HOME Program

Policies and Procedures

Revised November 2015
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I. Introduction

The HOME Program was created by the National Affordable Housing Act of 1990 (NAHA) and is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing.

HOME funds are used to achieve the following objectives:
- To provide decent affordable housing to lower-income households.
- To expand the capacity of non-profit housing providers.
- To strengthen the ability of state and local governments to provide housing.
- To leverage private sector participation.

Eligible activities are defined in accordance with the following categories:
- Housing rehabilitation,
- Homebuyer activities,
- Rental housing activities, 
- Tenant-based Rental Assistance (TBRA).

The HOME Investment Partnership Program (HOME) is designed to assist communities- often in partnership with local, not-for-profits, individuals, corporations, and public entities- to fund a wide range of affordable housing projects. The Hudson County Consortium (the “Consortium”) for the HOME Program includes the eleven communities in the Hudson Urban County, East Newark, Guttenberg, Harrison, Kearny, Secaucus, Weehawken and West New York as well as the Entitlement municipalities of Bayonne, Hoboken, Union City, and North Bergen. The City of Jersey City is the direct recipient of HOME funds and is not included in the Consortium.

The Hudson County Consortium utilizes its HOME Program allocation to carry out activities that provide funds for the rehabilitation of very low and low income homeowners’ units; to increase homeownership opportunities for very low and low income persons and families; and to increase the supply of affordable rental units for very low and low income persons at or below 80% of the Jersey City, New Jersey HUD Metropolitan area median income. These activities are consistent with the priorities set forth in the Hudson County Consortium's Consolidated Plan.

Although many types of activities are eligible under the federal HOME Investment Partnership Program (HOME) regulations, applications for funds must be in conformance with the housing priorities in the Consortium’s submitted 2015-2019 Consolidated Plan. These priorities include:
- Supporting the creation of new rental units through new construction or rehabilitation. Within this priority, there is also a focus on creating housing for individuals and families (under 55) and permanent housing for homeless individuals and families.
- Priority will be given to any project that is consistent with County initiatives, including but not limited to: ending veteran homelessness, housing for the very-low and extremely-low income, and redevelopment of foreclosed or abandoned properties.
II. Distribution of Funding

The Consortium distributes HOME funds geographically within the 11 municipalities listed above and among different categories of housing need, according to the priorities identified in its approved consolidated plan. The Consortium only invests HOME funds in eligible projects within its boundaries, or in joint projects within the boundaries of contiguous local jurisdictions, which serve residents from both jurisdictions.

The Hudson County Consortium municipalities include all Hudson County municipalities except the City of Jersey City which has its own HOME allocation and may only be funded by the Hudson County Consortium in select circumstances. In order for the Division to fund projects in the City of Jersey City, the applicant must have a documented commitment from Jersey City and units developed must be for populations that are consistent with the County’s priorities such as homeless veterans and families.

Applications for Hudson County HOME funds are accepted on a rolling basis. Before committing funds to a project, the County of Hudson evaluates the project and will not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing.

Recognizing that Hudson County HOME funds are limited, funds are typically intended to provide gap financing for development projects and to fund projects that would otherwise not be available in the community.

A link to Hudson County’s online HOME application may be found through this link or a paper copy may be requested by contacting the Housing & Community Development office.
III. Eligible Projects

A. Eligible Activities

HOME funds may be used to develop and support affordable rental housing and homeownership units. HUD regulations mandate that all housing supported with HOME funds must be permanent. Below is a list of eligible activities:

- New construction
- Rehabilitation
- Reconstruction
- Conversion
- Site improvements
- Acquisition of property
- Acquisition of vacant land if construction will begin on a HOME project within 12 months of purchase. Land banking is prohibited.
- Demolition of an existing structure may be funded through HOME only if construction will begin on the HOME project within 12 months.
- Relocation costs
- Refinancing
- Initial operating reserve
- Project-related soft costs
- Community Housing Development Organization (CHDO) Costs

B. Eligible Property Types

Both single site and scattered site developments are eligible for the HOME program. Single site developments are one or more buildings on one site that are under common ownership, management, and financing. Buildings scattered on more than one site as long as the sites are under common ownership, management, and financing, are eligible to received HOME assistance as part of a single undertaking.
**Single Room Occupancy (SRO)/Group Housing**

Permanent SRO’s and group housing are eligible under the HOME Program, though they will not receive priority points. SROs are subject to more stringent underwriting guidelines and, minimally, must provide a set-aside of units with deep affordability for extremely low income persons. SROs must generally comply with rental housing guidelines. Specific guidance is available through CPD Notice 94-01 “Using HOME funds for Single Room Occupancy (SRO) and Group Housing” available from the County. Please request this notice if you are applying for such a project.

**Mixed-Income/ Mixed-Use Projects**

Mixed-income and mixed-use (i.e. residential and commercial) are eligible for HOME funds in the affordable portions of the building. However, project costs must be allocated on a rational, documented basis in accordance with the actual unit-by-unit expenditures; or prorating of expenditures reflecting the proportion of HOME units in the project; or a combination of both.

In a mixed-income project, designated HOME-assisted units may change over time (called “floating units as long as the total number of affordable units remains the same and the substituted units are comparable in size, features, and number of bedrooms.

**Tax Credit Funded Properties**

Tax credits and HOME funds may be used together and for the most part the rules are compatible. The general rule is that when Tax Credit and HOME rules conflict Tax Credit rules are to be followed. Any project receiving Tax Credit and HOME funds requires a layering review to ensure that the project is not receiving an excess amount of subsidy.

Ineligible properties include: projects assisted under title VI of NAHA- Prepayment of Mortgages Insured under the National Housing Act; Public Housing projects; Rental Rehabilitation Program funded projects; properties with existing obligations to any federal, state, or local housing program.

**C. Site and Neighborhood Standards**

Housing provided through the HOME program must promote greater choice of housing opportunities. Specifically:

- HOME funded housing must be suitable from the standpoint of facilitating and furthering full compliance with Title VI of the Civil Rights Act- 1964, the Fair Housing Act and Executive Order 11063.
- New construction rental projects must meet the site and neighborhood standards from 24CFR 983.6(b), which places limiting conditions on buildings in areas of minority concentration and that are racially mixed.

