) of the requested HOME Program allocation as reimbursement of project delivery costs.
  - c. The HOME Program allocation may not include both a consultant fee and a project delivery cost reimbursement.
3. Utilize **ONLY** one of the two following options when charging eligible administrative and planning costs that include expenditures for salaries, wages, and related costs of City staff responsible for the HOME Program administration:
  - Option 1:** Include the entire salary, wages, and related costs of each person whose primary responsibility involves program administration assignments.

**OR**

  - Option 2:** Determine the pro rata share of salary, wages, and related costs of each person whose job includes any program administration assignments for each person.
4. Restrict charging other planning and administrative costs to include:
  - a. Goods and services necessary for administration (utilities, office supplies, etc.);
  - b. Administrative services under third party agreements (e.g., legal services);
  - c. Providing public information;
  - d. Fair housing activities;

- e. Indirect costs under a cost allocation plan prepared in accordance with applicable Office of Management and Budget (OMB) Circular requirements and approved by the City of South Gate; and
  - f. Complying with other Federal requirements.
5. Restrict charges of eligible project-related soft costs to include Staff and overhead costs: incurred by the City or a third-party contractor that are directly related to carrying out specific HOME **projects** that include:
- a. Appraisals;
  - b. Preparation of work specifications;
  - c. Loan processing and underwriting;
  - d. Construction inspections and oversight;
  - e. Inspections for the presence of lead hazards or defective paint;
  - f. Advisory and other relocation services;
  - g. Project-specific environmental reviews; and
6. Administrative costs charged to the project will not be included in the loan to the project owner.
7. If the project does not go forward, project costs must be charged as administrative costs.

### Uniform Administrative Requirements

#### Sub-part K (24 CFR 92.500 - 92.509)

The City of South Gate will comply with the following administrative requirements pertaining to the financial management and audit standards.

1. OMB Circular A-87 “Cost Principles for State, Local, and Indian Tribal Governments”: This circular establishes principles and standards to provide a uniform approach for determining allowable costs under Federal grants and other agreements with states and local governments and Indian tribal governments.
2. Certain provisions in 24 CFR Part 85: These regulations set forth uniform requirements for financial management systems, procurement, reports and records, and grant close-outs for Recipients of Federal grant funding.
3. OMB Circular A-133 (Audit Requirements): Audit thresholds and requirements are outlined in OMB Circular A-133.
4. OMB Circular A-122, “Cost Principles for Non-Profit Organizations,” or, for institutions of higher education, OMB Circular A-21 “Cost Principles for Educational Institutions”: This circular establishes principles for determining allowable costs under grants, contracts and other agreements with nonprofit organizations.

5. Certain provisions of 24 CFR Part 84: The regulations at 24 CFR Part 84 implement OMB Circular A-110 and set forth uniform requirements for nonprofit organizations, including financial management systems, property standards, procurement standards, reporting and record-keeping. Attachment 3-1 lists the applicable provisions.
6. The requirements at 24 CFR 84.21, "Standards for Financial Management Systems" applies to CHDOs who are acting as an owner, developer or sponsor of HOME assisted housing.

## Written Agreements

Written agreements are important legal documents that assist the City of South Gate to protect investments and enforce HOME Program rules, for verifying compliance and monitoring performance, and methods of enforcing program requirements.

The City of South Gate's written agreement will serve as a concise statement of the relationship between the City and a funded entity/beneficiary of HOME funds. It will also clearly state the conditions under which the HOME funds are provided.

### 1. Required provisions

The City of South Gate HOME agreements will include at minimum provisions based on the Final Rule (24 CFR Part 92) that details the specific HOME provisions that must be included in written agreements for beneficiaries that may receive HOME funds. The provisions are:

- a. **Use of 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. (For nonprofit and for-profit housing owner, sponsor, or developers, the duration of the agreement will be in a separate clause.)
- b. **Reversion of assets/program income requirements:** States whether program income, unexpended funds, or other assets will be returned to the City.
- c. **Uniform administrative requirements:** Compliance 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).
- d. **Other Federal requirements:** Requirements regarding 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.

- e. **Affirmative marketing:** Requirements for affirmative marketing in projects of five or more HOME-assisted units.
- f. **Requests for disbursements 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. Program income must be returned to the City of South Gate before any new funding requests will be provided.
- g. **Records and reports:** Enumeration of records that must be maintained, and information and reports that must be submitted.
- h. **Enforcement 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.

**2. Template agreements**

- a. The City's template contracts, agreements and other legal documents as provided by the City's Community Development staff must be used.

**3. Duration of agreements**

- a. The agreement must specify the duration of the agreement. If the housing assisted under the agreement is rental housing, the agreement must be in effect through the affordability period required by the City of South Gate. If the housing assisted under this agreement is homeownership housing, the agreement must be in effect at least until the completion of the project and transfer of ownership to a low-income family.

**4. Amending the documents**

Written agreements may be amended by mutual agreement of the parties when regulations and requirements change, or when adjustments to funding levels or other conditions related to a specific project are needed.

<b>EXHIBIT 12 WRITTEN AGREEMENT REQUIRED PROVISIONS</b>				
<b>REQUIRED PROVISION (§92.504)</b>	<b>SUBRECIPIENTS</b>	<b>OWNERS, SPONSORS, DEVELOPERS (CHDOS)</b>	<b>CONTRACTORS</b>	<b>HOME OWNERS</b>
Use of HOME Funds	✓	✓	✓	✓



Affordability (§92.252 or §92.254)		✓	
Program Income	✓		
Uniform Administration requirements (§92.505)	✓		
Project requirements (as applicable in Subpart F)		✓	2.254 (b) only
Property Standards (§92.251 and §92.355)		✓	
Other Program Requirements (Subpart H except (§92.252 and §92.357)	✓	✓	Except 92.505, 92.506, 92.352
Affirmative Marketing ((§92.351)	✓	✓	
Requests for Disbursement of Funds	✓	✓	
Reversion of Assets	✓	✓	
Records and Reports	✓	✓	
Enforcement of the Agreement (§92.252 and 24 CFR Part 85 as applicable)	✓	✓	
Duration of the Agreement		✓	✓
CHDO Provisions ((§92.300 and §92.301)		✓	
<b>Suggested Provisions (not HOME Requirements)</b>		✓	
Roles and Responsibilities	✓	✓	
Description of the Project	✓	✓	
Performance Standards	✓	✓	
Conflict of Interest	✓	✓	✓
Monitoring	✓	✓	
Close-out Requirements	✓	✓	
Non-Compliance	✓	✓	✓

**EXHIBIT 13**

**HOME PROGRAM AGREEMENT AND CITY AFFORDABILITY AGREEMENT BETWEEN THE CITY OF SOUTH GATE AND THE APPLICANT FOR THE OWNER-OCCUPIED HOUSING REHABILITATION PROGRAM**

<b>HOMEOWNER NAME(S) &amp; PHONE NO.:</b>	<b>PROPERTY ADDRESS:</b>	<b>CONTRACTOR NAME, ADDRESS, PHONE NO.:</b>
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This HOME Investment Partnerships Program Housing Rehabilitation Agreement (“Agreement”) is entered into by the City of South Gate, California (“the City”) and \_\_\_\_\_ (hereinafter called “Homeowner” whether one or more persons). This Agreement applies only to the Homeowner and dwelling unit (“Property”), as identified above. This Agreement describes the HOME Program rules and the City affordability requirements that pertain to the assistance provided through the City’s HOME Housing Preservation Program (HHPP). The duration of the HOME portion of this Agreement is thirty (30) days from the date of completion of rehabilitation work as defined herein. The duration of the City’s affordability period and the deed of trust shall continue until a change in title occurs, as defined herein.

By initialing the items listed below, Homeowner and Contractor confirm that each item has been read and Homeowner and Contractor understand and agree to comply with each item, as applicable:

**1. USE OF HOME PROGRAM FUNDING**

- \_\_\_\_\_ The City will provide HOME Program funding in the amount of \$ \_\_\_\_\_ as a deferred loan with a HOME compliance period of thirty (30) days;
- \_\_\_\_\_ A City imposed affordability period will run concurrent to the HOME compliance period and extend forward until there is a transfer of title for any of the following reasons: The property is sold; the property is foreclosed on; the property is refinanced; the property is leased; the applicant(s) fail(s) to occupy the property as their primary residence;
- \_\_\_\_\_ In the event that one of the Homeowner’s dies, ownership as stipulated by California Real Estate law transfers to the surviving individual. This procedure is not a transfer of title. Consequently, the remaining Homeowner will assume the loan pursuant to the original terms of the loan.
- \_\_\_\_\_ At the time Homeowner is approved for HOME Program assistance, Homeowner has an ownership interest in and occupies the Property to be rehabilitated as his/her principal residence. Homeowner agrees to continue to occupy the Property as his/her principal residence for the HOME Compliance Period and the City’s Affordability Period.

\_\_\_\_\_ At the time Homeowner is approved for the HOME Program assistance, the Homeowner qualifies as a low-income household with a gross household income that does not exceed 80% of the area median income as established by the U.S. Department of Housing and Urban Development for the Los Angeles MSA adjusted for household size, and as updated annually.

\_\_\_\_\_ The City Affordability Period will be secured by a promissory note and recorded subordinate deed of trust (no lower than second position). Monthly payments will not be required on this portion of the assistance. This assistance will be provided at 0% interest,

\_\_\_\_\_ If, during the City's Affordability Period, the Homeowner sells or transfers title to the Property, rents or leases the Property, refinances the Property, or if Homeowner no longer lives in the Property as his/her principal residence, all of the deferred payment loan will be due and payable to the City. However, in the event the Homeowner sells the Property, and the net proceeds after repayment of the first mortgage and the costs of sale of the Property are less than the amount of City's loan, the amount due shall be reduced to the amount available.

\_\_\_\_\_ Housing rehabilitation work will provide general rehabilitation necessary to bring the structure into compliance with the City's applicable building codes; the City's adopted property standards (if applicable); the City's housing rehabilitation program standards; and applicable lead-based paint (LBP) regulations (24 CFR 92.251 & 92.355). Rehabilitation work to be completed will only be as specified in the approved written work specification for the Property and fully executed and approved change orders. All codes, standards, and regulations noted are incorporated herein by reference.

\_\_\_\_\_ The maximum after-rehab value of Property must not exceed the current 203(b) FHA Mortgage Limits for a single unit structure in the Los Angeles Metropolitan Statistical Area.

The estimated after-rehab value is: \$ \_\_\_\_\_

The 203(b) Mortgage limit is: \$ \_\_\_\_\_ as of (Insert Date)

Estimated Start Date: \_\_\_\_\_

Estimated Completion Date: \_\_\_\_\_

\_\_\_\_\_ After the notice to proceed is issued by the City, the Homeowner has a three (3) day Right of Rescission Period. If Homeowner does not exercise their Right of Rescission, the Contractor has ten (10) calendar days to begin work;

\_\_\_\_\_ Upon completion of rehabilitation work, the Contractor shall furnish warranties as fully described in Section XV of the Housing Rehabilitation Program Policies (incorporated herein by reference).

## 2. DISBURSEMENT OF FUNDS

\_\_\_\_\_ Funds will be disbursed on a reimbursement basis and only.

\_\_\_\_\_ During the course of the work if any partial or in-progress payments are made, the Contractor shall furnish fully executed and dated lien releases/waivers for the specified amount(s) paid to himself/herself AND from all subcontractors receiving proceeds from such partial or in-progress payments.

- 
- \_\_\_\_\_ Upon completion of the rehabilitation work, final inspections, and a qualified building official inspection, the Contractor will submit a written invoice for the amount of the contract, plus change orders, less ten percent (10%) retainage.
  - \_\_\_\_\_ Upon completion of rehabilitation work, the Contractor shall furnish fully executed and dated lien releases/waivers for the specified amount(s) paid to himself/herself AND from all subcontractors receiving proceeds from the final payment/draw.
  - \_\_\_\_\_ Retainage funds will be held for twenty (20) days. After twenty (20) days, the Contractor will submit a written invoice for the final payment accompanied by the required *Bill Paid Affidavit* and a fully executed *Release of Lien* for his/her ten percent (10%) retainage. Upon approval by the City and the Homeowner the final ten percent (10%), payment will be made to the Contractor.

### 3. ROLES AND RESPONSIBILITIES

- \_\_\_\_\_ Roles and responsibilities of the Homeowner include, but are not limited to: Submission of true and accurate financial and other eligibility documentation; selection of the contractor; review and execution of the work write-up, contract, and associated documents; and accommodating the schedules of the Contractor and the City to facilitate timely completion of rehabilitation work and inspections.
- \_\_\_\_\_ Roles and responsibilities of the Contractor include, but are not limited to: Communicating with Homeowner and the City regarding status of the work during the construction period; notifying the City, in writing, including a justification delineating and supporting the need for any change orders (including itemized cost information); completing any items identified on the final inspection prior to *execution of the Certificate of Completion*; and *providing and adhering to warranty agreements in a timely manner*.
- \_\_\_\_\_ Roles and responsibilities of the City, include, but are not limited to: Ensuring payment to Contractor as set forth in the rehabilitation contract; communicating with the Homeowner and Contractor regarding all administrative procedures that affect completion of rehabilitation work; advising the Homeowner regarding city property standards, building code requirements, local property standards and housing rehabilitation standards which may affect the prioritization of work items; and documenting project files in compliance with all applicable HUD regulations.
- \_\_\_\_\_ Roles and responsibilities of the City, the Homeowner, and the Contractor are more specifically outlined in the City's HOME Policies and Procedures, incorporated herein by reference.
- \_\_\_\_\_ Homeowner has responsibility to select the contractor to complete the rehabilitation work from any eligible bid, as long as the price quoted is within a range of no more than ten percent (10%) below or ten percent (10%) above the cost estimate of scope of rehabilitation work prepared by the City. Eligible bids may be obtained from a list of City pre-approved contractors or other contractors selected by Owner. The selected Contractor and his/her subsequently selected subcontractors must not be debarred or suspended from the Housing Rehabilitation Program, federally funded programs, or state funded programs; must carry the required insurance; submit or have submitted a completed Contractor Information Form to the City and a statement of non-use of lead-based paint; pass a

criminal background check; and all other program requirements of the HOMEOWNER REHABILITATION ACTIVITIES as outlined in the program policy, incorporated herein by reference.

**4. PROPERTY STANDARDS**

- \_\_\_\_\_ All rehabilitation work will be completed in compliance with the Housing Rehabilitation Program’s locally written and adopted property standards and all applicable written local building and property codes and standards.
- \_\_\_\_\_ Housing rehabilitation assistance will only be provided to cover the cost of rehabilitation necessary to bring the property in compliance with locally adopted, written building and property standards, Rehabilitation Program standards and, applicable Federal and State building and property standards.

**5. WRITTEN AGREEMENT PROVISIONS**

- \_\_\_\_\_ Homeowner will enter into a written agreement with the Homeowner-selected, qualified Contractor for the completion of rehabilitation work. The written agreement shall include the scope of work, the cost of the work to be completed, and the time frame during which the scope of work must be completed, all of which have been reviewed and approved by Homeowner, City, and Contractor at the preconstruction conference. Said written agreement, work specifications, and any subsequent change orders are incorporated herein by reference.
- \_\_\_\_\_ Except for the purpose of affording protection against any emergency endangering life or property, no modification of the written agreement shall be made except by written instrument, signed by the Contractor, approved by Homeowner, and accepted and dated in writing by City. Change orders may be authorized for necessary work items that were initially overlooked or which could not be determined until the course of the rehabilitation or reconstruction work had already begun. Change orders must be requested prior to commencement of the proposed changed work in order for such costs to be reimbursable.
- \_\_\_\_\_ Homeowners or Contractors with concerns about the administration or operation of the Housing Rehabilitation Program should communicate these concerns to the City, if concerns cannot be negotiated or resolved successfully between the parties, they may file an appeal with the (“INSERT APPROPRIATE LOCAL AUTHORITY”).
- \_\_\_\_\_ Homeowner agrees to abide by the HOME regulations as set forth in 24 CFR Part 92 which is incorporated as a part of this agreement by reference.

By signing below, Homeowner and Contractor acknowledge receipt of this document and understanding of its contents.

\_\_\_\_\_

\_\_\_\_\_

Homeowner

Date

\_\_\_\_\_

\_\_\_\_\_

Homeowner

Date

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Community Development

\_\_\_\_\_  
Date

### Conflict of Interest

The City of South Gate will comply with the following conflict of-interest provisions:

1. 24 CFR Parts 84 and 85, and CFR 85.36 and 24 CFR 84.42.
2. Provisions not covered by 24 CFR Parts 84 and 85, set forth in the HOME regulations. Additionally, the HOME regulations include conflict of interest provisions for nonprofit, for-profit owners/developers/sponsors and CHDOs.
3. No employee, officer, agent of the city shall participate in the selection, award or administration of a contract supported by HOME if a conflict-of interest, either real or apparent, would be involved;
4. City employees, officers and agents not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements; and
5. Enforce provisions for penalties, sanctions or other disciplinary actions for violations of standards.
6. No person who exercises or has exercised any functions or responsibilities with respect to HOME activities or who is in a position to participate in decisions or gain inside information:
  - a. May obtain a financial interest or benefit from a HOME activity; or the City of South Gate HOME Program Operations;
  - b. Have an interest in any contract, subcontract, or agreement for themselves or for persons with business or family ties.

NOTE: This requirement applies to covered persons during their tenure and for one year after leaving the Recipient entity.

7. Include the conflict-of-interest provision in written agreements and other documents with owners, developers, and sponsors.
8. Monitoring of projects will include necessary actions to ensure that the conflict of interest provision is adhered to.

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## HOME Provisions for Nonprofit and For-Profit Owners, Developers, CHDOs, and Sponsors

The City of South Gate will comply with the HOME Final Rule that includes a conflict-of-interest provision applicable to for-profit and nonprofit owners, developers, and sponsors of HOME-assisted housing. This provision states that:

1. No owner, developer, or sponsor of HOME-assisted housing, including their officers, employees, agents, consultants, or elected or appointed officials, may occupy a HOME-assisted unit in a development.

NOTE: This provision **does not** apply to:

- a. An individual receiving HOME funds to acquire or rehabilitate his/her principal residence, or,
- b. An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

**Exceptions:** Exceptions to this conflict-of-interest provision (governing owners, developer, and sponsors of HOME-assisted housing) may be granted by the City after obtaining a waiver from HUD on a case-by-case basis based on the following factors as set forth in the regulations:

- a. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him or her to receive generally the same interests or benefits as are being made available or provided to the group as a whole;
- b. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
- c. Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy and tenant selection) are being observed;
- d. Whether the affirmative marketing requirements are being observed and followed; and
- e. Any other factor relevant to the City's determination, including the timing of the requested exception.

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## Religious Organizations

HOME funds **may** be provided to primarily religious organizations for any activity, excluding inherently religious activities.

1. As of the September 30, 2003 Final Rule for 24 CFR Part 92, HUD identified regulations for eight programs, including the HOME Program, to eliminate barriers and ensure that these programs are open to all qualified organizations regardless of their religious character.

## HOME Investment Trust Fund Account

The HOME Investment Trust Fund Account is the account established by the U.S. Treasury and managed through HUD's Integrated Disbursement and Information System for the Program.

### 1. Establishment

The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section [12749\(c\)](#) of this title) for use solely to invest in affordable housing within the participating jurisdiction's boundaries or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this part.

### 2. Line of credit

The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include:

- a. funds allocated or reallocated to the participating jurisdiction under section 12747 of this title, and
- b. any payment or repayment made pursuant to section 12749 of this title.

### 3. Reductions

A participating jurisdiction's line of credit shall be reduced by:

- a. funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,
- b. funds expiring under subsection (g) of this section, and
- c. any penalties assessed by the Secretary under section 12754 of this title.

### 4. Certification

A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in



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compliance with all requirements of this subchapter. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

**5. Investment within 15 days**

The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

**6. No interest or fees**

The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

**7. Expiration of right to draw funds**

If any funds becoming available to a participating jurisdiction under this subchapter are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 12747(d) of this title.

**8. Administrative Provision**

The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

**a. In general**

Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 12747(d) of this title.

**b. Assurance of repayment**

Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this part are repayable

when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 12747(d) of this title.

**c. Availability**

The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this part that apply to funds that are allocated under section 12747 of this title. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subchapter. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

### HOME Program Income

Program income is defined as any revenue received by the City directly generated from the use of HOME funds or matching contributions. Program income includes, but is not limited to:

1. Proceeds from the sale or long-term lease of real property acquired, rehabilitated or constructed with HOME funds or matching contributions;
2. Income from the use or rental of real property owned by a Recipient that was acquired, rehabilitated or constructed with HOME funds or matching contributions, minus the costs incidental to generating that income;
3. Payments of principal and interest on loans made with HOME or matching funds, and proceeds from the sale of loans or obligations secured by loans made with HOME or matching contributions;
4. Interest on program income; and
5. Any other interest or return on the investment of HOME and matching funds.

Note: The City of South Gate requires that all program income is returned to the City.

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## Pre-Award Costs

With the publication of the Final Rule, the City may incur eligible costs prior to the effective date of its annual HOME Investment Partnerships Agreement, subject to certain conditions:

1. Both administrative/planning and project costs may be incurred. Only costs eligible under the HOME Program rules in effect at the time the costs are incurred are included.
2. Expenditures must meet all regulatory requirements, including environmental review regulations.

## HOME Program Draws

HOME funds are available on a reimbursement basis only based on documentation of incurring the expense and payment of the expense.

## PROCEDURE

1. The City of South Gate will reimburse funds based upon information submitted by the Recipient. Any expenditures occurring after the effective date of the contractual agreement between the City of South Gate and the Recipient are eligible for reimbursement.
2. Expenditures must be consistent with the approved budget as stated in the contractual agreement between the City of South Gate and the Recipient. Only eligible expenses will be reimbursed.
3. Payments will be adjusted by the City in accordance with program income balances available in sub-recipient accounts, if applicable.
4. In order to ensure accurate billing and fund management sub-recipients should keep track of the following information for activities funded:
  - a. Funds budgeted.
  - b. Funds received in City of South Gate.
  - c. Reimbursements to-date.
  - d. Funds obligated in the most recent period and to-date.
  - e. Funds expended in the most recent period and to-date.
  - f. Cash on hand (including program income identified as such), *if applicable*.
  - g. Previous reimbursements requested but not yet received, *if applicable*.
5. All requests for final reimbursements must be submitted to the Planning and Community Department Division within 15 days after the last date of the contract.

To request reimbursement:

1. The "Reimbursement Request" form must be completed and signed by either the Economic Development Director or another authorized personnel.
2. Provide original invoices for all expenditures to be reimbursed.
3. Payment receipts, copies of checks, and/or all documentation proving that payment has been made prior to requesting reimbursement.
4. For salary reimbursement, time sheets must include total time worked and a breakdown of funding sources covering the salary and benefits associated.

All reimbursements will be made within thirty (30) days of receipt of the request, if proper documentation has been submitted. Please be advised that the City of South Gate will not provide reimbursements if quarterly reports have not been submitted within the time limits stated in the contractual agreement between the City of South Gate and the Recipient.

## **PART 2: FINANCIAL MANAGEMENT**

### **Policies Regarding Cash Management**

All payments under City of South Gate's Federal programs will be on a reimbursement basis, AFTER costs have been incurred. No cash advances will be allowed. Reimbursements will not exceed actual cash outlays

All payments to subrecipients and for in-house activities will be monitored for compliance with federal regulations and applicable OMB circulars. Prior to payment, subrecipient requests for program funds shall be properly evaluated. The following will be monitored:

- a. Bi-weekly employee timesheets
- b. Payroll records
- c. Cost per capita served
- d. Portion of clientele served that is low-income
- e. Eligibility of activity
- f. Allowable costs
- g. Non-Federal funds leveraged (if applicable)
- h. Proper allocation of costs to City of South Gate

Drawdown of federal funds through federal reporting system is subject to review and approval by Finance staff. Variances between expected and actual cash disbursements of federal awards and drawdowns of federal funds are reported to an appropriate level of management.

Since federal funds will only be provided on a reimbursement basis, it is anticipated that no interest earnings will accrue to the City or to subrecipients. In the unlikely event interest earnings on federal funds are accrued, they must be paid back to that federal department.

Program income funds will be generated primarily by housing rehab loan repayments and occasionally, housing development activities. Program income received by the City must be deducted from reimbursement requests before drawing down entitlement grant funds.

The federal financial reporting system is capable of scheduling payments for accounts payable and requests for funds from Treasury that enables the City to avoid a time lapse between draw down of funds and the actual disbursement of funds. South Gate's accounting program, shall be reconciled by the following steps:

- 1) Invoices are received by Finance Department via email, mail, etc.
- 2) Twice per month, invoices are coded by purchase order accounting number (account waiting for the money so accounts payable will know where to take it from), where money has been allocated to those activities; codes by stamping invoice with stamp that includes: vendor number, PO # dollar; after filling out info on stamp, it goes to finance;
- 3) At the end of the month all expenditures are totaled and drawdowns for the particular activities are reported to the Government agency; Finance Analyst reviews drawdowns for accuracy and compiles data in a spreadsheet
- 4) One Community Development Grants Consultant inputs drawdowns into IDIS
- 5) The Director of Finance (or Designee) approves vouchers in federal system

Staff will carry out periodic independent evaluation (e.g., by internal audit, top management) of entity cash management, budget and actual results, repayments of excess interest earnings, and federal drawdown.

### **Procedures for Reflecting Prior Period Adjustments and Accruals**

In preparation of the CAPER, City staff review the following reports:

- PR09- Program Income Details by Fiscal Year and Program (report generated by IDIS)
- PR26- CDBG Financial Summary Report (report generated by IDIS)
- Analysis of CDBG Funds- City of South Gate Sources & Uses of Funds spreadsheet (report generated by the City's Consultant)

Director of Finance or Designee reconciles discrepancies between the IDIS reports and the City's Budget and makes the necessary adjustments in the PR26 report. These adjustments are explained as Notes to the PR26, which is included as an appendix to the CAPER.

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### **Policy Regarding Rebates, Refunds and Credits to Federally Funded Programs**

All rebates, refunds, and credits to HUD CPD programs will be properly reported. Bid bond forfeiture funds that are not offset by additional costs to select another bidder will be credited to HUD CPD programs at their pro-rata share.

### **Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program**

All travel and training expenses charged to the HUD programs must be approved by the Community Development Manager or a Department Director. Prior to approval, travel and training expenses are evaluated based on the following criteria:

- Compliance with 2 CFR 200.472
- Applicability/relevance to CDBG/HOME program goals and objectives
- Eligibility under Federal programs
- Within the allocated budget for that program

### **Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Admin Account**

1. Personnel costs charged to HUD programs will follow Section 200.430, of 2 CFR 200. Prior to the beginning of the fiscal year, City of South Gate Staff and the Community Development Director will evaluate available funding as well as the Admin workload, scope of work and staffing assignments. This evaluation will produce an estimate of staffing needed including percent allocation of each Admin staff member's time dedicated to HUD Programs. These allocation factors will be noted on the employee's action form and transmittal to the City Payroll Department for the affected employee. Compensation (including salary and benefits, if eligible) will be allocated accordingly to the Admin account.
2. All employees whose compensation is charged to Admin will maintain bi-weekly timecards documenting the number of hours charged to various programs. Time cards will represent an after-the-fact distribution of the actual activity of each employee and will account for the total activity for which the employee is compensated. Time cards will be signed by the employee and approved by their Supervisor.
3. Admin staff will conduct a quarterly reconciliation to confirm that employee time cards are consistent with actual time charged to HUD-funded programs. If inconsistencies are found, the costs charges to HUD-funded programs will be adjusted.

### **Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Rehab Account**

1. Personnel costs charged to the Housing Rehab program will follow Section 200.430, of 2 CFR 200 (including CFDA 14.218 Part III)

2. Prior to the beginning of the fiscal year, City of South Gate staff and the Community Development Director will evaluate available funding as well as the Rehab work loan, scope of work and staffing assignments. This evaluation will produce an estimate of staffing needed including percent allocation of each Rehab staff member's time dedicated to Rehab. These allocation factors will be noted on the employee's action form and transmittal to the City Payroll Department for the affected employee. Compensation (including salary and benefits) will be allocated accordingly to the Rehab account.
3. All employees whose compensation is charged to Rehab will maintain bi-weekly timecards documenting the number of hours charged to various programs. Time cards will represent an after-the-fact distribution of the actual activity of each employee and will account for the total activity for which the employee is compensated. Time cards will be signed by the employee and approved by their Supervisor.
4. Rehab staff will conduct a quarterly reconciliation to confirm that employee time cards are consistent with actual time charged to Rehab programs. If inconsistencies are found, the costs charged to HUD-Rehab programs will be adjusted.

#### **Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Microenterprise Activities (18-305-300)**

1. Personnel costs charged to the CDBG Microenterprise program will follow Section 200.430, of 2 CFR 200 (including CFDA 14.218 Part III)
2. Prior to the beginning of the fiscal year, City of South Gate Community Development staff and the Community Development Director will evaluate available funding as well as the CDBG Microenterprise work load, scope of work and staffing assignments. This evaluation will produce an estimate of staffing needed including percent allocation of each CDBG Microenterprise staff member's time dedicated to CDBG Microenterprise. These allocation factors will be noted on the employee's action form and transmittal to the City Payroll Department for the affected employee. Compensation (including salary and benefits) will be allocated accordingly to the CDBG Microenterprise account.
3. All employees whose compensation is charged to CDBG Microenterprise will maintain bi-weekly timecards documenting the number of hours charged to various programs. Time cards will represent an after-the-fact distribution of the actual activity of each employee and will account for the total activity for which the employee is compensated. Time cards will be signed by the employee and approved by their Supervisor.
4. CDBG Microenterprise staff will conduct a quarterly reconciliation to confirm that

employee time cards are consistent with actual time charged to CDBG Microenterprise programs. If inconsistencies are found, the costs charged to CDBG-microenterprise programs will be adjusted.

### **Procedures for Determining Cost Reasonableness**

The City's annual allocation process includes an analysis of the reasonableness of costs charged by subrecipients to the City's CPD Programs. This analysis includes an evaluation of whether costs associated with a proposed service are in accordance with OMB Circular A-122. Every activity considered by CDBG or HOME funding is evaluated by a variety of criteria, including:

- Cost per capita served
- Portion of clientele to be served that is low-income or presumed benefit
- Eligibility of proposed activity
- Allowability of costs associated with proposed activity
- Timeliness of expenditures in prior year(s)
- Severity of need for proposed service
- Number of City of South Gate residents to be served
- Accessibility of service to be provided to City of South Gate residents, particularly for services offered outside of City of South Gate
- Duplication/uniqueness of service
- Non-HUD funds leveraged

Costs for training and travel are evaluated on a case-by-case basis and consideration of their eligibility, applicability and reasonableness is made before they are charged to the CDBG program. CDBG Admin staff must approve all training and travel costs charged to the CDBG program.

Activities are determined eligible and reasonable for CDBG/HOME funding if all the criteria identified above are satisfied.

### **Process for Approval of Subrecipient Reimbursement Requests for Public Services**

Based on the terms of the written agreement with the subrecipient, city staff will review reimbursement requests for allowability, eligibility, and reasonableness. All reimbursement requests by public service subrecipients shall include a summary detailing expenses by project budget line item and the amount being charged to the City's CDBG program. Where subrecipients serve clients from multiple jurisdictions in Los Angeles County, the City's invoice review procedures include an evaluation that charges to City of South Gate are pro-rated based upon the actual number of City of South Gate residents served.



The table below outlines what supporting documentation must accompany reimbursement requests.

COST ITEM	SUPPORTING DOCUMENTS
Salaries	<ul style="list-style-type: none"> <li>• Documented payrolls approved by a responsible official of the organization</li> <li>• Signed personnel activity reports (timesheets) summarizing the distribution of activity of each employee. Timesheets should identify the amount of time spent on serving City of South Gate clients, or directly on the program.</li> <li>• Refer to OMB Circular A-122, Attachment B, Paragraph 8 (m)</li> </ul>
Fringe Benefits	<ul style="list-style-type: none"> <li>• Proof of payment of fringe benefits including health insurance statements, life insurance statements, etc. Fringe benefits will be calculated as a percentage of salaries. This percentage may generally not exceed 30 percent of salaries.</li> </ul>
Materials and Supplies	<ul style="list-style-type: none"> <li>• Copies of invoices/receipts</li> </ul>
Utilities	<ul style="list-style-type: none"> <li>• Copies of invoices/receipts</li> </ul>
Other expenses	<ul style="list-style-type: none"> <li>• Copies of invoices/receipts/billing statements</li> </ul>

#### Process for Approval of Reimbursement Requests for Consultant Services

Based on the terms of the written agreement with the contractor, city staff reviews reimbursement requests for allowability, eligibility, and reasonableness. All reimbursement requests by the contractor shall include a summary detailing expenses and the amount being charged to the City's HUD programs.

The table below outlines what supporting documentation must accompany reimbursement requests.

COST ITEM	SUPPORTING DOCUMENTS
Salaries	<ul style="list-style-type: none"><li>• Requests for reimbursement shall include a summary of the position(s) billed to the contract, the dates that services were provided, total number of hours billed by each position per day, and the hourly billing rate of each position charged to the City of South Gate activity.</li></ul>
Materials and Supplies	<ul style="list-style-type: none"><li>• Copies of invoices/receipts</li></ul>
Other expenses	<ul style="list-style-type: none"><li>• Copies of invoices/receipts/billing statements</li></ul>

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## FINANCIAL REPORTING

In addition to the budgeting, payment processing, and oversight actions described in other sections, the City will undertake the following actions to ensure accurate, current, and complete disclosure of the financial results of HUD-assisted activities in accordance with the financial reporting requirements of the CDBG and HOME Programs.

### FFATA Reports

At the end of each month, the Accounting Manager will report on all awards in excess of \$25,000 using the FFATA subaward reporting system (FSRS) in order to comply with the Federal Funding Accountability and Transparency Act of 2006. For guidance on data entry, refer to the guidance material on [www.onecpd.info](http://www.onecpd.info) entitled "FFATA Subaward Reporting System Webinar for CDBG Grantees".

### Open Balance Review

On a quarterly basis, the Community Development Director, Grants Consultant and Accounting Manager will review the Annual Expenditure Work Plan with IDIS PR 08 to identify slow moving projects. The review will include an assessment of the project's progress and its effectiveness of meeting its objectives. If a project is not on schedule or not effective, staff will develop a workplan and timeline for corrective actions.

### Monthly Reconciliation

At the close of each month, the Accounting Manager will work with the Grants Consultant to reconcile General Ledger expenditures and IDIS drawdowns for all HUD accounts. The information in IDIS, the PR07 Drawdown by Voucher Number, will also be compared to the local Project Report to ensure the IDIS system accurately reflects expenditures and cash balances. All discrepancies will be reported directly to the Finance Director and Community Development Director who will jointly oversee corrective action.

### Federal Cash Transactions Report

Semi-annually, the Grants Consultant will prepare and submit the Federal Cash Transactions Report SF-425. The Grant Administrator will take the following steps to reconcile IDIS with the City's local internal financial records:

#### STEP 1: DETERMINE DRAWS PER IDIS

1. From IDIS, generate the **PR07 Drawdown by Voucher Number Submitted to LOCCS**. Limit the report to the time period in question (i.e. Initial Date: 01/01/2014 and End Date: 06/30/2014 for Q2 of 2014).

2. Import the report into Excel.
3. Filter the report to show Entitlement Draws (EN Fund Type) with a Complete Status.
4. Verify the total amount of Entitlement funds drawn during the quarter by totaling all line items. This is the amount to enter on Line 10a. Cash Receipts of the SF-425.
5. If it is requested by the local HUD field office, the Federal Financial Report attachment can be used to report the amount disbursed from each grant allocation. Sort the PR07 report by the Grant Number field to determine the amount disbursed from each allocation.

#### STEP 2: DETERMINE EXPENDITURES PER LOCAL SYSTEM

1. From City's Accounting System, generate the **Accounts Payable Invoice Report** for the CDBG Fund. When selecting the date range, include the three months prior to the quarter in question. The City works on a reimbursement basis, meaning a draw that occurred in the current quarter may have been paid in the previous quarter.
2. For each drawdown listed on the PR07, identify the corresponding record on the Accounts Payable Invoice Report and initial the line item. Please note that it will not always be a one to one relationship. One IDIS draw could represent several claims and vice versa. To help with the identification process, reference the Voucher for IDIS Drawdown forms processed during the quarter.
3. Verify that each draw has a corresponding claim. If so, enter the same amount from 10a. on line 10b. of the SF-425 report and enter 0 on line 10c. If there is a discrepancy, report the matter to the the Finance Director for correction.

#### STEP 3: FILING

1. Complete the remainder of the SF-425 Report and submit it to the local HUD Field Office within 15 days of the close of the quarter.
2. Maintain a copy of the completed and signed SF-425 Report, the PR07 Report, the Accounts Payable Invoice Report, and any notes or related correspondence in a folder labeled Federal Financial Reports.

#### Policy Regarding Rebates, Refunds and Credits to HUD CPD Programs

All rebates, refunds, and credits to HUD CPD programs will be properly reported. Bid bond forfeiture funds that are not offset by additional costs to select another bidder will be credited to HUD CPD programs at their pro-rata share.

#### Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program

All travel and training expenses charged to HUD programs must be approved by the Community Development Director or a Department Director. Prior to approval, travel and training expenses are evaluated based on the following criteria:

- Compliance with OMB Circular A-122
- Applicability/relevance to CDBG/HOME program goals and objectives
- Eligibility under CPD programs
- Within the allocated budget for that program

### Schedule of Federal Expenditures

The Finance Department is responsible for preparing, based on information provided by the Community Development Department, the Schedule of Federal Expenditures (SEFA) as part of the annual auditing process. Regarding CDBG, the following procedures will be followed to ensure that the SEFA is reconciled:

1. Department of Finance staff will prepare the SEFA in preparation for the annual audit. Expenditures shall be determined using the following guidelines:
  - a. Use the same accounting basis as the City's Financial Statements.
  - b. Include all expenditures of federal awards for the year, including but not limited to
    - i. transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations;
    - ii. federal awards received directly from a federal agency and indirectly from a state agency;
    - iii. disbursement of funds passed through to sub-recipients;
    - iv. receipt of loan proceeds under loan and loan guarantee programs; receipt of federal property and surplus property;
    - v. receipt and use of program income.
  - c. List all financial assistance from the same federal agency together on the schedule.
  - d. Within each federal agency section, list all direct awards first followed by indirect awards.
  - e. Provide subtotals for programs with the same Catalog of Federal Domestic Assistance (CFDA) number.
  - f. Provide subtotals for assistance received directly and assistance received indirectly.
  - g. Provide a total for each federal agency.
2. Accounting Manager will provide any and all underlying records, claims, and vouchers needed to verify CDBG expenditures and draws.
3. Director of Finance or his designee will review the draft SEFA for:
  - a. reported expenditures against information from the Eden system;
  - b. the correct CFDA and agency information is provided, including identification of pass-through entities.
  - c. that the draft version presents the minimum data elements required by 2 CFR 200 Subpart F.
4. Director of Finance will provide the draft SEFA to the outside auditing firm for review.

5. Director of Finance will work with staff and outside auditing firm to address any errors, omissions or weaknesses.

## ASSET MANAGEMENT

Any property, personal or real, is limited in use to serving the objectives of HUD programs. All property purchased with HUD funds must be adequately controlled and safeguarded. In general, it is the responsibility of the Community Development Director to ensure staff take appropriate day to day actions to prevent loss, damage, or theft of the property. It is also the responsibility of the Community Development Director to ensure all equipment and property is adequately maintained on a regular, as-needed basis. Any loss, damage, or theft must be reported to the Mayor and City Manager.

Regarding asset management, property can be generally divided into three categories: supplies, equipment, and real property. Supplies are all tangible personal property other than Equipment. A computing device is a supply if the acquisition cost is less than \$5,000, regardless of the length of its useful life. Equipment is tangible personal property having a useful life of more than one year and a per-unit acquisition cost more than \$5,000. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

Equipment must be used by the City and/or its subrecipients for the purpose which it was acquired whether or not the project or program continues to be supported by CDBG. When no longer needed for the original program or project, the equipment may be used in other activities. However, CDBG-purchased equipment cannot be used to provide services for a fee that is less than private companies charge for equivalent services unless the service meets all of the CDBG rules and regulations.

When original or replacement equipment acquired with HUD funds is no longer needed for the original project or program or for other activities currently or previously supported by HUD funds, the City shall request disposition instructions from HUD. In most cases, items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation. Some portion of the proceeds may be considered program income. If replacement equipment is necessary, the City may use the existing equipment as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

### Real Property

All real property, such as buildings, should be protected by using reasonable security measures. Equipment and supplies should be reasonably protected from possible theft. Short-term supplies,

such as office supplies, do not need to be controlled through a perpetual inventory system, but must still be adequately safeguarded.

When the City or its subrecipients wish to dispose of property acquired or improved with HUD Funds, the disposition is subject to the regulations at 24 CFR 570.505 (see below). If the property is changed to a non-eligible use within the five-year period, the funds returned to the City are treated as returned funds (as opposed to program income). After the five-year period, any funds returned to the City are considered program income.

When selling the property, the City and or its subrecipient shall follow its local procedure to ensure the highest possible return.

*The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.*

*(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:*

*(1) The new use of such property qualifies as meeting one of the national objectives in §570.208 (formerly §570.901) and is not a building for the general conduct of government; or*

*(2) The requirements in paragraph (b) of this section are met.*

*(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.*

*(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in §570.504(b)(4) or (5), as applicable, shall apply to the use of funds reimbursed.*

*(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.*

## Recordkeeping

Property records must be maintained that include:

- a description of the property,
- a serial number or other identification number,
- cost of property, including percentage paid for with HUD Funds,
- who holds title,
- the acquisition date,
- the location, use, and condition of the property, and
- any ultimate disposition data including the date and sale price.

The Community Development Director shall take inventory of all property and reconcile inventory with property records at least once every two years. Any difference between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The inventory shall include verification of the existence, current use and condition, and continued need for the property.

### EXHIBIT I

#### Department of Housing & Urban Development

## Program Income

Drawdowns of funds through IDIS will occur at least monthly. It is anticipated that monthly IDIS drawdowns of expenditures will greatly exceed monthly program income. Interest earnings on program income that are not offset by monthly expenditures will be credited to the appropriate program.

There are currently two sources of CDBG program income.

**Program income from the home rehabilitation program.** The loan servicer receives loan repayments and creates a monthly report to the City. The repayments are forwarded to the City and deposited into different accounts used for loan repayments. As described above, this program income is drawn down first when funds are drawn down for any appropriate activity.



**Program income from housing activity.** A few housing development projects received funds and loan repayments are made when there is surplus cash or residual receipts at the end of the year, as evidenced by the developments' annual financial audits. The amount of program income is determined by the loan terms indicated in the promissory note or appropriate funding agreement. The Community Development Director records the loan repayment and forwards it to Finance to deposit. As above, the program income is drawn down first when funds are drawn down for any appropriately funded activity.

### Reimbursement Process in IDIS

The City will adhere to the following procedure to pay HOME-related claims monthly:

- Within IDIS, the Accountant creates program income receipts based on monies received since the last drawdown
- Accountant reconciles Invoice Report with Draw Schedule and alerts Accounting Manager to any discrepancies
- Within IDIS, Grants Consultant will create IDIS draw voucher based on the actual expenditures incurred by the City. Once the drawdown voucher is created, the Grants Consultant will print a screenshot of the voucher creation screen from IDIS, record the Voucher Number on the Departmental Budget, and alert the Accounting Manager that the drawdown is ready for approval
- Accounting Manager approves drawdown voucher in IDIS. Funds will wire transfer to City designated account in two to three business days
- Upon receipt of wire transfer from the U.S. Treasury, the Finance Department Accountant will alert the Accounting Manager of receipt by forwarding the report with the HOME disbursements identified. The General Fund will be reimbursed for the HOME costs that were advanced

### TIMELINESS REVIEW

On a monthly basis, the Grants Consultant will generate and review with Accounting Manager, the CDBG Timeliness Report and evaluate the timeliness of HOME expenditures.

### Internal Controls

The City of South Gate internal controls include a combination of procedures, specified job responsibilities, qualified personnel, and records that together create accountability in an organization's financial system and safeguard its cash, property, and other assets. The City's internal controls make sure that:

1. Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies,
2. Resources are protected against waste, mismanagement, or loss, and
3. Reliable information on source, amount, and use of resources are secured up-to-date, and recorded.

Additionally, internal controls will ensure that no single individual has authority of an entire financial transaction.

Specifically, that the City has a separation of power for the following three responsibilities:

1. Authorization to execute a transaction,
2. Recording of the transaction, and
3. Custody of assets involved in the transaction. This type of separation of responsibilities will create a system of checks and balances for grant and general organization expenditures.
4. The City will periodically reconcile its financial records to actual assets and liabilities which will safeguard resources as well as detect instances of fraud or misuse.

## Record-Keeping

### OVERVIEW

The HOME Program has recordkeeping and reporting requirements to document that HOME funds are used appropriately and that HOME Program objectives are being met.

Under the HOME Program regulations, the City of South Gate is required to meet certain record-keeping and reporting requirements that are designed to:

- a. Ensure consistency with HOME program requirements;
- b. Clarify the record retention periods; and
- c. Include new records that exercise any of the three new options allowed in the Final Rule (i.e., multi-family refinancing, presumption of affordability for homebuyer assistance, and locally-established 95 percent of area median purchase price limits).

### PROCEDURE

1. The City of South Gate will maintain records that include:
  - a. Program records;
  - b. Project records;
  - c. CHDO records;
  - d. Financial records;
  - e. Program administration records; and
  - f. Records concerning other Federal requirements.

**2. Maintain PROGRAM RECORDS that include:**

- a. Written agreement with the City of South Gate and documentation of compliance with the written agreement;
- b. A copy of the application originally submitted to the City of South Gate;
- c. Forms of assistance used;
- d. Procedures for establishing 95 percent of median value;

**3. Maintain Project Records that include:**

- a. Location (with a map),
- b. Form of assistance,
- c. Number and identification of units or tenants associated with HOME.
- d. Source and application of funds;
- e. Compliance with maximum per-unit subsidy limits and subsidy layering guidelines;
- f. Compliance with property standards and lead-based paint requirements;
- g. Compliance with income-eligibility requirements;
- h. For rental projects, compliance with income targeting, affordability and lease requirements;
- i. If multi-family or single-family refinancing is provided, compliance with established guidelines and/or requirements;
- j. If multi-family new construction, results of the site and neighborhood standards review conducted;
- k. For homeownership projects, compliance with maximum property value and affordability requirements; and
- l. If pre-award costs, compliance with applicable requirements.

**4. Maintain CHDO records that include:**

- a. Written agreement with the City of South Gate;

- b. Documentation of qualification as a CHDO, including:
  - i. Documentation of nonprofit status;
  - ii. Current board list that identifies low-income representation;
  - iii. Documentation of low-income community input (e.g. minutes from community meeting);
  - iv. Documentation of organizational capacity (e.g. resumes of staff members);
- c. Documentation of uses of CHDO set-aside funds, including funds for capacity-building (if applicable); and
- d. Current project descriptions.

**5. Maintain Financial Records that include:**

- a. Source and application of funds;
- b. Treasury and local HOME accounts;
- c. Source and application of program income, repayments and recaptured funds; and
- d. Budget control measures, including periodic account reconciliations.

**6. Maintain Program Administration Records that include:**

- a. Compliance with written agreements;
- b. Compliance with applicable uniform administrative requirements; and
- c. Inspections, monitoring reviews and audits, and resolution of any findings or concerns.

**7. Maintain Documentation Records that include:**

- a. Equal opportunity and fair housing;
- b. Affirmative marketing and minority/women's business outreach;
- c. Environmental review;
- d. Acquisition, relocation, displacement, and replacement of housing;
- e. Labor standards;

- f. Lead-based paint;
- g. Conflict-of-interest; and
- h. Debarment and suspension.

8. **RETAIN RECORDS** FOR a period is five (5) years including:

- a. **Housing Rehabilitation:**
  - i. General records must be kept for five years after project completion
- b. **Rental:** For rental housing records:
  - i. General records must be kept for five years after project completion; and
  - ii. Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period ends.
- c. **Homeownership:** Homeownership records must be kept for:
  - i. Five years after project completion; and
  - ii. For resale/recapture records, five years after the affordability period ends.
- d. **Written agreements:** Generally, all written agreements must be maintained for five years after the agreement ends.
- e. **Displacement and acquisition:** Displacement and acquisition records must be kept for five years after final payment to displacees.

9. **ACCESS TO RECORDS**

- a. Provide citizens and other interested parties with reasonable access to records. Access will be consistent with applicable state and local laws regarding privacy and obligations of confidentiality.
- b. Provide citizens, public agencies and other interested parties with reasonable and timely access to information and records relating to the City's Consolidated Plan and the use of assistance under the programs covered by the Consolidated Plan.
- c. Provide access to HUD and the Comptroller General of the United States, or any of their representatives, to any records for auditing, excerpt, or transcript purposes.

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## Reporting Requirements

### OVERVIEW

HOME Program regulations require the City of South Gate to submit an annual report, called the Consolidated Annual Performance and Evaluation Report (CAPER), to HUD within 90 days of the close of City's program year. This is in accordance with the Consolidated Plan regulations at 24 CFR Part 91. The CAPER incorporates not only HOME Program information, but also the reporting requirements for the Community Development Block Grant (CDBG) program.

1. The City of South Gate HOME Program is required to meet certain reporting requirements, which are outlined below, in order to support the City in meeting its annual HOME Program reporting requirements.
2. The CAPER must include:
  - a. A summary of resources and programmatic accomplishments; and
  - b. The status of actions taken during the year to implement the overall strategy, which includes a self-evaluation of progress during the past year in addressing priority needs and specific objectives.

### PROCEDURE

1. The HOME Program Consultant or Community Development Staff will complete a Semi-Annual Status Report as well as Project Set Up and Completion Reports for all projects.
2. The HOME Program Consultant or Community Development Staff will complete a Semi-Annual Status Report for all open projects. This report will include, at a minimum, the following sections:
  - a. Narrative. A narrative section outlining project milestones achieved;
  - b. Funding. A funding status update including all draws; and
  - c. Issues/Concerns. The report should outline any issues or concerns that may require the assistance.
3. The HOME Program Consultant or Community Development Staff will complete a Project Setup and Completion Form with request for retainage payment. The forms used differ by activity (Homeowner Rehab, Rental, and/or Homebuyer).
4. The HOME Program Consultant or Community Development Staff will enter the data into the IDIS system and report completed projects to HUD.

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## Monitoring

### OVERVIEW

To meet reporting requirements, the City must monitor its HOME Program activities for compliance and document the results.

### PROCEDURE

The HOME Program Consultant or Community Development Staff will maintain and implement the following:

1. Maintain monitoring reports in each project file.
2. Monitor the HOME Program based on the individual activity.
  - a. Owner Occupied Projects (Homeowner Rehabilitation and Homebuyer (if applicable): the City's loan service provider will monitor owner occupied projects for principal residency throughout the affordability period.
  - b. Rental Projects (if applicable): the City will monitor rental projects for the following factors:
    - i. Occupancy (income requirements);
    - ii. HOME Rents; and
    - iii. Property standards (units must meet HQS.)
    - iv. Rental property owners must submit an annual Rental Compliance Report to the City to be reviewed.
  - c. For rental projects, on-site inspections of HOME properties will occur according to the total number of units in a project as follows:
    - i. 1-4 units – every 3 years
    - ii. 5-25 units – every 2 years
    - iii. 26 or more units – annually
  - d. Sampling Units: large projects only require a sufficient sample to be inspected annually, at least 15-20% of the HOME-assisted units in a project and a minimum of one unit in every building.

### HOME PROGRAM RISK ANALYSIS, MONITORING PROCESS, AND PLAN

#### The Risk Analysis and Monitoring Process

It is the policy of the City of South Gate HOME Program to monitor all HOME-projects for risk analysis, program compliance, and long-term sustainability. The City’s Monitoring plan will address three HOME components:

1. The structures and infrastructures financed with HOME funds;
2. The actual beneficiaries of HOME program expenditures; and
3. The actual documentation that describes the actions and intentions of program participants (whether subrecipient, developer, or contractor).

## PROCEDURE

The City's Monitoring Procedure will include the review of three general areas:

1. Administrative and Financial Monitoring  
This monitoring will address program compliance and cross-cutting requirements;
2. Program Monitoring  
This monitoring will address overall HOME program performance;
3. Project Monitoring  
This monitoring will address specific HOME project compliance.

The goal of the City's monitoring process is to conduct a risk analysis to determine which program areas and specific HOME-funded projects should receive intensive monitoring in a given year. While attention will be paid to “higher risk” projects, the HOME Program will, at a minimum, conduct a “desk monitoring review” of all funded HOME projects on an annual basis.

To the greatest degree possible, the City’s monitoring checklists will incorporate the questions and concerns outlined in the CPD Monitoring Handbook 6509.2, Rev-6, Chapter 7 Program exhibits on the following page:

### CPD Monitoring Handbook 6509.2, Rev-6, Chapter 7:

<b>Exhibit 7 - 1</b>	HOME Participating Jurisdiction Pre-Monitoring Information Sheet
<b>Exhibit 7 - 2</b>	Guide for Review of Overall Management Systems
<b>Exhibit 7 - 3</b>	Guide for Review of Homeowner Rehabilitation Projects
<b>Exhibit 7 - 4</b>	Guide for Review of Homeowner Rehabilitation Programs
<b>Exhibit 7 - 5</b>	Guide for Review of Homebuyer Projects
<b>Exhibit 7 - 6</b>	Guide for Review of Homebuyer Programs
<b>Exhibit 7 - 7</b>	Guide for Review of Rental Projects
<b>Exhibit 7 - 8</b>	Guide for Review of Rental Programs
<b>Exhibit 7 - 11</b>	Guide for Review of Community Housing Development Organization (CHDO) Qualifications and Activities
<b>Exhibit 7 - 12</b>	<b>12</b> Guide for Review of Community Housing and Development Organization (CHDO) Procedures
<b>Exhibit 7 - 13</b>	Guide for Review of Match Requirements



<b>Exhibit 7 - 14</b>	Guide for Review of Beneficiary Written Agreements
<b>Exhibit 7 - 15</b>	Guide for Review of Contractor Written Agreements
<b>Exhibit 7 - 16</b>	Guide for Review of Owner, Developer, Sponsor Written Agreements
<b>Exhibit 7 - 17</b>	Guide for Review of State Recipient Written Agreements
<b>Exhibit 7 - 18</b>	Guide for Review of Subrecipient Written Agreements
<b>Exhibit 7 - 19</b>	Guide for Review of Subrecipient Management
<b>Exhibit 7 - 20</b>	Guide for Review of Financial Management <b>Attachment:</b> Attachment to Exhibit 7-20 Reviewer's Guide for Financial Management Review of HOME Participating Jurisdictions (PJs)
<b>Exhibit 7 - 21</b>	Guide for Review of Cost Allowability
<b>Exhibit 7 - 22</b>	Guide for Review of Procurement
<b>Exhibit 7 - 23</b>	Guide for Review of Equipment and Equipment Disposition

## PROCEDURE

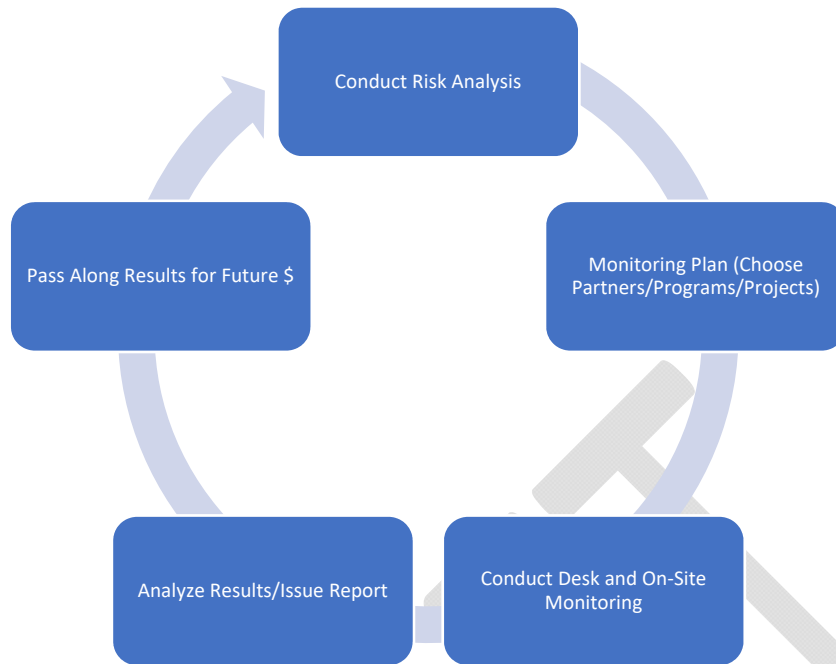
**Note:** While the City of South Gate does not operate all HOME program activities, they are listed here in the possibility that the City of CityName may decide to operate such in the future.

### A. Timing of HOME Monitoring

It is the policy of City of South Gate to conduct HOME monitoring as an ongoing process. The City will conduct on-going monitoring in three phases:

1. Initial review, analysis, and feasibility of project eligibility during threshold reviews
2. Monitoring during project development , implementation and operation
3. Monitoring for long-term sustainability and project completion

The on-going monitoring process is outlined in the following graphic:



**B. Monitoring Objectives**

**C. At a minimum, the objectives of the City’s HOME Monitoring process will include the following:**

1. Identify and track HOME program and project results;
2. Identify technical assistance needs for HOME, Subrecipient, developer and contractor staff;
3. Ensuring timely and appropriate expenditures of HOME funds;
4. Documenting compliance with all HOME and federal cross-cutting requirements;
5. Guaranteeing that federal funds are spent on eligible, allowable, and allocable costs; and
6. Making programmatic changes as necessary to safeguard the HOME program for the future.

It is the policy of City of South Gate to guarantee that all HOME program participants, whether Subrecipients, developers, contractors, or other HOME-funded entities, will comply with all HOME monitoring policies and objectives.

**D. Risk Assessment Process**

The City of South Gate monitoring process is based on risk analysis that attempts to quantify certain factors that can diminish the productivity and compliance of a funded HOME activity. To determine the relative risk of a specific HOME funded

activity, the City of South Gate will use the following HOME Risk factors to help determine those HOME projects and activities that receive both immediate monitoring preference (including on-site visit, greater than normal staff attention) and possible program interventions.

**E. HOME Risk Assessment Criteria, City of South Gate**

The City of South Gate has adopted the following criteria to be used in determining the relative risk of a HOME project or activity is found on the following page.

DRAFT

Subrecipient/Developer or Project Name		Date:		
Risk Factor	Type of Risk Factor	Risk Criteria		Comments
Project Complexity	Type of Program	Homeowner Rehab		
		Rental		
		CHDO-set-aside		
		Other (Specify)		
	Number of units	How many?		
	Number of beneficiaries	How many?		
	Multi-year project	Yes or No?		
Multi-financed project	HOME only?			
	# of lenders:			
Capacity of Subrecipient or Developer	Project staff turnover	Last year?		
	Past staff HOME experience	List projects		
	Projects completed	Number _____		
	Current awards	\$ _____		
	Project Completion	Est. date _____		
	Meeting all timelines	Yes or No?		
	Spending timeliness	Yes or No?		
Changes in organization	Within last year?			
Project Capacity	Amount of contract	\$ _____		
	Duration of contract	# days: _____		
	Development Team findings	Outstanding findings?		
Documentation	Timely Reports	Any outstanding?		
	Audit submissions	Always timely?		
		Any audit findings?		
	Project documentation	Documents missing?		
Regulatory compliance	Outstanding issues?			
Other Concerns	Regulatory Knowledge	Yes or no?		
	Outstanding issues	Yes or no?		
	Beneficiary complaints	Yes or no?		
	General Comments	Yes or no?		

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**EXHIBIT 14 - HOME Project Risk Assessment****F. Monitoring Schedule and Strategy**

Based on the risk analysis factors outlined above, the City will conduct HOME monitoring in the following manner:

**DESK REVIEWS** are conducted throughout the program year as reimbursement requests are submitted and quarterly when status reports are submitted. Desk reviews will include an analysis of all submitted reports, IDIS reports, draw requests and invoices and the risk factors outlined below. When desk reviews trigger “high risk” projects, the City will schedule on-site monitoring. A desk review should pay particular attention to the HOME application and executed HOME written agreement.

**ON-SITE MONITORING** will involve a site visit to the project to conduct an on-site document review and a physical assessment of any structural expenditure paid for with HOME funds at commencement of construction, completion of project, or when warranted by risk assessment. The on-site monitoring process will include the following steps and sample formats for letters of notification may be found in Exhibit A.

**PRE-SITE VISIT PREPARATION** is prepared by HOME staff for the on-site visit by reviewing the following in-house information:

- a. HOME funding application
  - b. HOME written agreement
  - c. HOME progress reports
  - d. Draw requests and supporting documentation
  - e. IDIS reports
  - f. Any HOME project correspondence
  - g. Any previous monitoring reports
  - h. The most recently submitted financial audits
1. Pre-Visit Letter prepared by the HOME staff to the project staff outlining the date, agenda, information to be available, staff to be accessible, and any specific areas that the staff plans to monitor on-site.
  2. Monitoring Checklist will be provided by the HOME staff will provide the appropriate project monitoring checklists from Exhibit 16, which will be utilized during the site visit. As necessary, HOME staff will use exhibits from the CPD Monitoring Handbook, Exhibit 7, HOME Program.

**3. Conducting the Monitoring Visit**

At a minimum, the on-site monitoring visit will consist of the following steps:

1. Entrance conference: to reiterate the purpose and goals of the visit
2. On-site data documentation and research
3. Visits with staff and beneficiaries
4. Exit conference: to present preliminary conclusions and “next steps”

#### 4. **Post-site Visit Follow-up**

Within two weeks of the exit interview, the HOME monitor will follow-up with the monitoring visit with a follow-up letter that outlines:

- a. Projects monitored
- b. Monitoring staff who conducted the visit
- c. Date(s) of the monitoring visit
- d. List of documents reviewed
- e. List of individuals interviewed
- f. Any conclusions reached from the visit
- g. Strengths and weaknesses of the project
- h. Any specific areas of non-compliance or findings
- i. Suggested corrective actions to “cure” any findings

#### 5. **Corrective Actions (if necessary)**

The HOME Monitor will establish a date specific for a response to the monitoring letter, for all corrective actions to be completed, and for the City to respond to the corrective actions.

#### 6. **Subsequent Follow-up**

The City reserves the right to revisit the project to determine compliance and when corrective actions are not undertaken, to use any and all remedies outlined in the HOME written agreement and HUD rules and regulations to enforce compliance.

In the final analysis, the results of City HOME monitoring will be a factor in determining funding in future year’s HOME competition for funding.

**EXHIBIT 15 – Sample Monitoring Visit Letters**

**NOTICE TO SUBRECIPIENT OR DEVELOPER OF COMPLIANCE REVIEW**

(Date)

John Doe  
35 Street Road  
City of South Gate, CA

Dear Mr./Ms. Doe:

Subject: Compliance Review HOME Program

We are planning to conduct a compliance review of your HOME project. This review will cover all aspects of your project administration and operations.

The review will take place on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m. The review will be conducted by \_\_\_\_\_, our HOME analysts.

It would be appreciated if you and members of your staff could give \_\_\_\_\_ whatever assistance is required to conduct the review. Should timing or scheduling pose a problem, however, \_\_\_\_\_ can be contacted by calling \_\_\_\_\_

Sincerely,

Abel Torres  
Housing and Grants Analyst

cc: Joe Perez  
Director of Community Development  
City of South Gate

**SAMPLE COMPLIANCE REVIEW**

(Date)

John Doe  
35 Street Road  
City of South Gate, California

Dear Mr./Ms. Doe:

Subject: Compliance Review HOME Program

Reference is made to our letter of \_\_\_\_\_, in which we requested your assistance in our review of compliance under your HOME program. As a result of our review, we have noted the following items which we feel should be brought to your attention. These items are based on our review of \_\_\_\_\_ projects.

- A. Projected Analysis
- B. Major Findings

Our review of \_\_\_\_\_ projects has revealed the following major problems:

- *designated corrective action*

Should you have any questions concerning our review, please contact \_\_\_\_\_,  
\_\_\_\_\_ at (\_\_\_\_)\_\_\_\_\_.

Sincerely,

Abel Torres  
Housing and Grants Analyst

cc: Joe Perez  
Director of Community Development  
City of South Gate



**EXHIBIT 16 – Monitoring Checklists**

<b>Questions to be asked/answered:</b>	<b>Yes/No/ Not Applicable /Not Reviewed</b>	<b>Information Source</b>	<b>Comments (Attached)</b>
1. Design program, establish goals and objectives, establish eligibility criteria, and identify tasks to be accomplished.			
2. Establishment of program files including:			
a. Contract file			
b. Equal opportunity file			
c. Applicant file			
d. Service recipient file (clients)			
e. Financial file (audit, HOME funds by year, ESPR's etc.) Files for other funding sources, expenditures.			
f. Quarterly Status Report files			
g. Correspondence file			
h. City Information Memo to Subrecipients (CIMS) file			
i. Monitoring file			
3. Solicitation for clients			
4. Program delivery			
5. Have the types of assistance/services to be provided been identified?			
6. Has a target area been established?			
7. Is there a standardized applicant selection process?			
8. Does the organization maintain records on recipients to include data on ethnicity, female head of household?			
9. Have applicant eligibility criteria been established using HUD income levels? Other criteria?			
10. Does the organization require a certification of income eligibility?			
11. Other:			

**CONSTRUCTION/PUBLIC IMPROVEMENTS CHECKLIST**

Questions to be asked/answered:	Yes/No/Not Applicable	Comments
<p><b><u>Architectural and/or Engineering (A/E)</u></b>  <b>A/E solicitation</b>                      - RFP, solicitation letter or notice                      - Statement of required qualifications                      - Ensure professional's eligibility</p>		
<p>Are the following documents on file:                      - Selection criteria document and/or selection procedure                      - Acceptable review of proposals/qualifications</p>		
<p>Contract provisions                      - General administrative provisions                      - Scope of services                      - Method of compensation                      - Federal compliance standards provisions</p>		
<p>A/E Documents                      - Executed A/E contract                      - Verification of Qualifications                      - Records of payments and supporting documentation                      - Contract amendments, if any                      - Correspondence</p>		
<p><b><u>Bid Document and Bid procedural documents</u></b>                      Copy of bid document on file?</p>		
<p>Bid document contents:                      Technical bid specifications                      Copy of applicable Federal Wage Determination Schedule                      Section 3 requirements and form</p>		
<p>Procedural documents on file                      Copy of Invitation to bid (or advertisement) on file?                      Letter of Bid Opening                      Letter of Award or Notice to Proceed</p>		
<p><b><u>Pre-Construction Conference:</u></b>                      Was a pre-construction conference held? Date?                      Attendance list (sign-in sheet)?                      Minutes of the pre-construction conference?</p>		
<p><b><u>Construction Contract:</u></b>                      Is there an executed contract in the file (with signed certifications)?</p>		
<p>Contract contents                      Specification documents (could be Bid Package)</p>		

<p>HUD 4010 “Federal Labor Standards Provisions” Applicable DOL Federal Wage Determination Schedule (or reference)</p>		
<p>Contract contents (continued)</p> <ul style="list-style-type: none"> <li>- Records retention clause</li> <li>- Contract termination clause</li> <li>- Cost information</li> <li>- Timetable including payment schedule</li> <li>- Bonds (Performance, Labor/Materials, etc.)</li> <li>- Insurance</li> <li>- Change order policy</li> </ul>		
<p><b><u>Prime Contractor Documents</u></b></p> <p>Are the following Prime Contractor items on file?</p> <ul style="list-style-type: none"> <li>- Prime Contractor’s eligibility (verification)</li> <li>- Contractor’s authorization form on file for payroll signature?</li> <li>- “Certification of Understanding and Authorization” for unauthorized persons to sign payrolls</li> <li>- Applicable Federal Wage Decisions (if any) Form HUD-4230A “Report of Additional Classification and Rate” (if any)</li> <li>- Certification for Applicable Fringe Benefit Payments for non-State/Federal deductions” (“Other”, if any) signed by employee</li> <li>- Section 3 Reports</li> </ul>		
<p>Payroll Documents:</p> <ul style="list-style-type: none"> <li>- Form WH-347 “Certified Payrolls” on file</li> <li>- Form WH-348 “Statement of Compliance” (signed)</li> <li>- Are the payrolls numbered?</li> <li>- Is there evidence of staff review and initials?</li> </ul>		
<p>Do the payrolls include:</p> <ul style="list-style-type: none"> <li>- Name</li> <li>- Address (required on first payroll only)</li> <li>- Social Security Number (required on first payroll only)</li> <li>- Correct classification</li> <li>- Hourly rates of wages paid</li> <li>- Daily and weekly number of hours worked</li> <li>- Deductions made</li> <li>- Actual wages paid</li> </ul>		

Is there a correspondence file containing wage dispute information, violations, and wage restitution?		
<b><u>Apprentices</u></b> Are all apprentices' part of a registered apprentice/trainee program verified by documentation?		
Do the apprentice/trainee ratios and wage rates comply with programs?		
<b><u>Employee interviews</u></b> Were employee interviews conducted? Are Form HUD-11 "Employee Interview" on file? Are forms complete? Were sufficient employee interviews conducted? (One per sub-contractor; 10% of classification, etc., which are representative of trades and workers.)		
<b><u>Job site inspections</u></b> Are there records of job site inspections for required signage, i.e., EEO posters, wage determination, etc? Pictures of job site verifying signage and posters?		
<b><u>Project Documents:</u></b> Change Orders: - Are copies of all change orders on file? - Are change order approval letters on file (or evidence of approval)?		
Construction management documents: - Payment records? - Proof of payment (copies of checks, etc.)? - Milestone records? - Notice of completion?		
Project Completion documents: - Final Inspection and Acceptance - Completion of Compliance Files - Close-out Procedures (if any) - Completion Letter to HUD		

**ENVIRONMENTAL CHECKLIST**

<b>Questions to be asked/answered:</b>	<b>Yes/No/Not Applicable/ Not Reviewed</b>	<b>Information Source</b>	<b>Comments (Attached)</b>
Is the project in compliance with federal labor standards provisions?			
Have environmental reviews been cleared?			
Has the City and HUD issued formal approval to proceed?			
Is there evidence of compliance with CEQA?			
Is the project consistent with Citywide environmental goals?			
Has the project been reviewed for: <ul style="list-style-type: none"> <li>- Categorical exclusion?</li> <li>- Applicability of prior environmental reviews?</li> </ul>			
Does the environmental review process include: <ul style="list-style-type: none"> <li>- Assessment of project environmental effects?</li> <li>- Assessment of cumulative impacts?</li> <li>- Assessment of mitigations?</li> <li>- Implementation decisions?</li> <li>- Follow-up monitoring and inspection?</li> </ul>			
Does the file contain: <ul style="list-style-type: none"> <li>- A notice of release of funds?</li> <li>- A request for release of funds and certification?</li> <li>- State and local environmental analysis and reports?</li> </ul>			
Is there evidence of compliance with NEPA?			

**FINANCIAL/ACCOUNTING CHECKLIST**

<b>Questions to be asked/answered:</b>	<b>Yes/No/ Not Applicable /Not Reviewed</b>	<b>Information Source</b>	<b>Comments (Attached)</b>
Does the organization operate on a basis of: - Cash - Accrual			
Does the organization maintain: - A double entry accounting system? - A general ledger? A cash receipts journal? - A cash disbursements journal? - A payroll ledger?			
In the cash journal, is the following included: - Date? - Receipt number: - Cash debit columns? - Income credit columns?			
Do income credit columns (above) identify: - Organization/city payments? - Contributions? - Other income? - Description?			
In cash disbursements journal, is the following included: - Date? - Check number? - Cash (credit) column? - Expense account name? - Description?			
Does the General Ledger include: - Assets? - Liabilities? - Fund balances? - Expenditures? - Revenues?			
Does the Payroll Ledger include: - Name? - Position?			

- Social Security Number? - Payment records, including: Accrual period? Gross pay? Itemized deductions? Check number?			
Does Petty Cash include: - Record of disbursements? - Supporting receipts?			
Are checks filed numerically?			
Are invoices filed by date?			
Are invoices filed by vendor name?			
Are vouchers filed numerically?			
Are timecards filed by date?			
Are timecards filed alphabetically?			
Are purchase orders on file?			
Are ESPRs on file?			
Are encumbrances/obligations recorded against HOME funds?			
Do the following seem reasonable and necessary: - Salaries and related costs? - Administrative services? - Contracts? - Travel expenditures? - Other administrative costs?			
Is there program income?			
If program income, is there evidence of: - Revenue accounts? - Revenue procedures?			
Is program income in accordance with contract?			
Are any and all advances maintained in interest-bearing accounts?			
Do financial records allow for the following kinds of disclosure of financial results: - Current? - Accurate? - Complete?			
Is there effective control over funds?			
Is there effective accountability for funds?			
Are costs exceeding the budget?			
What procedures are used to allow changes to the original budget?			

How effective are the financial management systems?			
Is there fiscal integrity of all financial transactions?			
Is there a procedure to ensure the timely and appropriate response to and resolution of audit findings?			
Is there analysis of and explanation for cost overruns?			
Is there analysis of and explanation for high unit costs?			
Is there a need for change in the budget estimates?			
<b>FOR PROJECT ACCOUNTS ONLY:</b> - Are separate account numbers maintained for each project activity? - Can project costs be broken out on a line item basis? - Can budget line items be compared against incurred cost?			
Are there regular financial status reports?			
Are there appropriate controls for accountability?			
Is there an approved budget for the project?			
Is there reconciliation of financial data and quarterly status reports?			
Is there program income?			
Is there evidence of internal monitoring?			
Is source documentation collected prior to any disbursements?			
Are independent audits conducted?			



**IDENTIFICATION OF GOALS/ELIGIBILITY CHECKLIST**

<b>Questions to be asked/answered:</b>	<b>Yes/No/ Not Applicable /Not Reviewed</b>	<b>Information Source</b>	<b>Comments (Attached)</b>
Has the organization identified: <ul style="list-style-type: none"> <li>- A scope of services?</li> <li>- The number of people to be served?</li> <li>- The time period in which the project is to be completed?</li> <li>- Its intended client group?</li> <li>- The number and percentage of persons of lower/moderate income?</li> </ul>			
What are the measurable goals of this project?			
What are the measurable accomplishments of the project to date?			
What are the reasons for goals not having been met?			
Was a needs assessment conducted?			
How adequate was the project proposal?			
What are the project's strengths?			
What are the project's weaknesses?			
Is there evidence of compliance with HOME primary objectives?			

**PROCUREMENT CHECKLIST**

<b>Questions to be asked/answered:</b>	<b>Yes/No/ Not Applicable /Not Reviewed</b>	<b>Information Source</b>	<b>Comments (Attached)</b>
Is there an established method for procurement?			
Does the procurement method include: - Small purchases? - Competitive sealed bids? - Competitive negotiation?			
Are there bonding and insurance requirements listed?			
Is there a procedure to encourage contracting with: - Section 3 businesses - Small businesses? - Minority-owned businesses? - Women-owned businesses? - Labor surplus area businesses?			
Is there evidence of affirmative action?			
Have written standards of conduct been established? If yes, has disciplinary action been defined?			
Is there a procedure to avoid conflict of interest?			
Is there a procedure for ensuring no unnecessary or duplicative purchase?			
Is there a clear and accurate description of the technical requirements in all procurement documents?			
In procuring, is there consideration of: - Contractor integrity? - Past performance? - Financial and technical resources? - Price and/or cost analysis? - System for contract administration?			
Are there established requirements for professional services?			
Is maximized competition encouraged?			
Are there complete files on all procurements?			

**PROJECT MANAGEMENT CHECKLIST**

Questions to be asked/answered:	Yes/No/ Not Applicable /Not Reviewed	Information Source	Comments (Attached)
Has the project schedule been identified?			
Is there appropriate separation of HOME and non-HOME records?			
Is there a procedure for procurement?			
Is there a procedure for contracting?			
Is there maintenance of client files?			
Is the project manager sufficiently involved in the day-to-day operations of the project?			
Is the project in compliance with the following aspects of the contract: - Operating budget? - Scope of service? - Intended beneficiaries - Method of payment? - Performance schedule? - Use of program income?			
Is there any evidence of conflict of interest?			
Have procedures for relocation been developed?			
Have milestones been established?			
Does the organization have insurance coverage?			
Is there a sufficient number of people on staff?			
Does the organization track the project's physical progress?			
Is the organization aware of civil rights requirements?			
Does the organization attend subgrantee meetings?			
What is the organization's capacity to continue to use HOME funds?			
Is there a listing of officers and directors on file?			
Is there a proof of the organization's legal authority?			
Does the organization have a policy on the disposition of HOME-funded property?			
Do the conditions of employment seem adequate?			

Is there compliance with and knowledge of: - Environmental requirements? - Historic preservation? - Hatch Act? - National Flood Insurance Program? - Clean Air Act? - Federal Water Pollution Control Act? - Lead-based Paint Poisoning Prevention Act?			
Is there any evidence for potential delays or adverse conditions?			
What favorable events have occurred throughout this project?			
Is the project manager sufficiently familiar with HUD's basic requirements?			
Are records kept for a minimum of three years?			
Is there evidence of lobbying with HOME funds?			

**REHABILITATION CHECKLIST**

<b>Questions to be asked/answered:</b>	<b>Yes/No/ Not Applicable /Not Reviewed</b>	<b>Information Source</b>	<b>Comments (Attached)</b>
<b>Rehabilitation Program Administration</b>			
Is the program design and administration adequate?			
Has a contracting process been established?			
Is there a reasonable relationship between workload and staffing? (e.g., 25 cases per person)			
Is there a lump sum agreement in effect?			
Is there a plan for minimizing displacement?			
Is this: - A grant program? - A direct loan program? - A leveraged loan program?			
Are the following tracking system documents maintained: - Property inspection? - Loan processing status? - Approved projects? - Construction status?			

- Record of cases?			
Are the procedures and documentation for ensuring low/mod benefit adequate?			
Is there a clear record of administrative costs?			
Is there compliance with and knowledge of: - Environmental requirements? - Historic preservation? - National Flood Insurance Program? - Lead-based Paint Poisoning Prevention Act?			
Have the following steps been taken: 1) Establishment of goals and objectives? 2) Program design/procedural requirements established: - Eligibility criteria (property, applicant, types of improvements - Maximum grant/loan amount - Contracting requirements 3) Management organization and staffing? 4) Solicitation for clients/preliminary screening of applicants? 5) Work write-ups, cost estimates and selection of recipients? 6) Rehabilitation contracting?			
<b>Individual Rehabilitation Files and Cases</b>			
Do the individual rehabilitation case files include the following: - Case activity log? - Applicant data sheet? - Title/deed? - Income verification? - Property description? - Occupancy data? - Tenure? - Work write-up? - Executed contracts? - Change orders? - Inspection reports? - Payment requests? - Certificate of completion? - Liens and/or waivers?			
Is the following material on file: - Contract package for rehabilitation projects?			

- Notice of acceptance of work? - Release of lien forms? - Evidence of historic preservation data on each property rehabilitated? - Evidence of flood control insurance for each property rehabilitated?			
<b>Code Enforcement Program Checklist</b>			
Is there a Code Enforcement program that coordinates with the Housing Rehabilitation Program?			
How are code enforcement cases identified?			
How are the cases recorded? Categories?			
How are closed cases recorded and reported for HOME?			
What is the staffing for the Code Enforcement Program?			
Does the City have a Code Enforcement program for non-HOME eligible areas? How is it kept separate?			

**Integrated Disbursement and Information System (IDIS)**

The City of South Gate is required by HUD to use the IDIS system to accomplish two key objectives:

1. To manage and account for disbursements of HOME funds; and
2. To collect, consolidate and report information regarding HOME Program performance.

The City of South Gate will implement the following general IDIS procedures:

1. Complete all HOME Program Set-up forms to ensure that all HOME Program requirements have been met, no work shall begin until all documentation has been executed and a Notice to Proceed is issued by the City of South Gate.
2. Disburse HOME Program funds only when all of the following conditions have been met:
  - a. Required environmental review process has been satisfactorily completed.
  - b. Project closing documents are finalized.