The Consortium will consider siting and neighborhood standards during the application process. Neighborhood amenities such as access to transportation, healthcare facilities, supportive services, targeted development areas, environmentally safe areas, and access to grocery stores and banking will be considered.
The Consortium will also place priority on project sites that do not have any known environmental hazards. The County must conduct an environmental review on every project. It is the responsibility of the owner to ensure that the County has all the information necessary to complete the review. Project may not begin and funds may not be expended until the review is completed and funds are released by HUD.

D. Forms of Subsidy

HOME allows for a variety of forms of financial assistance to be provided for eligible projects and to eligible beneficiaries. The Consortium’s approach to providing HOME funds is to provide the "gap" financing necessary to make the project affordable under the HOME rental / purchase and income guidelines. The focus of this type of underwriting is to maximize private financing and minimize HOME funds. Some forms of assistance will require legal instruments for implementation. HOME regulations list the following forms of assistance as eligible:

- Interest or non-interest bearing loans or advances
- Deferred Loans (forgivable or repayable)
- Grants
- Interest Subsidies
- Equity Investments

Applicants may propose any of the forms listed above; however the Division determines what forms of assistance it will provide. In general the Division provides funds in the form of loans. Projects that can be completed solely with private financing are not eligible.

Detailed underwriting standards for rental housing projects are noted under the rental housing section of these guidelines.

E. Subsidy Limits

The minimum amount of HOME funds that must be invested in a project involving rental housing or home ownership is $1,000 times the number of HOME-assisted units in the project. Maximum per unit subsidy amounts are included in Appendix 2: Subsidy Limits.

Actual funding levels will vary project by project and may be lower based on cost reasonableness and needs of project.

F. Eligible Beneficiaries/Residents

The Hudson County HOME Program is designed to provide affordable housing to low and very-low-income households and individuals living in Hudson County. For local income limits and Fair Market Rents as defined by HUD, please see Appendix 3: HUD Area Income Limits.
While different restrictions apply to each type of activity, the method for calculating income is the same. The annual income definition found at 24 CFR Part 5 is used by a variety of Federal programs including Section 8, public housing and the Low-Income Housing Tax Credit Program and will be used as the qualifying standard for all County of Hudson HOME programs.

The Part 5 definition of annual income is the *gross amount of income of all adult household members* that is *anticipated to be received* during the coming 12-month period by all adult household members (everyone 18 years of age and older).

Detailed instructions for calculating annual income and determining eligibility for residents can be found in Appendix 6: Calculating Income Eligibility or completed using HUD’s online calculator at [https://hudexchange.info/incomecalculator](https://hudexchange.info/incomecalculator).

**Rental Projects**

For rental projects with four or fewer HOME units, all households must be at or below 60% of Area Median Income (AMI). For projects with five or more units, 20% of the households must be at or below 50% of AMI and the remaining 80% of the units must be at or below 60% of AMI.

Units with multiple sources of funding may be governed by HOME rules as well as other restrictions. In these cases, the stricter of the two regulations will apply. For example, tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42.

To ensure ongoing compliance owners must establish systems to re-certify tenant income on an annual basis. Recertification documents will be monitored by the Division. Units must remain affordable for the duration of the affordability period. These provisions are provided in Section G below. For additional guidance, please see the Rental Compliance Monitoring Guide in Appendix 7: Rental Compliance Monitoring Guide.

**Homeowner Projects**

Eligible homebuyers must meet the following requirements:

- Household must be at or below 80% of area median income (*At time of purchase*);
- Household will ultimately use the dwelling unit as their principal residence; and
- Household will ultimately legally own the dwelling unit/property (as evidenced though a fee simple title, 99 year leasehold interest, or equivalent form of ownership approved by the County of Hudson)

**Hudson County Continuum of Care**

The Hudson County Alliance to End Homeless (HCAEH), the local administrator of the Continuum of Care, operates under Coordinated Assessment. All supportive housing for the homeless constructed with Hudson County HOME funds must fill those units through the Coordinated Assessment process. Please see the Coordinated Assessment Policies under the Library Tab. The U.S. Department of Housing and Urban Development is encouraging
communities to use resources such as the HOME Program to assist in the creation of permanent housing for the homeless with a focus on the chronically homeless. As such the creation of such housing is a priority in our Consolidated Plan and the HOME application review.

In addition, the Veteran Committee of the HCAEH has established a working list of homeless veterans in Hudson County. All projects proposing to serve homeless veterans must work with the Committee and only take referrals from this list.

If you would like further information on how to use HOME funds to assist the homeless please refer to CPD Notice 03-08 which is available at the following website: http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/index.cfm
IV. Long Term Affordability and Occupancy Requirements

A. Rental Projects

The Consortium will provide initial maximum rent limits for each funded project, which may not exceed the published HOME Rents. For projects with five or more HOME units, 20% of the units must be at or below the following Low HOME rent and the remaining units must be below the High HOME rents. The Consortium may designate more than the minimum HOME units in a rental housing project to have Low HOME rents. The rent limit includes both rent and a utility allowance. If an applicant chooses to not include utilities in the rent, the rents must be reduced by the applicable allowances. Allowances are based on building type. Current rent limits and utility allowances are attached in Appendix 4 and Appendix 5.

The Division will allow the developer to determine if the assisted units are “fixed” or “floating”.

- A “fixed” unit is when the owner applies funding requirements to specific units throughout the affordability period.
- A “floating” unit is when the units designated as HOME assisted may change over the term of affordability, as long as the number of HOME assisted unit in the project remains constant.

Whether units are fixed or floating, there always has to be the required amount of designated HOME units in the projects.

Every unit assisted with HOME funds is subject to annually updated rent limits. The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

The Division must review and approve rents for each HOME-assisted project annually. The Developer must submit proposed rents to the Division each year (during the period of affordability) for review and approval. Undue rent increases from year to year are prohibited.