- c. The City has approved the timing of HOME Program fund disbursements (e.g., how the funds will be disbursed: at the beginning of the project or on a prorated basis, or as final funds are disbursed); and
    - d. Disburse funds according to the payment details including timeline for reimbursement outlined in the project closing documents, specifically the HOME Written Agreement.
    - e. Retainage will be released thirty (30) days after the final inspection is approved and upon the City's receipt of pay request and all completion documentation.
3. If any HOME Program funded project has an available balance after development completion and release of retainage, City of South Gate will de-obligate those funds and reallocate such balance of HOME Program funds to other eligible activities according to City of South Gate adopted HOME Program allocation process.

## CHAPTER 7: OTHER FEDERAL REQUIREMENTS

The Federal requirements addressed in this chapter are non-discrimination and equal access, employment and contracting, environmental requirements, lead-based paint, and relocation.

While the HOME Program has its own regulations, there are additional cross-cutting federal requirements that must be identified and complied with at the appropriate point in project management.

- a. Exhibit 17 presents guidance on the impact of these additional requirements on the HOME project; and
- b. Exhibit 18 describes how the City may demonstrate compliance with applicable requirements.

<b>EXHIBIT 17: Managing A Project Subject to Other Federal Requirements</b>	
<b>Requirement</b>	<b>Impact on the Project</b>
Environmental review of activities	A City cannot commit funds to a project until the appropriate level of environmental review is completed and a Release of Funds is received.
Section 3	Construction contracts of \$200,000 or more must include language regarding best efforts to include businesses and low-income residents in the project area. This applies to the hiring of additional workers and training them, and using project-area suppliers for materials. The City of South Gate may set specific goals based on additional requirements set by HUD that may impact how quickly the project can get under construction.
Women/Minority Business Enterprise	All competitive bidding must include Women and Minority Businesses, including sub-contracts. The City must ensure that these firms have a fair opportunity to participate and current lists of W/MBE firms must be maintained.
Contractor selection	The City must check the website at <a href="http://www.sam.gov">www.sam.gov</a> to determine if a contractor has been suspended or disbarred before awarding HOME funds to any firm. All building projects in excess of \$100,000 must be designed by a state-licensed architect and all infrastructure projects in excess of \$25,000 must be designed by a state licensed engineer.
Procurement	The City's procurement policies specify bidding requirements for construction, including competitive and formal bidding.
Conflict of interest	The City need be fully aware of parties involved in a contract and seek legal counsel if there is the potential for real or perceived COI.
Equal Employment Opportunity	The City must ensure that all construction contracts over \$10,000 (including sub-contracts) have language prohibiting employment discrimination based on race, color, religion, sex, or national origin.



Lead Safe Housing Requirements (rehab of pre-1978 units)	When there is HOME assistance involving pre-1978 properties, the City must have qualified staff (or hire them for the project) to notify occupants of the hazards of LBP and take the appropriate approach for various activities; qualified staff must be involved in inspections and clearance actions and report preparation.
Cost reasonableness	The City must have qualified cost estimators available to assist in bid preparation and contract awards, as well as reviewing payment requests.
Americans with Disabilities Act (ADA)	The City must make an internal review of its programs and communications to ensure they are accessible to and usable by persons with disabilities. This may include working with advocacy groups to achieve compliance.
Fair Housing requirements	The City must determine if there are under-served populations who are eligible for HOME assistance, and if they are non-English speaking or have literacy challenges, the agency may work with advocacy groups to translate or otherwise reach these households.
Affirmative Marketing	The City must develop and adopt an Affirmative Marketing Plan and ensure that owners of properties with five or more HOME units are aware of the policy and follow it.
Section 504	The City must ensure that specifications for new construction of multifamily dwellings meet the design and construction standards of the Fair Housing Act to make units accessible and the requirements were included in contracts for substantial rehabilitation of buildings with 15 or more units when rehab exceeds 75% of replacement costs. In other projects, the Recipient should work with the developer/owner to make units adaptable and/or accessible as is financially feasible.
Energy conservation	The City must become familiar with the International Energy Conservation Code and include its requirements in all contracts for residential new construction.
Labor requirements, including Davis-Bacon	Before beginning construction or rehab of projects with 12 or more HOME assisted units, the City must obtain the prevailing wages for various building trades must be obtained from the Department of Labor (DOL); someone must be designated to monitor work on site and payrolls; report as required by D-B and related acts.
Uniform Relocation Act and Section 104(d)	The City is responsible for ensuring that tenants in properties that may be acquired or rehabilitated receive correct and timely notices and protections; owners of units to be acquired through a Homebuyer assistance program must receive the "Notice to Owner" for voluntary acquisitions, and tenant living in units purchased with HOME funds are protected by the URA. If units are demolished or converted with HOME funds, 104(d) may be triggered and appropriate notices and assistance must be provided. Since no one can be forced to move (displaced)

	without at least 30 days' notice, a project may not meet a developer's schedule.
<b>EXHIBIT 18: Documenting Compliance with Other Federal Requirements</b>	
<b>Requirement</b>	<b>Documentation</b>
Environmental review of activities	Files demonstrate appropriate level of review, notification, requests for release of funds, publications, and dates for commitments and covered activities were not begun until funds were released.
Section 3	To the greatest extent feasible, efforts were made to include businesses and low-income residents in the project area in construction contracts for workers and suppliers; training programs, as appropriate were developed and used to provide opportunities for construction employment.
Women/Minority Business Enterprise	Files demonstrate that the City followed its policies for reaching out and including MBE/WBE firms in contracts and invitations for bidding work.
Contractor selection	File supports selection of contractor(s) who were not on the list of suspended or de-barred contractors
Procurement	There is evidence of free and open competition for funds and contracts according to the City of South Gate policies and program requirements that apply.
Conflict of interest	There is no evidence of preferential treatment for developers, beneficiaries, contractors, or suppliers due to relationships to those in decision-making positions.
Equal Employment Opportunity	Language prohibiting employment discrimination based on race, color, religion, sex, or national origin is included in all construction contracts over \$10,000.
Lead Safe Housing Requirements (rehab of pre-1978 units)	Appropriate notices and approaches are used for various activities; qualified staff is involved in inspections and clearance actions; reports demonstrate a knowledge of rules and compliance.
Cost reasonableness	Cost estimates are prepared prior to bids by knowledgeable persons; bidding and payments are within estimates or documented if they deviated; payment requests are supported by bills, invoices or other documentation.
Americans with Disabilities Act (ADA)	Programs were accessible to and usable by persons with disabilities, including removing communications barriers.
Fair Housing requirements	Files support outreach to all classes; programs were available to all persons and efforts were made to overcome barriers to participation
Affirmative Marketing	Files demonstrate that projects with five or more HOME-assisted units were affirmatively marketed by following policies, and records document actions taken.

Section 504	Specifications for new construction of multi-family dwellings met the design and construction standards of the Fair Housing Act to make units accessible and requirements were included in contracts for substantial rehabilitation of building with 15 or more units when rehab exceeded 75% of replacement costs. When this threshold was not triggered, to the extent financially feasible, units were made adaptable or accessible.
Energy conservation	Drawings and specifications for newly-constructed units must reference the requirements of the International Energy Conservation Code. Structures rated by a certified rater for Energy Star qualifications.
Labor requirements, including Davis-Bacon	For rehabilitation or new construction of projects with 12 or more HOME assisted units, the prevailing wage must be obtained from the Department of Labor (DOL) and paid for each of the trades; payments must be monitored on site and reported. Wage determination applicable to each project must be included as part of the contract documents.
Uniform Relocation Act and Section 104(d)	For properties with tenants in occupancy, correct and timely notices and protections were provided and are on file.

**Non-Discrimination and Equal Access**

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by HOME funds.

The City will take the following measures to ensure non-discriminatory treatment, outreach, and access to program resources. This applies to employment and contracting, as well as to marketing and selection of program participants.

**1. Fair Housing and Equal Opportunity**

The City of South Gate will comply with all of the following Federal laws, executive orders and regulations pertaining to fair housing and equal opportunity as summarized below.

1. Title VI of the Civil Rights Act of 1964, As Amended (42 USC 2000d et seq.): States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, or national origin. The regulations implementing the Title VI Civil Rights Act provisions for HUD programs may be found in 24 CFR Part 1.

2. The Fair Housing Act (42 U.S.C. 3601-3620): Prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Furthermore, section 104(b)(2) of the Act requires that each grantee certify to the secretary of HUD that it is affirmatively furthering fair housing. The certification specifically requires grantees to conduct a fair housing analysis, develop a fair housing plan, take appropriate actions to overcome the effects of any impediments identified, and maintain records on the analysis, plan, and actions in this regard. Fair Housing Act implementing regulations for HUD programs may be found in 24 CFR Part 100-115.
3. Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259): Prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds. Equal Opportunity in Housing regulations may be found in 24 CFR Part 107.
4. Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101): Prohibits age discrimination in programs receiving Federal financial assistance. Age Discrimination Act regulations may be found in 24 CFR Part 146.

## **2. Affirmative Marketing**

In the event that the City of South Gate implement a housing program using funds with five or more HOME-assisted units, the City will adopt an affirmative marketing plan that that includes procedures and requirements including:

1. Methods for informing the public, owners and potential tenants about fair housing laws and the City's policies (for example: use of the Fair Housing logo, or equal opportunity language);
2. A description of what owners and/or the City will do to affirmatively market housing assisted with HOME funds;
3. A description of what owners and/or the City will do to inform persons not likely to apply for housing without special outreach
4. Maintenance of record to document actions taken to affirmatively market HOME-assisted units and to assess marketing effectiveness, and

5. A description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.

### **3. Handicapped Accessibility**

The City will adhere to the HOME regulations governing the accessibility of Federally-assisted buildings, facilities, and programs.

Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225): Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable, and able to be carried out without much difficulty or expense.

Fair Housing Act: Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19).

Section 504: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in Federally assisted programs on the basis of handicap. Section 504 imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive Federal funds. Under Section 504, recipients and subrecipients are defined more broadly than under the HOME program. Section 504 recipients and subrecipients include any entity that receives Federal funding (for example, a subrecipient, or CHDO). The specific requirements under Section 504 are summarized in Exhibit 19 below:

**EXHIBIT 19****Section 504 Requirements****Removal of Physical Barriers**

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

**PROVIDE PROGRAM ACCESSIBILITY**

- Individuals with handicaps must be able to find out about, apply for, and participate in Federally assisted programs or activities.
- Special communication systems may be needed for outreach and ongoing communication

(e.g., Telecommunications Devices for the Deaf (TDD), materials on tape or in Braille, accessible locations for activities and meetings).

- Policies and procedures must be non-discriminatory (e.g., housing providers may not ask people with handicaps questions not asked of all applicants, screen individuals with handicaps differently or assess an individual's ability to live independently).

#### MAKE EMPLOYMENT ACCESSIBLE

- Employers must not discriminate.
- Employers must remove physical and administrative barriers to employment.
- Employers must make reasonable accommodations for individuals with known handicaps (e.g., job restructuring, providing readers or sign interpreters, making facilities accessible).

#### ADMINISTRATIVE REQUIREMENTS

- If recipients or subrecipients have 15 or more employees, they must:
  - designate a Section 504 Coordinator, and
  - notify program participants and employees of non-discrimination policies.
- All recipients and subrecipients must conduct self-evaluations of compliance with Section 504.

For any recipient or subrecipient principally involved in housing or social services, all of the activities of the agency -- not just those directly receiving Federal assistance -- are covered under Section 504.

Contractors and vendors are subject to Section 504 requirements only in the work they do on behalf of a recipient or subrecipient.

The ultimate beneficiary of the Federal assistance is not subject to Section 504 requirements. Under Section 504, recipients and subrecipients are not required to take actions that create undue financial and administrative burdens or alter the fundamental nature of the program.

### Employment and Contractor

The cross-cutting Federal regulations discussed below govern employment and contracting opportunities, including equal opportunity, labor requirements and contracting/procurement procedures.

## 1. Equal Opportunity

The City of South Gate has established an “Affirmative Fair Housing Marketing Plan” to ensure that the allocated HOME Funds promote fair housing and ensures outreach to all potentially eligible households, especially those least likely to apply for assistance.

The City'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 the Equal Employment Opportunity, Executive Order 11246, as amended and Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin.

*Note: Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000. Implementing regulations may be found at 41 CFR Part 60.*

### PROCEDURE

Currently, the City of South Gate is not administrating a program containing five or more HOME assisted units. However, in the future it will abide by the HOME Final Rule regarding affirmative marketing procedures and requirements apply to rental and homebuyer projects containing five or more HOME-assisted units.

Should the City decided to implement such program it will commit to the goals of affirmative marketing that will be implemented through the following procedures:

1. 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;
2. Keeping informed about fair housing laws and practices;
3. Informing clients and customers about their rights and responsibilities under the fair housing laws by providing verbal and written information;
4. Evaluating the effectiveness and compliance of all marketing as it relates to fair housing;
5. 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;





6. Displaying the HUD's fair housing posters (at a minimum, English and Spanish versions) in rental offices or other appropriate locations;
7. 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;
8. Maintaining documentation of all marketing efforts (such as copies of newspaper ads, memos of phone calls, copies of letters).
9. 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.

## **ASSESSMENT**

In conjunction with the annual on-site compliance reviews, the City of South Gate will:

1. Review and evaluate records of affirmative marketing efforts (advertisements, flyers, and electronic media spots, etc.);
2. Evaluate outcomes and effectiveness of marketing efforts and make changes where needed.
3. 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:

1. For failure to comply, the City of South Gate will set a probationary period for compliance, not to exceed six months, during which time the City will provide more specific guidelines for compliance.

2. Further failure to comply with the affirmative marketing requirements may result in the withdrawal of HOME support.
3. Further failure to take appropriate actions to correct discrepancies in affirmative marketing programs may result in steps to recover all invested HOME funds.

### Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires that, to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low-income persons residing in the program service area. In addition, to the greatest extent feasible, contracts for work (all types) to be performed in connection with HOME will be awarded to business concerns that are located in or owned by persons residing in the program service area.

#### **Minority/Women's Business Enterprise**

Under Executive Orders 11625, 12432 and 12138, the City of South Gate must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts (See 24 CFR 85.36(e)).

#### **PROCEDURE**

1. The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632) and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### **Davis Bacon Labor Requirements**

The City of South Gate will comply with regulations on wage and labor standards. In the case of Davis-Bacon and the Contract Work Hours and Safety Standards Acts, every contract for the construction of housing (rehabilitation or new) that contains 12 or more units assisted with HOME funds triggers the requirements.

**Davis-Bacon and Related Acts (40 USC 276(A)-7)**

The Davis-Bacon and Related Acts ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.

**PROCEDURE**

1. The City of South Gate requires that 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.
2. Work Hours and Safety Standards Act.
3. 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.

**Title I of Housing and Community Development Act of 1974:**

The City of South Gate ***will not***:

1. 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
2. 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
3. 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.

**Additional information regarding Executive Orders is available by:**

- 11625 - Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise,
- 12432 - Minority business enterprise development, and
- 12138 - National Women's Business Enterprise Policy and National Program for

- Women's Business Enterprise.
- [http://www.archives.gov/federal\\_register/codification/executive\\_order/11625.html](http://www.archives.gov/federal_register/codification/executive_order/11625.html)
- [http://www.archives.gov/federal\\_register/codification/executive\\_order/12432.html](http://www.archives.gov/federal_register/codification/executive_order/12432.html)
- <http://www.usdoj.gov/crt/cor/byagency/sbaeo12138.htm>

### **Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333)**

This ACT provides that mechanics and laborers employed on federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.

### **Copeland (Anti-Kickback) Act (40 USC 276c)**

The Copeland Anti-Kickback Act governs the deductions from paychecks that are allowable. Additionally, it makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he or she is entitled and requires all contractors to submit weekly payrolls and statements of compliance.

### **Fair Labor Standards Act of 1938, As Amended (29 USC 201, et. seq.)**

The Fair Labor Standards Act establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.

### **Site and Neighborhood Standards**

Housing provided through the HOME Program must promote greater choice of housing opportunities. Specific rules are as follows:

1. HOME-provided housing must be suitable from the standpoint of facilitating and furthering full compliance with the Title VI of the Civil Rights Act - 1964, the Fair Housing Act and Executive Order 11063.
2. The Final Rule requires only new construction rental projects to meet site and neighborhood standards from 24 CFR 983.6(b), which places limiting conditions on building in areas of "minority concentration" and that are "racially mixed."

**PROCEDURE**

1. The City of South Gate uses project information provided by owners/developers/sponsors/CHDOs to complete the Site and Neighborhood Standards Review form and document compliance with the Site and Neighborhood requirements.
2. The City reserves the right to request additional clarification and materials from owners/developers/sponsors for adequate documentation of compliance.

**Lead-Based Paint Safe Housing Rule****24 CFR part 35, subpart J**

On September 15, 1999, HUD issued a new Federal lead-based paint regulation implementing Title X of the Housing and Community Development Act of 1992. This regulation makes many important changes in the lead-based paint requirements applicable to housing funded through HUD's Community Planning and Development (CPD) programs.

The Lead Safe Housing Rule regulations that apply to rehabilitation activities are found at 24 CFR part 35, subpart J. The rehabilitation regulations distinguish among four approaches depending on the size of the rehabilitation effort. Understanding each approach and how to determine the level of rehabilitation assistance is the first step in deciding what lead safe housing requirements apply to a rehabilitation project. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead. The regulation is divided into subparts that apply to the HOME program include:

1. Subpart A: Disclosure
2. Subpart B: General Requirements and Definitions
3. Subpart J: Rehabilitation
4. Subpart K: Acquisition, Leasing, Support Services, and Operations
5. Subpart M: Tenant-Based Rental Assistance
6. Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction

On April 22, 2008, the EPA issued the [Renovation, Repair, and Painting Rule](#) (RRP) a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, beginning April 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination. Until that time, HUD and EPA recommend that anyone performing renovation, repair, and painting projects that disturb lead-based paint in pre-1978 homes, child care facilities and schools follow lead-safe work practices.

There are some differences between the EPA RRP Rule and the HUD Lead Safe Housing Rule. A major difference is that the LSHR requires clearance examinations. All housing receiving federal assistance must still comply with the LSHR.

All contractors should follow these three simple procedures:

1. Contain the work area.
2. Minimize dust.
3. Clean up thoroughly.

From December 2008, the rule has required that contractors performing renovation, repair and painting projects that disturb lead-based paint provide to owners and occupants of child care facilities and to parents and guardians of children under age six that attend child care facilities built prior to 1978 the lead hazard information pamphlet **Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools** (PDF) | **en espanol** (PDF).

Starting on April 22, 2010, the rule will affect paid renovators who work in pre-1978 housing and child-occupied facilities, including:

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

Under the rule, child-occupied facilities are defined as residential, public, or commercial buildings where children under age six are present on a regular basis. The requirements apply to renovation, repair, or painting activities. The rule does not apply to minor maintenance or repair activities where less than six square feet of lead-based paint is disturbed in a room or where less than 20 square feet of lead-based paint is disturbed on the exterior. Window replacement is not minor maintenance or repair.

For additional guidance, refer to: EPA's **Lead Renovation, Repair, and Painting Program Rule**.

Additional information on becoming an EPA-certified renovator or training provider is available on **EPA's Renovator and Trainer Tool Box site**.

HUD defines four approaches to address lead-based paint in HOME funded Projects. The Exhibit 20 on the following page details each approach.

EXHIBIT 20 APPROACHES TO IMPLEMENTING LEAD HAZARD EVALUATION AND REDUCTION		
APPROACH 1 - DO NO HARM		
LEAD HAZARD EVALUATION	LEAD HAZARD REDUCTION	Options
<ul style="list-style-type: none"> <li>▪ Paint testing performed on surfaces to be disturbed.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Repair surfaces disturbed during work.</li> <li>▪ Safe work practices used when working on areas identified as lead-based paint.</li> <li>▪ Clearance performed.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.</li> </ul>

<b>APPROACH 2 - IDENTIFY AND STABILIZE DETERIORATED PAINT</b>		
<b>LEAD HAZARD EVALUATION</b> <ul style="list-style-type: none"> <li>Visual assessment performed to identify deteriorated paint.</li> </ul>	<b>LEAD HAZARD REDUCTION</b> <ul style="list-style-type: none"> <li>Paint stabilization of identified deteriorated paint.</li> <li>Safe work practices used.</li> <li>Clearance performed.</li> </ul>	<b>Options</b> <ul style="list-style-type: none"> <li>Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.</li> </ul>
<b>APPROACH 3 - IDENTIFY AND CONTROL LEAD HAZARDS</b>		
<b>LEAD HAZARD EVALUATION</b> <ul style="list-style-type: none"> <li>Paint testing performed on surfaces to be disturbed.</li> <li>Risk assessment performed on entire dwelling.</li> </ul>	<b>LEAD HAZARD REDUCTION</b> <ul style="list-style-type: none"> <li>Interim controls performed on identified hazards.</li> <li>Safe work practices used.</li> <li>Clearance performed</li> </ul>	<b>Options</b> <ul style="list-style-type: none"> <li>Presume lead based paint and/or lead based paint hazards are present and perform standard treatments.</li> </ul>
<b>APPROACH 4 - IDENTIFY AND ABATE LEAD HAZARDS</b>		
<b>LEAD HAZARD EVALUATION</b> <ul style="list-style-type: none"> <li>Paint testing performed on surfaces to be disturbed.</li> <li>Risk assessment performed on entire dwelling.</li> </ul>	<b>LEAD HAZARD REDUCTION</b> <ul style="list-style-type: none"> <li>Abatement performed on identified hazards.</li> <li>Interim controls performed on identified hazards on the exterior that are not disturbed by Rehabilitation.</li> <li>Safe work practices used.</li> <li>Clearance performed.</li> </ul>	<b>Options</b> <ul style="list-style-type: none"> <li>Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces –deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.</li> </ul>

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## GLOSSARY OF HOME TERMS

**Action Plan:** The one-year portion of the Consolidated Plan (see below). It includes the PJ's 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 childcare (these are the same adjustment factors used by the Section 8 Program).

**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. Affordability requirements vary depending upon the nature of the HOME assisted activity (i.e., homeownership or rental housing).

**Annual Income:** The HOME Program allows the use of one of three definitions of annual income: Section 8 annual income; annual income as reported on the U.S. Census long form; and adjusted gross income as defined for reporting on IRS Form 1040.

**Applicant(s):** A person or persons who appear on the title to the property and that apply for a loan under the HOMEOWNER REHABILITATION ACTIVITIES. All persons appearing on the title must agree to apply and execute all documents required.

**Borrower:** A person or persons who appear on the title to the property, signs the Written Agreement with the City and signs the loan documents with the City, thereby becoming legally responsible for any repayment of the HOMEOWNER REHABILITATION ACTIVITIES loan.

**Building and Safety Code:** The City's residential codes and ordinances pertaining to housing construction, land use, occupancy and maintenance of existing residential properties which are applicable to the property through Code Enforcement action.

**Building Inspector:** The City employee(s) responsible for inspection(s) of structural, electrical, plumbing, improvements. The inspector assures compliance of work to applicable Building and Safety Codes.

**Building Division:** The Department of the City responsible for issuance of building permits.

**Building Permit:** An authorization by the Building Division to commence building repairs or improvements on a specific property; Permits must be issued for most home improvements, including, but not limited to, roofing, electrical, plumbing, structural changes, and foundations. A fee is charged for permits and inspections are included in the permit cost.



**California Preliminary Notice:** A notice sent to the owner of the dwelling unit by any person or supplier providing labor, services, equipment, or materials for the rehabilitation work. The notice is sent in the event that the primary contractor is listing, as security, the property being rehabilitated with the person or supplier sending notice.

**Commitment:** Commitment means one of three things: (1) The PJ has executed a legally binding agreement with a State recipient, subrecipient, or contractor to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance; or (2) has executed a written agreement reserving a specific amount of funds for a CHDO; or (3) has met requirements to commit to a specific local project as defined below.

**Commitment to a specific local project:** Commitment to a specific local project means that a legally binding agreement was executed meeting one of the following sets of requirements: (1) For rehabilitation or new construction projects, the PJ (or other entity) and the project owner will execute an agreement for an identifiable project under which construction can reasonably be expected to start within 12 months of the agreement date. If the project is owned by the PJ, the project must be set up in the disbursement and information system and construction reasonably expected to start within 12 months of the set-up date. (2) If the project consists of acquisition of standard housing by the PJ, the agreement must be a binding contract for the sale of an identifiable property and the property title must be transferred to the PJ (or other entity) within six months of the date of the contract. (3) If the project involves the acquisition of standard housing and the PJ is providing HOME funds to a purchaser, under the agreement, the title of the property must be transferred to the purchaser within six months of the agreement date.

**Community Housing Development Organization (CHDO):** A private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR Part 92.2. A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs.

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

**Consortium:** Geographically contiguous units of general local government consolidated to be in a single unit of general local government for HOME Program purposes when certain requirements are met.

**Contractor:** An eligible contractor is a general contractor licensed in compliance with Federal, State, and City regulations to do the necessary housing rehabilitation work. No contractor may be utilized who has been disbarred or suspended by order of the City, State or Federal Government. The City permits contractors to apply to the City for eligibility determination at any time.

**Deed of Trust:** The legal document which secures the loan with the property that is being rehabilitated. The Deed of Trust is for the same amount as the loan and must be signed by the borrower in the presence of a public notary.

**Development:** A site or an entire building or two (2) or more buildings, together with the site or sites on which the building is located, that are under common ownership, management and financing and are to be assisted with HOME Program funds-under commitment by the owner-as a single undertaking.

**Development Fees:** Compensation to the developer for developing the property, includes overhead and profit, consult/processing agent fees, project administration, the value of personal guarantees and a portion of any reserves determined by the housing credit agency to be in excess of industry norms.

**Draw-Down:** The process of requesting and receiving HOME funds. PJs and authorized state recipients draw down funds from a line of credit established by HUD.

**Eligible Improvements:** All improvements required to bring the property up to City Codes and the City's Rehabilitation Standard

**Equity:** The value of a property less the amount of outstanding debt on it.

**Final Rule:** The Final HOME Rule was published at 24 CFR Part 92 on September 16, 1996 and became effective on October 16, 1996. It was amended on October 22, 1997.

**Financing Plan:** The proposed financing for a project.

**General Partner:** A partner who is liable and responsible for completing a project as proposed, managing the partnership and guaranteeing funding required to complete the project. A general partner oversees construction, leasing, and property management; maintains the books and records of the partnership; and submits periodic reports to the limited partners on the project's financial status.

**General Partnership:** A form of ownership in which all partners participate materially in the partnership's operations and share liability.

**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 subsidies that may be provided to a project.

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

**HOME 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.

**Housing Investment Partnerships Act ("HOME Program"):** The act that created a formula-based allocation program intended to support state and local affordable housing programs. The goal of the program is to increase the supply of affordable rental and ownership housing through acquisition, construction, reconstruction, and moderate or rehabilitation activities (Title I, National Affordable Housing Act of 1990).

**HUD:** U.S. Department of Housing and Urban Development.

**Household:** A household includes all persons living in the unit at the property at the time of application, except persons who are paid caregivers of elderly or disabled individuals.

**Household Income Verification:** The process used to determine gross household income, including Applicant submittal of most current income tax returns; employer verification of wages; W-2 Forms; Social Security verification, profit/loss statements, etc.

**Inspection Card:** Card posted at the site of rehabilitation once building permits are issued. Building Inspector(s) sign off various inspections on Card as job progresses.

**Insular Areas:** Guam, the Northern Mariana Islands, the United States Virgin Islands and American Samoa.

**Interest Subsidy:** The amount of subsidy required to reduce the interest rate on a loan to a below-market rate over the term of the loan.

**Jurisdiction:** A state or unit of general local government.

**Limited Partner:** A passive investor in a limited partnership who, in exchange for contributing equity to the project, receives a pro rata share of cash flow and tax benefits and the right to

approve the sale or refinancing of the property and removal of the general partner in the event of gross negligence or breach of contract.

**Limited Partnership:** An ownership vehicle comprising limited and general partners that allows for central management but has no tax liability, instead passing tax benefits through to its limited and general partners.

**Loan Disbursement:** The principal amount of the loan which is paid out to the Applicant as the rehabilitation work progresses; The disbursement may be in accordance with a contractual agreement between Applicant and contractor. Prior to disbursement, the work accomplished must be in accordance with the scope of work as detailed in the work the work write-up. If inspection by the Building Division is required for the particular rehabilitation item, the inspector must sign off for said work prior to disbursement.

**Loan Documents:** All forms relevant to the actual execution of the loan, including a Three Day Right of Recession Notice, Truth-In-Lending Form, Promissory Note, and Deed of Trust.

**Low-Income Families:** Families whose annual incomes do not exceed 80 percent of the median income for the area (adjusted for family size).

**Match:** Match is the PJ's contribution to the HOME Program -- the local, non-Federal contribution to the partnership. The PJ's match contribution must equal not less than 25 percent of the HOME funds drawn down for projects in that fiscal year.

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

**Participating Jurisdiction (PJ):** The term given to any state, local government or consortium that has been designated by HUD to administer a HOME Program. HUD designation as a PJ occurs if a state or local government meets the funding thresholds, notifies HUD that they intend to participate in the program, and has a HUD-approved Consolidated Plan.

**Program Income:** Gross income received by the PJ, state recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions.

**Project:** A site or an entire building or two or more buildings, together with the site or sites on which the building or buildings is located, that are under common ownership, management and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking. The HOME Final Rule eliminated the requirement that all buildings fall within a four-block radius.

**Project completion:** All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD.

**Promissory Note:** A form, part of the loan documents, which is the borrower's agreement to pay back the amount borrowed in accordance with the established terms of the loan. The Promissory Note must be signed by all persons on the Title to the Property.

**Property Rehabilitation Standards:** A standard established by the City to ensure that the housing rehabilitated under HOMEOWNER REHABILITATION ACTIVITIES meets or exceeds

**Recapture:** Repayment of HOME funds to the PJ from a homebuyer project during the period of affordability.

**Reconstruction (also rehabilitation):** The rebuilding, on the same lot, of housing standing on a 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.

**Rehabilitation Specialist:** The person who conducts inspections and produces work write-ups and cost estimates.

**Rehabilitation Contract:** A legally binding, standardized form which spells out, in detail, the entire scope of work, specific quality, brands of materials, and all other data pertinent to the rehabilitation of the property. The Contract must be signed by both Contractor and Applicant.

**Rehabilitation Cost:** The total cost of repairs and improvements and other costs for rehabilitation to be incurred by the Applicant that may be included in a Loan.

**Right of Rescission:** The borrower's right within a three-working day period from the date of loan settlement to rescind the entire loan transaction.

**Recipient:** Any entity under contract with the City to undertake activities funded by the City's HOME Program.

**Restrictive Covenant:** A limitation placed on a property, which is recorded and attached to the deed, thereby passing to subsequent owners.

**Section 8 Tenant-Based Rental Assistance Program:** A federal program that provides rental assistance to low-income families who are unable to afford market rents. Assistance is provided in the form of vouchers.

**Single-Room Occupancy (SRO):** Housing consisting of single-room dwelling units that is 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.

**Soft Costs:** Development costs exclusive of the cost of acquisition, site improvements, construction, and contingencies.

**Soft Second Mortgage:** A loan provided by public and nonprofit lenders at below market interest rates and with flexible repayment terms, using as collateral a second mortgage on the project property, to fill a financial gap for a project serving a public purpose (for instance, affordable housing.)

**Subrecipient:** 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 or owner of housing is not a subrecipient.

**Substantial Rehabilitation:** The cost of a rehabilitation project that costs more than \$25,000.

**Surplus Cash (Net Operating Income (NOI)):** The operating income derived by the project owner from development cash flow that exceeds 1st mortgage loan payments and the following operating expenses: property management fee, grounds maintenance, accounting services, amounts deposited into a replacement reserve account, legal services, taxes and insurance and utility expenses, each specifically related to the development. Developer fees and depreciation of assets may not be included in calculating expenses.

**Syndicates:** Individuals or firms who arrange for the sale of ownership shares in a project to raise equity from investors.

**Targeting:** Requirements of the HOME Program relating to the income or other characteristics of households that may occupy HOME-assisted units.

**Total Development Cost (TDC):** The sum of all costs for site acquisition, relocation, demolition, construction and equipment, interest and carrying charges.

**Truth in Lending Statement:** The form included in the loan document package which details all terms of the Loan. Applicant must sign receipt of said form.

**Very-Low-Income Families:** Families whose annual incomes do not exceed 50 percent of the median income for the area (adjusted for family size).

**Work Write-up:** A form to be completed by a Construction Manager outlining a complete and suggested scope of work to be performed for the rehabilitation of the property

**Written Agreement:** The Written Agreement defines the terms and conditions of the HOMEOWNER REHABILITATION ACTIVITIES Loan to the Applicant. The Written Agreement is executed prior to the Applicant engaging a Contractor to complete the defined rehabilitation.

## **CITY OF SOUTH GATE LIST OF FORMS**

### **CHAPTER 3: CHDO FORMS**

CHDO Application  
CHDO Certification Checklist  
CHDO Recertification Checklist  
CHDO Determination Worksheet  
CHDO Pre-Qualifying Letter

### **CHAPTER 4: HOMEOWNER HOUSING PROGRAM FORMS**

Homeowner Rehabilitation Application  
Homeowner Loan Application  
Owner/Contractor Agreement  
Agreement between City and homeowner  
Preconstruction Conference Record  
Notice to Proceed  
Work Write up Template for the HOME Program  
Home Inspection Checklist  
Certifications – plumbing, electrical, HVAC, Release of Liens, and final inspection  
Verification of Employment  
Section 3 Reporting Forms  
Certifications – plumbing, electrical, HVAC, Release of Liens, and final inspection  
City of South Gate Written Rehabilitation Standards  
Cost Allocation and Subsidy Layering Analysis

### **CHAPTER 5: CONSTRUCTION MANAGEMENT FORMS**

Sample Bid Package  
Sample Advertisement for Bids  
Bid Tabulation Sheet  
Preconstruction Conference Agenda and Report  
Notice to Proceed  
Written Change Order  
Punch List(s)  
Certificate(s) of Final Completion  
Final Contractor Estimate(s)  
Release of Lien Form for each contractor  
Verification of Contractor Eligibility



## **CHAPTER 6: ENVIRONMENTAL REVIEW FORMS**

Certification of Exemption for HUD funded projects  
Certification of Categorical Exclusion (not subject to 58.5)  
Statutory Checklist  
Instructions for Completing the Statutory Worksheet  
Compliance Documentation Checklist (58.6)  
Environmental Assessment  
Public Notice – Notice of Intent to Request Release of Funds  
Combined Public Notice – Finding of No Significant Impact and Notice of Intent to Request Release of Funds  
Request for Release of Funds and Certification (HUD form 7015.15)  
Authority to Use Grant Funds (HUD form 7015.16)  
Instructions for Completing HUD form 1015.15  
Insurance Coverage (Flood)  
Deficiency Notice

## **CHAPTER 6: MONITORING**

Monitoring Checklist  
Compliance Review Letter  
Sample Monitoring Visit Letter

## **CHAPTER 6: PROGRAM ADMINISTRATION AND MANAGEMENT FORMS**

IDIS Activity Set Up Forms  
IDIS Activity Completion Forms  
Homeowner Rehab Set Up and Completion Form HOME Program

## **CITY OF SOUTH GATE LIST OF EXHIBITS**

<b>EXHIBIT 1</b>	MINIMUM PROPERTY STANDARDS BY ACTIVITY TYPE
<b>EXHIBIT 2</b>	AFFORDABILITY PERIODS
<b>EXHIBIT 3</b>	CHDO DETERMINATION WORKSHEET/APPLICANT INFORMATION
<b>EXHIBIT 4</b>	HOME-ELIGIBLE HOMEOWNER REHABILITATION COSTS
<b>EXHIBIT 5</b>	OTHER FEDERAL REQUIREMENTS
<b>EXHIBIT 6</b>	SUMMARY OF HOMEOWNER REHABILITATION RULES AND HOW TO DOCUMENT
<b>EXHIBIT 7</b>	STAFFING PLAN
<b>EXHIBIT 8</b>	REHABILITATION STANDARDS
<b>EXHIBIT 9</b>	TIMING AND PURPOSE OF PROPERTY INSPECTIONS
<b>EXHIBIT 10</b>	REHABILITATION OF OWNER-OCCUPIED UNITS
<b>EXHIBIT 11</b>	SUMMARY OF ENVIRONMENTAL REVIEW ACTION BY ACTIVITY
<b>EXHIBIT 12</b>	WRITTEN AGREEMENT REQUIRED PROVISIONS
<b>EXHIBIT 13</b>	HOME PROGRAM AGREEMENT/APPLICATION
<b>EXHIBIT 14</b>	HOME PROJECT RISK ASSESSMENT
<b>EXHIBIT 15</b>	SAMPLE MONITORING VISIT LETTERS
<b>EXHIBIT 16</b>	MONITORING CHECKLISTS
<b>EXHIBIT 17</b>	MANAGING A PROJECT SUBJECT TO OTHER FEDERAL REQUIREMENTS
<b>EXHIBIT 18</b>	DOCUMENTING COMPLIANCE WITH OTHER FEDERAL REQUIREMENTS
<b>EXHIBIT 19</b>	SECTION 504 REQUIREMENTS
<b>EXHIBIT 20</b>	APPROACHES TO IMPLEMENTING LEAD HAZARD EVALUATION AND REDUCTION

City of South Gate

Community Development Block Grant  
**POLICIES AND PROCEDURES  
MANUAL**

DRAFT

City of South Gate  
Community Development Department

January 2020

# TABLE OF CONTENTS

<b>TABLE OF CONTENTS.....</b>	<b>2</b>
<b>1. INTRODUCTION AND CDBG GRANT ADMINISTRATION .....</b>	<b>9</b>
PURPOSE OF THIS MANUAL.....	9
WHAT IS CDBG? .....	9
<i>NATIONAL OBJECTIVES .....</i>	<i>10</i>
WHO GETS CDBG AND HOW MUCH?.....	10
<i>PROGRAM AREAS.....</i>	<i>10</i>
A LITTLE ABOUT HUD.....	11
"THE REGS": THE CODE OF FEDERAL REGULATIONS (CFR).....	12
CDBG GRANT ADMINISTRATION .....	13
<i>FINANCIAL MANAGEMENT PROCEDURES.....</i>	<i>15</i>
<i>CONFLICT OF INTEREST .....</i>	<i>18</i>
<i>CDBG PROGRAM STAFFING PLAN.....</i>	<i>19</i>
<i>City of South Gate - Organization Roles and Responsibilities .....</i>	<i>19</i>
<b>2. CONSOLIDATED PLANNING .....</b>	<b>23</b>
OVERVIEW .....	23
PROGRAM YEAR .....	24
PLAN SUBMISSION AND REVIEW .....	24
CONSOLIDATED PLAN CONTENTS.....	25
BACKGROUND AND GENERAL INFORMATION.....	26
<i>DESCRIBE THE LEAD AGENCY.....</i>	<i>26</i>
<i>DESCRIBE THE PLANNING PROCESS .....</i>	<i>26</i>
<i>TELL HUD WHO WAS INVOLVED .....</i>	<i>26</i>
<i>TELL HUD WHO YOU "CONSULTED".....</i>	<i>26</i>
EXECUTIVE SUMMARY.....	26
PUBLIC PROCESS SUMMARY.....	27
COMMUNITY NEEDS.....	27
GENERAL COMMUNITY NEEDS.....	27
HOUSING NEEDS.....	27
<i>DATA SOURCES .....</i>	<i>28</i>
<i>SUPPORTIVE HOUSING NEEDS .....</i>	<i>29</i>
<i>LEAD-BASED PAINT HAZARDS .....</i>	<i>30</i>
HOUSING MARKET ANALYSIS .....	30
<i>GENERAL SUPPLY AND DEMAND .....</i>	<i>30</i>
<i>INCOME, RACE AND ETHNIC CONCENTRATION .....</i>	<i>30</i>
<i>PUBLIC HOUSING AND AFFORDABLE HOUSING.....</i>	<i>30</i>
<i>HOUSING FOR THE HOMELESS.....</i>	<i>30</i>
<i>SPECIAL NEEDS HOUSING—NON-HOMELESS .....</i>	<i>31</i>
<i>BARRIERS TO AFFORDABLE HOUSING.....</i>	<i>31</i>
STRATEGIC PLAN.....	31

*PRIORITY NEEDS*.....31

*OBSTACLES TO MEETING UNDER-SERVED NEEDS*.....31

*SPECIFIC OBJECTIVES*.....31

*AFFORDABLE HOUSING*.....32

*PUBLIC HOUSING* .....32

*HOMELESSNESS*.....32

*NON-HOMELESS SPECIAL NEEDS* .....32

*NON-HOUSING COMMUNITY DEVELOPMENT (CDBG ONLY)*.....32

*NEIGHBORHOOD REVITALIZATION* .....33

*BARRIERS TO AFFORDABLE HOUSING*.....33

*LEAD HAZARD REDUCTION* .....33

*ANTI-POVERTY* .....33

*GAPS IN INSTITUTIONAL STRUCTURE* .....33

*COORDINATION* .....33

ANNUAL ACTION PLAN CONTENTS.....33

*EXECUTIVE SUMMARY* .....34

*RESOURCES* .....34

*SPECIFIC ANNUAL OBJECTIVES*.....35

*DESCRIPTION OF ACTIVITIES* .....35

*ALLOCATION PRIORITIES*.....35

*GEOGRAPHIC DISTRIBUTION AND LOW/MODERATE INCOME (LMI) BENEFIT* .....35

*ANNUAL AFFORDABLE HOUSING GOALS*.....36

*HOMELESS*.....36

*SPECIAL NEEDS*.....36

*PUBLIC HOUSING* .....36

*ANTI-POVERTY STRATEGY*.....36

*LEAD-BASED PAINT HAZARD REDUCTION*.....36

*"OTHER ACTIONS"*.....37

*FAIR HOUSING*.....37

*MONITORING*.....37

CITIZEN PARTICIPATION PLAN CONTENTS.....37

MINIMUM PUBLIC PARTICIPATION REQUIREMENTS.....38

*ENCOURAGEMENT OF CITIZEN PARTICIPATION IN GENERAL*.....38

*CITIZEN PARTICIPATION DURING PLAN DEVELOPMENT*.....38

PLAN AMENDMENTS .....39

*PERFORMANCE REPORTS*.....40

*PUBLIC HEARINGS*.....40

*PUBLIC ACCESS*.....41

*TECHNICAL ASSISTANCE*.....41

*COMPLAINTS*.....41

*CITIZEN COMMENT ON THE CITIZEN PARTICIPATION PLAN* .....41

THE CONSOLIDATED PLANNING PROCESS.....41

*CONSULTATION*.....41

<i>GENERAL CONSULTATION</i> .....	42
<i>HOMELESS</i> .....	42
<i>LEAD-BASED PAINT HAZARDS</i> .....	43
<i>NON-HOUSING COMMUNITY DEVELOPMENT</i> .....	43
<i>PUBLIC HOUSING</i> .....	43
<b>3. ACTIVITY SELECTION</b> .....	<b>44</b>
OVERVIEW .....	44
CATEGORICAL ANNUAL SPENDING LIMITS .....	44
<i>PUBLIC SERVICES</i> .....	44
<i>ADMINISTRATION</i> .....	45
PROPOSALS .....	46
THRESHOLD CRITERIA.....	46
<i>STATUTORY ELIGIBILITY</i> .....	46
<i>MEETING A NATIONAL OBJECTIVE</i> .....	47
<i>OVERALL LMI BENEFIT</i> .....	48
<i>PRIORITY NEED</i> .....	48
<i>MEANS OF CARRYING OUT THE ACTIVITY</i> .....	49
RANKING CRITERIA .....	49
<i>CAPACITY</i> .....	49
<i>SCOPE AND BUDGET</i> .....	50
<i>COST/BENEFIT</i> .....	50
<i>TIMELINESS</i> .....	50
<i>TRACK RECORD</i> .....	50
<i>LEVERAGE</i> .....	51
GENERAL POLICIES.....	51
CDBG PROGRAM GOALS.....	51
PUBLIC SERVICES "NON-SUPPLANTING" RULE .....	52
REQUEST FOR PROPOSALS (RFP) CONTENTS AND PROPOSAL REQUIREMENTS .....	52
RFP PROCESS .....	53
<i>PREPARATION</i> .....	54
<i>PUBLICATION</i> .....	54
<i>WORKSHOP AND Q&amp;A</i> .....	54
<i>SUBMISSION</i> .....	55
<i>EVALUATION AND RECOMMENDATIONS</i> .....	55
<i>AWARDS</i> .....	56
<i>DOCUMENTATION</i> .....	56
<b>4. CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)</b> .....	<b>57</b>
OVERVIEW .....	57
CAPER CONTENTS.....	58
<i>GENERAL</i> .....	58
<i>CDBG</i> .....	59
CAPER OUTLINE .....	59

THE CAPER AND INFORMATION DISBURSEMENT AND INFORMATION SYSTEM (IDIS) .....	60
CAPER AND CITIZEN PARTICIPATION [24 CFR 91.105(D)].....	61
<i>A GUIDE TO HUD GUIDANCE ON THE CAPER</i> .....	62
<b>5. SUB-RECIPIENT MANAGEMENT.....</b>	<b>63</b>
OVERVIEW .....	63
REPORTING REQUIREMENTS.....	63
MONITORING .....	63
<i>DESK REVIEWS</i> .....	63
<i>ON-SITE REVIEWS</i> .....	64
TECHNICAL ASSISTANCE/CAPACITY DEVELOPMENT .....	65
MANAGING NON-PERFORMING SUB-RECIPIENTS.....	65
FORMS.....	66
<i>Resources</i> .....	66
<b>6. PERFORMANCE MEASURES.....</b>	<b>68</b>
OVERVIEW .....	68
OBJECTIVES.....	68
<i>CREATING A SUITABLE LIVING ENVIRONMENT</i> .....	68
<i>PROVIDING DECENT HOUSING</i> .....	69
<i>CREATING ECONOMIC OPPORTUNITIES</i> .....	69
OUTCOMES.....	69
<i>AVAILABILITY/ACCESSIBILITY</i> .....	69
<i>AFFORDABILITY</i> .....	69
<i>SUSTAINABILITY</i> .....	69
<i>INDICATORS</i> .....	69
<b>7. ELIGIBLE ACTIVITIES .....</b>	<b>71</b>
OVERVIEW .....	71
PUBLIC FACILITIES AND IMPROVEMENTS [570.20L(C)] .....	72
PUBLIC SERVICES [570.20L(E)] .....	73
HOUSING .....	74
<i>HOUSING SERVICES</i> .....	74
Home Purchase Assistance.....	74
Single Family Owner-Occupied Housing Rehabilitation 570.202 .....	75
CODE ENFORCEMENT [570.202(C)] .....	76
<i>Service Area</i> .....	78
<i>Marketing and Outreach</i> .....	78
<i>Client Tracking and Code Compliance Process</i> .....	78
<i>Common Violations</i> .....	79
<i>Eligible CDBG Program Costs</i> .....	80
FAIR HOUSING .....	80
HOMELESS.....	80
PROGRAM ADMINISTRATION [570.206] .....	81

PLANNING/CAPACITY BUILDING [570.205] .....	82
A NOTE ABOUT PRESUMPTION AND OVERALL LOW- AND MODERATE-INCOME (LMI) BENEFIT.....	82
<b>8. MEETING A NATIONAL OBJECTIVE .....</b>	<b>83</b>
OVERVIEW .....	83
LOW- AND MODERATE-INCOME BENEFIT [570.209(A)] .....	83
LOW- AND MODERATE-AREA [570.209 (A)(1)] .....	83
Target Area.....	83
Qualifying the Target Area .....	83
Upper Quartile .....	84
LIMITED CLIENTELE [570.209(A)(2)].....	84
LOW- AND MODERATE-INCOME HOUSING .....	85
ELIMINATION OF SLUM AND BLIGHT .....	85
URGENT NEED .....	85
<b>9. FINANCIAL MANAGEMENT .....</b>	<b>87</b>
OVERVIEW .....	87
Policies Regarding Cash Management.....	87
Procedures for Reflecting Prior Period Adjustments and Accruals.....	88
Policy Regarding Rebates, Refunds and Credits to Federally Funded Programs.....	89
Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program.....	89
Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Admin Account .....	89
Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Rehab Account .....	90
Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Microenterprise Activities (18-305-300) .....	90
Procedures for Determining Cost Reasonableness.....	91
Process for Approval of Subrecipient Reimbursement Requests for Public Services .....	92
Process for Approval of Reimbursement Requests for Consultant Services .....	93
FINANCIAL REPORTING.....	95
FFATA Reports.....	95
Open Balance Review.....	95
Monthly Reconciliation .....	95
Federal Cash Transactions Report.....	95
Policy Regarding Rebates, Refunds and Credits to HUD CPD Programs .....	97
Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program.....	97
Schedule of Federal Expenditures .....	97
ASSET MANAGEMENT .....	98
Real Property .....	99
Recordkeeping .....	100
Program Income.....	101
TIMELINESS REVIEW .....	102
REIMBURSEMENT REQUESTS .....	102
IDIS DRAWS .....	103



PROGRAM INCOME .....	104
LUMP SUM DRAWS [570.513] .....	105
REVOLVING LOAN FUNDS [570.500(B)] .....	106
ESCROW ACCOUNTS.....	106
INTEREST ON FEDERAL FUNDS .....	106
FEDERAL FINANCIAL REPORT [STANDARD FORM 425] .....	107
<b>10. INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM (IDIS) .....</b>	<b>108</b>
OVERVIEW .....	108
WHAT IS IDIS? .....	108
<i>IDIS IN CONTEXT</i> .....	108
IDIS STRUCTURE: PLAN, PROJECT, AND ACTIVITY .....	109
INTEGRATION INTO IDIS ONLINE .....	109
IDIS FACTS .....	110
IDIS ACCESS .....	110
<i>REQUESTING IDIS ACCESS</i> .....	110
<i>SELECTING THE CORRECT "ACTION"</i> .....	111
<i>AUTHORIZED FUNCTIONS IN IDIS</i> .....	111
<i>THE AUTHORIZATION PACKET</i> .....	112
PC AND SOFTWARE REQUIREMENTS .....	112
GOING INTO IDIS .....	112
<i>DrawDown Funds</i> .....	113
Step 1: Create a Project.....	113
Step 2: Set Up an Activity .....	113
IDIS Matrix Codes .....	114
Step 3: Fund the Activity .....	114
Step 4: DrawDown Funds .....	114
Step 5: Report Accomplishments .....	114
<b>11. ENVIRONMENTAL .....</b>	<b>116</b>
OVERVIEW .....	116
LEVEL OF REVIEW DETERMINATION .....	116
LEVELS OF REVIEW.....	116
<i>Exempt</i> .....	116
<i>Categorically Excluded, not subject to 58.5</i> .....	117
<i>Categorically Excluded, subject to 58.5</i> .....	118
<i>Environmental Assessment "EA"</i> .....	120
<i>Environmental Impact Statement "EIS"</i> .....	120
EXTRAORDINARY CIRCUMSTANCES .....	121
"58.6" REVIEW .....	121
CONVERSION TO EXEMPT.....	121
<i>PUBLIC NOTICE</i> .....	121
FONSI/RROF .....	122
<i>RELEASE OF FUNDS</i> .....	122

MRER.....	123
<i>PROCESS/FLOW</i> .....	123
<i>BEST PRACTICES AND GENERAL PRINCIPLES</i> .....	123
<i>IDIS</i> .....	123
<b>12. PROCUREMENT</b> .....	<b>124</b>
OVERVIEW.....	124
TYPES OF PROCUREMENT.....	124
<i>SMALL PURCHASES</i> .....	125
<i>SEALED BID</i> .....	125
<i>COMPETITIVE PROPOSAL (RFP/RFQ)</i> .....	126
<i>NONCOMPETITIVE PROPOSALS</i> .....	127
IN GENERAL.....	127
<b>13. OTHER FEDERAL REQUIREMENTS</b> .....	<b>130</b>
LABOR STANDARDS (570.603).....	130
FAIR HOUSING (570.601).....	130
NON-DISCRIMINATION (570.602—SECTION 109).....	130
RELOCATION/DISPLACEMENT (570.606).....	131
EQUAL OPPORTUNITY (570.607).....	131
LEAD-BASED PAINT (570.608).....	131
SECTION 504/REASONABLE ACCOMMODATION.....	131
LIMITED ENGLISH PROFICIENCY.....	132
<b>14. APPENDICES</b> .....	<b>133</b>
THE LOS ANGELES HUD FIELD OFFICE.....	133
HUD WEB SITE.....	133
TRAINING.....	133
HUD EXCHANGE – CDBG: COMMUNITY DEVELOPMENT BLOCK GRANTS.....	133
THE CODE OF FEDERAL REGULATIONS (CFR).....	133
PROGRAM RELATED DOCUMENTS.....	133
<i>Request for Reimbursement</i> .....	134
<i>Public Service Application</i> .....	135
<i>Subgrantee On-Site Monitoring Checklist</i> .....	136
<i>Determination of Exemption</i> .....	137
<i>Determination of Categorical Exclusion</i> .....	140
<b>15. GLOSSARY</b> .....	<b>144</b>

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## 1. INTRODUCTION AND CDBG GRANT ADMINISTRATION

### PURPOSE OF THIS MANUAL

The purpose of this manual is to assist staff to obtain a basic and clear understanding of the program's fundamental requirements. As staff members of a local entitlement jurisdiction begin working with federal programs such as the Community Development Block Grant, one of the first challenges is gaining a comfortable understanding of the all the related acronyms. Throughout this manual, the federal Community Development Block Grant program will be referred to as CDBG. This policies and procedures manual also provides an understanding of the overall grant administration responsibilities of the City, identification of assigned staff to meet these responsibilities, and instructional policies and procedures to provide guidance to staff.

Please note, that despite being designed as an educational tool for staff of an entitlement jurisdiction, this manual is not intended to be the sole reference or an authoritative source on the CDBG program. In fact, a substantial section of the manual is devoted to guiding staff to where they can find the answers to questions and further details about CDBG. This manual in no way is intended to act as a substitute for staff training sponsored by the federal Department of Housing and Urban Development (HUD) Community Planning and Development division (CPD) field office.

### WHAT IS CDBG?

The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to approximately 1180 general units of local government and States. ([www.hud.gov](http://www.hud.gov))

The program is authorized under Title 42 US Code, Chapter 69, Section 5301, and the regulations that govern the CDBG program are at Title 24, Chapter 570 of the Code of Federal Regulations (CFR).

(<https://www.ecfr.gov/cgi-bin/text-idx?SID=a478864825fbeb76f67160e3f0522f7a&mc=true&node=pt24.3.570&rgn=div5>).

The CDBG program was enacted in 1974 with the passage of the Housing and Community Development Act of the same year. The program originated out of the consolidation of several previous federal grant programs that aimed to address similar community issues targeted by CDBG.

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## NATIONAL OBJECTIVES

In its most broad and general definition, the intent of the program is to help local communities improve the quality of life for residents. To this end, the program has what are called three "National Objectives". In order to use CDBG funds, the proposed use must meet one of these three National Objectives. These are:

1. to benefit low- or moderate-income persons;
2. to aid in the prevention or elimination of slums or blight; or
3. to meet an urgent community development need.

The Code of Federal Regulations ("CFR" or "regulations" or "regs") and published HUD guidance go into detail about how one determines whether a jurisdiction is meeting a National Objective.

## WHO GETS CDBG AND HOW MUCH?

The annual CDBG appropriation is allocated between States and local jurisdictions called "non-entitlement" and "entitlement" communities respectively. Entitlement communities are comprised of central cities of Metropolitan Statistical Areas ("MSAs"); metropolitan cities with populations of at least 50,000; and qualified urban counties with a population of 200,000 or more (excluding the populations of entitlement cities). States distribute funds to non-entitlement localities not qualified as entitlement communities.

HUD determines the amount of each grant by using a formula comprised of several measures of community need, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag in relationship to other metropolitan areas. ([www.hud.gov](http://www.hud.gov))

Each year, the US Congress appropriates funds to the CDBG program as part of the budget for the Department of Housing and Urban Development, known as HUD. More specifically, the CDBG program is funded from the Community Development Fund (the "Fund"). Although there are a number of smaller programs funded from the Fund, the CDBG program is by far the largest.

## PROGRAM AREAS

The funding allocated to the CDBG program is then further distributed among eight "program areas" according to a statutory formula. These programs are:

1. Entitlement Communities – annual grants to larger cities and urban counties
2. State Administered CDBG – the "Small Cities" program. States award grants to smaller units of general local government

3. Section 108 Loan Guarantee Program – for entitlement communities and non-entitlement. HUD provides financing for CDBG-funded activities using future CDBG awards to repay the loan
4. Neighborhood Stabilization Program – This Program was established to stabilize communities that have suffered from foreclosures and abandonment. Through the purchase and redevelopment of foreclosed and abandoned homes and residential properties, the goal of the program is being realized
5. Insular Areas – grants to four designated insular areas: American Samoa; Guam; Northern Mariana Islands; and the Virgin Islands
6. Disaster Recovery Assistance – grants to help cities, counties, and States recover from disasters
7. Colonias – Texas, Arizona, California, and New Mexico set aside a portion of state CDBG funds to improve living conditions in under-developed settlements along the US-Mexico border
8. Non-Entitlement CDBG Grants in Hawaii – The Non-Entitlement CDBG Grants in Hawaii offer a source of financing allotted for the Community Development, housing rehabilitation, public facilities rehab, construction or installation for the benefit of low- to moderate-income persons, or to aid in the prevention of slums.

#### A LITTLE ABOUT HUD

HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality, affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination; and transform the way HUD does business.

HUD is a large federal department with a broad range of responsibility. HUD has five main divisions or "program offices": Housing, Community Planning/Development, Fair Housing/Equal Opportunity, Public/Indian Housing and Ginnie Mae.

As a CDBG recipient, the City will be working with the Community Planning/Development office, which is referred to as CPD. The City will also have a field representative assigned to the jurisdiction from the local field office. This person can be viewed as a gateway to HUD. Any questions regarding the CDBG program that cannot be answered internally can be directed to the field representative. It is key to establish an open and effective line of communication with the field representative, so he/she are kept informed on the status of the jurisdictions programs and entitlement.

HUD has 81 field offices distributed across the country with at least one in each state. Located at these field offices are representatives of the various HUD divisions or program offices. HUD has

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also divided up the nation into regions. Each region has a Regional Office and a Regional Office Director. You will also have minor interactions with other HUD offices including Labor Relations and Policy Development and Research (PDR).

### **"THE REGS": THE CODE OF FEDERAL REGULATIONS (CFR)**

The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

There are several federal laws, regulations and rules that guide and impact the CDBG program. The most important is the enabling regulation, which can be found in Part 570 of Title 24 of the Code of Federal Regulations or "24 CFR 570". This is where the "how-to" and the "dos and don'ts" of the CDBG program are located.

Every April, the regulations affecting HUD, and therefore the CDBG program, are updated. Any changes to the regulations are published in the Federal Register as they are being considered and as they are implemented. The most current version of the regulations can be found on the website of the US Government Printing Office (GPO). (<https://www.ecfr.gov/cgi-bin/text-idx?SID=a478864825fbeb76f67160e3f0522f7a&mc=true&node=pt24.3.570&rgn=div5#sp24.3.570.a>). In addition to accessing the GPO website for the most current Regulations, HUD will typically notify grantees when changes are being considered and when they are implemented.

HUD will also occasionally publish memoranda or notices that are collectively referred to as "guidance". These letters generally serve to clarify common misunderstandings or explain how to interpret program regulations considering new federal requirements or changing circumstances. HUD will also publish "handbooks" and "guides" that offer more comprehensive guidance for grant recipients.

Some of the other regulations that impact the CDBG program are:

- Lead Safe Housing;
- Environmental Review;
- General Administration; and
- The federal Office of Management and Budget (OMB) Circulars.

It is often difficult to locate HUD guidance after it has been issued. A good resource that can be utilized are assembled links to all the relevant documents at CDBG Laws and Regulations (<https://www.hudexchange.info/programs/cdbg/cdbg-laws-and-regulations/>).

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## CDBG GRANT ADMINISTRATION

CDBG funds are received from HUD as grants to States and local communities, known as grantees, to carry out a wide range of community development activities directed toward revitalizing neighborhoods, Community Development and providing improved community facilities and services.

The City of South Gate, as an entitlement community, is responsible for developing its own programs and funding priorities. As a grantee, the City must ensure one of the three national objectives is met when funding activities including benefitting low- and moderate-income persons, aid in the prevention or elimination of slums or blight, or meeting other community development needs having a particular urgency. This is discussed further in Chapter 8.

### *Consolidated Plan*

Recipients of CDBG funds must engage in a planning process to identify priority needs in the community and then develop goals and objectives to address these needs. The Consolidated Plan process produces a 3- to 5-year Consolidated Plan which describes the jurisdiction's community development priorities and multi-year goals based on an assessment of housing and community development needs, an analysis of housing and economic market conditions and available resources (see Chapter 2 for a further discussion). The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan (see Chapter 3 for a discussion on Activity Selection and Chapter 7 on Eligible Activities).

### *Citizen Participation*

An essential part of the Consolidated Plan process is consultation and citizen participation. Through the Consolidated Plan grantee jurisdictions engage the community, both in the process of developing and reviewing the proposed plan, and as partners and stakeholders in the implementation of CPD programs. By consulting and collaborating with other public and private entities, grantees can align and coordinate community development programs with a range of other plans, programs and resources to achieve greater impact (see Chapter 2 and the City's Citizens Participation Plan).

### *CAPER*

Grantees are required to submit a Consolidated Annual Performance and Evaluation Report (CAPER) at the end of each program year to report on the prior year program accomplishments. By providing detailed financial and beneficiary information, the CAPER explains how a jurisdiction

is carrying out its housing and community development strategies, projects, and activities (see Chapter 4). In addition to writing general and program narratives, grantees must use IDIS to capture the information needed to meet CAPER requirements. As IDIS users set up activities, draw funds, and report accomplishments, they are creating a database that contains information required for the CAPER. Grantees can retrieve this data from IDIS at the end of their program year. By keeping information current in IDIS throughout the year, there is no need to collect and gather large amounts of data required for the CAPER (see Chapter 10).

### *Sub-Recipients*

One way of implementing the local CDBG program is through the use of sub-recipients. Chapter 5 provides an overview of identifying, selecting, and monitoring a CDBG sub-recipient. The management and oversight of sub-recipients is a critical task of the entitlement jurisdiction. Using a sub-recipient to implement the local CDBG program does not relieve the original grantee of its responsibilities under CDBG and other federal rules and regulations. Another essential requirement necessary to administer a CDBG grant is to have policies and procedures in place for financial management of the grant. Chapter 9 covers the financial responsibilities of a grantee when funds are requested, money is committed, and drawdowns occur. It is important for entitlement jurisdiction staff to understand the process and regulations pertaining to the CDBG program even after they are committed to a specific activity or project through a contract or agreement. Other program requirements which must be met in the administration of the CDBG program include meeting environmental regulations under the National Environmental Policies Act (NEPA), addressing federal requirements for procurement under 2 CFR Part 200.317-326, in addition to meeting other federal requirements [24 CFR 570.600].

### *Planning Suite*

HUD's Office of Community Planning and Development (CPD) introduced the eCon Planning Suite, including the Consolidated Plan template in IDIS Online and the CPD Maps website. The eCon Planning Suite supports grantees and the public to assess their needs and make strategic investment decisions by creating a more cohesive planning and grants management framework and providing better data and a tool for analysis. The Consolidated Plan template in IDIS facilitates the planning process by making critical data on housing and community development needs readily accessible to grantees in the format required by HUD. By providing detailed and timely demographic, housing affordability and economic data, the template frees up time formerly spent searching out and compiling data to allow grantees to focus on understanding the data, further boosting the process beyond simple compliance with reporting and budgeting requirements. Moreover, by providing a standard format for all the required Consolidated Plan elements, HUD is providing clear guidance on when requirements will be met.



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## FINANCIAL MANAGEMENT PROCEDURES

### 1. Payment/Drawdown Procedure

CDBG funds are available on a reimbursement basis only based on documentation of incurred expenses and the payment of the expenses.

- i. The City of South Gate will reimburse funds based upon information submitted by the Recipient. Any expenditures occurring after the effective date of the contractual agreement between the City of South Gate and the Recipient are eligible for reimbursement.
- ii. Expenditures must be consistent with the approved budget as stated in the contractual agreement between the City of South Gate and the Recipient. Only eligible expenses will be reimbursed.
- iii. Payments will be adjusted by the City in accordance with program income balances available in sub-recipient accounts, if applicable.
- iv. In order to ensure accurate billing and fund management sub-recipients should keep track of the following information for activities funded:
  - a. Funds budgeted.
  - b. Funds received from the City of South Gate.
  - c. Reimbursements to-date.
  - d. Funds obligated in the most recent period and to-date.
  - e. Funds expended in the most recent period and to-date.
  - f. Cash on hand (including program income identified as such), if applicable.
  - g. Previous reimbursements requested but not yet received, if applicable.
- v. All requests for final reimbursements must be submitted to the Finance Department within 30 days after the last sale of the contract.

To request reimbursement:

- a. The "Request for Reimbursement" form (see Appendix) must be completed and signed by either the Finance Director or another authorized personnel.
- b. Provide original invoices for all expenditures to be reimbursed.
- c. Payment receipts, copies of checks, and/or all documentation proving that payment has been made prior to requesting reimbursement.
- d. For salary reimbursement, timesheets must include total time worked and a breakdown of funding sources covering the salary and benefits associated.

All reimbursements will be made within thirty (30) days of receipt of the request, if proper documentation has been submitted. Please be advised that the City of South Gate will not provide reimbursements if quarterly reports have not been submitted within the time limits stated in the contractual agreement between the City of South Gate and the Recipient.

## 2. Internal Controls

The City of South Gate internal controls include a combination of procedures, specified job responsibilities, qualified personnel, and records that together create accountability in an organization's financial system and safeguard its cash, property, and other assets. The City's internal controls make sure that:

- i. Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies,
- ii. Resources are protected against waste, mismanagement, or loss, and
- iii. Reliable information on source, amount, and use of resources are secured up-to-date, and recorded.

Additionally, internal controls will ensure that no one individual has authority of an entire financial transaction.

Specifically, the City has a separation of power for the following three responsibilities:

- i. Authorization to execute a transaction,
- ii. Recording of the transaction, and

- iii. Custody of assets involved in the transaction. This type of separation of responsibilities will create a system of checks and balances for grant and general organization expenditures.

The City will periodically reconcile its financial records to actual assets and liabilities which will safeguard resources as well as detect instances of fraud or misuse.

### 3. Record-Keeping

The CDBG Program has recordkeeping and reporting requirements to document that CDBG funds are used appropriately and that CDBG Program objectives are being met.

#### i. Requirements

Under the CDBG Program regulations, the City of South Gate is required to meet certain record-keeping and reporting requirements that are designed to:

- a. Ensure consistency with CDBG program requirements;
- b. Clarify the record retention periods; and
- c. Include new records that exercise any of the three new options allowed in the Final Rule (i.e., multi-family refinancing, presumption of affordability for homebuyer assistance, and locally established 95 percent of area median purchase price limits).

#### ii. The City of South Gate will maintain records that include:

- a. Program records;
  - (a) Written agreement with the City of South Gate and documentation of compliance with the written agreement;
  - (b) A copy of the application originally submitted to the City of South Gate; and
  - (c) Forms of assistance used.
- b. Project records;
- c. CHDO records;
- d. Financial records;

- e. Program administration records; and
- f. Records concerning other Federal requirements.

## **CONFLICT OF INTEREST**

The City of South Gate will comply with the following conflict-of-interest provisions:

1. 24 CFR Parts 84 and 85, and CFR 85.36 and 24 CFR 84.42.
2. Provisions not covered by 24 CFR Parts 84 and 85, set forth in the CDBG regulations. Additionally, the CDBG regulations include conflict of interest provisions for nonprofit, for-profit owners/developers/sponsors and CHDOs.
3. No employee, officer, or agent of the city shall participate in the selection, award, or administration of a contract supported by CDBG if a conflict-of-interest, either real or apparent, would be involved;
4. City employees, officers, and agents shall not accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements; and
5. Enforce provisions for penalties, sanctions or other disciplinary actions for violations of standards.
6. No person who exercises or has exercised any functions or responsibilities with respect to CDBG activities or who is in a position to participate in decisions or gain inside information:
  - a. May obtain a financial interest or benefit from a CDBG activity; or the City of South Gate CDBG Program Operations;
  - b. Have an interest in any contract, subcontract, or agreement for themselves or for persons with business or family ties.

NOTE: This requirement applies to covered persons during their tenure and for one year after leaving the Recipient entity.

7. Include the conflict-of-interest provision in written agreements and other documents with owners, developers, and sponsors.

8. Monitoring of projects will include necessary actions to ensure that the conflict of Interest provision is adhered to.

### **CDBG PROGRAM STAFFING PLAN**

It is the intentions of the City to have City staff provide management oversight of the administration of the CDBG program. To the extent necessary, the City will utilize other resources including consultants to assist with the administration of the CDBG and HOME Programs. Provided below is a brief staffing plan identifying roles and responsibilities of City staff and program consultants.

### **CITY OF SOUTH GATE - ORGANIZATION ROLES AND RESPONSIBILITIES**

For questions concerning the HOME and CDBG Programs, individuals may contact the Community Development Department staff directly by telephone, or e-mail. The mailing address is:

City of South Gate  
 Director of Community Development  
 8650 California Avenue  
 South Gate, CA 90208

Exhibit 7, on the following page summarizes the South Gate staff's roles and responsibilities in administering the City's HOME and CDBG Programs.

<b>EXHIBIT 7 CITY OF SOUTH GATE STAFFING PLAN</b>		
<b>Staff Members</b>	<b>Phone Number</b>	<b>E-Mail Address</b>
Michael S. Flad City Manager	(323) 563-9503	<a href="mailto:mflad@sogate.org">mflad@sogate.org</a>
<b>Joe Perez</b> Director of Community Development	(323) 563-9566	<a href="mailto:jperez@sogate.org">jperez@sogate.org</a>
Jackie Acosta Director of Administrative Services	(323) 563-9523	<a href="mailto:Jacosta@sogate.org">Jacosta@sogate.org</a>
Vivian Garcia Housing Administrator	(323) 563-9585	<a href="mailto:vgarcia@sogate.org">vgarcia@sogate.org</a>
Abel Torres Housing and Grants Analyst	(323) 563-9528	<a href="mailto:atorres@sogate.org">atorres@sogate.org</a>
Victor Ferrer Management Analyst	(323) 563-9592	<a href="mailto:vferrer@sogate.org">vferrer@sogate.org</a>
Vinnie Timoteo Senior Accountant/Finance	(323) 563-5467	<a href="mailto:vtimotego@sogate.org">vtimotego@sogate.org</a>

Jesus Murillo Housing Inspector	(323) 563-9519	<a href="mailto:jmurillo@sogate.org">jmurillo@sogate.org</a>
CDBG/HOME Program Consultant	(909) 979-6586	<a href="mailto:lcalleros@agi.com.co">lcalleros@agi.com.co</a>

**City Manager** – City of South Gate certifying officer responsible for overall functions of the City of South Gate, including the functions of the Community Development Department and Finance Department.

**Director of Community Development** – Responsible for overall program management and evaluation of the operation of the program. Facilitates the adoption of program policies and procedures and assigns the necessary staff resources to carry out the program. As the City of South Gate certifying officer, designated by the City Manager, signs CDBG and HOME Program certifications, grant documents, loan agreements, and wiring requests.

**Director of Administrative Services** – Responsible for overall financial operations of the City and evaluating and making recommendations on financial operations, such as the City's CDBG and HOME Programs.

**Housing Administrator** – Responsible for the CDBG and HOME program administrative oversight, including managing program consultants to ensure programs are being carried out in compliance with program requirements. Oversees and assists with the preparation of required reports and IDIS voucher preparation. Assists with the implementation of housing and community development programs including the implementation of projects.

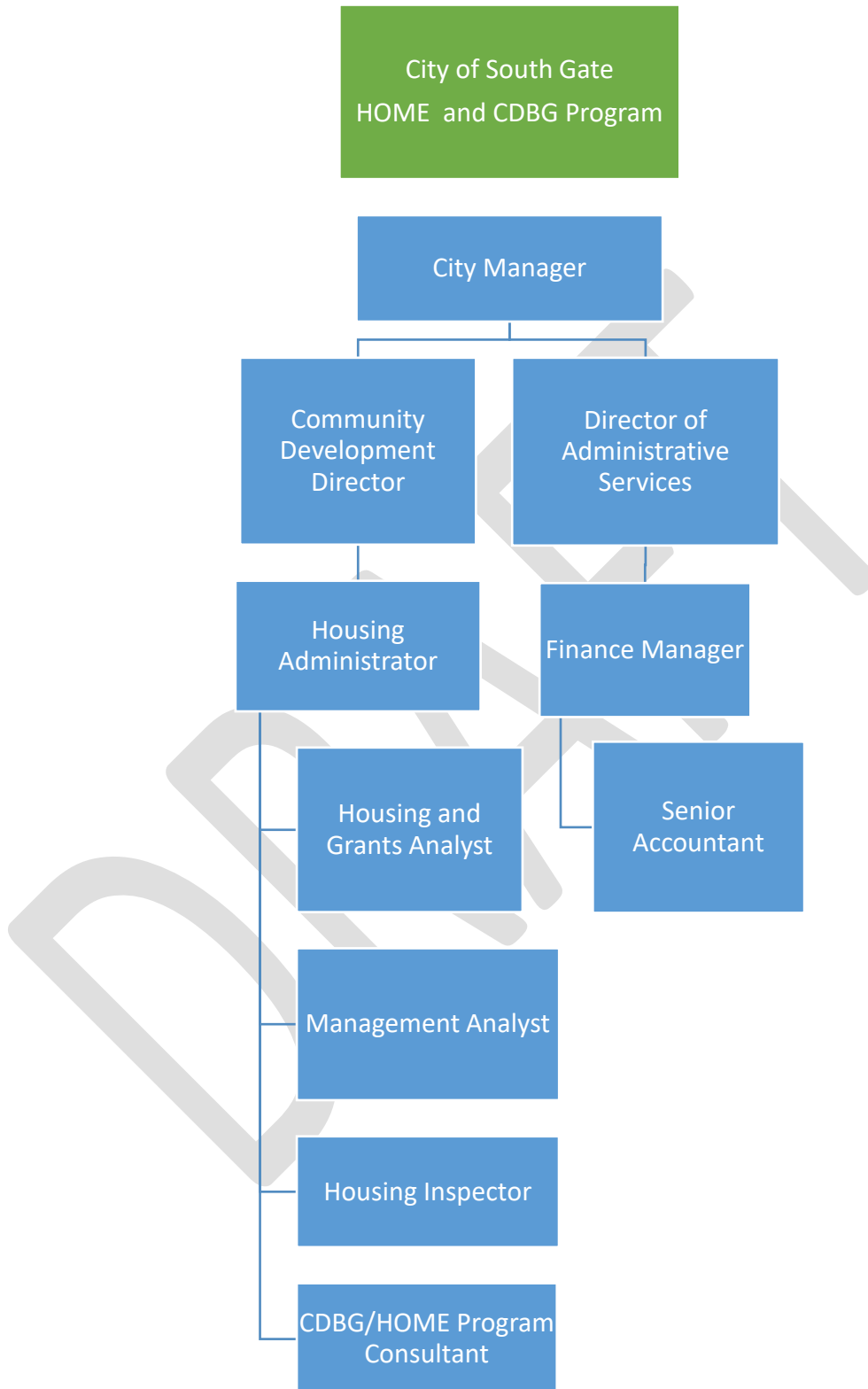
**Housing and Grants Analyst** – Administers the CDBG Program. Prepares the Notice of Funds Available, meets with prospective applicants, assists with Annual Action Plan and other reports, meets with citizen committee groups, reviews progress of sub recipients throughout the year, conducts on-site monitoring reviews and approves draws. Working closely with the Management Analyst and the CDBG and HOME Program Consultant, the Housing and Grants Analyst is responsible for selection process of program applicants, monitoring of the programs for regulatory compliance, and program marketing/outreach.

**Management Analyst** – Administers the HOME Program including soliciting new participants. Reviews site inspection/work plans, prepares cost estimates, reviews for lead based-paint issues, inspects rehabilitation progress, evaluates requests for rehab disbursements, calculates after rehab value appraisal, serves as the project manager for HOME rehabilitation projects, prepares/reviews requests for disbursement, and prepares request for certificate of completion.

**Senior Accountant** – Responsible for approving IDIS drawdowns and evaluating/approving financial requisitions and supporting documentation. Works with the Director of Finance and Housing and Grants Analyst to implement financial operations related to the CDBG and HOME programs and works with auditors for the completion of City audits.

**Housing Inspector** – Conducts initial walk-thru inspection, inspects work in progress, reviews site inspection/work plan, inspects rehabilitation progress, evaluates requests for rehab disbursements, and conducts final inspections for the HOME Improvement Program funded by HOME funds.

**CDBG and HOME Program Consultant** – Responsible for ensuring the administration and implementation of the CDBG and HOME programs is being carried out in compliance with program requirements. Assists, as assigned, with the preparation of required reports. Sets up activities in IDIS and prepares vouchers. Reviews the program to ensure compliance with CDBG and HOME regulatory commitment and expenditure requirements; ensures file documentation is maintained. Assists with the preparation of required reports and implementation of CDBG and HOME activities.





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## 2. CONSOLIDATED PLANNING

### OVERVIEW

This section will inform staff of the purpose and guide staff through the requirements of the Consolidated Plan and processes. Recipients of federal CDBG funds must prepare a Consolidated Plan, often referred to as the "Con Plan". The Consolidated Plan is intended to act as a consolidated planning document that describes the housing and community development needs of the grantee's community, the resources available to meet those needs, and the proposed actions to meet those needs. The Con Plan must cover a minimum period of at least 3 years, but not exceed more than 5 years.

The consolidated plan serves the following functions [24 CFR 91]:

1. A planning document for the jurisdiction, which builds on a participatory process among citizens, organizations, businesses, and other stakeholders;
2. A submission for federal funds under HUD's formula grant programs for jurisdictions;
3. A strategy to be followed in carrying out HUD programs; and
4. A management tool for assessing performance and tracking results.

A Consolidated Plan is also required for grantees under the federal Housing Investment Partnerships Program (HOME), Emergency Shelter Grant program (ESG), and Housing Opportunity for Persons with AIDS (HOPWA) Program. The Con Plan should address all of these programs if the grantee receives these funds. The Plan should also describe other resources that will be made available to meet the community's identified needs.

The Consolidated Plan must also include an Action Plan that is submitted each year. The annual Action Plan provides HUD with more details regarding the entitlement jurisdiction's plan to allocate funds through programs and projects that will meet the current needs of the community. In other words, where the Action Plan speaks to the specific activities that will be undertaken over the following year, the Consolidated Plan delivers a general outline and is considered to be a guiding document rather than a commitment to certain actions.

The Consolidated Planning requirements of **24 CFR 91** are not only requirements for documentation but also require the grantee to involve the public. HUD sees the Consolidated Plan and Action Plans as much as processes as they are documents, if not more so. From HUD's perspective, the document serves as evidence of the process.

Unless cited otherwise, quotes from HUD in this section are from "GUIDELINES FOR PREPARING A CONSOLIDATED PLAN SUBMISSION FOR LOCAL JURISDICTIONS", "FY 2007 Implementation: New Local Regulatory Provisions for 3-5 Year Consolidated Plan Amendments", and "New Local Action Plan Submission Provisions". They all are available on the HUD website. The FY2007 and "new" requirements were released following the update and revision of 24 CFR 91 adopted in 2006 and implemented in federal fiscal year 2007.

## PROGRAM YEAR

The program year for the City of South Gate coincides with the Fiscal year, which begins on July 1 and ends on June 30.

## PLAN SUBMISSION AND REVIEW

Consolidated Plans and Annual Action Plans must be submitted 45 days prior to the start of the program year which they cover.

In May 2012, HUD's Office of Community Planning and Development (CPD) introduced the **eCon Planning Suite**, including the **Consolidated Plan template in IDIS Online** and the **CPD Maps** website. By creating a more cohesive planning and grants management framework and providing better data and a tool for analysis, the econ Planning Suite supports grantees and the public to assess their needs and make strategic investment decisions.