If the assisted unit has multiple subsidies, e.g. HOME and LIHTC the more restrictive guidelines must be met for the rent and income limits. Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants
of those units not less than 30 days prior written notice before implementing any increase in rents.

Additional information on rent limits can be found in the Consortium’s Rental Compliance Guide included in Appendix 6.

**Lease Requirements**
The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by mutual agreement between the tenant and the owner. There are a number of prohibited lease provisions. Lease requirements can be found at §92.253. Further lease and compliance information may be found in the Consortium’s Rental Compliance Monitoring Guide found in Appendix 6.

**Affordability Compliance Period**
The minimum length of an affordability period depends on the amount of the HOME Investment in the property and the nature of the activity:

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<th>HOME Investment per Unit</th>
<th>Minimum Affordability Period</th>
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<tbody>
<tr>
<td>Less than $15,000</td>
<td>5 years</td>
</tr>
<tr>
<td>$15,000-$40,000</td>
<td>10 years</td>
</tr>
<tr>
<td>More than $40,000</td>
<td>15 years</td>
</tr>
<tr>
<td>New Construction or acquisition of newly constructed rental housing</td>
<td>20 years</td>
</tr>
<tr>
<td>Refinancing of rental housing</td>
<td>15 years</td>
</tr>
</tbody>
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The Division reserves the right to impose longer affordability periods on a case by case basis.

Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent. In projects in which the HOME units are designated as floating, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

Tenants who no longer qualify as low-income (exceeding 80% of Area Median Income) families must pay as rent:
1. The lesser of the amount payable by the tenant under State or local law; or
2. 30 percent of the family’s adjusted income.

**B. Homeowner Projects**
All units must be sold at or below the HOME Unit Sale Limits (95 percent of the median purchase price for the area for the specified housing type) to an eligible buyer at or below 80
percent area median income. The sale price must be such that the amount of Principal, Interest, Taxes, and Insurance does not exceed 35 percent of the Buyer’s annual income.

Unit prices may vary (underneath this limit) based on neighborhood trends, target buyers, and project underwriting.

The sale of a property and any assistance to a homebuyer require that the buyer be underwritten according to the County’s HOME project underwriting guidelines for homebuyers. This underwriting will include standards for the first mortgage and establish the terms for any subordination of the HOME loan.

If HOME funds are used to help a purchase/acquire one or more rental units along with the homeownership unit, the HOME rental affordability requirements apply to the rental units.

The ownership interest may be subject only to the following:

- Mortgages, deeds of trust or other debt instruments approved by the County of Hudson; or
- Any other encumbrances or restrictions that do not impair the marketability of the ownership interest, other than the HOME Program restrictions on resale.

All homeowners must be provided homebuyer counseling prior to purchase.

Forgiveness of homebuyer debt will be conditioned on the requirement that the properties must be maintained in accordance with minimum local codes and standards throughout the affordability period.

**Resale and Recapture Policy**

To ensure investments provide affordable housing over the long term occupancy restrictions continue throughout the period of affordability. If a home purchased with HOME assistance is sold during the period of affordability resale provisions apply to ensure the continued provision of affordable housing over the entire period of affordability. Resale provisions are used because the Hudson County HOME program does not provide direct assistance to the homebuyer.

If the housing does not continue to be the principal residence of the family for the duration of the period of affordability, that housing must be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as its principal residence.

The minimum length of an affordability period depends on the amount of the HOME Investment in the property and the nature of the activity:

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<th>HOME Investment per Unit</th>
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<tr>
<td>$15,000-$40,000</td>
<td>10 years</td>
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The Division reserves the right to impose longer affordability periods on a case by case basis.

All designated HOME-assisted property sales or transfers under the resale provision during the period of affordability shall meet the following criteria:

1. Sales prices shall be set such that the amount of Principal, Interest, Taxes, and Insurance does not exceed 35 percent of the new Buyer’s annual income. Exceptions may be made for multi-unit HOME-assisted housing to account for rental income as needed.
2. The new purchaser must meet the criteria of low income, having an income between 60% and 80% of AMI, and occupy the property as the family’s principal residence.
3. Net proceeds from the sale must provide the original homebuyer, a “fair return” on his/her investment (including any down payment and capital improvement investment made by the seller since purchase). The sales price may encompass the following in its formula:
   a. The cost of any capital improvements documented with receipts including but not limited to the following:
      i. Any additions to the home such as a bedroom, bathroom, or garage;
      ii. Replacement of heating, ventilation, and air conditioning systems;
      iii. Accessibility improvements such as bathroom modifications for disabled or elderly which were not installed through a federal, state, or locally funded grant program; and
      iv. Outdoor improvements such as a new driveway, walkway, retaining wall, or fence.
   b. The increase in the value of owner equity and investment as calculated by the cumulative percentage of change as calculated by the Housing Price Index (HPI) calculator of the Federal Housing Finance Agency [http://www.fhfa.gov(DataTools/Tools/Pages/HPI-Calculator.aspx) and projects what a given house purchased at a point in time would be worth today if it appreciated at the average appreciation rate of all homes in the area.

The resale policy is enforced through the use of restrictive covenants. The restrictive covenant will include the following:

1. Length of affordability;
2. Requirement that the home remain the buyer’s principal residence throughout the affordability period; and
3. The conditions and obligations of the owner, should the owner wish to sell before the affordability period has expired, including:
   a. Owner must notify the Hudson County Division of Housing and Community Development in writing if the wish to sell a HOME-assisted unit during the affordability period;
b. The subsequent purchaser must be between 60% and 80% AMI and occupy the home as their primary residence;
c. The sales price must be affordable to the subsequent purchaser; affordable is defined as limiting the principal, interest, taxes and insurance total amount to no more than 30% of the new purchaser’s monthly income.

Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent.
V. Funding and Underwriting

A. Application

Applications to the HOME program are accepted on a rolling basis. The application may be found and completed online through this link. Please contact the Hudson County Consortium directly to receive a paper copy. Only complete applications will be reviewed.

Applicants and developers must be in compliance at all existing Hudson County Consortium funded developments in order to be eligible for new funding.