**The Consolidated Plan template in IDIS** facilitates the planning process by making critical data on housing and community development needs readily accessible to grantees in the format required by HUD. By providing detailed and timely demographic, housing affordability and economic data, the template frees up time formerly spent searching out and compiling data to allow grantees to focus on understanding the data, further boosting the process beyond simple compliance with reporting and budgeting requirements. Moreover, by providing a standard format for all the required Consolidated Plan elements, HUD is providing clear guidance on when requirements will be met.

With the incorporation of the Consolidated Plan and Annual Action Plans into IDIS Online, the key reporting elements of the grants management cycle are integrated into a single system. This will help ensure cohesiveness among

- the goals described in the Consolidated Plan and Action Plan,
- the activities and accomplishments tracked in IDIS, and
- the outcomes reported in the Consolidated Annual Performance and Evaluation Report (CAPER).

This integrated system makes the Consolidated Plan a more useful planning and management tool.

**CPD Maps** is an online data mapping tool for place-based planning. Grantees and the public can use CPD Maps to analyze and compare housing and economic conditions across their jurisdictions. The CPD Maps tool is publicly available, giving all community stakeholders access to the same data. The Consolidated Plan template allows grantees to insert maps and data tables from CPD Maps with ease, throughout their plan.

## CONSOLIDATED PLAN CONTENTS

The regulations require that the Consolidated Plan include certain information about the community, that it answer certain questions about the community and the grantee jurisdiction, and that it tell HUD how the grantee intends to comply with certain program and HUD requirements.

In general, the following components are required [24 CFR 91.200]:

- description of the lead agency
- description of the planning process
- description of those who participated in the process
- description of consultations with other agencies and entities
- executive summary of the plan
- summary of the public planning process
- housing and homeless needs assessment
- housing market analysis
- Strategic Plan
- annual Action Plan
- required certifications
- monitoring plan
- citizen participation plan

The regulations specify the form and content of these components to varying degrees. It is key that those staff members who assist in the development of entitlement jurisdictions pay particular attention to those requirements identified in the regulations. In addition to 24 CFR 91, HUD has also provided additional guidance resources regarding the development of a Consolidated Plan. HUD provides links to "model" Consolidated Plans and best planning practices on its web site at <http://www.hud.gov/offices/cpd/about/conplan/>

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## BACKGROUND AND GENERAL INFORMATION

The first four requirements above are typically presented in a background section that includes general information about the community. Details on what HUD is looking for in these sections are summarized below.

### DESCRIBE THE LEAD AGENCY

From HUD: "The jurisdiction must identify the lead agency or entity for overseeing the development of the plan and the major public and private agencies responsible for administering programs covered by the consolidated plan".

The "lead agency" is going to be the grantee jurisdiction except in the rare case that the plan covers more than one jurisdiction. In this case, the lead agency is the City of South Gate.

### DESCRIBE THE PLANNING PROCESS

HUD wants a general description of the planning process that identifies those steps taken by the jurisdiction to prepare for the development of the consolidated plan in a way that meets the federal requirements. This can be in the form of a narrative timeline of the planning process.

### TELL HUD WHO WAS INVOLVED

HUD wants to know about the public and private agencies involved in planning for the use of funds. This can be as simple as a list of agencies.

### TELL HUD WHO YOU "CONSULTED"

HUD requires that you "consult" with agencies that have knowledge of housing and community development needs. There are certain required consultations. These are described in more detail in the following section. You need to list those agencies you consulted in the preparation of the plan. HUD encourages entitlement jurisdictions to consult with a dynamic pool of community representatives that can include local businesses, developers, non-profit agencies, faith-based organizations, the general public and other parties that carry an interest in the community.

## EXECUTIVE SUMMARY

Grantees must provide a separate "executive summary" of the Consolidated Plan. This should be a short description of the Consolidated Plan. HUD wants the executive summary to include the objectives and outcomes that have been identified in the plan and for it to discuss the past performance of the grantee.

## **PUBLIC PROCESS SUMMARY**

Jurisdictions need to summarize the "citizen participation process" that was implemented to gain public input. This is often a separate section or an appendix to the plan. This section describes the various public workshops, public hearings, and public meetings of elected or appointed bodies. The public process summary should specifically mention when and how the public was informed of these meetings and should provide a summary of the public comment captured at the meetings. In addition to the public meetings, HUD wants to know when and how the public was informed of the planning process; when and how they were given an opportunity to review the plan document.

Please note: HUD wants draft documents to be made available on-line at the entitlement jurisdiction's web site.

Copies of all public notices with evidence of when they were posted should be captured.

## **COMMUNITY NEEDS**

HUD requires that the Consolidated Plan discuss the community's needs in general and specifically discuss those identified housing needs, homeless needs, and provide an analysis of the local housing market.

### **GENERAL COMMUNITY NEEDS**

Although the regulations and HUD are not specific about the discussion of general needs there should be substantial presentation of the community's demographics including current characteristics and trends in population, age, education, employment, race/ethnicity, household characteristics, and characteristics of special needs populations (elderly, disabled, large households, single-parent households, persons addicted to drugs and alcohol, persons with HIV/AIDS, victims of domestic violence, and persons receiving public assistance).

### **HOUSING NEEDS**

The requirements for the discussion of Housing and Homeless Needs are much more specific. Housing needs must be projected for the Consolidated Plan period. Housing needs must be discussed by income group and by renters vs. owners. Data from the US Census must be used. Census data may be complemented by other reliable data sources and local surveys. Consultation with local service providers and advocates should also be reflected in the discussion of housing needs.

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The housing needs of the following special needs groups must be discussed:

- elderly
- disabled
- single persons
- large families
- public housing residents
- families on the public housing waiting list
- persons with HIV/AIDS and their families

The discussion of housing needs must also include:

- housing cost burden
- over-crowding (especially for large families)
- housing conditions

The discussion must provide specific information by income group and tenure. The needs assessment must also include an analysis of how any particular ethnic or racial group has disproportionate housing needs.

## **DATA SOURCES**

Special US Census data tabulations for the preparation of Consolidated Plans including data on housing needs are available from HUD's Policy Development and Research Information Service or "PD&R" from the "HUD User" website: <http://www.huduser.org/dalassets/cp.html>.

### *CHAS Data*

One special data set that can be a useful tool in developing an effective Consolidated Plan is called "CHAS Data". This source of data is a collection of custom tabulations that were once used in the preparation of what was known as a "Comprehensive Housing Affordability Study" (CHAS), which has since been replaced by the Consolidated Plan. It, along with other data sources, can be accessed through what is called the "State of the Cities Data System" (SOCDS) at <http://socds.huduser.org/>. CHAS Data can be pulled at this website: <http://socds.huduser.org/chas/index.html>.

### *Consolidated Plan Template in IDIS*

The Consolidated Plan Template in IDIS makes data on housing and community development needs readily accessible to grantees in the format required by HUD. The provision of detailed and timely demographic, housing affordability and economic data in the template frees up staff time

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to allow grantees to focus on understanding the data, further boosting the process beyond simple compliance with reporting and budgeting requirements.

Both the Consolidated Plan Template in IDIS Online and CPD Maps draw on multiple data sources to produce data tables, populate maps and create reports. The following data sources are used by both tools.

- American Community Survey (ACS)
- eCon Planning Suites data
- Fair Market Rents (FMR)
- HOME Program Rent Limits
- HOME Income Limits
- Homeless Data Exchange/Annual Homeless Assessment Report Data
- Homeless Data Exchange Public Report
- Assisted Housing (IMS/PIC)
- Physical Inspection Reports

Data sources from HUD and others are listed HUD's Consolidated Plan Data Sources page [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/about/conplan/cp\\_data](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/about/conplan/cp_data).

The Consolidated Plan must include a concise summary of the extent and nature of the community's homeless population including chronically homeless individuals and rural homelessness. It must include a distinct analysis of need for services and facilities for homeless individuals, families, families with children, sheltered, unsheltered and other homeless subpopulations. The summary should provide the characteristics and needs of low- and very-low-income families that are threatened by homelessness. This section should also present a brief narrative on the racial and ethnic characteristics of the homeless population to the greatest extent possible. HUD requires the Consolidated Plan include "Table 1A" to present this information.

### **SUPPORTIVE HOUSING NEEDS**

The discussion must include an estimate of non-homeless persons with special needs and a discussion of their needs. These populations include elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or drug addictions, persons with HIV/AIDS and their families, public housing residents, and any other population the grantee believes have a need for supportive housing. HUD requires jurisdictions to use "Table 1B" to present this information.

## **LEAD-BASED PAINT HAZARDS**

The Consolidated Plan must include an estimate of housing units occupied by low-income households that may contain lead-based paint. The Plan must also discuss the incidence of actual lead poisonings attributable to lead-based paint in the grantee jurisdiction.

## **HOUSING MARKET ANALYSIS**

### **GENERAL SUPPLY AND DEMAND**

The Consolidated Plan must discuss the supply of, demand for, condition and cost of housing in the grantee jurisdiction. This must include specific discussion of housing serving persons with special needs and low-income households. (See Housing Needs.) Condition of housing units must estimate the number of vacant and abandoned housing units and the suitability of these units for rehabilitation and occupancy.

### **INCOME, RACE AND ETHNIC CONCENTRATION**

The Consolidated Plan must identify and describe any areas with concentrations of low-income households and areas of racial or ethnic concentration. A low-income concentration area is a primarily residential area where 51% or more of the housing units are occupied by low-income households. The grantee must determine and justify the threshold for race/ethnic concentration. These areas should be illustrated using maps in the plan.

### **PUBLIC HOUSING AND AFFORDABLE HOUSING**

The Plan must discuss the needs of public housing and other subsidized affordable housing. This must include an identification of the developments, number and type of units, condition, physical needs, and the results of any recent Section 504 evaluation. The Plan should discuss the local Public Housing Authority's (PHA) management plan and identify if the PHA is operating under an HUD-approved PHA Plan.

Discussion of privately-owned affordable housing must include the target income levels, source of assistance, term of affordability and an evaluation of the likelihood of conversion to market rate.

### **HOUSING FOR THE HOMELESS**

The Plan must describe the services and facilities available to meet the needs of the homeless and chronically homeless. This must include separate mention of emergency shelter, transitional



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housing, and supportive and non-supportive housing for the homeless. The percentage available to and currently serving the chronically homeless should be estimated.

### **SPECIAL NEEDS HOUSING—NON-HOMELESS**

The Consolidated Plan must describe services and facilities available to special needs populations who are not homeless. The Plan must also describe services and facilities for those discharged from hospitals and institutions.

### **BARRIERS TO AFFORDABLE HOUSING**

The Plan must describe barriers to the development of affordable housing including the general cost of construction and other public or private factors that may pose a barrier to the development, maintenance or improvement of affordable housing. This includes local tax policy, land use controls, building codes, fees, growth limits or other factors.

### **STRATEGIC PLAN**

The Strategic Plan section of the Consolidated Plan discusses the priority needs of the grantee jurisdiction and the allocation of resources to meet those needs as well as strategies to meet specific HUD-mandated goals.

### **PRIORITY NEEDS**

Staff will need to discuss the general priorities for allocating resources both geographically and amongst activities. Use the tables provided by HUD to summarize priority given to various needs and resources allocated.

A description of the rationale used to determine the allocation of resources with particular attention to distribution across income groups will need to be provided.

### **OBSTACLES TO MEETING UNDER-SERVED NEEDS**

This section should describe any identified obstacles to meeting under-served needs in the grantee jurisdiction.

### **SPECIFIC OBJECTIVES**

Summarize the specific objectives the grantee has for the planning period including resources available and which identified needs will be met. Each objective must include proposed

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quantified accomplishments for the planning period and measurable outcomes. (See performance measurement guidance from HUD.) Use Tables “1C” and “2C”.

### **AFFORDABLE HOUSING**

Describe the strategy for meeting affordable housing needs by income group and tenure. Discuss the allocation of resources made available for rental assistance, production of new units, rehabilitation, acquisition and preservation. Enumerate the number of households under the plan who will receive assistance by income group. Use Table 2A.

### **PUBLIC HOUSING**

This section will need to discuss the strategy for meeting the needs of public housing and the needs of public housing residents including homeownership. If the local PHA has been designated as "troubled" by HUD, the grantee must describe the resources it will make available to the PHA. You should contact your local PHA or HUD Field Representative to determine if the PHA has a "troubled" designation and if so, why.

### **HOMELESSNESS**

Identify and describe the grantee jurisdiction's strategies for the following:

- Helping low-income families avoid/prevent homelessness;
- Homeless outreach and needs assessment;
- Meeting emergency shelter and transitional housing needs of the homeless; and
- Helping homeless and chronically homeless transition to permanent housing and independent living.

### **NON-HOMELESS SPECIAL NEEDS**

Summarize the priority needs for special needs populations not related to housing and strategy for meeting those needs. Use “Table 1B”.

### **NON-HOUSING COMMUNITY DEVELOPMENT (CDBG ONLY)**

Describe the non-housing community development needs that will be met. These must be provided by CDBG eligibility category. Use Table 2B.

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## **NEIGHBORHOOD REVITALIZATION**

This section will need to present any geographically targeted revitalization efforts. This includes any HUD-approved or proposed Neighborhood Revitalization Strategy Areas (NRSAs).

## **BARRIERS TO AFFORDABLE HOUSING**

Describe any barriers to the development of affordable housing including the general cost of construction and other public or private factors that may pose a barrier to the development, maintenance or improvement of affordable housing. This includes local tax policy, land use controls, building codes, fees, growth limits or other factors.

## **LEAD HAZARD REDUCTION**

The grantee's strategy to reduce lead-based paint poisoning hazards will need to be summarized. The grantee must discuss how the federal Lead-Safe Housing Rule and local lead hazard reduction strategy will be integrated into the grantee's housing programs.

## **ANTI-POVERTY**

Describe the grantee's strategy to reduce the number of poverty-level families. Describe how the grantee's housing programs will reduce poverty and how they will be coordinated with the other programs and services available to relieve and reduce poverty in the grantee jurisdiction.

## **GAPS IN INSTITUTIONAL STRUCTURE**

Describe the grantee's strategy to reduce gaps in institutional structure that impair the ability to implement the Strategic Plan.

## **COORDINATION**

This section will need to provide a description of the grantee's strategy to enhance coordination between public and assisted housing providers, private and public service agencies in order to implement the Strategic Plan. Homeless coordination must address the needs of the chronically homeless. Community Development coordination should describe coordination with private industry.

## **ANNUAL ACTION PLAN CONTENTS**

The Action Plan discusses the specific activities planned for each year and the resources available. It implements the Consolidated Plan on a more detailed level. It must be submitted annually and

approved by HUD before funds are released. The first-year Action Plan for the Consolidated Planning period is submitted with the Consolidated Plan.

The required elements of the Action Plan and a brief discussion of each follow.

### **EXECUTIVE SUMMARY**

An executive summary of the Action Plan is required. This element should briefly outline the Action Plan and planning process. It must include a summary of objectives and outcomes for the plan year and discuss past performance.

### **RESOURCES**

Staff needs to provide a summary of all funds that will be available in the year to meet identified needs. These resources may be insufficient to meet needs or in excess of need. This should include all formula grants expected, loan payments and program income, and un-expended prior year funds. Any significant assets or real property that is available should also be discussed.

The availability of funds not directly controlled by the grantee should also be discussed in general. This would include federal homeless funds (Mc Kinney-Vento) and funding for the local housing authority, especially funds for the Housing Choice Voucher program.

Other funds from all sources should be summarized. These would include reserved Low-Income Housing Tax Credits and other state and local funds and programs.

Where there is a matching requirement or there is significant local support for specific activities or the CDBG program in general, this should be mentioned in this discussion.

The discussion of CDBG funds must include:

- Program income expected to be received in the upcoming plan year.
- The amount expected to be generated by and deposited into revolving loan funds in the current plan year.
- The amounts expected to be received by "float-funded" activities in the current plan year and all prior plan years.
- Prior year program income, Section 108 loan proceeds or funds returned to the line-of-credit that have not previously been programmed.

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## **SPECIFIC ANNUAL OBJECTIVES**

The Action Plan must summarize the specific objectives and priority needs that will be met during the plan year. This is often done by summarizing the planned activities under each specific objective.

The relationship between a planned activity and specific objective(s) and priority need(s) should be discussed when describing the activity. The priority need and specific objective are also included in HUD "Table 3C - Consolidated Plan Projects". The proposed accomplishments and outcome of the annual activity should be related back to meeting the planned accomplishments and objectives of the Strategic Plan section of the Consolidated Plan.

## **DESCRIPTION OF ACTIVITIES**

Staff should ensure the Action Plan includes a general narrative description of each planned activity, relate each activity to a priority need and specific objective; and the Action Plan must describe the proposed accomplishments for each. The Action Plan must also estimate the number and type of beneficiaries including income level. A start and completion date must be provided for each activity. Each activity must have an outcome measure associated with it. This information is also included in "Table 3C".

There are specific requirements for the description of "float-funded" CDBG activities. (A "float-funded" activity is an activity that will re-pay the CDBG grant line of credit in the short-term.)

## **ALLOCATION PRIORITIES**

The Action Plan must explain why certain activities were funded over others and how the levels of funding were determined. If there were any particular obstacles to meeting under-served needs, they should be discussed.

## **GEOGRAPHIC DISTRIBUTION AND LOW/MODERATE INCOME (LMI) BENEFIT**

The Action Plan must show and describe the geographic distribution of planned activities. An estimate of funding directed to target areas should be provided.

The Action Plan must estimate the percentage of annual CDBG funding that will benefit Low/Moderate Income (LMI) persons and households. The specific location of CDBG activities must be identified and shown in relation to LMI areas. For activities that do not have a specific location or where there is a need to maintain secrecy the Action Plan should describe the general location or the general area that will likely benefit. Where there are CDBG-funded activities for

which locations have yet to be determined such as business assistance or housing rehabilitation loans the Action Plan must describe who may apply and how recipients will be selected.

The use of funds in Neighborhood Revitalization Strategy Areas or as part of a coordinated effort focused on improving conditions within a specific area should be discussed.

### **ANNUAL AFFORDABLE HOUSING GOALS**

Much as the Strategic Plan section of the Consolidated Plan has five-year goals for housing, the Action Plan must describe the annual goals for homeless, non-homeless and special needs. The number of households assisted via rental assistance, construction, rehabilitation and/or acquisition must be specified.

### **HOMELESS**

Staff will need to ensure the Action Plan identifies activities that meet the needs of the homeless for emergency shelter and transitional housing or that provide supportive services that prevent homelessness or assist the homeless to be placed in housing or remain in housing. This includes un-related individuals, families with children and the chronically homeless.

### **SPECIAL NEEDS**

HUD requires the Action Plan discuss how activities meet the needs of populations having special needs such as the disabled and persons living with HIV/AIDS.

### **PUBLIC HOUSING**

The Action Plan will need to include a description on how the planned activities will assist the local public housing authority. If the local PHA is "troubled" the Action Plan must describe the efforts the grantee will take to help the PHA remove that designation.

### **ANTI-POVERTY STRATEGY**

A brief discussion on how the planned activities will help to reduce the poverty level in the jurisdiction will need to be provided.

### **LEAD-BASED PAINT HAZARD REDUCTION**

The Action Plan will need to include a section that discusses the extent of lead-based paint hazards and how planned activities will reduce the hazard. If there are specific activities that may have the potential to affect lead-paint hazards these should be discussed. The annual

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implementation of the grantee's Lead Hazard Reduction plan should be discussed. Activities that have the potential to disturb lead-based paint should be mentioned and specific efforts or program design elements that reduce lead exposure or abate lead hazards should be described.

## **"OTHER ACTIONS"**

The Action Plan must discuss the following "other actions" the grantee will undertake in the plan year to meet various grant and general HUD grantee requirements.

- Address obstacles to meeting under-served needs
- Foster and maintain affordable housing
- Remove barriers to affordable housing
- Develop institutional structure
- Enhance coordination between public and private housing, health and social services agencies
- Encourage public housing residents to become more involved in management and participate in homeownership

## **FAIR HOUSING**

There should be a discussion of actions related to the grantee's obligation to affirmatively further fair housing. This should relate to the implementation of the grantee's Analysis of Impediments to Fair Housing Choice. Any changes in the grantee jurisdiction that impact fair housing should be discussed along with any appropriate changes to the grantee's fair housing program.

## **MONITORING**

This section should describe the policies and practices in place to monitor activities and assure long-term compliance. This includes any specific sub-grant requirements and the administrative requirements of federal funds in general. The monitoring discussion should include plans to assure affordable housing compliance, the timely expenditure of funds, site inspections to determine housing code compliance and on-site sub-recipient monitoring. Labor compliance and the verification of environmental mitigation requirements should also be mentioned.

Grantees should also discuss the local implementation of performance measurements.

## **CITIZEN PARTICIPATION PLAN CONTENTS**

HUD has very specific requirements for how the public is to be informed and involved in the planning process. HUD requires that the grantee spell out exactly how it will meet these

requirements by developing and adopting a Citizen Participation Plan as part of the consolidated planning process. This plan only needs to be updated as the practices of the grantee change or as HUD changes requirements for public participation.

There are also certain minimal public participation requirements for the development of the consolidated plan, the annual action plan and the annual performance report.

The minimal public participation requirements for the consolidated plan are buried in the regulations for the citizen participation plan. It is helpful to look at them separate from plan requirements.

## **MINIMUM PUBLIC PARTICIPATION REQUIREMENTS**

### **ENCOURAGEMENT OF CITIZEN PARTICIPATION IN GENERAL**

HUD wants the grantee to involve those who are most likely to be impacted and therefore potentially benefit from the use of CDBG funds. This includes low- and moderate-income persons and those living in CDBG target areas. HUD "expects" the grantee to encourage the participation of minorities, non-English-speaking persons and disabled persons.

The grantee is required to involve local and regional agencies in plan preparation specifically businesses, developers, and community and faith-based organizations.

HUD encourages the use of "alternative techniques" to involve the public such as internet-based applications and small group consultations.

The grantee is required to make a specific effort to involve residents of public and other forms of assisted housing. This effort is to be coordinated with the local PHA. The grantee should share its plans for planned activities with the PHA.

### **CITIZEN PARTICIPATION DURING PLAN DEVELOPMENT**

At least one public hearing must be held during plan development, prior to publication of the plan. The public hearing should discuss housing and community development needs and proposed activities. Many grantees have two separate hearings, one on needs and one on proposed activities.

Public hearings must have "adequate advance notice". HUD does not provide a statutory definition but it does state in the regulations that "small print notices ... a few days before the hearing" are not adequate. HUD also offers that it considers two weeks' prior notice as adequate. Public hearings must also be held in such a place and at such a time as to facilitate the



participation of actual or intended beneficiaries. The grantee must offer accommodations to the disabled and those with limited English proficiency.

Before adoption, the grantee must make available to the public information regarding:

- The amount of assistance expected (new grant funds and income)
- The range of activities planned to be undertaken
- The estimated amount planned to be expended to benefit to low- and moderate-income persons.

The proposed plan must be published to allow time for the public to review and comment. The publication requirement can be met by publishing a summary of the plan in at least one newspaper of general circulation and by making copies of the plan available in local libraries, government offices and public places such as community centers. A "reasonable number" of copies of the plan must be made available free to the public. The summary must at a minimum describe the contents and purpose of the plan and tell the reader where copies of the entire plan may be reviewed. The plan must be made available in a form accessible to persons with disabilities when requested.

The grantee must allow for a public comment period of not less than 30 days.

HUD requires that all public comment be considered during plan development and that a summary of public comment be included in the plan document. The grantee's response to all comments must be documented in the plan. Comments that are not accepted must have the reason they were not accepted included in the plan.

The plan document, related documents and records related to plan development must be made available to the public in a "reasonable and timely manner".

## **PLAN AMENDMENTS**

During the approved Consolidated Plan period, decisions by the jurisdiction to make changes to certain programmatic items may result in the grantee having to amend its plan. Changes that would require an amendment to the Consolidated Plan include:

- Allocation priority changes or changes to the jurisdictions method of distribution;
- A change in activities to be carried out by the jurisdiction that were not originally included in the approved Action Plan; and/or
- Changes to an activity that will affect the purpose, scope, location, or beneficiaries

The jurisdiction is required to establish criteria for substantial amendments in the development of their Citizen Participation Plan. The criteria identified will be utilized to determine whether any changes will be considered a substantial amendment. Substantial amendments are subject to citizen participation requirements followed during the preparation of the Consolidated Plan and must follow the jurisdictions Citizen Participation Plan developed in accordance with 24 CFR Part 91 requirements. Substantial amendments require a public comment period and citizens must be provided reasonable notice and an opportunity to comment on amendments. The amended Consolidated Plan or Action Plan will have to be re-adopted by Council.

Upon completion of the amendment and after a comment period, HUD must be notified of amendments to the plan and the jurisdiction is required to submit the amendments to HUD for approval.

### **PERFORMANCE REPORTS**

The grantee must describe how the public will be afforded an opportunity to comment on performance reports and that those comments will be considered. A summary of the public comments must be attached to the performance report.

### **PUBLIC HEARINGS**

The regulations state the grantee must hold at least two public hearings per year at two different times during the year, with one being conducted prior to the adoption of the Consolidated Plan. These hearings should address housing and community development needs, proposed activities, and program performance. This section must describe how "adequate advance" notice of public hearings will be given to the public and how the hearings will be held in places and at times convenient to actual and potential beneficiaries. A description of how the needs of non-English speaking persons and people with disabilities will be accommodated needs to be provided.

In practice, most communities conduct one or two public hearings when the consolidated plan and annual Action Plans are being developed and one when the annual report (CAPER) is presented to the governing body.

HUD does not define "adequate advance" notice but it is quite specific in the regulations about inadequate notice, "Publishing small print notices in the newspaper a few days before hearing does not constitute adequate notice. Although HUD is not specifying the length of notice required, it would consider two weeks [to be] adequate". [24 CFR 91.1 10 (e)(2)]

**PUBLIC ACCESS**

Describe how residents will be provided with "reasonable and timely" access to meetings and to public records related to the use of CDBG funds for the preceding 5 years. Identify the steps taken to assure the Consolidated Plan, amendments and performance reports will be made available, and how they will be made available in a form accessible to the disabled.

HUD does expect the public will have relatively easy access to the grantee's records. Many grantees maintain one or more public information binders that are available in public places or on request. Availability on the grantee's website in electronic form is also generally expected.

**TECHNICAL ASSISTANCE**

The grantee must describe how technical assistance will be given to low and moderate-income groups or persons who wish to develop proposals for the use of grant funds.

**COMPLAINTS**

A brief description must be provided on how the grantee will handle complaints and deliver a written response in "timely and substantive" manner.

HUD expects CDBG grantees to respond to complaints within 15 working days. It is not specific with other types of grantees.

Moreover, the Citizen Participation Plan must require that the grantee follow the plan. It must commit the grantee to meeting the requirements of the Plan and be adopted as official policy and practice of the grantee jurisdiction.

**CITIZEN COMMENT ON THE CITIZEN PARTICIPATION PLAN**

The Citizen Participation Plan document must be made available for public review and comment before it is adopted and if it is ever amended. If you take the Citizen Participation Plan through the same review process as the Consolidated Plan you will meet the review requirements.

**THE CONSOLIDATED PLANNING PROCESS****CONSULTATION**

As mentioned in the previous section, HUD requires the grantee to consult with certain agencies when preparing the plan. These consultations are both general and specific to certain topics.

What HUD means by "consultation" are meaningful interactions with these agencies that result in "collaboration and collective problem-solving". HUD wants the grantee to develop, "partnerships among government agencies and between government and private groups ...[that]...marshal government and private resources to achieve intended public purposes".

HUD wants the plan to be a comprehensive document that reports on the needs of the community. The assumption is that the grantee does not have a sufficient breadth or depth of knowledge to represent the complete needs of the community.

### **GENERAL CONSULTATION**

In preparation of the plan in general, the grantee must consult with public and private agencies that provide:

- Assisted housing
- Health services
- Social services
- Fair housing services

HUD also requires that among those agencies, ones that focus on meeting the needs of certain specific groups be consulted. These groups are:

- Children
- Elderly persons
- Persons with disabilities
- Persons with HIV/AIDS and their families
- Homeless persons

Adjacent units of local government should be consulted. In particular, agencies having planning areas that cross local jurisdictional boundaries or concern regional matters (e.g., transportation, air quality) should be consulted.

### **HOMELESS**

In preparation of the section on homeless needs, the grantee must consult with public and private agencies that provide assisted housing, health services and social services to determine what resources are available to meet the needs of the chronically homeless.

**LEAD-BASED PAINT HAZARDS**

In preparation of the section on lead-based paint hazards the grantee must consult with state or local health and child welfare agencies regarding the degree of lead-based paint hazard to children in the community. The grantee must also consider data on lead hazards and actual cases of childhood lead poisoning in the community including residential locations of cases believed to be related to lead-paint poisoning.

**NON-HOUSING COMMUNITY DEVELOPMENT**

The regulations require that adjacent units of general local government be notified that the grantee is preparing a consolidated plan and that the non-housing community development plan be submitted to the state and the local county. Providing notification to these agencies along with the public is usually sufficient to meet this requirement.

**PUBLIC HOUSING**

The grantee shall consult with the local public housing agency (PHA). In most cases this will be the local housing authority, the agency that implements federal housing programs. HUD requires consultation regarding "public housing needs and planned programs and activities".

This consultation is relatively meaningful in preparation of the plan as one of the required plan certifications is that the PHA plan is consistent with the consolidated plan. The Consolidated Plan must also describe how the grantee will meet the needs of the local PHA, and if it is a "troubled PHA" how the grantee will assist the agency. HUD also expects that the grantee and the PHA will coordinate efforts to address common needs.

If a PHA is under a Section 504 Voluntary Compliance Agreement with HUD, the grantee should identify how it will assist the PHA with compliance, if the grantee is planning to assist the PHA. CDBG funds can be used to assist the PHA with accessibility requirements if the PHA is under a compliance agreement and needs are discussed in the plan.

### 3. ACTIVITY SELECTION

#### OVERVIEW

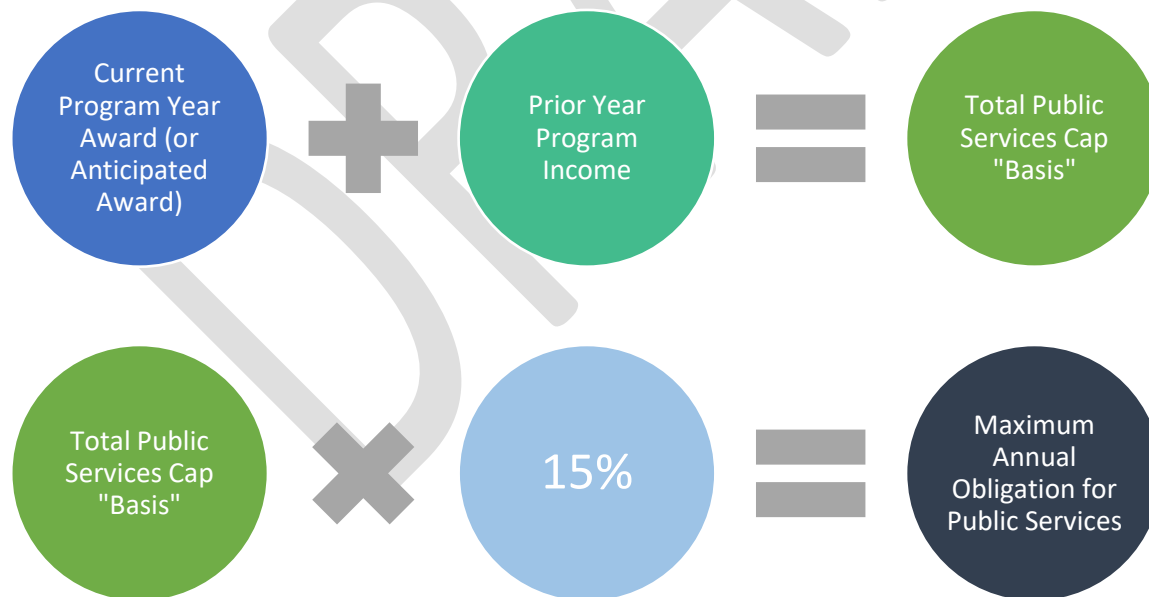
When working with the Community Development Block program, there are several steps to consider when selecting an activity to fund. This section of the manual will guide staff through those steps in a manner and order that are efficient and effective.

#### CATEGORICAL ANNUAL SPENDING LIMITS

When determining the activities to be funded and planning for the use of CDBG funds the two major categorical limits on the use of CDBG funds must be considered – public services and administration.

#### PUBLIC SERVICES

In any program year, the grantee may not "obligate" more than 15% of the current year's entitlement and 15% of the previous year's program income to public service activities [570.201(e)].

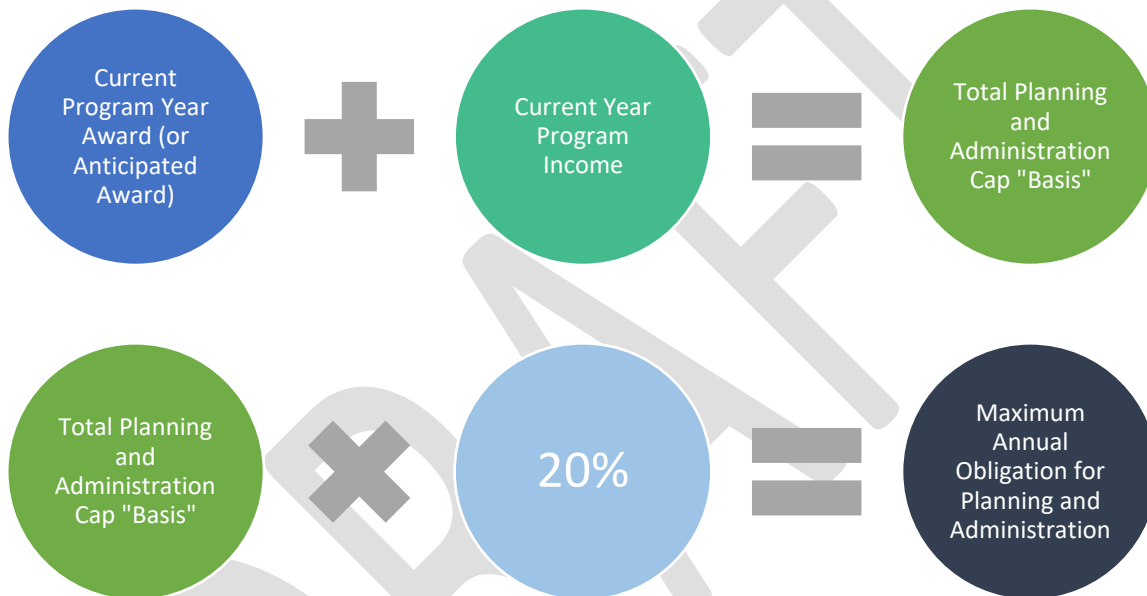


It is important to understand the term "obligation". This means that no more than the public services cap can be allocated to public services activities or otherwise committed each year. It is also important to realize that the cap amount is re-calculated each year, and if all funds obligated

to public services are not expended within the program year, the remaining obligated but unexpended funds are not available to obligate in subsequent years. This scenario is often referred to as "use-it-or-lose-it".

**ADMINISTRATION**

The limit on planning and administrative activities [570.205 and 570.206] is similar to public services with the exception that it is calculated at 20% and uses the current year award and current year program income. [570.200(g)]



The annual cap on planning and admin is also a "use-it-or-lose-it" scenario. It is recommended to over-allocate staffing and overhead costs to the CDBG program (assuming that they are accurate and reasonable) and back them out at the end of the year. Otherwise a grantee will not be able to take advantage of the provision to use 20% of program income.

Note: Re-Payments of principal and interest that go into a Revolving Loan Fund are NOT included in the calculation of the annual caps for public services or planning and administration. Interest on RLF balances or other "advances of federal funds" are also not program income. Such interest must be remitted to the U.S. Treasury.

## PROPOSALS

The first step is to solicit proposals for the use of CDBG funds. This process occurs as part of the annual planning process discussed more fully in the annual Action Plan section. There are several ways that proposals can be generated and typically several are used in the same planning process. There is no process or limit required by HUD other than the public must be involved in determining the use of funds as described in the Citizen Participation portion of the manual.

City staff is often consulted to determine if there are city projects appropriate for CDBG funding. City staff should also internally determine how much funding will be needed for administrative and planning purposes.

An external request for proposals (commonly referred to RFPs) can be made of specific organizations who serve the community or be targeted at certain types of organizations that provide services or can undertake projects that would meet high priority needs. A request for proposals has the flexibility to solicit only a select type of services or can request a broad range of CDBG-eligible services and projects.

## THRESHOLD CRITERIA

There are several "threshold criteria" against which any proposed CDBG activity should be evaluated. These are:

- statutory eligibility
- national objective
- overall low-to-moderate-income benefit
- non-supplanting
- priority need
- eligible means

Every activity must also comply with HUD environmental review requirements.

## STATUTORY ELIGIBILITY

A proposed activity must fit within the activities described in the CDBG regulations at 24 CFR 570.201 through 570.206. They may not be among those described in 24 CFR 570.207 as "specifically ineligible" even if they otherwise appear to be eligible.

There are six broad categories of eligible activities:



- "Basic eligible activities" (570.201)
- "Rehabilitation and Preservation" (570.202)
- "Special Community Development" (570.203)
- "Special Community Based Development Organizations (CBDO) " (570.204)
- "Planning, design and capacity-building" (570.205)
- "Program Administration" (570.206)

If an activity is being considered that does not fit within the description of eligible activities, it cannot be considered to be eligible. If grantee is uncertain as to the eligibility of an activity staff should consult the local HUD Field Representative as mentioned earlier in the manual. Once discussions are held and a result is produced, staff should document the determination in writing in the form of a formal request for or statement of determination of eligibility.

Another general rule of eligibility is that an activity should be qualified as eligible under the sub-section that it best fits. If there is more than one possibility, the most accurate and common-sense possibility should be used.

Staff should examine the eligibility of each activity within the context of the specific sub-section under which it is eligible - planning under the terms of 570.205, public services under 570.201(c), etc.

The section regarding specifically-ineligible activities describes three categories of activities for which CDBG may not be used:

- Buildings used for the general conduct of government
- General government expenses (except eligible direct planning and admin and indirect costs allowed under federal rules)
- Political activities

The regulations also provide guidance on several categories of activities that are only eligible under specific circumstances or when carried out by specific entities such as:

- Purchase of equipment, furnishings and personal property
- Operating and maintenance expenses
- Construction of new housing
- Income payments

## **MEETING A NATIONAL OBJECTIVE**

The proposed activity must be able to meet one of the three National Objectives. In review, these are:

- Primarily benefiting low-and moderate-income persons
- Preventing or eliminating blight
- Addressing an urgent need

See the section "Meeting a National Objective" and the CDBG "Desk Guide" for a more detailed description and discussion of National Objectives. The activity should be reviewed in light of its ability to meet the proposed National Objective.

It is rare that an activity will be proposed that would meet a National Objective other than that of "primarily benefitting low- and moderate-income persons". This objective is also known as the "LMI Benefit".

In the case of meeting the "LMI benefit" National Objective, special attention should be paid to the match between type of activity and the way that the LMI benefit test is met. If the proposal includes a method for determining and documenting LMI benefit, the method should be evaluated for its appropriateness to the particular LMI benefit test being applied and the general efficacy of the method in regard to practice and documentation of results.

Activities that have an area benefit should have the determination of service area and the determination of that area as a low-to-moderate-income area documented in the file.

#### **OVERALL LMI BENEFIT**

The activity should be evaluated for its potential impact on the requirement that not less than 70% of aggregate CDBG expenditures benefit low-to-moderate-income persons.

In general, it is best to only select activities that will or are likely to primarily benefit low-to-moderate-income persons/households. This allows some flexibility should the documentation of income benefit be faulty.

#### **PRIORITY NEED**

The activity must meet a priority need identified in the Consolidated Plan. This is why it is important that the Consolidated Plan be comprehensive and broadly define community needs.

The activity does not need to meet a high priority need to be selected. If it is meeting a need identified as low priority, it is recommended internal discussion be held amongst staff to why it has/should be selected.

If an activity that meets a lower priority need is selected over one that meets a higher priority need the reasons should be clearly documented.