B. HOME Subsidy Layering and Underwriting Policy

Before committing funds to a project, the Consortium will evaluate each application to determine the feasibility and eligibility. The experience of the project sponsor or developer in the field of housing development, rehabilitation and/or housing management will be assessed. In addition, the financial stability and quality of the project will be evaluated by the Division. This will include, at a minimum, an examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and an assessment of the current market demand in the neighborhood in which the project will be located, level of site control, amount of funding required, level of displacement and firm written financial commitments for the project.

General Underwriting Guidelines

a. Debt Service Coverage Test. Net operating income, after vacancy reserve and expenses, must be at least 115 percent (1.15 DCR) of the total annual debt service payments due from loan financing, if applicable.

b. Minimum vacancy allowances of at least 5% will be used for underwriting purposes. Higher vacancy allowances may be used for smaller projects, consistent with sound underwriting practice.

c. The Division will underwrite stabilized operating expenses as if the property were owned and managed at “arm’s length”, as in foreclosure. Management fees of 4-6% annually will be based on those commonly available in the market, and appropriate reserves based on scale and construction type will be used for replacement of capital items.
d. The construction and rehabilitation budget must be adequate to complete the proposed work and bring the property into full code compliance.

e. If additional funding is received from either a state or federal program, the more stringent regulations of either the other program or the HOME Program shall apply.

The County reserves the right to request a letter of credit, a payment and performance bond, or other liquid security acceptable to the County, to ensure successful completion of the project. The bond will be required for the amount of construction or rehabilitation being financed. The bond must be provided by a recognized bonding company or guarantor acceptable to the Department. The amount of a letter of credit will be determined by the County. This letter of credit is particularly important when an owner is acting as a general contractor. In such a case the County will request a letter of credit in an amount equal to the difference between the contractor's cost and the County's cost to hire a general contractor through a public bidding process. Letters of credit must be irrevocable, non-documentary, issued by a reputable bank approved by the County and in a form acceptable to the County. Other forms of security will be subject to County approval. The Department will consider alternative forms of surety that both insulate the Consortium from construction risk, and promote the affordability goals of the program.

The Division may rely upon the guidelines developed and/or evaluations conducted by other agencies, such as when Low Income Housing Tax Credits (LIHTC) or New Jersey Housing and Mortgage Finance Agency.

C. Commitment Letter

Upon review of the completed application package, a positive or negative recommendation to fund the project will be made to the County Administrator and the County Executive. The Project sponsor will be advised, in writing, of the Consortium’s approval of the application.

Once an application is approved, a funding commitment letter will be prepared which describes the specific terms of the grant/loan, including rate, amount, collateral, equity requirements, and affordability requirements. The Commitment letter will also specifically identify which units will be HOME assisted and how many are designated as High and Low HOME units.

D. Administrative Plan

An administrative Plan (the “Plan”) must be submitted by the project sponsor to the Division prior to closing. The Plan must provide detail of the project throughout the construction period and lease-up. The Plan will be used by the Division to estimate the payment schedule and monitor the progress of the project. The Plan may be based on the budget and timetable that were submitted in Rental Production Program application. The Plan must include, at a minimum, the following items:
a. A schedule of construction and/or rehabilitation activities detailing when items will start and finish, as well as which items will overlap. The schedule should include all activity that will take place after the loan contract has been executed.

b. A complete description of the staff responsible for the implementation of the project. The staff description should include the person responsible for the submission of payment vouchers and monthly reports, as well as the person on site who will be in charge of daily activity.

c. A sample monthly monitoring report to be used by developers of construction and/or rehabilitation projects. The report should compare actual progress and expenses with the original schedule and budget. The report should provide space to explain any variances.

d. Any information unique to the project should be detailed in a narrative and incorporated into the schedule, if necessary.

E. Closing Documents

Depending on the type of funding provided, the applicable legal documents will be executed. This typically includes the mortgage, note, regulatory agreement and deed restriction. Various documents will be required before the closing may proceed. Please see the Closing Checklist in Appendix 8: Closing Checklist.

F. Drawdown Process

Beginning of Construction

Construction may not begin on an approved project until the development has been awarded HOME funds and has closed with the County. Costs incurred prior to this date are ineligible for reimbursement.

Release of Funds

All owner equity must be invested in the project prior to the release of any County funds. Prior to the initial release of funds all applicable items on the project checklist included in Appendix 8 must be satisfied. All requests for payment must include an invoice on agency letterhead and the proper Hudson County voucher. Items submitted for reimbursement must include a copy of the original invoice and a copy of the cashed check or bank record. Construction draws will be permitted on a monthly basis. An executed Application & Certificate for Payment (AIA) form must accompany all construction drawdown requests. Correct and complete draw requests submitted by the 5th of the month will be processed for payment by the end of the month.

There will be a maximum of 10% retainage on each contract or subcontract until all work under that contract is completed, lien release is obtained and until the issuance of Certificates of Occupancy by the local municipality.

Taxes, insurance, and debt service payments on the construction loan must be current at the time of each draw. In addition, all of the project sponsor's reporting requirements (construction schedule, draw schedule, Administrative Plan, Affordable Housing Agreement, or other
requirements of the commitment or closing documents) must be current to the satisfaction of the Division.

Construction inspections will be conducted by staff of the Division in consultation with the project sponsor and the project architect, as necessary.

**Final Payment**
At the completion of construction, each project sponsor will be required to submit a detailed cost certification form, certified as true and accurate by the borrower. This form will, at a minimum, show budgeted costs, as approved at the time of the funding commitment. The form must show the costs actually incurred, and must be supported by paid receipts and a comparison must be made between real and projected costs. If actual costs are less than budgeted costs, the amount of the funds may be reduced at the discretion of the Department.

In order to receive final payment the project sponsor must satisfy all items listed in the closing portion of the checklist in Appendix 8.

**G. Deadlines for Completion and Occupancy**

**Rental**
Within 4 years of contract execution rental projects must be complete; meaning 100% of HOME funds has been disbursed for the project. Once construction is complete, the property has 18 months in which to achieve 100 percent occupancy. However, both construction and lease-up may not exceed 5 years in total.

The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of this section to qualify as affordable housing. If eligible tenants do not occupy the housing within six months following the date of project completion, the Developer must submit marketing information and, if appropriate, a marketing plan.

HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion shall be repaid to the County of Hudson and/or HUD.

**Homeowner**
All projects must complete construction and sell the units with transfer of title within 4 years of the commitment of HOME funds. In addition, any unit not sold within 9 months (6 months for projects funded under county action plans 2013 and earlier) of the completion of construction must be converted to rental and meet all of the requirements for HOME rental housing. HOME funds provided for any such unit that is not rented within 18 months of conversion must be repaid to the County.

**H. Lease-up and Affirmative Marketing Program**

**Property Management Policies**
All HOME program participants must comply with all state and federal laws and regulations regarding fair housing and equal opportunity. No person in the United States shall on the grounds of race, color, national origin, religion, sex, or sexual orientation, be excluded, denied benefits, or subjected to discrimination under any program funded in whole or in part by HOME funds.

**Rental**
All projects must develop and submit a tenant selection plan to the county for approval that includes, at a minimum, the following items:

- Are consistent with the purpose of providing housing for very low and low-income families;
- Are reasonably related to program eligibility and the applicant’s ability to perform the obligations of the lease;
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- Give prompt written notification to any rejected applicant of the grounds for any rejection.

The developer must use fair marketing practices when leasing HOME units. The County of Hudson will review and approve the developer’s marketing policy as part of the application review and it will incorporate the policy as part of the funding agreement.

Developers/owners must distribute to residents:

- All applicable HUD or Environmental Protection Agency (EPA) approved pamphlets
- “Renovate Right” Brochure (prior to any repairs that may disturb lead based paint in home built prior to 1978),
- “Protect Your Family from Lead in Your Home”
- “Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards” signed by renters prior to their becoming obligated under a rental
- The County of Hudson requires that developers/owners obtain evidence of tenant receipt of any pamphlet distributed. Owners may create their own receipt of disclosure.

The owner cannot refuse to lease HOME-assisted units to persons with a voucher for Section 8 Tenant-Based Assistance.

**Homeownership**
The developer must use fair housing marketing practices when selling HOME units, as required by the Fair Housing Act (42 U.S.C. 3601-29). The County will review and approve the developer’s marketing policy as part of the application review and it will incorporate the policy as part of the funding agreement.

**Affirmative Fair Housing**

HOME recipients are prohibited from discriminating on the basis of:
- Race
- Color
- Religion
- National origin
- Disability Status (Including prior Alcohol & Illegal Substance Addictions)
- Familial status
- Ethnicity
- Gender
- Gender Identity
- Language(s) Spoken
- Literacy
- Sexual Orientation
- Veteran Status

Discrimination is prohibited in the assistance, tenant selection, sale, rental, and financing of dwellings. It is also prohibited in program administration and any enforcement mechanisms.

In accordance with the regulations of the HOME Program 24 CFR 92.350 and 92.351; and in furtherance of the Hudson County Consortium's commitment to nondiscrimination and equal opportunity in housing, the Consortium has established procedures and requirements to affirmatively market units built or rehabilitated under the HOME Program containing five or more housing units Please see Appendix 9: Affirmative Fair Housing Marketing Plan for the Affirmative Fair Housing Marketing Plan HUD form.

The Consortium believes that individuals of similar economic levels in the same housing market area should have available to them a like range of housing choices regardless of their race, color, religion, sex and national origin. The Consortium is committed to the goals of affirmative marketing which will be implemented through a specific set of steps that the Consortium and participating owners will follow. These goals will be reached through the following procedures:

i. **Informing the General Public, Potential Owners and Tenants About Federal Fair Housing Laws and the Consortium's Affirmative Marketing Policy**

The Hudson County Division of Housing and Community Development will inform the general public about fair housing laws and the Consortium's affirmative marketing policy through press releases, news articles, and advertisements in the local newspapers, i.e. the Jersey Journal and at least one widely circulated local Spanish language newspaper. It will conduct technical meetings with the representatives of local housing/tenant organizations, municipalities, non-profit groups and concerned citizens. It will clearly display the "Equal Housing Opportunity" logo or slogan in all announcements regarding the program. The Consortium will also make copies of its "Affirmative Plan" available to the public.

a) **Informing Owners**

The Consortium will inform owners of the Federal Fair Housing Laws and the Consortium's affirmative marketing policy prior to the approval of their projects as a HOME assisted project. In addition, property owners will via a letter of
Certification and Assurance that they will comply with Title VI, Title VIII and Executive Orders 11063 and 11246.

b) **Informing Potential Tenants**
The Consortium will contact one or more tenant or public service organizations, in the housing market area that serves lower income people to inform potential tenants about Federal Fair Housing laws and the Consortium's affirmative marketing policy.

ii. **Affirmative Marketing Procedures for Informing Persons in the Housing Market Area about Units**

Property owners (developers and sponsors) will assume this responsibility under their contracts with the Hudson County Consortium as they participate in the HOME Program. Owners, often in cooperation with community groups and social service providers, will advertise or solicit prospective tenants. At a minimum, owners will be required to use the "Equal Housing Opportunity" logos in advertising. Owners also will be required to conduct tenant solicitation and selection according to applicable Fair Housing law. Project signs used during construction will also contain the "Equal Housing Opportunity" logo.

The Hudson County Consortium will require that property Owners, selected for program participation, to honor affirmative marketing contract stipulation indicating non-compliance may result in foreclosure proceedings.

All projects will be affirmatively marketed through:
- a. the local media, including Hispanic newspapers;
- b. local service agencies and non-profits.

iii. **Procedures to be used by Owners to Inform and Solicit Applications From Persons in the Housing Market Area Who Are Not Likely to Apply for Housing Without Special Outreach**

U.S. 2010 Census data indicates that the Hudson County Consortium is the residence of a substantial Hispanic population. Due to the language barrier, it is believed that this group is least likely to apply for rehabilitated housing without special outreach. An analysis of tenant racial characteristics occupying rehabilitated units is indicative of this fact. Program advertisement will be placed in newspaper publications within the Hispanic community and will appear in Spanish.