## **MEANS OF CARRYING OUT THE ACTIVITY**

CDBG activities may only be carried out by the following types of entities:

- grantee using grantee employees
- grantee through contractors
- loans or grants to sub-recipients
- public agency
- qualified Community-Based Development Organization (CBDO)

In the last three instances, the entities are acting as sub-grantees. Any entity can act as a contractor, but only certain entities can be sub-grantees.

The use of contractors must be done following federal procurement rules. The selection of a sub-recipient, a public agency or a CBDO (acting as a sub-grantee) does not need to follow procurement rules but should nonetheless be deliberate, fair and transparent. The use of contractors by any type of sub-grantee must be done following federal procurement rules.

## **RANKING CRITERIA**

In addition to the threshold criteria, each proposed use of funds should be ranked on the quality of the proposal, the feasibility of the proposed project and how well it meets the identified needs of the grantee community.

## **CAPACITY**

The proposed activity should be measured against the capacity of the proposer. The proposer should have a successful background in similar projects of similar scale. If not, how does the proposer plan to create capacity? Review the proposer's level of staff with the skills and experience appropriate to the activity.

In addition to the capacity to undertake the proposed activity, does the proposer have the capacity to meet the administrative requirements of the CDBG program? Verify they can adequately document income eligibility, maintain records, and provide accurate reports in a timely manner.

A sub-grantee must also have some financial capacity to provide services and meet the administrative requirements of the CDBG grant independent of the grant itself. Does the proposer have other resources?

The proposer should have an organizational structure that assures integrity and internal controls. Is there an independent governing board? Staff should request and be able to review audited financial statements of the proposer.

Finally, the quality of the proposal document and its attachments is revealing as to capacity. Are the proposal requirements accurately and completely met? Are the questions answered? Is the document neat and legible? Does it reflect an organization that will take a sub-award of federal funds with the gravity it should?

### **SCOPE AND BUDGET**

Analyze if the scope of the project is reasonable to accomplish within the CDBG program and within the proposed budget. The scope should be complete in light of the proposed accomplishments.

Verify the budget is complete and it considers all reasonable costs. Review the income assumptions and all funding sources for levels of security.

### **COST/BENEFIT**

Evaluate the potential impact the project will have on the community on a priority need against the overall cost of the project. It is helpful to break down the cost per accomplishment unit. It should be noted that different types of projects will have widely different unit costs.

### **TIMELINESS**

HUD regulations require CDBG funds must be used in a timely manner. The balance of funds at the end of the program year may not exceed 1.50 times the most recent annual entitlement amount. In the case of public services, the annual limit (15%) does not rollover. Public services projects that do not use funds in a timely manner will impact the overall ability of local CDBG program to fund other public services. It is recommended that all projects have a time limit after which funds may be re-allocated.

The proposal should be evaluated for how likely it is that funds will be used in the time required. The proposal should include a schedule for when the project will hit performance milestones and when it will be complete. The proposed schedules should meet deadlines and be realistic.

### **TRACK RECORD**

If the proposer has performed a similar project for the requesting grantee before, how did they do? When applicable, staff should consider previous experience when selecting a proposer.

If they have not done a similar project, have they done other projects for the grantee or similar projects for other grantees/entitlement jurisdictions? How did they do? Ask for references and call them.

## LEVERAGE

Analyze how many other sources are being used to fund the project and/or support the proposing agency. Grantees should look for proposals that leverage additional funding sources. When other funding sources are being leveraged, it is recommended staff determine if the outside funds are secure or unsecured.

## GENERAL POLICIES

Grantees should also be aware that there are several "special policies" in the regulations that apply to certain uses of CDBG funds. These are:

- 570.200(b) special policies governing facilities
- 570.200(c) special assessments under the CDBG program
- 570.200(d) consultant activities
- 570.200(j) faith-based activities

570.200(e) lists certain categories of activities that must have a written determination of eligibility made and retained in the file. These local determinations must be documented and retained. It is, however, good practice to do this for all activities.

## CDBG PROGRAM GOALS

In the Consolidated Plan and Annual Action Plan grantees are required to tell HUD how they will meet several overall CDBG program goals. The program goals are developed to help address the following needs:

- Affordable housing goals including homeless and special needs
- Homeless needs including shelter, transitional housing and services
- Special needs populations including the disabled and persons with AIDS
- Public housing
- Anti-poverty
- Lead-based paint hazard reduction
- Fair housing

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Action Plans that do not address these needs, especially fair housing and homelessness, may be questioned by HUD.

### **PUBLIC SERVICES "NON-SUPPLANTING" RULE**

A public service funded by CDBG must be "either a new service or a quantifiable increase in an existing service". This is known as the "non-supplanting" rule. [570.201(e)] The idea is that CDBG funds should enhance or increase the level of local services provided to low-and-moderate income persons and not provide budgetary relief to local governments. Federal CDBG funds should not "supplant" local funds.

This rule applies to services that "have been provided by or on behalf of" the grantee using local or state funds. The grantee may not use CDBG funds to "supplant" an allocation of funds or a commitment to provide services that implies an allocation of funds that has been made in the 12 months preceding the submission of the Action Plan.

The grantee may be given an exception to this rule if HUD determines that the decrease in the level of service being made up using CDBG is "the result of events not within the control" of the grantee.

### **REQUEST FOR PROPOSALS (RFP) CONTENTS AND PROPOSAL REQUIREMENTS**

When making a formal request for proposals, also known as an RFP, it is critical that submitted proposals have all the information required to make a decision. It is also important to have standardized responses to facilitate comparison of proposals. (See Appendix for sample RFP)

The request for proposals should include:

- Community and program background
- When, where, and to whom the proposal should be submitted
- Who to contact with questions
- Available funds
- Eligible use of funds
- Contracting requirements
- Conditions of funding (e.g., contracting requirements, insurance, monitoring, labor compliance)
- Proposal process timeline
- Evaluation criteria
- When and by whom award decisions will be made
- Number of copies, binding, certifications and attachments
- Proposal contents checklist (forms and attachments)

- Instructions for any required forms

The proposal requirements should include:

- General information on the applicant and proposal
- General description of the proposed project
  - Location
  - Statement of need and how project will meet that need
  - Beneficiaries (type, location, and number)
- Proposed accomplishments
  - Total persons/households
  - LMI persons/households
- Method to assure eligibility of beneficiaries
- Performance schedule with milestones
- Discussion of any similar programs or projects
- Performance measurement
- Organizational structure
  - General description of organization
  - Governing structure and board members
  - Evidence of incorporation and tax status/public benefit status
  - Articles of incorporation/bylaws
- Relevant experience
- Staffing
- Partners or co-applicants
- Budget (program and agency)
- Current financial statements
- Audited financial statements (if audited)
- Leverage
- Evidence of insurability
- Governing board authorization to apply and contract if awarded
- Federal lobbying disclosure (SF-LLL)
- Conflict of interest certification (Byrd amendment)

## RFP PROCESS

The RFP process begins with publication of the RFP and ends with the award of funds. The steps in between vary somewhat by grantee. What follows are a general description and a suggested process.

## **PREPARATION**

Well in advance of the date when allocation and award decisions need to be made, preparation for the RFP begins. The first step is the schedule. Although it will likely follow the same general schedule from year to year, actual dates may need to be adjusted to accommodate holidays and governing board and/or committee calendars.

The means of publication and distribution should also be decided. If mailing and or e-mailing will be done, a list of addresses should be prepared. There is often interest in the CDBG program expressed throughout the year. A list of interested agencies and persons should be maintained year-round in anticipation of the annual planning process.

The RFP documents need to be prepared. This includes notices, the RFP itself, RFP forms, evaluation/ranking forms, governing board and/or committee report templates, award/deny letters and a record-keeping system.

## **PUBLICATION**

The RFP may be widely publicized or narrowly targeted. Many grantees include a notice of RFP in the annual planning notice for CDBG that meets the public participation requirements of the Action Plan. A notice and the RFP itself are commonly sent to recent recipients and previous applicants.

There is no HUD requirement for publication when using sub-grantees. In the case of contractors, formal procurement rules must be followed.

Grantees often publicize the RFP on their website and make RFP materials available via the web.

## **WORKSHOP AND Q&A**

After the RFP is published, it is recommended the grantee hold a workshop/conference for prospective proposers. This serves several purposes including increasing the likelihood of receiving quality applications, reducing the number of errors, fulfilling the obligation to provide technical assistance to non-profits, and to get an understanding of the interested organizations.

It is important to be available for and to respond promptly to questions regarding the request for proposals. Occasionally an applicant will spot an error in the RFP or have a question that would pertain to the request in general. When this occurs, it is important to publish a correction, revision or clarification immediately, so all interested applicants have equal access to any new information.



If a correction to the RFP needs to be made after proposals have already been received, applicants should be given adequate time to revise in light of the correction. If you are aware of pending applications, it is recommended the applicants be contacted immediately and in person. The correction should be publicized by the same means the RFP was publicized.

Grantees may decide whether or not to accept draft proposals for review and guidance. If this process is elected, it is recommended a deadline be posted for early submission.

## **SUBMISSION**

The proposal should have clear instructions regarding to whom, where, when and how to submit. Instructions should be given for delivery by USPS, courier or other acceptable means. If electronic submissions are acceptable the format should be specified.

The location for submission should be accessible and the hours noted. There should be a means of assuring that proposal submissions are logged, the proposal is date-stamped and there is a process for acknowledging submission.

## **EVALUATION AND RECOMMENDATIONS**

Each proposal should be carefully evaluated. The first step in the evaluation should be to determine if the application is complete. The grantee should have an established policy in place to address incomplete applications. Generally, a proposal is accepted if it is "substantially complete". Rejecting a proposal for a minor omission or error might be perceived as punitive and potentially exclusive.

If a proposal is incomplete or contains an obvious error the applicant should be notified immediately and may be given a deadline to provide the missing component or documentation.

The next step is a cursory review of the application. If there is anything unclear in the application this is the point at which the applicant should have the opportunity to clarify.

The final step is the complete evaluation and ranking of the proposals.

Once proposals have been evaluated and ranked a summary should be prepared for the decision-makers/review committee. This should summarize the proposal and how it aligns with the RFP criteria.

## **AWARDS**

Once decisions are made regarding the award of funds, each applicant should be formally notified in writing in a timely manner.

## **DOCUMENTATION**

The entire proposal and decision-making process should be carefully and completely documented. Complete written records should be retained including original submissions and all records of applicant contact and decision-making. These records should be retained in the annual CDBG file.

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## 4. CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

### OVERVIEW

This section will deliver a brief, yet detailed summary of the process and requirements tied to the annual performance report required from each jurisdiction that receives funds under a Consolidated Plan program. This yearly report is known by HUD as the "Consolidated Annual Performance and Evaluation Report" or by another commonly used acronym, CAPER.

This report must be submitted to HUD within 90 days of the close date of the grantee's program year. For most jurisdictions (those on a July 1-June 30 program year) this will be September 30 of each year.

HUD is required to review the CAPER and may suspend funding if "a satisfactory report is not submitted in a timely manner". There is no statutory review period, and it is not uncommon for HUD to lag on getting review letters out by six months or more.

The regulations specify certain contents in the CAPER but provide grantees with little guidance. Over the years, HUD has provided some guidance on form and content. At this time, the guidance has not found its way into the regulations, nor is it available in a formal guidebook. It is however available on HUD's website [www.hud.gov](http://www.hud.gov). It has been consolidated and appended to this manual.

Beginning in May 2012, HUD grantees will be able to submit their Consolidated Plan using the Consolidated Plan template in IDIS Online. The Consolidated Plan template will be required for all Consolidated Plans submitted on or after November 15, 2012.

With the incorporation of the Consolidated Plan and Annual Action Plan into IDIS Online, all key elements of the grants management cycle are integrated into a single system. This will ensure consistency among the goals described in the Consolidated Plan and Action Plan and the outcomes tracked in IDIS and reported in the Consolidated Annual Performance and Evaluation Report (CAPER), making the Consolidated Plan a more useful management tool.

- Many of the data tables within the Consolidated Plan template are pre-populated with the most up-to-date housing and economic data available. The data is provided to help grantees develop their funding priorities in the Strategic Plan and save time in searching out, entering and compiling the data
- The Consolidated Plan template is integrated with the CPD Maps tool. Together, the maps and data can help grantees to assess market conditions in many different ways, and to present this information in a clear and compelling fashion.

- The data that pre-populates tables in the template comes from the CPD Maps database, ensuring consistency between the data grantees use to make planning decisions and data that is available to the public;
- Grantees can also insert maps and data tables from CPD Maps throughout the document.

## CAPER CONTENTS

The CAPER has several sections of requirements:

- General
- Affordable Housing
- CDBG
- Home Investment Partnership Program (HOME)
- Housing Opportunities for Persons with AIDS (HOPWA)

The general and affordable housing sections must be provided by all grantees despite the source of federal funds received. The other sections only apply to recipients of those respective funding sources. This manual will only discuss the CAPER requirements for CDBG grantees:

Although the regulations call for a report "in a form prescribed by HUD", there is no specified form for the CAPER. (The Consolidated Plan Management Process tool does provide an optional form.)

### GENERAL

The CAPER must discuss the following:

1. Resources made available in the report year
2. The investment of available resources
3. The geographic distribution and location of investments
4. The persons assisted
5. Actions taken to affirmatively further fair housing
6. Other actions taken by the grantee
7. Affordable Housing
8. Assessment of Three to Five Year Goals and Objectives
9. Continuum of Care (Homeless)
10. Leveraging Resources
11. Citizen Comments
12. Self-Evaluation

### 13. Performance Measurement

#### **CDBG**

Recipients of CDBG must discuss the following in their CAPER:

1. How the undertaken activities and persons/households benefitted related to the priority needs and specific objectives identified in the Consolidated Plan
2. Any changes in program objectives during the report year and future changes that may be made as the result of experiences during the report year
3. Compliance with Consolidated Plan certifications
4. Compliance with National Objectives and overall low- and moderate-income household benefits
5. Anti-displacement efforts (if report year activities involved acquisition, demolition or rehabilitation of real property)
6. Low- and moderate-income jobs (if report year activities involved Community Development)
7. Limited clientele benefit activities/beneficiaries
8. Rehabilitation
9. Activities in Neighborhood Revitalization Strategy Areas and Enterprise Zones/Empowerment Communities

#### **CAPER OUTLINE**

As stated earlier, there is no specified form for the CAPER. HUD has provided an optional form as part of the Consolidated Plan Management Process (CPMP) tool and has also suggested that the CAPER follow the format of the "CAPER Checklist". It is suggested the grantee utilize the following outline for the CDBG CAPER:

- Introduction
- General Narratives
  - Highlights of Accomplishments
  - Summary of Accomplishments
    - Table: Progress Meeting 3-5 Year Goals
    - Housing Activities
    - Infrastructure and Public Facilities
    - Public Services
    - Planning and Administration
    - Non-CDBG Housing Activities
  - Geographic Distribution of Activities
  - Progress Meeting Consolidated Plan Goals and Priority Needs

- Actions Taken to Affirmatively Further Fair Housing
- Affordable Housing
- Continuum of Care
- Other Actions
  - Address Obstacles to Meeting Under-served Needs
  - Foster, Maintain and Eliminate Barriers to Affordable Housing
  - Overcoming Gaps in the Institutional Structure and Enhancing Coordination
  - Public Housing Needs
  - Reduction of Lead-Based Paint Hazards
  - Actions Taken to Assure Compliance
  - Anti-Poverty Strategy
- Leveraging
- Citizen Participation
- Self-Evaluation
- Plan Amendments
- Implementation of Performance Measurement
- CDBG-specific Narratives
  - Priority Needs and Specific Objectives
  - Changes in Program Objectives
  - Compliance with Consolidated Plan Certifications
  - Compliance with National Objectives and Overall Low-Mod Benefit
  - Limited Clientele Benefit
  - Anti-displacement efforts
  - Low-mod Income Jobs
  - Rehabilitation
  - Neighborhood Revitalization Strategy Areas and Enterprise Zones/Empowerment Communities
  - Program Income
- Appendices
  - Evidence of Public Notice
  - Public Comment
  - Evidence of Submission to Governing Body
  - IDIS Reports

## THE CAPER AND INFORMATION DISBURSEMENT AND INFORMATION SYSTEM (IDIS)

In addition to providing HUD with a written CAPER submission, grantees must report annual accomplishments on-line via the Integrated Disbursement and Information System, which is commonly referred to as IDIS. Although the statutory deadline of 90 days after the end of the

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program year does not technically apply to IDIS reporting, HUD has made it clear that reporting in the Integrated Disbursement and Information System in a timely manner is an obligation of the grantee, including year-end reporting. IDIS will also not allow the reporting of prior year expenditures more than 90 days after the end of the program year.

IDIS reports must be submitted to HUD along with the CAPER narrative report. The required reports are:

#### All grantees

- Summary of Accomplishments Report (PR23)
- Consolidated Annual Performance and Evaluation Report (PR06)
- Consolidated Plan Projects for Program Year (PR73)

#### CDBG grantees

- Financial Summary Report (PR26)
- Summary of Activities (PR03)
- Rehabilitation Activities (PR10)

There are also reports that provide useful information for the CAPER and that should be pulled and retained as part of the CAPER file. These are:

- HUD Grants and Program Income (PRO1)
- List of Activities by Program Year and Project (PR02)
- Grantee Summary Activity Report (PRO8)
- Drawdown Report by Voucher Number (PR07)
- CDBG Timeliness Report (PR56)

HUD also provides CDBG "Data Clean-up" worksheets that are helpful to find out where accomplishment or other essential information is missing. They can be found at <http://www.hud.gov/offices/cpd/communitydevelopment/cleanup/index.cfm>.

### **CAPER AND CITIZEN PARTICIPATION [24 CFR 91.105(D)]**

The section on Citizen Participation discusses the general requirements in greater detail. The grantee's adopted Citizen Participation Plan will outline the particular process the jurisdiction has decided to follow.

The grantee does need to provide an opportunity for public review of the CAPER and allow for a public comment period of at least 15 days. Any comments received by the grantee must receive a response from the grantee. A summary of the comments and the responses must be submitted with the CAPER.

Grantees are required to hold two public hearings each year. Submitting the CAPER to the City Council and holding a public hearing is a convenient way to meet this requirement.

### **A GUIDE TO HUD GUIDANCE ON THE CAPER**

HUD has issued guidance regarding the CAPER over the years. The most current "set" of materials is always available on their website. It is not always easy to navigate for the novice. It has been assembled and appended to this manual.

The most comprehensive current guidance is a 21-page document posted on the HUD website titled "Guide for Consolidated Plan Performance Report Narratives". In February 1998 HUD sent out a formal memorandum, "Consolidated Annual Performance and Evaluation Reporting for Entitlement Grantees for 1997 Program Year". This guidance overlaps the previous guidance. It also requires grantees to use IDIS and specifies the IDIS reports that must be included in the CAPER submitted to HUD.

Additionally, in 2003, the San Francisco CPD Office published a memo (CPD 04-16) that offered guidance on the CAPER based on common problems the field office was encountering.

Then on March 7, 2006, HUD published implementing rules in the Federal Register that required all CAPERs submitted after 10/01/06 to include a discussion of the implementation of performance measures and discuss the program year activities using the performance measurement framework provided by HUD for CPD programs.



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## 5. SUB-RECIPIENT MANAGEMENT

### OVERVIEW

One way of implementing the local CDBG program is through the use of sub-recipients. This section will provide an overview of identifying, selecting, and monitoring a CDBG sub-recipient.

Simply, sub-recipients are sub-grantees of the CDBG grantee. The term sub-recipient has a specific meaning in the CDBG regulations. More specifically, a sub-recipient must be a non-profit public benefit corporation or a public agency. A sub-recipient agreement should be used to pass CDBG requirements to the sub-recipient. The management and oversight of sub-recipients is a critical task of the entitlement jurisdiction. Using a sub-recipient to implement the local CDBG program does not relieve the original grantee of its responsibilities under CDBG and other federal rules and regulations.

### REPORTING REQUIREMENTS

The grantee should establish reporting requirements for the sub-recipient throughout the project term. Sub-recipients should be required to submit quarterly progress reports to the grantee jurisdiction reporting on funding activity, milestones reached in accordance with the project schedule, and accomplishments.

It is the sole responsibility of the grantee jurisdiction to conduct any sub-recipient audits or reviews necessary by federal rules and regulations. The entitlement jurisdiction is responsible for the preparation of the Consolidated Plan, Annual Action Plan, and Consolidated Annual Performance and Evaluation Report (CAPER) using the information collected through any sub-recipient reporting requirements established.

### MONITORING

It is the responsibility of the grantee to monitor sub-recipients for performance and program compliance. To accomplish this, grantees will have to develop and implement a monitoring strategy. Sub-recipients need to be monitored to ensure activities are being carried out in a timely manner, in accordance with federal and other regulations, to ensure productivity, and to ensure that the sub-recipient continues to have the capacity to administer the project or program successfully. Sub-recipients can be monitored through desk reviews or on-site reviews.

### DESK REVIEWS

Desk monitoring is a key component of monitoring a sub-recipient's performance on a regular basis without conducting an on-site review. Desk monitoring includes the review of:

- Progress reports;
- Compliance reports;
- Financial information;
- Information and material submitted from the sub-recipient regarding the funded-grantee.

Desk monitoring is an efficient and effective way to gather additional information regarding any questions, concerns or identified potential problem areas without having to spend staff time with on-site visits. However, on-site visits may be performed because of desk monitoring findings.

### **ON-SITE REVIEWS**

An on-site review allows the jurisdiction to monitor sub-recipient performance and make sure that record retention requirements are being followed. It also allows for the jurisdiction to identify and address areas of concern with property or sub-recipient facilities. On-site monitoring can include the review of:

- Progress reports;
- Labor standards documentation;
- Requests for payments;
- Bid documents;
- Contract agreements;
- Facilities and projects sites; and
- Other project-related documentation.

Jurisdictions should also conduct project-specific monitoring and should monitor project schedule, accomplishments, and compliance with National Objectives (see Appendix for sample monitoring checklist).

It is recommended that the grantee monitoring schedule allow for all sub-recipients to be monitored once a year. With limited staffing, this is not always possible. In general, sub-recipients who have received funding for the first time should be monitored in the first year. Sub-recipients who have had a history of "clean" monitoring visits and are usually found to be in compliance of the regulations are candidates for less frequent monitoring. Reports and progress should be regularly reviewed throughout the program year for signs of non-compliance or difficulty making progress.

Sub-recipients who consistently provide complete, well-organized reports, adhere to performance goals and schedules, expend funds in a timely manner and have a history of compliance are can be candidates for desk review.

Sub-recipients who show the following signs of "distress" should be monitored more closely and more frequently:

- Incomplete, incorrect, or late beneficiary reports;
- Incomplete, incorrect, or late disbursement requests; and/or
- Falling short of goals or performance timelines.

Sub-recipients who exhibit these "symptoms" may require immediate intervention:

- Expenditure of funds on other than the approved scope of work;
- Failure or refusal to document Low- and moderate-income household benefit; and/or
- Failure to make progress and/or request funds more than 6 months after award of funds.

### **TECHNICAL ASSISTANCE/CAPACITY DEVELOPMENT**

Monitoring a sub-recipient is an opportunity to identify any concerns or capacity issues. It also provides an opportunity to offer the sub-recipient technical assistance. Technical assistance should be on-going throughout the project term and include various techniques exercised by the grantee.

To assist in limiting inadequate performance of sub-recipients and to help build capacity, it is recommended the grantee implement occasional orientation sessions and/or application workshops. This type of technical assistance is typically held at the beginning of a funding cycle.

A grantee jurisdiction may want to provide technical assistance on a more one-on-one basis rather than in a workshop setting aimed at a larger audience. Meeting with a sub-recipient individually can provide the opportunity for the entitlement jurisdiction to work with the sub-recipient on specific weaknesses or to improve performance regarding a particular project underway. It is common for jurisdictions to utilize staff time efficiently and provide such technical assistance in conjunction with a monitoring visit.

### **MANAGING NON-PERFORMING SUB-RECIPIENTS**

When performance problems arise with sub-recipients, it is the responsibility of the grantee to take corrective action. The type and degree of the corrective action will vary with the extent of the problem. It is recommended that any corrective action be measured, incremental, documents and with the goal of guiding the sub-recipient back into compliance. Corrective actions a grantee jurisdiction may consider include:

- A letter advising the recipient of deficiencies or performance issues requiring them to correct any unresolved issues;
- Provide technical assistance or training to assist in resolving issues;
- Implement more reporting requirements the sub-recipient must meet;
- Conduct more frequent monitoring visits;
- Restrict payment requests;
- Disallow specific expenses; and/or
- Implement a probationary status.

More serious corrective actions that could be implemented as a result of unresolved issues or continuous poor performance include:

- Suspending the sub-recipient from participation in the program;
- Terminating the sub-recipient agreement or re-capturing funds; and/or
- Legal action if necessary.

## FORMS

Standard forms may be required by the grantee from the sub-recipient to ensure compliance with HUD requirements. The grantee can create their own forms for application, payment, and reporting purposes. Grantees should always have a sub-recipient agreement or contract as a standard form to be signed by both parties. However, if a sub-recipient agreement or contract is in effect, this does not relieve the grantee from complying with HUD requirements and ensuring that the sub-recipient also stays in compliance. Other standard forms that may be provided to the sub-recipient to submit to the grantee include:

- Application forms;
- Requests for Payments;
- Progress Report forms;
- Monitoring forms; and
- Project close-out forms.

## RESOURCES

HUD has published several useful guidebooks on sub-recipient management. These are available on the web at <http://www.hud.gov/offices/cpd/communitydevelopment/library/subrecipient/>.

They are the following:

- "Managing CDBG: A Guidebook for Grantees on Sub-Recipient Oversight"
- "Playing by the Rules: A Handbook for CDBG Sub-recipients on Administrative Systems"
- "Training CDBG Sub-recipients in Administrative Systems"

The "Playing by the Rules" handbook is particularly useful. Sections of the book and the entire publication are often given to sub-recipients.

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## 6. PERFORMANCE MEASURES

### OVERVIEW

This section of the manual will provide a summary of the grantee's requirements to implement a local performance measurement system. This system should serve as a tool to allow the grantee to collect data, track progress, and report on results in a way that demonstrates the impact of the CDBG program on the community. The performance measurement system should provide the grantee with specific beneficiary data and help to determine how well a program is performing in the community and if the program is meeting proposed goals.

The implementation of the outcome performance measurement system and its use by grantees will enable HUD to collect information on the outcomes of activities funded with Community and Planning Development formula grant assistance. This data will be entered into the Integrated Disbursement and Information System (IDIS) and will be aggregated at the national level to provide HUD with the information necessary to show the national results and benefits of the expenditure of federal CDBG funds.

HUD has issued guidance on the required components of a local performance measurement system with the goal of providing standardized performance data to the federal government. HUD's performance measurement web page is at <http://www.hud.gov/offices/cpd/about/performance/>.

The three components of a performance measurement system are

1. Objectives;
2. Outcomes; and
3. Indicators.

### OBJECTIVES

Objectives are based on the statutory objectives for the CDBG program. Objectives are broad categories to capture the range of community impact an activity, program or project might have.

#### **CREATING A SUITABLE LIVING ENVIRONMENT**

This objective is designed for activities that will benefit communities, families, and individuals by addressing issues within their living environment. This objective relates to a wide range of issues faced by low-and-moderate income persons from poor infrastructure to social issues.

**PROVIDING DECENT HOUSING**

This objective covers a wide range of housing activities meant to meet individual family or community housing needs.

**CREATING ECONOMIC OPPORTUNITIES**

This objective is designed for activities that will assist with Community Development opportunities, commercial revitalization, or job creation.

**OUTCOMES**

The outcome component helps to further refine the objective the grantee chose for the activity and is designed to identify the expected result of the objective. Outcomes assist in describing the expected impact of the activity on the community.

**AVAILABILITY/ACCESSIBILITY**

This outcome will be chosen for activities that will make services, infrastructure, public facilities, housing, or shelter available or accessible to low-and-moderate income persons.

**AFFORDABILITY**

This outcome applies to activities that will provide for affordability in a variety of ways to low-and-moderate-income persons. Activities under this outcome could include the creation or maintenance of affordable housing, infrastructure hook-ups, or specific services that are to be affordable such as transportation.

**SUSTAINABILITY**

Activities falling under this outcome have the purpose of improving communities or neighborhoods and assisting in making them livable by providing benefit to persons of low-and moderate-income, removing slum and blight and sustaining communities and neighborhoods.

**INDICATORS**

Once the grantee has established program objectives and intended results (outcomes), the grantee will establish a means of measuring progress towards achieving those results. Indicators are already determined by HUD and inputted into the Integrated Disbursement and Information

System (IDIS). Grantees are required to report on indicators that are applicable to the specific activity being carried out.

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## 7. ELIGIBLE ACTIVITIES

### OVERVIEW

This section will discuss the most commonly undertaken activities and some of the common issues with each. Like previous sections of the manual, this one is not intended to act an exhaustive review of or sole resource for eligible activities.

There are six broad categories of eligible activities:

1. "Basic eligible activities" (570.201)
2. "Rehabilitation and Preservation" (570.202)
3. "Special Community Development" (570.203)
4. "Special Community Based Development Organizations (CBDO)" (570.204)
5. "Planning, design, and capacity-building" (570.205)
6. "Program Administration" (570.206)
  - a. "Basic eligible activities" include:
    - acquisition of real property
    - disposition of real property
    - public facilities and improvements
    - clearance and remediation
    - public services
    - interim assistance
    - payment of non-federal share
    - urban renewal completion
    - relocation and relocation assistance
    - housing services
    - privately-owned utilities
    - construction of housing
    - homeownership
    - Community Development
    - technical assistance
    - assistance to institutions of higher learning

b. "Rehabilitation and Preservation" includes:

- rehabilitation of residential structures
- rehabilitation of public housing
- rehabilitation of commercial or industrial structures
- code enforcement
- historic preservation
- renovation and re-use of closed buildings
- lead-based paint activities

c. "Special Community Development" includes:

- acquisition, construction of or improvements to structures and real property
- business assistance
- Community Development services

d. "Special Community Based Development Organizations (CBDO)" includes:

- Neighborhood revitalization project
- Community Development project
- Energy conservation project
- Directly carries out project activity funded by CDBG

e. "Planning, design and capacity-building" includes:

- Planning activities
- Policy management
- Market studies
- Strategies and action plans
- Analysis of Impediments to Fair Housing Choice

f. "Program Administration" includes:

- Salaries, wages and other costs of staff
- Travel costs
- Third-party administration costs
- Goods and services

**PUBLIC FACILITIES AND IMPROVEMENTS [570.20L(C)]**

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In general, public facilities or improvements may be acquired, constructed, installed or rehabilitated.

The grantee or any public, private or non-profit entity may undertake the activity.

Public facilities for the general conduct of government may not be assisted [570.207(a)]. The one exception is the "removal of architectural barriers" to the elderly and severely disabled persons. There has been a great deal of confusion and misunderstanding about this exception. If you are thinking about doing this, consult the Desk Guide and your HUD rep.

The construction of "facilities" that serve to shelter or house persons with special needs are not subject to the prohibition on constructing new housing with CDBG. This includes those that serve the homeless, seniors, the disabled, victims of domestic violence, addicts and alcoholics, drug offenders and parolees, "retarded" persons and victims of federally-declared disasters.

When a facility has both ineligible and eligible uses, there are special rules that apply to assistance [570.200(b)]. The eligible use area or component must be "separate and distinct" and the cost of assistance attributable to that area or component can be clearly determined. The CDBG share of costs must be limited to the costs attributed to the eligible use.

Fees for the use of facilities assisted with CDBG may be changed but they may not have the effect of restricting low- and moderate-income persons from using or accessing the entire facility. They must be nominal or waived for low- and moderate-income persons.

### **PUBLIC SERVICES [570.20L(E)]**

Public services are broadly defined in the regulations. Generally, the direct costs of providing a service are eligible including the costs of labor, supplies and materials. The purchase of equipment is generally ineligible and problematic when it can be made eligible. Indirect costs can be allowed but they must comply with federal rules for cost allocation [Office of Management and Budget (OMB) circular 110].

Public services include (but are not limited to) those concerned with:

- Employment;
- Crime prevention;
- Child care;
- Health;
- Drug abuse prevention and treatment;
- Education;
- Fair housing counseling (general fair housing education is **not** a public service);

- Welfare (excluding income payments);
- Homebuyer down payment assistance; and
- Recreation.

The beneficiaries of public services may "attest" or "self-certify" as to low- and moderate-income status.

## HOUSING

The HUD regulations allow entitlement jurisdictions to allocate CDBG funds toward privately own single-family residences. More specifically, grantees can develop first-time homebuyer assistance products for low- and moderate-income families and can create single-family rehabilitation programs to assist privately owned residences address emergency needs.

### HOUSING SERVICES

#### HOME PURCHASE ASSISTANCE

There are several ways that CDBG can be used to assist homeownership as a housing activity. 570.201(n)

- Direct down-payment assistance (up to 50% of required down-payment);
- Payment of reasonable non-recurring closing costs;
- Principal write-down;
- Interest buy-down; and
- Mortgage guarantees and mortgage insurance (PMI, FHA, or VA).

Home purchase can also be undertaken as a public service under 570.201(e) or by a Community Based Development Organization. Done this way, there are far fewer limitations on the use of funds. However, the 15% cap on public services would apply.

It can also be done within a Neighborhood Revitalization Strategic Area (NRSA). See the section on NRSA for more detail on forming a NRSA. A few of the issues are:

- A Community Based Development Organization providing homeownership assistance within an NRSA under 570.201(e) is exempt from the public services cap.
- Non-low- and moderate-income households may be assisted since the low- and moderate-income test is met on an area basis within the NRSA.

When determining eligibility, the income of the entire household is examined. Income eligibility must be documented using third party verification.

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## SINGLE FAMILY OWNER-OCCUPIED HOUSING REHABILITATION 570.202

The rehabilitation of owner-occupied single-family homes is one of the most commonly-funded CDBG activities. CDBG allows a variety of approaches to program design and type of assistance. Programs can be focused on single issues (e.g., roof repair, heating, weatherization) or be comprehensive. Assistance can be in the form of grants or loans and there is no long-term affordability requirement.

Eligible costs are generally the labor and materials to complete the work. Related "delivery costs" are also eligible. These are the costs to provide assistance to the homeowner. These include but are not limited to:

- Energy audits;
- Inspections to determine scope of work;
- Appraisal;
- Title and recording;
- Loan or grant document preparation;
- Work specifications;
- Bidding;
- Construction management; and
- Assistance to the homeowner.

If acquisition is being done along with rehabilitation, the costs of acquisition are also eligible. Eligible work includes:

- Repair of deferred maintenance;
- Repair or replacements of major systems;
- Weatherization;
- Installation of safety and security equipment (such as deadbolt locks, smoke detectors, fire escape ladders [burglar alarms are not generally considered to be eligible]);
- Abatement of asbestos hazards;
- Addressing lead-based paint hazards;
- Insulation and energy efficiency including solar energy equipment;
- Water conservation equipment and devices;
- Connection to municipal water supply or sewer systems; and
- Accessibility.

In general, the costs of general property improvements should be limited to those made necessary by other work and limited in overall scope. For example, painting would be funded only if repairs were being made to the exterior or if required to protect the exterior.

The grade of finishes should be the most basic possible while still assuring durability. The occupants of the household should be considered when making this determination. For example, vinyl flooring and wainscoting in the traffic areas would be reasonable for a wheelchair user. The cost of "luxury" finishes can be considered reasonable and eligible when replacing a portion with a similar grade would be less than replacing the entire finish with a lesser grade or in the interest of historic preservation.

Equipment, furnishings and appliances are not eligible unless they are integral to the structure and meet a basic need. Stoves, ovens, cooktops, disposers, dishwashers, refrigerators and built-in microwaves are eligible. "Portable" items such as clothes washers, dryers, televisions, space heaters are not eligible. "Luxury" items such as trash compactors and water softeners, and freezers are not eligible. In general, the most basic grade and smallest adequate capacity should be specified.

Enlargement of living spaces other than to address over-crowding is also not generally eligible. Second units may not be constructed or rehabilitated.

The repair or construction of accessory structures is not generally considered to be eligible. Two common exceptions are structures and improvements related to accessibility improvements for the elderly and severely disabled.

There are many considerations when designing a housing rehab program. While the scope is beyond this document, there are a number of good references available. The use of lump-sum draw-downs, revolving loan funds and escrow accounts are key financial tools to understand when creating a housing rehabilitation program. See the Financial Management section for more information.

When determining eligibility for single-family rehabilitation, the income of the entire household is examined. Income eligibility must be documented using third party verification.

Accomplishments for single-family rehabilitation are reported in housing units assisted.

#### **CODE ENFORCEMENT [570.202(C)]**

The CDBG program considers code enforcement to be a "rehabilitation and preservation" activity. Code Enforcement programs funded with CDBG funds is intended to arrest the decline of primarily residential areas which have been deemed deteriorated or deteriorating. CDBG-funded code enforcement activities are designed to enforce South Gate's Municipal Code, California Fire Code, Los Angeles County Health and Safety Code, California Building Code, and Uniform Housing Code through inspections for code violations and enforcement of the codes.

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The following examples of violations that reflect deteriorated or deteriorating conditions:

- Overgrown vegetation;
- Dead, decayed, diseased or hazardous trees;
- Weeds or vegetation that may harbor rats or vermin and may be fire hazard;
- Abandoned, wrecked, dismantled or inoperative vehicles;
- Illegal storage or storage for an unreasonable period of time;
- Keeping animals, reptiles or insects that pose a threat, disturbance danger or menace to person or property;
- Attractive nuisances including unprotected and/or hazardous pools, ponds, refrigerators or excavations;
- Garbage or trash can or containers that cause offensive odors or visible blight;
- Overflow of sewage or grease from clogged sewer lines;
- Maintenance of premises in such manner as to constitute a danger to public health;
- Structures or buildings with unpermitted construction and/or are unsafe, constitute a fire hazard, or have faulty weather protection;
- Structures or buildings that have not been completed within a reasonable period of time, that are unoccupied and unsecured or are marked or defaced with spray paint or dye;
- Illegal signs;
- Fences or walls which violate zoning regulations;
- Maintenance or establishes a prevalence of depreciated values; and
- Allowing an unlawful condition or activity to exist in a structure.

A neighborhood area is deemed to be deteriorating if it is in a low- or moderate-income census tract block group and 50% or more of housing units are built prior to 1960 or ten (10) to 25 percent of residential properties exhibit conditions of deterioration. In accordance with 24 CFR 570 Part 208(b)(1)(ii)(A), an area is deemed deteriorated, and eligible to qualify under slum and blight when outside of a low- and moderate-income area, if at least 25 percent of residential properties in the area experience one or more of the conditions which define deteriorated or deteriorating based on local standards. To address issues related to housing units that share common areas which may exhibit conditions of deterioration, a property is defined as a residential parcel of land which may include one or more housing units. The City is responsible for delineating an area deemed to be deteriorated or deteriorating under State or local law and the City is responsible for maintaining documentation on the boundaries of the area and the conditions which qualified the area at the time of its designation [24 CFR 570 Part 208(b)(1)].

CDBG-funded code enforcement activities must not only be restricted to primarily residential areas deemed to be deteriorated or deteriorating but operated in areas where code enforcement along with improvements to the area, such as those provided through a housing rehabilitation program, may be expected to arrest the decline of the area [24 CFR 570 Part 570.202(c)]. Furthermore, these activities must also meet a National Objective, such as an activity benefiting

low- and moderate-income persons and the benefits of the program are available to all the residents in the area [24 CFR 570 Part 208(a)(1)(i)], or in designated slum or blight areas.

Areas designated as slum and blight areas as defined in these guidelines are also eligible under the CDBG Slum and Bright National Objective. The City will re-assess the areas within the City every five years, in correspondence with the completion of the Consolidated Plan to again identify census tracts and block groups delineated as deteriorated and deteriorating. At the time the City will also assess these areas to identify the degree to which programs like the City's HOME funded housing rehabilitation program has served to arrest the decline in these areas as a result of deteriorated or deteriorating conditions.

### **SERVICE AREA**

The CDBG funded Code Enforcement Program provides for code enforcement services in the City's primarily low- and moderate-income neighborhoods that are residential and deemed to be deteriorating and deteriorated. Any excluded areas that are not deemed to be deteriorated or deteriorating are identified in the table by census tract/block group and by low/moderate percentage identifying eligible areas under the Low-Mod Income National Objective. Therefore, the beneficiaries of the Program are the City's primarily low- and moderate-income residents who reside in the census tract/block groups.