Each owner will be required, as part of the agreement for assistance, to:
- a. Use the "Equal Housing Opportunity" logo, slogan, or statement in all advertising.
- b. Where appropriate to advertise, use media, including minority outlets, likely to reach persons least likely to apply for the housing.
- c. Accept a fair housing policy.
- d. Where there is a project sign, display the "Equal Housing Opportunity" logo.
e. Work cooperatively with the various County and non-profit agencies who serve individuals and families in the target income groups.

iv. **Record Keeping**

   In accordance with HUD requirements, Section 511.71(a)(2), the Consortium will, to the greatest extent possible, secure and keep data on the racial, ethnic and gender characteristics of the tenants:
   a. occupying units before HOME assistance;
   b. moving from and into projects after HOME assistance;
   c. applicants for tenancy, 90 days following completion of rehabilitation.

   Property owners will also keep records of:
   a. copies of ads placed in the Jersey Journal or other publication as required;
   b. records of dates with tenants;
   c. records of dates of meetings and descriptions of attendees;
   d. letters to agencies and organizations for special group outreach for each HOME assisted unit
   e. applications for units by prospective tenants.

v. **Assessment to Affirmative Marketing Effort of All Participants**

   The affirmative marketing efforts of project sponsor will be assessed as follows:
   a. To measure good faith efforts - examine records required of owners to be maintained on actions they have taken, and compare them with the actions required to be taken. If the required actions have been carried out, where possible, as specified, it will be assumed the owners have made good faith effort to carry out these procedures.
   b. To determine results - assess property owner's affirmative marketing efforts in relation to whether or not persons from a variety of racial and ethnic groups in the area, and particularly groups who ordinarily would not apply, have applied and become tenants in the rehabilitated units. If it is found that they have, it can be assumed that the owners have effectively carried-out the specified Affirmative Marketing Procedures.

   If the representation of racial/ethnic group is not broad or the least likely to apply group is not represented, the Consortium will review the Affirmative Marketing Procedures to determine what changes, if any, might be made to make more effective the affirmative marketing efforts in informing persons in all groups about rental opportunities.

vi. **Corrective Action**

   The Consortium will take corrective action if it is determined that a property owner has failed to carry out the required procedures or fails to maintain records on tenants and applicants. If, after discussions with the owner on the methods used to meet the affirmative marketing requirements, the owners continues to fail to meet the affirmative marketing requirements, and the owners has been given an opportunity to correct identified deficiencies, the Consortium may disqualify the owner from further
participation in future housing programs administered by the Consortium and/or legal action.

VI. Federal Requirements

A. Housing Accessibility

Most housing properties fall under several different laws. Federal programs and the age of the property determine which laws apply.

- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) protects race, religion, sex and national origin
- The Fair Housing Amendments Act of 1998 (Amendments Act - FHAA) added disability and familial status
- The Americans with Disabilities act (ADA) of 1990 addresses public accommodations (rental offices and common areas are considered public accommodations)
  
  For more information on the Americans with Disabilities Act, visit the Department of Justice ADA Home Page. [http://www.ada.gov/](http://www.ada.gov/)

- Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to those receiving federal assistance

  For more information, see the Reasonable Accommodations section of the Section 504 Frequently Asked Questions page.


B. Employment and Contracting

*Equal Opportunity*

HOME recipients must comply with the following regulations that ensure equal opportunity for employment and contracting.

- Equal Employment Opportunity, Executive Order 11246, as amended: Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. 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.

- 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. Also, 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.

**Outreach to Minority and Women's Business Enterprises**

The Hudson County Consortium encourages the use of minority and women-owned businesses pursuant to Section 281 of the HOME Investment Partnerships Act and 24 CFR 92.350. Accordingly, the Consortium has adopted the following policies to ensure HOME funded agencies make a good faith effort to affirmatively assure that minority-owned and women-owned businesses are afforded contracting opportunities.

This policy applies to all contracts, subcontracts and procurements for services (including engineering and legal), supplies, equipment, and construction. The goal of this policy is to make MBE/WBE firms aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. To achieve this goal, the affirmative steps that must be followed are:

1. Include qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Ensure that small and minority and women’s businesses are solicited whenever they are potential sources of products or services to be bid;
3. Include the statement “minority and women owned businesses are encouraged to apply” in all bid/solicitation documents
4. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women business enterprises;
5. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business and women business enterprises;
6. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
7. Require the Prime Contractor to take affirmative steps as outlined in items one through six above to subcontract with small and minority and women’s businesses, if they award subcontracts.

Hudson County maintains a list of businesses in the Office of WMBE. Sponsors will be provided with a list prior to construction bidding and must document that bid advertisements were shared with these firms.
“Good Faith” Effort Compliance Documentation

The recipient of HOME funds must provide documentation to support a “good faith” effort in the solicitation of MBE and WBE firms.

- Copies of announcements/postings in newspapers or other media for specific contracting/subcontracting opportunities. Include language in announcements/postings that MBE/WBE firms are encouraged to bid.
- Copies of bids obtained

*Davis-Bacon Act*

Any contract for the construction of Affordable Housing with **12 or more units** will require that all laborers and mechanics who are employed to perform work on any project, or any contractor or construction work which is financed, in whole or in part, with assistance which is received under the Housing and Community Development Act of 1974 shall be paid wages at rates which are not less than those that prevail in the locality for similar construction and shall receive overtime compensation in accordance with the Contract Work Hours and Safety Standards Act.

The contractor and its subcontractors shall also comply with all applicable Federal laws and regulations, which pertain to labor standards, including the minimum wage law.

Recipients of HOME funds shall:

- Not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give preference in employment to persons on the basis of religion; and
- Not discriminate against any person applying for such public services on the basis of religion and not limit such services or give preference to persons on the basis of religion; and
- 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. [http://www.hud.gov/progdesc/sec-109.cfm](http://www.hud.gov/progdesc/sec-109.cfm)

C. Environmental Review

The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD’s implementing regulations at 24CFR parts 50 and 58.

Any funds committed to a HOME activity or project will be conditional on the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR part 58. No HOME funds will be disbursed without the establishment of an Environmental Review Record and the appropriate level of Review completed.

D. Lead Based Paint Hazards

The HOME Program requires owners/developers to take actions to reduce lead-based paint hazards in HOME-assisted units. Owners must comply with 24 CFR 35, the regulations
implementing the Lead-Based Paint Poisoning Prevention Act along with requirements for dealing with lead-based paint found in the Uniform Physical Condition Standards (UPCS). Current Part 35 requirements stipulate that all occupants receive and acknowledge notice of the possible presence of lead paint.

<table>
<thead>
<tr>
<th>Level of Assistance in Property</th>
<th>Hazard Reduction Requirements</th>
<th>Summary of Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistance of more than $5,000 per unit up to and including $25,000 per unit</td>
<td>Interim controls.</td>
<td><em>Interim controls</em> means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Once work is completed a passing a NJ Dept. of Health LEAD SAFE CERTIFICATE must be realized for the exterior, common spaces, and all assisted units. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.</td>
</tr>
<tr>
<td>Assistance of more than $25,000 per unit</td>
<td>Abatement of lead-based paint hazards.</td>
<td><em>Abatement</em> means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of “permanent”) on the exterior, common spaces, and all assisted units. Once work is completed a passing a NJ Dept. of Health Lead Free Certificate must be realized for the exterior, common spaces, and all assisted units. Abatement includes: (1) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and (2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.</td>
</tr>
</tbody>
</table>

The Lead-Based Paint Poisoning Prevention Act applies to all units in a property assisted with HOME funds -- not only to HOME-assisted units. During the compliance review, staff will monitor to ensure that the owner has conducted all necessary activities and maintained appropriate documentation in their files.

Owners/developers must be in compliance with 24CFR35 and Sections 302 and 401 (b) of the Lead-Based Paint Poisoning Prevention Act. This subpart implements the provisions of 42 U.S.C. 4852d, which impose requirements on the sale or lease of housing. The seller or lessor of housing shall:

- Disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards;
- Provide available records and reports;
- Provide the purchaser or lessee with a lead hazard information pamphlet;
- Give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and
• Attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

In addition, any disturbance of a painted surface on housing constructed prior to 1978 requires additional testing, notices and remediation as specified by 24CFR35.

E. Recordkeeping

The County of Hudson, HUD, the Comptroller General of the United States or any of their authorized representatives, has the right to access the Project and any books, documents, papers or other records of a HOME assisted unit.

Developers/owners will maintain all books and records pertaining to HOME assisted units with the provisions of 24 C.F.R. § 92.508 for a period of not less than five (5) years after the affordability period ends and all matters pertaining to the project (e.g., audit, disputes or litigation) are resolved under applicable federal or state laws, regulations or policies.

Developers/Owners shall maintain records for inspection by the County as discussed in the Rental Compliance Monitoring guide found in Appendix 7. The developer/owner will make any additional records requested available to the County of Hudson upon request.

F. Uniform Relocation Assistance

All owners/developers shall be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.).

G. Construction Standards

Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Specifically, housing must meet the County of Hudson HOME Construction Standards and must conform to any design plans and specifications provided as part of a developer or owner application. Projects will be regularly inspected during the construction period to monitor for progress and compliance.


All other HOME-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

The housing must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).
Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280. These standards pre-empt State and local codes covering the same aspects of performance for such housing.

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

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

Before the transfer of the homeownership interest, Hudson County will:

- Inspect the housing for any defects that pose a danger to health; and
- Notify the prospective purchaser of the work needed to cure the defects and the time by which defects must be cured and applicable property standards met.

The housing must be free from all noted health and safety defects before occupancy and not later than 6 months after the transfer. The housing must meet the property standards in paragraph (a) (1) of this section not later than 2 years after transfer of the ownership interest.

All new buildings and gut rehabilitations shall be designed to meet the National ENERGY STAR efficiency performance specifications. All projects must comply with the National Home Energy Rating System guidelines and use ENERGY STAR mechanical systems and appliances. Other Energy Star and “green” components are encouraged as practicable. Additionally, rental housing property owners must maintain these housing standards for the duration of the regulatory period. Periodic inspections will be conducted by the County to insure these standards are complied with.

**H. Financial Management Requirements**

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

Some of the basic financial requirements are:

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

**OMB Circular A-133**: Audits of States, Local Governments and Non-Profit Organizations ([http://www.whitehouse.gov/omb/circulars/a133/a133.html](http://www.whitehouse.gov/omb/circulars/a133/a133.html));

**OMB Circular A-122**: Cost Principles for Non-Profit Organizations ([http://www.whitehouse.gov/omb/circulars/a122/a122.html](http://www.whitehouse.gov/omb/circulars/a122/a122.html))
Audit requirements for non-profit organizations

Non-profit organizations subject to regulations in the part 200 and part 800 series of title 24 of the CFR shall comply with the audit requirements of revised OMB Circular A-133, “Audits of States, Local Governments, and Non-profit Organizations” (see 24 CFR 84.26). For HUD programs, a non-profit organization is the mortgagor or owner (as these terms are defined in the regulations in the part 200 and part 800 series) and not a related or affiliated organization or entity.

For rental projects with 10 or more units financial statements prepared an independent CPA (in the form of either a formal annual audit or CPA-compiled review) must be annually submitted to the County of Hudson for review.

The Hudson County Consortium will collect organizational audits during the annual Rental Compliance Monitoring process.