### **MARKETING AND OUTREACH**

Code enforcement activities are predominantly conducted as a complaint-based code enforcement program. Code enforcement officers are regularly working in the City's low- and moderate-income and slum and blighted neighborhoods that are deemed to be deteriorating or deteriorated to ensure that the City's applicable codes as they related to primarily residential areas are under compliance.

### **CLIENT TRACKING AND CODE COMPLIANCE PROCESS**

The program beneficiaries are the residents within the defined code enforcement service area. However, the performance measure for this Program is the number of properties served and violation abated by the CDBG-funded code enforcement activities.

Below is a summary of the code compliance process for all cases:

1. Initial Complaint (Initiated by City resident property owner or City Staff)  
A case is opened and the report violation(s) is documents in the Code Enforcement database when a complaint is received via telephone, email, or at the public counter.



2. **First Inspection (Inspect and verify violation field inspection)**  
Seek voluntary compliance with property-owner within established time frame through an issued written notice. Minor violations may warrant only a verbal notice, while some more serious violation may result in the issuance of a citation instead of a warning notice.
3. **Re-Inspection**  
If Compliance is not achieved, a second notice is issued. If no effort to abate the violations have been made or a time frame for compliance has not been established with the code enforcement officer, a re-inspection fee will be issued for cost recovery or citation may be issued.
4. **Public Hearing**  
In extreme cases, the Code Enforcement Manager will review the case to determine if it should be heard by City Council at a public hearing. A formal order to abate the violation will be presented to the property owner.
5. **City Prosecutor**  
If compliance is not achieved, the case be forwarded to the City Prosecutor upon referral by the Code Enforcement Manager. In extreme cases compliance is sought through an office conference with the property owner. If compliance is not achieved, the City Prosecutor will prosecute the case or file for Receivership.

## **COMMON VIOLATIONS**

The most common violations that are addressed through the Code Enforcement Program include:

- Overgrown vegetation
- Weeds
- Trash cans in public view
- Unpermitted vegetation in parkway
- Lack of live landscaping
- Imperative vehicle
- Trash and debris
- Temporary/Non-fire-retardant canopy structures
- Garage conversion (Unpermitted use)
- Outdoor storage in public view
- Excessive pavement
- Illegal construction
- Clothes drying in public view
- Unpermitted fencing material

- Faulty weather protection – (Weathered and peeling paint, missing screens, broken windows, missing vent covers, leaking roof, gaps around doors, etc.)
- Lack of address display
- Obstructing access to off-street parking
- Fences in disrepair
- Vehicles parked on unpaved surfaces
- Holiday lighting in excess of 90 days

### **ELIGIBLE CDBG PROGRAM COSTS**

Code Enforcement personnel charge time to the CDBG Program for activity tied to eligible low- and moderate-income or slum and blight primarily residential neighborhoods that are deteriorated or deteriorating within the City. Code Enforcement activities conducted outside these eligible areas are charged to the City's General Fund.

### **FAIR HOUSING**

Fair housing is one of the few activities that can be categorized as either a public service [570.2019(e)] or conducted as an eligible planning and administration activity [570.207]. There are several reasons a grantee should choose one over the other.

Because fair housing can be administration or public service, it can "fit" under either annual obligations "cap". It can also be split across the two caps.

There are also certain fair housing activities that clearly benefit low- and moderate-income persons such as advising persons of their fair housing rights or counseling them to resolve a fair housing dispute and others that fall more into the grantee meeting its general obligation to further fair housing (e.g., publications, surveys, analysis of impediments).

When conducting fair housing as a public service, the grantee should be thinking of how the level of low- and moderate-income benefit will be determined and the potential impact of the fair housing activity's impact on the overall low- and moderate-income benefit. If it is not clear how low- and moderate-income persons will benefit it may be best to undertake the activity under planning and admin.

### **HOMELESS**

The homeless may be served several ways using CDBG:

- Services that benefit the homeless

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- Services that serve to prevent homelessness
  - Construction of shelters
  - Operation of shelters
  - Construction of housing for the homeless (by a Community Based Development Organization)

Cases of services that benefit the homeless or prevent homelessness, or the operational costs of a shelter, fall under public services and under the 15% allocation cap. Homeless persons are a "presumed benefit" population. If the person attests to being homeless, the LMI test is met.

Construction of shelters or the conversion of existing non-residential structures to shelters is eligible under public facilities 570.201(c) as are transitional housing facilities,

Conversion of existing residential structures into shelter or transitional housing is eligible under rehabilitation.

The construction of new permanent supporting housing (not conversion of existing) is eligible as a Community Based Development Organization activity.

#### **PROGRAM ADMINISTRATION [570.206]**

CDBG allows for the entitlement grant to pay for the reasonable administrative costs associated with the planning and implementation of CDBG-funded activities and the overall local CDBG program. This includes reporting, compliance, monitoring, record-keeping, accounting, and annual planning.

Costs associated directly with carrying out eligible activities are eligible under those activity categories.

The costs of program administration include but are not limited to:

- Salaries, wages, and related costs;
- Travel;
- Third-party services;
- Equipment and overhead;
- Public information, public notice, publication;
- Fair housing;
- Indirect costs;
- Preparation of the annual CDBG submission;
- Preparation of other applications for federal funds; and

- Program management costs associated with a federally-designated Empowerment Zone or Enterprise Zone or with the federal HOME Investment Partnership Program.

### **PLANNING/CAPACITY BUILDING [570.205]**

Although program administration (570.206) and planning/capacity building (570.205) are both under the "planning and administration" cap, they are distinct in the regulations. The difference is academic.

Eligible costs are those associated with:

- Data gathering;
- Studies;
- Analysis;
- Preparations of plans; and
- Identification of actions to implement plans

Eligible planning activities include, but are not limited to:

- Housing needs;
- Land use and design;
- Community Development;
- Parks;
- Floodplain and wetlands management;
- Environmental studies (not associated with a CDBG-funded project); and
- Analysis of impediments to fair housing choice.

Please note these activities are not required to meet a National Objective but should further the CDBG program goals.

### **A NOTE ABOUT PRESUMPTION AND OVERALL LOW- AND MODERATE-INCOME (LMI) BENEFIT.**

It is certainly acceptable to have every beneficiary of a presumed benefit activity self-certify as to membership in that class. It is also acceptable to have every beneficiary of an LM-LC activity self-certify that their income is below a certain level. The danger is that you as the grantee will not have an accurate picture of overall LMI benefit if you do not collect income data. You will not have an accurate picture of the population you are actually benefitting.

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## 8. MEETING A NATIONAL OBJECTIVE

### OVERVIEW

This section of the manual will provide staff with a more in-depth understanding of the three CDBG National Objectives as determined by HUD. As mentioned earlier in the manual, there are specific criteria that must be met in order for the activity to be eligible for CDBG funding including benefiting low-and moderate-income persons, preventing or eliminating blight, or addressing urgent needs. An activity that fails to meet the criteria set forth in 24 CFR 570.209 of the Code of Federal Regulations (CFRs) will be in non-compliance with CDBG rules.

### LOW- AND MODERATE-INCOME BENEFIT [570.209(A)]

To meet the low-and moderate-income national objective the activity to be undertaken must benefit persons that are at or below 80% of the area median income (AMI) for the area where the activity is taking place. The area median income is calculated and determined by HUD and available on the HUD website ([www.hud.gov](http://www.hud.gov)). An activity can qualify under this national objective as a direct benefit or as a benefit on an area basis. As a direct benefit, the activity will directly benefit a low-and moderate-income person, such as a housing rehabilitation activity. Benefit on an area basis or low-and moderate-area (LMA) benefit, refers to activities that will benefit all persons in that area and not just low-and moderate-income persons. In cases such as these, the targeted area where the activity will take place must include at least 51% low-and moderate-income persons. An example of an activity qualifying under the low-and moderate-area benefit would be infrastructure activities such as water/sewer lines.

### LOW- AND MODERATE-AREA [570.209 (A)(1)]

The low-and moderate-area (LMA) objective is designed for activities undertaken in a primarily residential area that will benefit all residents and not just low-and moderate-income persons.

### TARGET AREA

The target area is defined as the service area proposed where the activity will take place. The service area must be the entire area served by the activity and cannot be defined only by a particular low-and-moderate income portion that is part of the target area. For example, if the activity is a grocery store, the target area must include all residents that will benefit from that grocery store and not just low-and-moderate income residents.

### QUALIFYING THE TARGET AREA

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Low-and moderate-area benefit of a specific service area must meet the criteria of qualifying as at least 51% low-and moderate-income households. A grantee may use HUD census data providing low-and-moderate-income percentage information for each census tract and block group within the jurisdiction to determine if the service area qualifies. Often, a service area may not be coterminous with the census tracts or block groups defined by HUD. In this case the grantee can conduct a survey of the determined service area to confirm that the area is 51% low-and moderate-income.

#### UPPER QUARTILE

In some instances, HUD will make an exception to a low-and moderate-area activity having to meet the criteria of having at least 51% low-and moderate-income persons within the determined service area. If the degree of concentration of low-and moderate-income persons within the service area is considered the highest quartile of low-and moderate-income persons of all areas within the community, there may be an exception to qualifying the activity under the 51% criteria. HUD will determine the lowest proportion a grantee may use to qualify an area based on the upper quartile exception.

#### LIMITED CLIENTELE [570.209(A)(2)]

Limited clientele activities are designed to benefit particular groups of people within the proposed service area rather than everyone. Limited clientele activities still must meet the 51% low-and moderate-income criteria. To meet the limited clientele objective one of the following tests must be met:

- Benefit clientele who are presumed by HUD to be low-and moderate-income persons including:
  - Abused children;
  - Elderly persons;
  - Battered spouses;
  - Homeless persons;
  - Severely disabled adults;
  - Illiterate adults;
  - Persons with AIDS; and
  - Migrant farmworkers.
  
- Require information on family size and income to evidence that at least 51% of the clientele are low-and moderate-income;

- Have the activity be of a nature and location that it can reasonably be presumed that the beneficiaries are low-and moderate-income; or
- Be an activity that will remove architectural or material obstacles to improve accessibility for the elderly or severely disabled as determine by HUD.

### **LOW- AND MODERATE-INCOME HOUSING**

The low- and moderate-income housing objective is designed to ensure that an activity assisting in the acquisition, construction, or improvement of permanent residential housing benefits low- and moderate-income persons directly. To qualify under this objective the activity must result in housing that is occupied by low- and moderate-income persons. The housing can be owner-occupied or renter-occupied can be single-family housing or multi-family housing. Rental housing must be occupied at affordable rents. Occupancy qualifying criteria includes:

- Single unit structures must be occupied by low- and moderate-income persons;
- Two-unit structures must have at least one occupant that is low- and moderate-income; and
- More than two units must have at least 51% of the units occupied by low- and moderate-income persons.

### **LOW- AND MODERATE-INCOME JOBS**

This objective is meant to assist with Community Development activities that intend to create or retain permanent jobs of which at least 51% are held by or available to low- and moderate-income persons.

### **ELIMINATION OF SLUM AND BLIGHT**

This National Objectives include activities which help to prevent or eliminate slums or blighted conditions. These activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

### **URGENT NEED**

Use of this National Objective is rare. It is designed only for activities that alleviate emergency conditions. Urgent need activities must meet the following qualifying criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
- The existing conditions are of recent origin or recently became urgent (generally within the last 18 months);
- The recipient is unable to finance the activity in its own; and
- Other sources of funding are not available.

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## 9. FINANCIAL MANAGEMENT

### OVERVIEW

This section will cover the financial responsibilities of a grantee when funds are requested, money is committed, and drawn downs occur. It is important for entitlement jurisdiction staff to understand the process and regulations tied the CDBG program even after they are committed to a specific activity or project through a contract or agreement.

#### Policies Regarding Cash Management

All payments under City of South Gate's Federal programs will be on a reimbursement basis, AFTER costs have been incurred. No cash advances will be allowed. Reimbursements will not exceed actual cash outlays

All payments to sub-recipients and for in-house activities will be monitored for compliance with federal regulations and applicable OMB circulars. Prior to payment, sub-recipient requests for program funds shall be properly evaluated. The following will be monitored:

- a. Bi-weekly employee timesheets
- b. Payroll records
- c. Cost per capita served
- d. Portion of clientele served that is low-income
- e. Eligibility of activity
- f. Allowable costs
- g. Non-Federal funds leveraged (if applicable)
- h. Proper allocation of costs to City of South Gate

Drawdown of federal funds through federal reporting system is subject to review and approval by Finance staff. Variances between expected and actual cash disbursements of federal awards and drawdowns of federal funds are reported to an appropriate level of management.

Since federal funds will only be provided on a reimbursement basis, it is anticipated that no interest earnings will accrue to the City or to sub-recipients. In the unlikely event interest earnings on federal funds are accrued, they must be paid back to that federal department.

Program income funds will be generated primarily by housing rehab loan repayments and occasionally, housing development activities. Program income received by the City must be deducted from reimbursement requests before drawing down entitlement grant funds.

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The federal financial reporting system is capable of scheduling payments for accounts payable and requests for funds from Treasury that enables the City to avoid a time-lapse between drawdown of funds and the actual disbursement of funds. South Gate's accounting program, shall be reconciled by the following steps:

- 1) Invoices are received by Finance Department via email, mail, etc.
- 2) Twice per month, invoices are coded by purchase order accounting number (account waiting for the money so accounts payable will know where to take it from), where money has been allocated to those activities; codes by stamping invoice with stamp that includes: vendor number, PO # dollar; after filling out info on stamp, it goes to finance;
- 3) At the end of the month all expenditures are totaled and drawdowns for the particular activities are reported to the Government agency; Finance Analyst reviews drawdowns for accuracy and compiles data in a spreadsheet
- 4) One Community Development Grants Consultant inputs drawdowns into IDIS
- 5) The Director of Finance (or Designee) approves vouchers in federal system

Staff will carry out periodic independent evaluation (e.g., by internal audit, top management) of entity cash management, budget and actual results, repayments of excess interest earnings, and federal drawdown.

#### **Procedures for Reflecting Prior Period Adjustments and Accruals**

In preparation of the CAPER, City staff review the following reports:

- PR09- Program Income Details by Fiscal Year and Program (report generated by IDIS)
- PR26- CDBG Financial Summary Report (report generated by IDIS)
- Analysis of CDBC Funds- City of South Gate Sources & Uses of Funds spreadsheet (report generated by the City's Consultant)

Director of Finance or Designee reconciles discrepancies between the IDIS reports and the City's Budget and makes the necessary adjustments in the PR26 report. These adjustments are explained as Notes to the PR26, which is included as an appendix to the CAPER.

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### Policy Regarding Rebates, Refunds and Credits to Federally Funded Programs

All rebates, refunds, and credits to HUD CPD programs will be properly reported. Bid bond forfeiture funds that are not offset by additional costs to select another bidder will be credited to HUD CPD programs at their pro-rata share.

### Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program

All travel and training expenses charged to the HUD programs must be approved by the Community Development Manager or a Department Director. Prior to approval, travel and training expenses are evaluated based on the following criteria:

- Compliance with 2 CFR 200.472
- Applicability/relevance to CDBG/HOME program goals and objectives
- Eligibility under Federal programs
- Within the allocated budget for that program

### Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Admin Account

1. Personnel costs charged to HUD programs will follow Section 200.430, of 2 CFR 200. Prior to the beginning of the fiscal year, City of South Gate Staff and the Community Development Director will evaluate available funding as well as the Admin workload, scope of work and staffing assignments. This evaluation will produce an estimate of staffing needed including percent allocation of each Admin staff member's time dedicated to HUD Programs. These allocation factors will be noted on the employee's action form and transmittal to the City Payroll Department for the affected employee. Compensation (including salary and benefits, if eligible) will be allocated accordingly to the Admin account.
2. All employees whose compensation is charged to Admin will maintain bi-weekly timecards documenting the number of hours charged to various programs. Timecards will represent an after-the-fact distribution of the actual activity of each employee and will account for the total activity for which the employee is compensated. Time cards will be signed by the employee and approved by their Supervisor.
3. Admin staff will conduct a quarterly reconciliation to confirm that employee timecards are consistent with actual time charged to HUD-funded programs. If inconsistencies are found, the costs charges to HUD-funded programs will be

adjusted.

### **Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Rehab Account**

1. Personnel costs charged to the Housing Rehab program will follow Section 200.430, of 2 CFR 200 (including CFDA 14.218 Part III)
2. Prior to the beginning of the fiscal year, City of South Gate staff and the Community Development Director will evaluate available funding as well as the Rehab work loan, scope of work and staffing assignments. This evaluation will produce an estimate of staffing needed including percent allocation of each Rehab staff member's time dedicated to Rehab. These allocation factors will be noted on the employee's action form and transmittal to the City Payroll Department for the affected employee. Compensation (including salary and benefits) will be allocated accordingly to the Rehab account.
3. All employees whose compensation is charged to Rehab will maintain bi-weekly timecards documenting the number of hours charged to various programs. Time cards will represent an after-the-fact distribution of the actual activity of each employee and will account for the total activity for which the employee is compensated. Time cards will be signed by the employee and approved by their Supervisor.
4. Rehab staff will conduct a quarterly reconciliation to confirm that employee time cards are consistent with actual time charged to Rehab programs. If inconsistencies are found, the costs charged to HUD-Rehab programs will be adjusted.

### **Procedures for Allocating and Documenting Personnel Costs Charged to CDBG Microenterprise Activities (18-305-300)**

1. Personnel costs charged to the CDBG Microenterprise program will follow Section 200.430, of 2 CFR 200 (including CFDA 14.218 Part III)
2. Prior to the beginning of the fiscal year, City of South Gate Community Development staff and the Community Development Director will evaluate available funding as well as the CDBG Microenterprise workload, scope of work and staffing assignments. This evaluation will produce an estimate of staffing needed including percent allocation of each CDBG Microenterprise staff member's time dedicated to CDBG Microenterprise. These allocation factors will be noted on the employee's action form and transmittal to the City Payroll Department for the affected employee.

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Compensation (including salary and benefits) will be allocated accordingly to the CDBG Microenterprise account.

3. All employees whose compensation is charged to CDBG Microenterprise will maintain bi-weekly timecards documenting the number of hours charged to various programs. Timecards will represent an after-the-fact distribution of the actual activity of each employee and will account for the total activity for which the employee is compensated. Timecards will be signed by the employee and approved by their Supervisor.
4. CDBG Microenterprise staff will conduct a quarterly reconciliation to confirm that employee timecards are consistent with actual time charged to CDBG Microenterprise programs. If inconsistencies are found, the costs charged to CDBG-microenterprise programs will be adjusted.

### Procedures for Determining Cost Reasonableness

The City's annual allocation process includes an analysis of the reasonableness of costs charged by sub-recipients to the City's CPD Programs. This analysis includes an evaluation of whether costs associated with a proposed service are in accordance with OMB Circular A-122. Every activity considered by CDBG or HOME funding is evaluated by a variety of criteria, including:

- Cost per capita served
- Portion of clientele to be served that is low-income or presumed benefit
- Eligibility of proposed activity
- Allowability of costs associated with proposed activity
- Timeliness of expenditures in prior year(s)
- Severity of need for proposed service
- Number of City of South Gate residents to be served
- Accessibility of service to be provided to City of South Gate residents, particularly for services offered outside of City of South Gate
- Duplication/uniqueness of service
- Non-HUD funds leveraged

Costs for training and travel are evaluated on a case-by-case basis and consideration of their eligibility, applicability and reasonableness is made before they are charged to the CDBG program. CDBG Admin staff must approve all training and travel costs charged to the CDBG program.

Activities are determined eligible and reasonable for CDBG/HOME funding if all the criteria identified above are satisfied.

### **Process for Approval of Subrecipient Reimbursement Requests for Public Services**

Based on the terms of the written agreement with the sub-recipient, city staff will review reimbursement requests for allowability, eligibility, and reasonableness. All reimbursement requests by public service subrecipients shall include a summary detailing expenses by project budget line item and the amount being charged to the City's CDBG program. Where sub-recipients serve clients from multiple jurisdictions in Los Angeles County, the City's invoice review procedures include an evaluation that charges to City of South Gate are pro-rated based upon the actual number of City of South Gate residents served.

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The table below outlines what supporting documentation must accompany reimbursement requests.

COST ITEM	SUPPORTING DOCUMENTS
Salaries	<ul style="list-style-type: none"> <li>• Documented payrolls approved by a responsible official of the organization</li> <li>• Signed personnel activity reports (timesheets) summarizing the distribution of activity of each employee. Timesheets should identify the amount of time spent on serving City of South Gate clients, or directly on the program.</li> <li>• Refer to OMB Circular A-122, Attachment B, Paragraph 8 (m)</li> </ul>
Fringe Benefits	<ul style="list-style-type: none"> <li>• Proof of payment of fringe benefits including health insurance statements, life insurance statements, etc. Fringe benefits will be calculated as a percentage of salaries. This percentage may generally not exceed 30 percent of salaries.</li> </ul>
Materials and Supplies	<ul style="list-style-type: none"> <li>• Copies of invoices/receipts</li> </ul>
Utilities	<ul style="list-style-type: none"> <li>• Copies of invoices/receipts</li> </ul>
Other expenses	<ul style="list-style-type: none"> <li>• Copies of invoices/receipts/billing statements</li> </ul>

#### Process for Approval of Reimbursement Requests for Consultant Services

Based on the terms of the written agreement with the contractor, city staff reviews reimbursement requests for allowability, eligibility, and reasonableness. All reimbursement requests by the contractor shall include a summary detailing expenses and the amount being charged to the City's HUD programs.

The table below outlines what supporting documentation must accompany reimbursement requests.

COST ITEM	SUPPORTING DOCUMENTS
Salaries	<ul style="list-style-type: none"><li>• Requests for reimbursement shall include a summary of the position(s) billed to the contract, the dates that services were provided, total number of hours billed by each position per day, and the hourly billing rate of each position charged to the City of South Gate activity.</li></ul>
Materials and Supplies	<ul style="list-style-type: none"><li>• Copies of invoices/receipts</li></ul>
Other expenses	<ul style="list-style-type: none"><li>• Copies of invoices/receipts/billing statements</li></ul>



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## FINANCIAL REPORTING

In addition to the budgeting, payment processing, and oversight actions described in other sections, the City will undertake the following actions to ensure accurate, current, and complete disclosure of the financial results of HUD-assisted activities in accordance with the financial reporting requirements of the CDBG and HOME Programs.

### FFATA Reports

At the end of each month, the Accounting Manager will report on all awards in excess of \$25,000 using the FFATA sub-award reporting system (FSRS) in order to comply with the Federal Funding Accountability and Transparency Act of 2006. For guidance on data entry, refer to the guidance material on [www.onecpd.info](http://www.onecpd.info) entitled "FFATA Subaward Reporting System Webinar for CDBG Grantees".

### Open Balance Review

On a quarterly basis, the Community Development Director, Grants Consultant and Accounting Manager will review the Annual Expenditure Work Plan with IDIS PR 08 to identify slow-moving projects. The review will include an assessment of the project's progress and its effectiveness of meeting its objectives. If a project is not on schedule or not effective, staff will develop a work plan and timeline for corrective actions.

### Monthly Reconciliation

At the close of each month, the Accounting Manager will work with the Grants Consultant to reconcile General Ledger expenditures and IDIS drawdowns for all HUD accounts. The information in IDIS, the PR07 Drawdown by Voucher Number, will also be compared to the local Project Report to ensure the IDIS system accurately reflects expenditures and cash balances. All discrepancies will be reported directly to the Finance Director and Community Development Director who will jointly oversee corrective action.

### Federal Cash Transactions Report

Semi-annually, the Grants Consultant will prepare and submit the Federal Cash Transactions Report SF-425. The Grant Administrator will take the following steps to reconcile IDIS with the City's local internal financial records:

#### STEP 1: DETERMINE DRAWS PER IDIS

1. From IDIS, generate the **PR07 Drawdown by Voucher Number Submitted to LOCCS**. Limit the report to the time period in question (i.e. Initial Date: 01/01/2014 and End Date: 06/30/2014 for Q2 of 2014).
2. Import the report into Excel.
3. Filter the report to show Entitlement Draws (EN Fund Type) with a Complete Status.
4. Verify the total amount of Entitlement funds drawn during the quarter by totaling all line items. This is the amount to enter on line 10a. Cash Receipts of the SF-425.
5. If it is requested by the local HUD field office, the Federal Financial Report attachment can be used to report the amount disbursed from each grant allocation. Sort the PR07 report by the Grant Number field to determine the amount disbursed from each allocation.

#### STEP 2: DETERMINE EXPENDITURES PER LOCAL SYSTEM

1. From City's Accounting System, generate the **Accounts Payable Invoice Report** for the CDBG Fund. When selecting the date range, include the three months prior to the quarter in question. The City works on a reimbursement basis, meaning a draw that occurred in the current quarter may have been paid in the previous quarter.
2. For each drawdown listed on the PR07, identify the corresponding record on the Accounts Payable Invoice Report and initial the line item. Please note that it will not always be a one to one relationship. One IDIS draw could represent several claims and vice versa. To help with the identification process, reference the Voucher for IDIS Drawdown forms processed during the quarter.
3. Verify that each draw has a corresponding claim. If so, enter the same amount from 10a. on line 10b. of the SF-425 report and enter 0 on line 10c. If there is a discrepancy, report the matter to the Finance Director for correction.

#### STEP 3: FILING

1. Complete the remainder of the SF-425 Report and submit it to the local HUD Field Office within 15 days of the close of the quarter.
2. Maintain a copy of the completed and signed SF-425 Report, the PR07 Report, the Accounts Payable Invoice Report, and any notes or related correspondence in a folder labeled Federal Financial Reports.

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## Policy Regarding Rebates, Refunds and Credits to HUD CPD Programs

All rebates, refunds, and credits to HUD CPD programs will be properly reported. Bid bond forfeiture funds that are not offset by additional costs to select another bidder will be credited to HUD CPD programs at their pro-rata share.

## Procedures for Evaluating Travel and Training Costs Charged to the CDBG Program

All travel and training expenses charged to HUD programs must be approved by the Community Development Director or a Department Director. Prior to approval, travel and training expenses are evaluated based on the following criteria:

- Compliance with OMB Circular A-122
- Applicability/relevance to CDBG/HOME program goals and objectives
- Eligibility under CPD programs
- Within the allocated budget for that program

## Schedule of Federal Expenditures

The Finance Department is responsible for preparing, based on information provided by the Community Development Department, the Schedule of Federal Expenditures (SEFA) as part of the annual auditing process. Regarding CDBG, the following procedures will be followed to ensure that the SEFA is reconciled:

1. Department of Finance staff will prepare the SEFA in preparation for the annual audit. Expenditures shall be determined using the following guidelines:
  - a. Use the same accounting basis as the City's Financial Statements.
  - b. Include all expenditures of federal awards for the year, including but not limited to
    - i. transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations;
    - ii. federal awards received directly from a federal agency and indirectly from a state agency;
    - iii. disbursement of funds passed through to sub-recipients;
    - iv. receipt of loan proceeds under loan and loan guarantee programs; receipt of federal property and surplus property;
    - v. receipt and use of program income.
  - c. List all financial assistance from the same federal agency together on the schedule.

- d. Within each federal agency section, list all direct awards first followed by indirect awards.
  - e. Provide subtotals for programs with the same Catalog of Federal Domestic Assistance (CFDA) number.
  - f. Provide subtotals for assistance received directly and assistance received indirectly.
  - g. Provide a total for each federal agency.
2. Accounting Manager will provide any and all underlying records, claims, and vouchers needed to verify CDBG expenditures and draws.
  3. Director of Finance or his designee will review the draft SEFA for:
    - a. reported expenditures against information from the Eden system;
    - b. the correct CFDA and agency information is provided, including identification of pass-through entities.
    - c. that the draft version presents the minimum data elements required by 2 CFR 200 Subpart F.
  4. Director of Finance will provide the draft SEFA to the outside auditing firm for review.
  5. Director of Finance will work with staff and outside auditing firm to address any errors, omissions or weaknesses.

## ASSET MANAGEMENT

Any property, personal or real, is limited in use to serving the objectives of HUD programs. All property purchased with HUD funds must be adequately controlled and safeguarded. In general, it is the responsibility of the Community Development Director to ensure staff take appropriate day to day actions to prevent loss, damage, or theft of the property. It is also the responsibility of the Community Development Director to ensure all equipment and property is adequately maintained on a regular, as-needed basis. Any loss, damage, or theft must be reported to the Mayor and City Manager.

Regarding asset management, property can be generally divided into three categories: supplies, equipment, and real property. Supplies are all tangible personal property other than Equipment. A computing device is a supply if the acquisition cost is less than \$5,000, regardless of the length of its useful life. Equipment is tangible personal property having a useful life of more than one year and a per-unit acquisition cost more than \$5,000. Examples include office equipment and furnishings, modular offices, telephone networks, information technology

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equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

Equipment must be used by the City and/or its subrecipients for the purpose which it was acquired whether or not the project or program continues to be supported by CDBG. When no longer needed for the original project or program, the equipment may be used in other activities. However, CDBG-purchased equipment cannot be used to provide services for a fee that is less than private companies charge for equivalent services unless the service meets all of the CDBG rules and regulations.

When original or replacement equipment acquired with HUD funds is no longer needed for the original project or program or for other activities currently or previously supported by HUD funds, the City shall request disposition instructions from HUD. In most cases, items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation. Some portion of the proceeds may be considered program income. If replacement equipment is necessary, the City may use the existing equipment as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

### Real Property

All real property, such as buildings, should be protected by using reasonable security measures. Equipment and supplies should be reasonably protected from possible theft. Short-term supplies, such as office supplies, do not need to be controlled through a perpetual inventory system, but must still be adequately safeguarded.

When the City or its subrecipients wish to dispose of property acquired or improved with HUD Funds, the disposition is subject to the regulations at 24 CFR 570.505 (see below). If the property is changed to a non-eligible use within the five-year period, the funds returned to the City are treated as returned funds (as opposed to program income). After the five-year period, any funds returned to the City are considered program income.

When selling the property, the City and or its sub-recipient shall follow its local procedure to ensure the highest possible return.

*The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for*

*the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.*

*(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:*

*(1) The new use of such property qualifies as meeting one of the national objectives in §570.208 (formerly §570.901) and is not a building for the general conduct of government; or*

*(2) The requirements in paragraph (b) of this section are met.*

*(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.*

*(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in §570.504(b)(4) or (5), as applicable, shall apply to the use of funds reimbursed.*

*(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.*

## **Recordkeeping**

Property records must be maintained that include:

- a description of the property,

- a serial number or other identification number,
- cost of property, including percentage paid for with HUD Funds,
- who holds title,
- the acquisition date,
- the location, use, and condition of the property, and
- any ultimate disposition data including the date and sale price.

The Community Development Director shall take inventory of all property and reconcile inventory with property records at least once every two years. Any difference between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The inventory shall include verification of the existence, current use and condition, and continued need for the property.

## EXHIBIT I

### Department of Housing & Urban Development

#### Program Income

Drawdowns of funds through IDIS will occur at least monthly. It is anticipated that monthly IDIS drawdowns of expenditures will greatly exceed monthly program income. Interest earnings on program income that are not offset by monthly expenditures will be credited to the appropriate program.

There are currently two sources of CDBG program income.

**Program income from the home rehabilitation program.** The loan servicer receives loan repayments and creates a monthly report to the City. The repayments are forwarded to the City and deposited into different accounts used for loan repayments. As described above, this program income is drawn down first when funds are drawn down for any appropriate activity.

**Program income from housing activity.** A few housing development projects received funds and loan repayments are made when there is surplus cash or residual receipts at the end of the year, as evidenced by the developments' annual financial audits. The amount of program income is determined by the loan terms indicated in the promissory note or appropriate funding agreement. The Community Development Director records the loan repayment and forwards it to Finance to deposit. As above, the program income is drawn down first when funds are drawn down for any appropriately funded activity.

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## Reimbursement Process in IDIS

The City will adhere to the following procedure to pay CDBG-related claims monthly:

- Within IDIS, the Accountant creates program income receipts based on monies received since the last drawdown
- Accountant reconciles Invoice Report with Draw Schedule and alerts Accounting Manager to any discrepancies
- Within IDIS, Grants Consultant will create IDIS draw voucher based on the actual expenditures incurred by the City. Once the drawdown voucher is created, the Grants Consultant will print a screenshot of the voucher creation screen from IDIS, record the Voucher Number on the Departmental Budget, and alert the Accounting Manager that the drawdown is ready for approval
- Accounting Manager approves drawdown voucher in IDIS. Funds will wire transfer to City designated account in two to three business days
- Upon receipt of wire transfer from the U.S. Treasury, the Finance Department Accountant will alert the Accounting Manager of receipt by forwarding the report with the CDBG disbursements identified. The General Fund will be reimbursed for the CDBG costs that were advanced

### TIMELINESS REVIEW

On a monthly basis, the Grants Consultant will generate and review with Accounting Manager, the CDBG Timeliness Report and evaluate the timeliness of CDBG expenditures.

### REIMBURSEMENT REQUESTS

One of the most common steps that follow entering a contract with a sub-recipient or other third party is when that sub-recipient or other sub-grantee (or contractor) has completed work as specified in the agreement, and they submit request for funds. This request is applicable to activities held internally with the entitlement jurisdiction. <sup>1</sup>

A request for reimbursement should include:

- The amount requested
- The date requested
- Clear description of the work completed
- The date range of the work completed



- A beneficiary report if the activity is Limited Clientele

Requests should be submitted at least quarterly and a final request should be submitted within 15-days of the end of the fiscal year. (See Appendix for Public Services Request for Reimbursement.)

NOTE: CDBG Grantee staff who are responsible for compliance with the CDBG grant agreement with HUD should review all uses of CDBG funds. It is not recommended that you give a sub-grantee or even another City department "carte blanche" to expend CDBG funds. It is highly recommended that the grantee requires an internal review and authorized signature for all disbursement of CDBG funds.

### **IDIS DRAWS**

Once funds have been paid to the sub-recipient, sub-grantee, or contractor, the City must request reimbursement from HUD. Funds can only be advanced from HUD under special circumstances. (See below.)

Funds are held by the US Treasury in what is called a Line of Credit. Funds are disbursed by the US Treasury through what is called the Line of Credit Control System or LOCCS. It is often referred to as "locks".

The Integrated Disbursement and Information System (IDIS) is the online system set up by HUD to tell HUD what you are doing with CDBG funds and to request funds from the Line of Credit Control System.

When funds are requested via the Integrated Disbursement and Information System (IDIS) and approved, they are wired directly to the grantee.

The chapter on IDIS includes detailed instructions on making draws in the system.

The request for funds should originate from the entitlement jurisdiction's Finance Department based on records of expended funds. The draw is then created in IDIS by one staff person and approved by another. The Integrated Disbursement and Information System does not allow the same login ID to be used to both create and approve a draw.

Once a draw has been created and approved, the grantee's Finance Department should be informed and the amounts confirmed.

When the entitlement jurisdiction receives funds, as the CDBG administrator, the grantee should be notified in the case there is a discrepancy.

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City financial reports and IDIS records should be regularly reconciled.

## PROGRAM INCOME

The receipt and expenditure of program income shall be recorded as part of the financial transactions of the grant program.

(b) Disposition of program income received by recipients.

- (1) Program income received before grant closeout may be retained by the recipient if the income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.
- (2) If the recipient chooses to retain program income, that program income shall be disposed of as follows:
  - (i) Program income in the form of repayments to, or interest earned on, a revolving fund as defined in Sec. 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. (This rule does not prevent a lump sum disbursement to finance the rehabilitation of privately owned properties as provided for in Sec. 570.513.)
  - (ii) Substantially all other program income shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury.
  - (iii) At the end of each program year, the aggregate amount of program income cash balances and any investment thereof (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump-sum drawdown, or cash or investments held for section 108 loan guarantee security needs) that, as of the last day of the program year, exceeds one-twelfth of the most recent grant made pursuant to Sec. 570.304 shall be remitted to HUD as soon as practicable thereafter, to be placed in the recipient's line of credit. This provision applies to program income cash balances and investments thereof held by the grantee and its sub-recipients.

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- (3) Program income on hand at the time of closeout shall continue to be subject to the eligibility requirements in subpart C and all other applicable provisions of this part until it is expended.
  - (4) Unless otherwise provided in any grant closeout agreement, and subject to the requirements of paragraph (b)(5) of this section, income received after closeout shall not be governed by the provisions of this part, except that, if at the time of closeout, the recipient has another ongoing CDBG grant received directly from HUD, funds received after closeout shall be treated as program income of the ongoing grant program.
  - (5) If the recipient does not have another ongoing grant received directly from HUD at the time of closeout, income received after closeout from the disposition of real property or from loans outstanding at the time of closeout shall not be governed by the provisions of this part, except that such income shall be used for activities that meet one of the national objectives in Sec. 570.901 and the eligibility requirements described in section 105 of the Act.
- (c) Disposition of program income received by sub-recipients. The written agreement between the recipient and the sub-recipient, as required by Sec. 570.503, shall specify whether program income received is to be returned to the recipient or retained by the sub-recipient. Where program income is to be retained by the sub-recipient, the agreement shall specify the activities that will be undertaken with the program income and that all provisions of the written agreement shall apply to the specified activities. When the sub-recipient retains program income, transfers of grant funds by the recipient to the sub-recipient shall be adjusted according to the principles described in paragraphs (b)(2)(i) and (ii) of this section. Any program income on hand when the agreement expires, or received after the agreement's expiration, shall be paid to the recipient as required by Sec. 570.503(b)(8).
- (d) Disposition of certain program income received by urban counties. Program income derived from urban county program activities undertaken by or within the jurisdiction of a unit of general local government which thereafter terminates its participation in the urban county shall continue to be program income of the urban county. The urban county may transfer the program income to the unit of general local government, upon its termination of urban county participation, provided that the unit of general local government has become an entitlement grantee and agrees to use the program income in its own CDBG entitlement program.

### **LUMP SUM DRAWS [570.513]**

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CDBG regulations allow the grantee to draw down a lump sum for planned housing rehabilitation activities. The grantee can draw down up to two years' amount. The lump-sum must be deposited in a financial institution and there must be a specific agreement with that institution. This allows the grantee to provide funds to a project much quicker without having to advance local funds and be reimbursed.

Interest earned on the balance of funds must be remitted to the US Treasury.

### **REVOLVING LOAN FUNDS [570.500(B)]**

CDBG allows the grantee to set up a revolving loan fund (RLF). This is a fund that is set up to that receives program income (principal and interest) from a certain use (single-family housing rehabilitation, business assistance, homebuyer assistance) and re-loans monies for that same use.

The advantage of a revolving loan fund is that funds can be allowed to accumulate. Monies in the revolving loan fund are not subject to the "first-in, first-out" rule of typical program income.

A revolving loan fund must be an interest-bearing account and interest earned on the balance of funds must be remitted to the US Treasury.

### **ESCROW ACCOUNTS**

In order to facilitate the timely availability of funds for projects such as housing rehabilitation, a grantee may draw down and deposit funds into an escrow account. This account can be held by the grantee or in trust by a local escrow company.

The main advantage is ease of disbursement. A simple faxed form or e-mail can typically serve to release funds to the contractor or other entities within a timely manner.

The greatest disadvantage is some loss of control. The grantee does not have possession of the funds. There is also often a cost associated with escrow accounts. The loss of control can be mitigated by creating a good working relationship with a local escrow officer and writing clear and detailed escrow instructions. The cost can be financed with CDBG funds.

It should be noted that escrow accounts are intended to fund hard costs only. They cannot be used to fund "soft" costs or the grantee's administrative or delivery costs.

### **INTEREST ON FEDERAL FUNDS**

Interest earned on federal funds must be remitted to the US Treasury.

**FEDERAL FINANCIAL REPORT [STANDARD FORM 425]**

(See Appendix for Standard Form 425.)

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## 10. INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM (IDIS)

### OVERVIEW

This section is intended to provide an introductory tour through the Integrated Disbursement and Information System and offer concise explanations of the most common tasks to be performed in the system. It is not intended as a substitute for the Disbursement and Information System Reference Guide or other reference material listed at the end of this section.

### WHAT IS IDIS?

IDIS stands for "Integrated Disbursement and Information System". It is an on-line system that HUD developed to manage the four Community and Planning Development formula programs: CDBG, HOME Investment Partnership Program (HOME), ESG, and Housing Opportunities for Persons with AIDS (HOPWA).

IDIS allows recipients of formula grant funds to report on the use of funds as well as to request funds from the US Treasury.

IDIS does have a reference manual and other reference materials. You should have a copy of the reference manual. Where to find the reference manual (available on the HUD web site in PDF) and other resources are in the IDIS resources section at the end of this chapter.

### IDIS IN CONTEXT

IDIS is one of four management systems envisioned by HUD as supporting the formula grant programs. The other three are:

- The Consolidated Plan Management Process (CPMP) system organizes and reports information regarding the projects and activities conducted by the grantee. It is designed to provide consistent information in a consistent format to the public, to HUD, and ultimately to the US Congress. It also may be used to upload project and activity information into IDIS. See the section on CPMP for more information.
- The Line of Credit and Control System (LOCCS) interacts with IDIS to disburse funds from the US Treasury and report information to IDIS on the availability of funds and grant balances. The grantee has no direct access to LOCCS.
- The Grants Management Process system (GMP) is the system employed by HUD field offices to manage formula grants and review the performance of grantees. HUD field staff use IDIS to view the performance of grantees. Grantees are not involved in GMP.

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## IDIS STRUCTURE: PLAN, PROJECT, AND ACTIVITY

IDIS is intended to "mirror" the Consolidated Plan and the Annual Action Plan. Projects represent the undertakings identified in the Consolidated Plan as meeting the community's needs. Projects are organized into Plan Years that coincide with the annual Action Plan. Activities represent the individual tasks that contribute to the goals of the Project.

## INTEGRATION INTO IDIS ONLINE

Beginning in May 2012, HUD grantees will be able to submit their Consolidated Plan using the Consolidated Plan template in IDIS Online. The Consolidated Plan template will be required for all Consolidated Plans submitted on or after November 15, 2012. Grantees that are scheduled to submit Consolidated Plans to HUD after this date will use the template for both the Consolidated Plan and each Annual Action Plan.

With the incorporation of the Consolidated Plan, Annual Action Plan, and CAPER into IDIS Online, all the key reporting elements of the grants are integrated into one system. This will help ensure cohesiveness between the goals described in the Consolidated Plan and Action Plan and the outcomes tracked in IDIS and reported in the Consolidated Annual Performance and Evaluation Report (CAPER). The reports in IDIS Online can be run throughout the program year to monitor progress and performance against the goals established in the Consolidated Plan and Annual Action Plan.

To access IDIS Online, a grantee must have an active IDIS Online User ID. To add new users, grantees should follow the instructions on the IDIS Log On page: <http://www.hud.gov/offices/cpd/systems/idis/obtainaccount.cfm>.

Before a grantee user can add or edit a Consolidated Plan or Action Plan, the local IDIS Administrator for the grantee must edit the user's profile to provide that functionality. Local administrators can use these steps to edit a user's profile to provide access to the Consolidated Plan, Action Plan, and CAPER templates:

1. All grantees have a local administrator. To determine who has local administrator privileges, run the Security
2. Click on Admin in the Main Menu bar (only local administrators will see this option).
3. By default, the system will display the Search User Profiles screen. Use the fields provided, such as User ID or First Name and Last Name to search for the user profile that needs to be revised, then click Search.

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## IDIS FACTS

- Each activity must be associated with a project, each project with a Plan Year
- A Project may have one or more Activities associated with it.
- Reporting and disbursement happens at the Activity level.

Once the initial structure of Plan Year, Projects and Activities has been established in IDIS, nearly all future activity in IDIS is at Activity level.

When would there be more than one Activity under a Project?

- When there is a single undertaking that has several distinct components or stages.
  - Community Center – acquisition, design, construction, operations
  - Homeless Shelter – bus tickets, counseling, meal vouchers, clothing operations

## IDIS ACCESS

The starting place for IDIS is the main IDIS webpage:

<http://www.hud.gov/offices/cpd/systems/idis/>

IDIS is accessed through an internet browser using an application that emulates a mainframe "green screen".

The steps you need to take to access IDIS can be found on the "getting started" page of the IDIS web page.

## REQUESTING IDIS ACCESS

The first thing to do is to request IDIS access by submitting an IDIS Access Request Form on the IDIS web page.

Be sure to follow the instructions carefully and note:

- Check the correct action box
- Check the correct "authorized function" box(es) (more on this below)
- Check the program area box(es) for the programs for which you need access to IDIS
- The person who is requesting access signs under "authorized user"
- Leave "field office approval" blank
- Under "approved by", enter the information for your jurisdiction's chief executive or other authorized official (this will be the same person who signs your grant agreements with HUD)



- You must notarize the signature of the “approving” official

Submit the form to your HUD field office (not to IDIS Security). Send it attention to your Program Representative. Let your representative know it is on the way.

If you do not receive your IDIS authorization within 4 weeks, follow-up with your representative. A call to IDIS Security might also be required.

IDIS Access is specific to the person. A person may have access to one or more jurisdictions. Once you have an IDIS ID you will never have a new one issued to you. It's important to let IDIS Security know (via the form) if you have had IDIS access in the past, as they will simply "renew" your ID.

### **SELECTING THE CORRECT “ACTION”**

Your choices for "Action" on the form and when to tick them are:

- New Request - You have never had an IDIS ID.
- Renew Lapsed ID - You had an IDIS ID but you let it lapse. (Call IDIS technical assistance to confirm.)
- Drop from IDIS - You no longer want access to IDIS, or more likely, you want to remove someone's access to IDIS.
- Add Access to Another Grantee - You currently have IDIS access for one grantee and you want authorization for another. This is uncommon for most grantee staff. You will see consultants with this sort of access or the staff of Consortia or Urban Counties.
- Change Name/Functions/Grantee - Self-explanatory. Seldom used.

### **AUTHORIZED FUNCTIONS IN IDIS**

In general, it is best to select all authorized functions unless there is a specific reason not to. Such a reason might be that you only want certain staff to approve draws or certain staff to be able to perform administrative functions in IDIS.

It is recommended that if this is desired, two levels be created: those that can only set-up activities and request (create) draw-downs and those that can perform all functions including administration.

It is important to remember that the same user cannot both create and approve a draw request.

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## THE AUTHORIZATION PACKET

When your IDIS authorization is complete you will receive an authorization "packet" from IDIS Security. The items you want to focus your attention on are your WEB390 ID or "wi" number, your IDIS ID or "c" number and your IDIS temporary password. Keep this packet in a safe place. When monitoring, some HUD staff will want to see that you have your IDIS authorization documents in order and in a secure location.

## PC AND SOFTWARE REQUIREMENTS

If you have a PC running MS Windows, you should not have a problem working with IDIS. Currently the most stable configuration is Windows 2000 using IE 6.x. Issues have been reported using IE 7.x and with XP. No word on Vista. Netscape is no longer supported so its use is not recommended. IDIS does not support Firefox.

It is typical that as new operating systems are released (or even significant updates) or new browser versions are released, IDIS lags some time to catch up.

You will need to download and install a "plug-in" or helper application that works with your browser. To see which of the two plug-ins to install, check the chart on the "Browser and Plug-in Information" page:

<http://www.hud.gov/offices/cpd/systems/idis/gettingstarted/browser.cfm#browsers>.

See the "Plug-in Guide" published by IDIS staff (attached) for step-by-step instructions.

Ignore the instructions to download and install the report batch file. Ignore the report batch guide. This is obsolete.

## GOING INTO IDIS

To access IDIS, start at the IDIS page <http://www.hud.gov/offices/cpd/systems/idis/idis.cfm>. This page is also where HUD will post news related to IDIS. From this page, you can log in to the IDIS practice area as well as the IDIS "production" area.

To login to IDIS, scroll down the page to the map and click on the region of the map that includes your state. Alternatively, click on your state's name below the map. This will take you to the WEB390 login page.

Enter the WEB390 ID you were assigned along with your WEB390 password. The WEB390 ID is also called your "wi" number. It will never change, nor will your WEB390 password.

If you enter the correct credentials, you will go to what some call the "house" screen.

Here you should see your local time and date in the top right corner, and under the HUD logo: "Current 3270 connection status: NOT CONNECTED". (If it does not say this, it means that someone else did not log off correctly or the browser hung up and was forced to close. You will need to wait until the system resets.) You will see a drop-down box below that ... ignore it. You will also see a button "LOGON" and a row of buttons: "RESHOW"; "ATTN"; "LOGOFF"; and "Get Reports/Data".

## **DRAWDOWN FUNDS**

Four basic steps are necessary to draw down funds for CDBG, HOME, ESG, or HOPWA. These four steps must be followed in order. A helpful way to remember this order is the acronym "JAID", which refers to the letters on the IDIS Main Menu that access these functions.

### **STEP 1: CREATE A PROJECT**

Projects serve as an organizational structure under which activities can be set up in IDIS. They connect activities with a specific Consolidated Plan year. In many cases, HUD automatically loads projects into IDIS from Annual Action Plans at the beginning of each grantee's program year. If the grantee chooses to load its own projects, it must create them at the start of its program year.

The IDIS Reference Manual provides more detailed explanation of Setting Up, Approving, and Revising Projects (see website below):

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/atfordablehousing/programs/home/home\\_idis\\_manual\\_pj](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/atfordablehousing/programs/home/home_idis_manual_pj)

### **STEP 2: SET UP AN ACTIVITY**

Setting up an activity in IDIS is a prerequisite to committing and drawing down funds and reporting on the progress of your program initiatives throughout the year. Activities provide a way to report on the work underway for a project and are the level where funds are committed and drawn. Setting up an activity is a two-part process. The first part involves entering data on four activity setup screens, often called the "Common Path", that are similar regardless of the program. On the fourth screen (called the "money screen"), enter the budgeted amount and indicate the formula grant program(s) that will fund this activity. The second part of setting up an activity involves entering information on screens in the "Program Path", which are different for each grant program.

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The IDIS Reference Manual provides a more detailed explanation of Setting Up the Activity Common Path in Chapter 4.

#### IDIS MATRIX CODES

Assigning correct matrix codes and national objectives to activities is important, not only in recording the eligibility of activities, but also inaccurately reporting accomplishment data. The matrix code and national objective selected for an activity generally identify the purpose for which assistance is provided and determine the type of accomplishment units that should be reported. The IDIS Reference Manual provides definitions of matrix codes in Appendix B.

- CDBG Cross Reference Matrix

All CDBG activities must be assigned a matrix code and a national objective code. Grantees across the country must be consistent in uniformly applying matrix codes and national objectives to activities.

#### STEP 3: FUND THE ACTIVITY

This step consists of committing the funds budgeted for the activity from the program(s) that will fund it. The Activity Funding process allows you to fund an activity from grants, subfunds, receipt funds, or subgrants. You identify each grant, subfund, receipt fund, or subgrant and the amount of funds to be committed from the funding source to an activity.

The IDIS Reference Manual provides a more detailed explanation of Activity Funding in Chapter 5.

#### STEP 4: DRAWDOWN FUNDS

A drawdown, also called a voucher, is a request for payment against a grantee's line of credit for services performed in support of one or more activities. Grantees draw funds as required to pay for work that has occurred for an activity. A separation of duties policy is applicable under certain circumstances.

The IDIS Reference Manual provides a more detailed explanation of Creating and Approving Drawdowns in Chapter 7.

#### STEP 5: REPORT ACCOMPLISHMENTS

HUD requires reliable, comprehensive information regarding program performance in order to comply with the Government Performance and Results Act of 1993, fulfill reporting requirements

for Congress and other stakeholders, measure progress made in meeting Business and Operating Plan goals, monitor grantee performance, and evaluate overall program results.

For detailed reporting instructions, CDBG grantees may refer to Guidance for Reporting CDBG Accomplishments in IDIS.

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## 11. ENVIRONMENTAL

### OVERVIEW

This section of the manual will provide an overview of the HUD environmental review and National Environmental Policy Acts (NEPA) requirements. There is an entire part of federal regulations (24 CFR 58) dedicated to describing these requirements and compliance with them. There are also several "related acts" and Executive Orders that impose environmental requirements on recipients of CDBG funds. These laws are listed at <http://www.hud.gov/offices/cpd/environment>.

### LEVEL OF REVIEW DETERMINATION

The initial step of the process is to determine which "level of review" is appropriate for the activity being considered. There is a model form for this provided by the HUD San Francisco field office.

### LEVELS OF REVIEW

#### EXEMPT

The following activities are by their nature not considered by HUD to have a significant environmental impact. (See Appendix for sample Exempt Activities Checklist).

- Environmental and other studies, resource identification, and the development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;
- Engineering or design costs;
- Technical assistance and training;
- Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration; and

- Payment of principal and interest on loans made or obligations guaranteed by HUD.

The only requirement is to review compliance with flood hazards, flood insurance/disaster assistance, coastal barriers, and airport clear zones. These are referred to as "the authorities listed at 24 CFR 58.6".

The level of review determination form includes a section to address 24 CFR 58.6. No further review is necessary.

### **CATEGORICALLY EXCLUDED, NOT SUBJECT TO 58.5**

These "categorically excluded" activities do not require an EIS or EA except under "extraordinary circumstances" as defined at 58.2(a)(3) (see Appendix for sample Categorically Excluded Checklist).

These following activities are by their nature not considered to have an impact that would require environmental review:

- Tenant-based rental assistance;
- Supportive services including, but not limited to, health care, housing services, permanent housing placement, daycare, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- Community Development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including dosing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title;
- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact; and
- Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Sec. 58.47.

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The only requirement is to review compliance with flood hazards, flood insurance/disaster assistance, coastal barriers, and airport clear zones. These are referred to as "the authorities listed at 24 CFR 58.6".

The level of review determination form includes a section to address 24 CFR 58.6. No further review is necessary.

The only significant difference between "exempt" and "categorically excluded, not subject to 58.5" is that the latter are subject to further review if it is determined that there are "extraordinary circumstances and conditions" that would have an environmental effect. [24 CFR 58.35(c)].

### **CATEGORICALLY EXCLUDED, SUBJECT TO 58.5**

Categorically excluded activities do not require an EIS or EA except under "extraordinary circumstances" as defined at 58.2(a)(3).

The following activities are by their nature not considered to have an impact that would require review under NEPA:

- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
  - (ii) In the case of multifamily residential buildings:
    - (A) Unit density is not changed more than 20 percent;
    - (B) The project does not involve changes in land use from residential to non-residential; and



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- (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
  - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
    - (A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
    - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
  - (4) [Blank]
    - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
    - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
    - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
  - (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
  - (6) Combinations of the above activities.

Review of compliance with flood hazards, flood insurance/disaster assistance, coastal barriers, and airport clear zones is required (58.6).

Review of the factors under 24 CFR 58.5 is required for these activities. These are referred to as "the related laws and authorities". The HUD San Francisco Field Office has provided a model "statutory review checklist".

## ENVIRONMENTAL ASSESSMENT "EA"

An Environmental Assessment or "EA" is required if a project is not found to be categorically excluded or exempt.

The regulations specify how to prepare an Environmental Assessment and the public notices and public review periods that must be followed. These are in "Subpart E" of Section 58.

The HUD San Francisco Field Office has provided a model Environmental Assessment form.

## ENVIRONMENTAL IMPACT STATEMENT "EIS"

An Environmental Impact Statement or "EIS" is required when "the project is determined to have a potentially significant impact on the human environment".

There are also several specific circumstances that require the preparation of an Environmental Impact Statement. These are listed at 58.37(b).

Below is a table summarizing the various levels of review.

Level of Review	Definitions	Required Review	Documents
Exempt	58.34	58.6	<ul style="list-style-type: none"> <li>Level of Review Determination/58.6 Review</li> </ul>
Categorically Excluded, not subject to 58.5	58.35(b)	58.6	<ul style="list-style-type: none"> <li>Level of Review Determination/58.6 Review</li> </ul>
Categorically Excluded, subject to 58.5	58.35(a)	58.6 58.6	<ul style="list-style-type: none"> <li>Level of Review Determination/58.6 Review</li> <li>Statutory Worksheet</li> </ul>
Environmental Assessment	58.36	58.5 58.6 EA	<ul style="list-style-type: none"> <li>Level of Review Determination/58.6 Review</li> <li>Statutory Worksheet</li> <li>EA</li> </ul>
Environmental Impact Statement	58.37	58.5 58.6 EIS	<ul style="list-style-type: none"> <li>Level of Review Determination/58.6 Review</li> <li>Statutory Worksheet</li> <li>EIS</li> </ul>

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## EXTRAORDINARY CIRCUMSTANCES

The "extraordinary circumstances" referred to above are defined in the regulations at 24 CFR 58.2(a)(3).

- (3) Extraordinary Circumstances means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:
- (i) Actions that are unique or without precedent;
  - (ii) Actions that are substantially similar to those that normally require an EIS;
  - (iii) Actions that are likely to alter existing HUD policy or HUD mandates; or
  - (iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

## "58.6" REVIEW

The model "Level of Review Determination" worksheet provided walks you through the review for the "58.6" requirements. It is a "yes/no", "if/then" format. You proceed until you have hit a line that indicates "the review of this factor is complete".

## CONVERSION TO EXEMPT

### PUBLIC NOTICE

Grantees must provide the public with the following minimum comment periods:

- Notice of Finding of No Significant Impact 15 days when published or, if no publication, 18 days when mailing and posting
- Notice of Intent to Request Release of Funds 7 days when published or, if no publication, 10 days when mailing and posting
- Concurrent or combined notices 15 days when published or, if no publication, 18 days when mailing and posting

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**FONSI/RROF**

- (a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.
- (b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by Sec. 58.70. If the notices are released as a combined notice, the combined notice shall:
  - (i) Clearly indicate that it is intended to meet two separate procedural requirements: and
  - (ii) Advise the public to specify in their comments which "notice" their comments address.
- (c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

**RELEASE OF FUNDS**

The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds.

## MRER

### PROCESS/FLOW

Level of review – Make it clear from project description and LOR determination why this LOR is appropriate.

### BEST PRACTICES AND GENERAL PRINCIPLES

The most important thing to remember about the environmental review process is to never expend funds or contract to expend funds before the review process is completed.

### IDIS

In the Integrated Disbursement and Information System (IDIS) activity set up path there is a screen (C04MA03) that has a place to indicate the “environmental assessment code”. If the activity is set up in IDIS before the environmental review is complete, this field should be left blank. The field must be completed before the activity can be funded.

Note that a complete environmental review may be when the record is complete or later when a release of funds has been received from HUD. It will depend on the particular level of review.

For all activities except those requiring an Environmental Assessment (EA) or Environmental Impact Statement (EIS), an "A" should be entered in the field to indicate the activity does not require an EA or EIS. IDIS will show the project as "exempt." This is the case even for those that are categorically excluded.

If an EA or EIS is required, a "D" may be entered for "underway" while the EA or EIS is being conducted. It is not required.

Once the EA or EIS is completed, a "C" is entered for "completed".

<b>Status</b>	<b>Enter into “environmental assessment code” field</b>
ER incomplete	Leave Blank
ER completed, finding of exempt or categorically excluded (Anything but EA or EIS)	“A” for exempt
EA or EIS required, but not completed	“D” for underway
EA or EIS completed	“C” for completed

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## 12. PROCUREMENT

### OVERVIEW

This section will provide an overview of the HUD standards for Federal procurement requirements located at "Procurement Standards" at 2 CFR Part 200.317-326. In addition to these requirements, the "other program requirements" in Sub-Part K of the Part 570 should be reviewed when procuring goods and services. For example, the rules regarding contracting opportunities, the Americans with Disabilities Act (ADA) and environmental standards may be relevant.

The regulations that specifically address procurement include 2 CFR Part 200.317-326. Procurement of goods and services by both the grantee and any sub-grantees or sub-recipients are all controlled by federal regulation. These requirements pass through with federal funds.

Any state or local regulations should also be considered. The most stringent requirement should be followed.

Although there are very specific requirements for procurement using CDBG, there are a few general guidelines that apply to assure a quality process:

- Provide clear standards for the quality and nature of the goods and services to be provided;
- Assure a competitive process that results in the best possible product for a reasonable price;
- Provide a purchase agreement or contract that clearly states the obligations of each party;
- Maintain adequate records of the process; and
- Have a system in place to verify that the goods or services provided are as specified.

### TYPES OF PROCUREMENT

In general, procurement processes can be grouped into four types:

1. Small purchases;
2. Sealed bid;
3. Competitive proposal (RFP/RFQ); and
4. Non-competitive.

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## SMALL PURCHASES

This is the most common form of procurement that most grantees, sub-grantees and sub-recipients will use. It is the least formal and the most flexible. It is permissible only for purchases that fall under \$100,000. Publication of a formal request for proposals (RFP) or an invitation to bid is not required. This is most often used to procure materials, equipment or professional services. It is not typically used for construction contracts nor is it recommended.

The purchaser identifies several potential vendors and solicits quotes or bids from those vendors. The purchaser reviews the received quotes or bids and selects the best one.

## SEALED BID

This method is characterized by a formal bid notice, the submission of sealed bids, and the award of a fixed-price contract. Sealed bidding is preferred for construction.

Bids are solicited through formal public notice or advertisement. Solicitations should be circulated to trade groups, unions, and builders' exchanges.

The contract is awarded to the lowest responsible bid. As the regulations state, the contract is awarded to the lowest bid which, "[conforms] with all the material terms and conditions of the invitation for bids..." If there is a "sound documented reason", one or even all bids may be rejected.

- The sealed bid process works when there are:
  - A clear well-defined and detailed scope of work or product specification(s);
  - At least two bidders able to offer competitive pricing; and
  - The good or service lends itself to a fixed-price contract and selection can best be made based on competitive pricing.

HUD has set forth the following minimum requirements for sealed bid procurement:

- The bid solicitation must be publicly advertised;
- Bids must be solicited from an "adequate" number of potential vendors;
- Bidders must be given "sufficient" time to develop a bid;
- The bid solicitation must include all the specifications, background information, and a definition of the goods or services required for the bidder to be able to develop and submit a complete bid; and
- The solicitation must state the place, time and date of the public bid opening.

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Although not specifically mentioned in the regulations, late bids should not be accepted. Bids must be opened at the time and place stated. Bid results must be made public.

The contract or purchase agreement must be awarded to the "lowest responsive and responsible bidder". As stated before, any or all bids may be rejected for a "sound" reason that is well-documented. Bids that are incomplete or that fail to consider the entire scope of work or provide goods or services that are not those specified may be considered "not responsive". Bids that propose a price that is judged to be grossly insufficient to complete the scope of work or from bidders who appear to lack the basic qualifications to complete the work can be considered to be "not responsible". In all cases, the evaluation of the bids received must be documented and the selection of the bidder justified.

### **COMPETITIVE PROPOSAL (RFP/RFQ)**

Competitive sealed proposals are used in two instances:

1. The acquisition of any engineering or architecture services, or
2. The purchase of other professional services where the total cost will exceed \$100,000.

Under this procurement method, the Recipient must publish a written request for submissions and then review these submissions based on established selection criteria. This method of procurement differs from the small purchases method in that the solicitation must be published and cannot be restricted to a smaller or limited number of bidders. Under this approach, there are two possible methods of soliciting proposals:

1. A **Request for Proposals** asks that officers submit both qualifications and cost information.
2. A **Request for Qualifications** only asks for information on the offeror's expertise/experience and not on cost.

When acquiring any service that is not architecture or engineering, the full RFP process must be used. For example, if the City were to hire a for-profit HOME Program contract administrator and that contract exceeded \$100,000, an RFP would be required.

When acquiring architectural or engineering services, either a RFP or a RFQ may be used. The City recommends the use of an RFP process when feasible or practical, since it provides the recipient additional information.

**Request for Proposals (RFP):** When a RFP process is required, the City must develop a written document outlining the scope of the services and the selection criteria. The scope must be



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sufficiently detailed so that potential bidders are able to develop effective pricing proposals and submit appropriate qualifications.

**Request for Qualifications (RFQ):** The RFQ process may only be used in two instances:

1. For complicated architectural or engineering services, or
2. When the RFQ is used to narrow a pool of potential bidders and a formal RFP will follow. In any other competitive proposal instance, the RFP must be used. The RFQ process does not request cost information at the time of solicitation.

### **NONCOMPETITIVE PROPOSALS**

Procurement by noncompetitive proposals is procurement through solicitations of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The City authorizes noncompetitive proposals; or
- d. After solicitation of a number of sources, competition is determined inadequate.

### **IN GENERAL**

The form specified for the quote or bid should allow the purchaser to accurately compare the cost of the goods or services.

Single purchases that would logically follow in sequence or typically be a single service, good or "work" may not be broken down into parts to be procured separately to avoid a formal procurement process.

The goal is to obtain a reasonable and responsible price. The lowest price does not need to be taken if the selected vendor's price can be considered to be reasonable in comparison to others. If the lowest price is not considered to be "responsible" it should not be accepted. Such a price would be considered to be infeasible or would for some reason have been determined to have failed to consider the full scope of work or the desired quality of product.

Let your bidders know how you will decide and when. This not only includes your decision criteria, but the process that will be used. Will there be interviews or follow-up questions?

Make your process transparent. If they ask, let your bidders know who responded. After the selection process, you should be willing to reveal the responses and discuss your selection decision. If you are not, some firms may request this information through a formal public information request. This is much more expensive and time-consuming for all involved. Your goal is to always get better bids. Letting an un-successful bidder know how they came up short may make for a better bid next time.

Document the procurement process. This includes when actions were taken to solicit, when responses were received, when decisions were made and why.

If a bidder asks a clarifying question, the question and response should be shared with all bidders.

Each vendor should be given the same information on the desired goods or services. The request should be made at the same time and each potential vendor should be required to return the quote or bid on the same date and time.

Aside from selecting the method of procurement, there are several other considerations the City of South Gate adhere to when procuring goods or services with Federal funds including:

#### **Conflict of Interest**

1. A written code of conduct must be maintained to help prevent conflicts of interest in procurement.
2. The written code of conduct must apply to all employees, officers, agents of the City or its Recipient, and members of their immediate family, and partners.
3. The code shall prevent financial interest or other benefits earned for any of these persons due to a HOME Program-related procurement action. These persons also cannot solicit or accept gratuities, favors or other items of monetary value from contractors.

#### **Excluded Parties**

1. The City must adhere to the prohibitions in 2 CFR Part 2424 on the use of debarred, suspended, or ineligible contractors. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities.

2. Federal funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor during any period of debarment, suspension, or placement on ineligibility status.
3. The City should regularly check all contractors, subcontractors, and lower-tier contractors against the Federal publication that lists debarred, suspended, and ineligible contractors.
4. In addition, the City should check this list before signing any contract with contractors or subcontractors.
5. Information on parties excluded from Federal procurement and non-procurement programs is available at [www.sam.gov](http://www.sam.gov).

#### **Minority/Woman-Owned Business Enterprises**

1. The City of South Gate is required by Federal law to ensure that minority and women-owned business have information about and the opportunity to bid on federally funded competitive contracts.
2. The City is required by law to use minority and women's businesses whenever possible.

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### 13. OTHER FEDERAL REQUIREMENTS

This final section of the manual is designed to deliver a brief overview of some related federal requirements that will need to be considered by a grantee when working with federal CDBG funds.

#### LABOR STANDARDS (570.603)

To ensure that employment standards are maintained and workers are being compensated fairly for their labor, grantees using federal funds through HUD must comply with required labor standards, otherwise known as Davis-Bacon. The Davis-Bacon and Related Acts, apply to contractors and subcontractors working on federally funded or assisted contracts in excess of \$2,000 for the construction or repair of public buildings or public works. Contractors are required to pay their employees no less than the local prevailing wages and fringe benefits determined by the Department of Labor. Refer to <http://www.wdol.gov> to find prevailing wage rates.

#### FAIR HOUSING (570.601)

Under the Fair Housing Act, HUD is obligated to uphold fair housing laws and requires grantees of HUD CDBG funding to commit to furthering fair housing within their community. As part of this commitment grantees are required to conduct an Analysis of Impediments to Fair Housing Choice (AI) and take appropriate actions to overcome any impediments to fair housing identified through the AI process. Fair housing laws assist in eliminating racial and ethnic segregation, illegal physical barriers, barriers to persons with disabilities, and discriminatory practices in housing. The grantee is encouraged to complete an AI with the update of their Consolidated Plan or every five years.

Fair Housing regulations can be found on HUD's website at [www.hud.gov](http://www.hud.gov). There is also a Fair Housing Planning Guide available on the website that provides fair housing information and assists in the completion of an AI.

#### NON-DISCRIMINATION (570.602—SECTION 109)

Grantees receiving federal funding through HUD are required to certify that no person will be denied access or participation in a program based on the grounds of race, national origin, religion, sex, age, or disability status. When submitting the Consolidated Plan and Annual Action Plan the grantee will have to sign the required certifications to attest that the grantee will commit to the non-discrimination requirements.

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## RELOCATION/DISPLACEMENT (570.606)

Grantees of HUD funding are required to certify and assure that all reasonable steps will be taken to minimize the displacement of persons, families, businesses, non-profit organizations, and farms from their homes or place of business as a result of activities undertaken by the grantee, such as rehabilitation or demolition activities. The grantee must adopt an anti-displacement and relocation plan that the jurisdiction will follow in cases where relocation is necessary.

See HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition on HUD's website for further information and requirements on relocation/displacement.

## EQUAL OPPORTUNITY (570.607)

CDBG regulations state that no person shall be subject to discrimination under any program funded in whole or in part by CDBG funds. CDBG grantees/sub-grantees must take measures to ensure non-discriminatory treatment, outreach and access to program resources. This applies to employment and contracting, as well as to marketing and selection of program participants.

The Office of Fair Housing and Equal Opportunity also enforces federal laws to create equal housing opportunities for all persons. HUD implements and enforces the Fair Housing Act, the Civil Rights Act, the Housing and Community Development Act and others to ensure equal opportunity.

## LEAD-BASED PAINT (570.608)

Grantees are required to identify and mitigate lead hazards when undertaking housing rehabilitation or homeownership activities for homes built before 1978. These regulations must be carefully followed to ensure that exposure to lead hazards is reduced in any residential property to be rehabilitated or purchased. The regulation can be found at [http://portal.hud.gov/hudportal/HUD?src=/programoffices/healthy\\_homes/enforcement/lshr](http://portal.hud.gov/hudportal/HUD?src=/programoffices/healthy_homes/enforcement/lshr).

## SECTION 504/REASONABLE ACCOMMODATION

Recipients are required to take affirmative steps to ensure that qualified persons with disabilities are informed of the availability of program services and activities, and the Recipient's activities or services are readily accessible to, and usable by, individuals with disabilities. Recipients must provide handicapped persons with benefits and services that are as effective as those provided to non-handicapped individuals. They must ensure that CDBG programs and activities are accessible, both structurally and administratively, to handicapped and disabled persons. Recipients are responsible for providing access to handicapped/disabled persons in four areas:

communications, employment opportunities, program benefits, and physically accessible housing. Section 504 regulations can be found on HUD's website at <http://www.hud.gov/offices/fheo/disabilities/index.cfm>.

#### LIMITED ENGLISH PROFICIENCY

HUD-funded recipients should ensure that if working with Limited English Proficient (LEP) populations that guidance is provided to make sure that LEP persons have sufficient access to HUD programs and activities.

For further information on Limited English Proficiency please see HUD's website at <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm>.

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## 14. APPENDICES

### THE LOS ANGELES HUD FIELD OFFICE

300 North Los Angeles Street  
Suite 4054  
Los Angeles, California 90012

Phone: (213) 894-8000  
Fax: (213) 894-8107

Ray Brewer, Acting Field Office Director  
Region: IX; San Francisco

### HUD WEB SITE

<http://www.hud.gov>

### TRAINING

"Basically CDBG" Course Training Manual

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/training/basicallycdbg](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/training/basicallycdbg)

### HUD EXCHANGE – CDBG: COMMUNITY DEVELOPMENT BLOCK GRANTS

CDBG: Community Development Block Grants  
<https://www.hudexchange.info/programs/cdbg/>

### THE CODE OF FEDERAL REGULATIONS (CFR)

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr570\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr570_main_02.tpl)

### PROGRAM RELATED DOCUMENTS

Request for Reimbursement  
Public Service Application  
Subgrantee On-Site Monitoring Checklist  
Determination of Exemption  
Determination of Categorical Exclusion

**REQUEST FOR REIMBURSEMENT**

DRAFT



**PUBLIC SERVICE APPLICATION**

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**SUBGRANTEE ON-SITE MONITORING CHECKLIST**

DRAFT

**DETERMINATION OF EXEMPTION**

**Environmental Review for Activity/Project that is  
Exempt or Categorically Excluded  
Not Subject to Section 58.5  
Pursuant to 24 CFR Part 58.34(a) and 58.35(b)**

**Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Consultant** (if applicable):

**Project Location:**

**Description of the Proposed Project** [24 CFR 58.32; 40 CFR 1508.25]:

**Level of Environmental Review Determination:**

- Activity/Project is Exempt per 24 CFR 58.34(a): \_\_\_\_\_
- Activity/Project is Categorically Excluded Not Subject To §58.5 per 24 CFR 58.35(b):  
\_\_\_\_\_

**Funding Information**

<b>Grant Number</b>	<b>HUD Program</b>	<b>Funding Amount</b>

**Estimated Total HUD Funded Amount:**

**This project anticipates the use of funds or assistance from another Federal agency in addition to HUD in the form of (if applicable):**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

**Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6</b>		
<b>Airport Runway Clear Zones and Accident Potential Zones</b> 24 CFR Part 51 Subpart D	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Coastal Barrier Resources</b> Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Flood Insurance</b> Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes <input type="checkbox"/> No <input type="checkbox"/>	

**Mitigation Measures and Conditions [40 CFR 1505.2(c)]**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

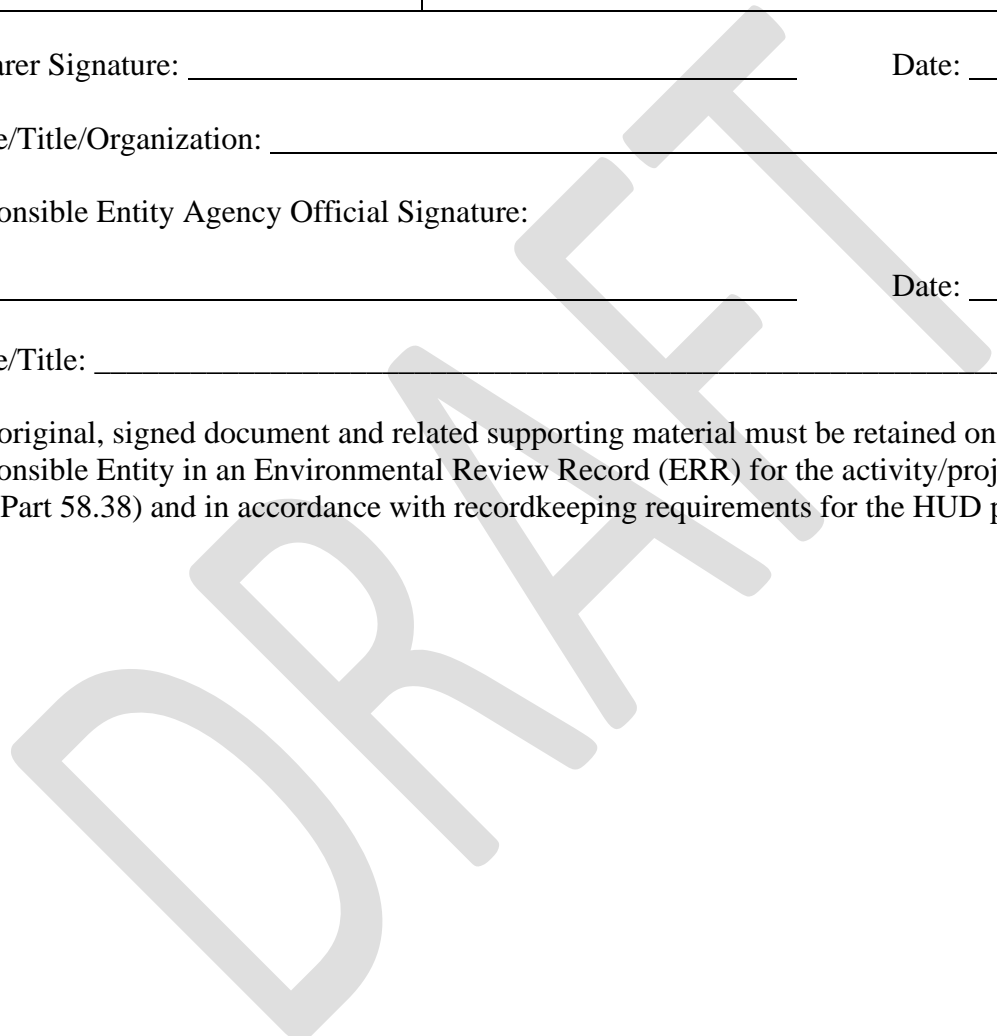
Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

Responsible Entity Agency Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).



**DETERMINATION OF CATEGORICAL EXCLUSION**

**Environmental Review for Activity/Project that is  
Categorically Excluded  
Subject to Section 58.5  
Pursuant to 24 CFR 58.35(a)**

**Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Grant Recipient** (if different than Responsible Entity):

**Consultant** (if applicable):

**Direct Comments to:**

**Project Location:**

**Description of the Proposed Project** [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

**Level of Environmental Review Determination:**

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5: \_\_\_\_\_

**Funding Information**

<b>Grant Number</b>	<b>HUD Program</b>	<b>Funding Amount</b>

**Estimated Total HUD Funded Amount:**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

**Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 &amp; 58.6</b>		
<b>Airport Hazards</b> 24 CFR Part 51 Subpart D	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Coastal Barrier Resources</b> Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Flood Insurance</b> Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 &amp; 58.5</b>		
<b>Clean Air</b> Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Coastal Zone Management</b> Coastal Zone Management Act, sections 307(c) & (d)	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Contamination and Toxic Substances</b> 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes <input type="checkbox"/> No <input type="checkbox"/>	

<b>Endangered Species</b> Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Explosive and Flammable Hazards</b> 24 CFR Part 51 Subpart C	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Farmlands Protection</b> Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Floodplain Management</b> Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Historic Preservation</b> National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Noise Abatement and Control</b> Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Sole Source Aquifers</b> Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Wetlands Protection</b> Executive Order 11990, particularly sections 2 and 5	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Wild and Scenic Rivers</b> Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>ENVIRONMENTAL JUSTICE</b>		
<b>Environmental Justice</b> Executive Order 12898	Yes <input type="checkbox"/> No <input type="checkbox"/>	

**Field Inspection (Date and completed by):**  
**Summary of Findings and Conclusions:**



**Mitigation Measures and Conditions [40 CFR 1505.2(c)]**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

**Determination:**

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain “Authority to Use Grant Funds”** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

Responsible Entity Agency Official Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

## 15. GLOSSARY

### GLOSSARY OF ACRONYMS

AI	Analysis of Impediments to Fair Housing Choice
AMI	Area Median Income
CAPER	Consolidated Annual Performance and Evaluation Report
CBDO	Community-Based Development Organization
CDBG	The Federal Community Development Block Grant Program
CDF	Community Development Fund
CFR	Code of Federal Regulations. Also referred to as "the regs"
CHAS Data	Comprehensive Housing Affordability Strategy
CPD	The Office of Community Planning and Development
CPMP Tool	Consolidated Plan Management Process tool
CPP	Citizen Participation Plan
EA	Environmental Assessment
EIS	Environmental Impact Statement
ESG	The federal Emergency Shelter Grant program
FONSI	Finding of No Significant Impact
GMP System	Grants Management Process System
GPO	Government Printing Office (online access to CFRs)
HOME	HOME Investment Partnership Program
HOPWA	The federal Housing Opportunity for Persons With AIDS
HUD	The federal Department of Housing and Urban Development
IDIS	Integrated Disbursement and Information System
LEP	Limited English Proficient
LMA	Low- and Moderate-Income Area
LMI	Low- and Moderate-Income
LOCCS	Line of Credit Control System. Also referred to as "locks".
MRER	Minor Rehabilitation Environmental Review
NEPA	National Environmental Policy Acts
NRSA	Neighborhood Revitalization Strategic Area
OMB	The Federal Office of Management and Budget
PHA	Public Housing Agency
RFP/RFQ	Request for Proposals/Request for Qualifications
RLF	Revolving Loan Fund
RROF	Request for Release of Funds