Fiscal Policies

The owner must submit annual operating budgets to the County of Hudson for review (in a similar format to the pro-forma). If problems are identified, the County of Hudson may offer technical assistance and/or request additional documentation and corrective actions.
VII. Community Housing Development Organizations

A. Overview

The National Affordable Housing Act of 1990 (the “Act”) created the HOME Investment Partnerships Program (HOME). The Act’s objectives include (1) promoting partnerships among states, local governments and nonprofit organizations; (2) increasing the capacity of nonprofit organizations to develop and manage affordable housing. To help achieve these objectives the Act requires that Participating Jurisdictions (PJs) set aside at least 15% of their HOME funds for housing that is developed, owned or sponsored by Community Housing Development Organizations (CHDOs). The reason for the 15% set-aside is to:

- Provide reasonable supplemental operating funds to CHDOs with the purpose of expanding their ability to produce housing units. This funding is not intended to serve as a primary source of funding for the organization. The CHDO should demonstrate the ability to leverage other sources of funds for future operations and to grow into self-sufficiency.
- Increase the organizational capacity of the recipient to allow the organization to develop HOME Program CHDO-eligible activities such as; transitional housing, permanent supportive housing, rental housing, and homebuyer activities, within 24 months of receiving the award.

B. Definition of A CHDO

The HOME Program definition of a CHDO can be found at 24 CFR 92.2

The definition outlines the criteria that an organization must meet to qualify as a CHDO. The criteria focus on the:

- legal status of the organization;
- capacity and experience;
- organizational structure;
- and relationship of the CHDO to for-profit entities

The CHDO checklist outlines these criteria in detail. The following is a summary of some of the key criteria necessary to qualify as a CHDO.
1. Legal Status

1) The CHDO must be organized under state law

2) One of the purposes of the organization must be the provision of decent housing that is affordable to low-income and moderate-income persons. This statement of purpose may be evidenced in the organization's charter, articles of incorporation, by-laws, or board resolutions.

3) The CHDO must be have nonprofit status under §501(c)(3) or (4) of the Internal Revenue Code of 1986.

4) The organization must have a clearly defined geographic area that is smaller than the entire state.

2. Capacity and Experience:

1) The CHDO must have at least one year of experience serving the community. This can be satisfied by a statement that documents at least one year of experience in serving the community, or for a newly created organization 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. This service can include developing new housing, rehabilitating housing, managing housing, or delivering non-housing services to the community such as counseling, food services, or child care facilities.

2) The organization must have paid employees with housing development experience who will work on projects assisted with HOME funds. (*for its first year of funding as a CHDO, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization).

3) The CHDO must have financial management systems that meet the federal standards outlined in 24 CFR 84.21. The most recent version of OMB Circulars A-110 (24 CFR 84) A-133 may be obtained at http://www.whitehouse.gov/omb/circulars

3. Organizational Structure

1) At least one-third of the organization’s board of directors must be representatives of the low-income community served by the CHDO; no more than one-third may be representatives of the public sector, including employees of the PJ.

2) The CHDO must also provide a formal process for low-income HOME Program beneficiaries to advise the organization in all of its decisions regarding the design,
development, and management of all HOME Program assisted affordable housing projects. This provision for accountability to the low-income community, entails, at a minimum, a written procedure adopted by the board for obtaining input from the community regarding the delivery of housing whenever HOME Program funds are used.

4. Relationship to For-Profit Entities

The CHDO cannot be controlled by for-profit organizations or individuals.

C. Certification/Review Process

The Division will accept CHDO certification applications throughout the year. The Division will only review completed application packets and applicable documentation. Applicants will be notified by the Division, if their application has been approved, denied, or what additional information and documentation is necessary to make a determination.

The Division is required to certify an organization as a CHDO each time it commits funds to an organization. Therefore, organizations that have previously been certified by the Division must complete this application for each new project. For a copy of the CHDO application see Appendix10: CHDO Application.

Each application will be reviewed by evaluating the following:

- Completeness - All required exhibits and attachments are included and the application was received on or before the due date.
- The application meets the required thresholds (serves the eligible populations, has requested funding for the appropriate uses, etc.).
- The organization has shown enhanced capabilities including, but not limited to; employees have specialized skills, the organization has long-term partnerships with for-profit entities, and has shown an advanced ability to leverage additional funding, etc.

D. Accessing CHDO HOME Funds

Any nonprofit organization is eligible to apply for funding under the HOME Program, but only those nonprofit organizations that receive certification as a CHDO are eligible to apply for funds from the Division’s CHDO set-aside.

Once an organization has been approved and receives CHDO status from the Consortium, it may apply for CHDO funds. Certification as a CHDO does not guarantee that an organization will receive funding from the HOME Program. Whether a CHDO is successful in accessing funds will be a function of the merits of its proposed project, project feasibility, ability to proceed, and the strength of its partnership in and with the Division. The strength of the partnership between the Consortium and the CHDO has a great deal to do with communication and compliance.
E. Eligible CHDO Set-aside Activities

1. Only certain types of activities count toward the 15% set-aside. The eligible activities are:
   a. Acquisition and/or rehabilitation of rental housing
   b. Construction of new rental housing
   c. Acquisition and/or rehabilitation of properties for home ownership
   d. New construction for home ownership

The following activities are not eligible for CHDO set-aside:
   a. Tenant-based rental assistance
   b. Rehabilitation of owner-occupied properties
   c. Direct home buyer assistance for existing housing (not developed, owned, or sponsored by a CHDO)

F. CHDO Roles

The 15% set-aside can only be used for projects in which a CHDO is the developer, owner or sponsor.

1. CHDO as “Developer” – A CHDO is a “developer” when it either owns property or develops a project.
   a. Rental Housing: A CHDO that is a "developer" of rental housing is defined at §92.300(a)(3). The CHDO is the owner (in fee simple absolute or long-term ground lease) and developer of the project and must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME funds, selecting contractors, overseeing the progress of work, and determining reasonableness of costs. The CHDO must own the HOME-assisted housing during the development process and throughout the period of affordability.

   b. Home ownership: For HOME-assisted homebuyer projects, the housing is "developed" by the CHDO if it is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that is owned or will be acquired by the CHDO and rehabilitated for sale to low-income families, in accordance with §92.254. To be the "developer," the CHDO must arrange financing for the project and be in sole charge of construction. As part of its set-aside funds, the CHDO can provide direct down payment assistance to a buyer of the housing it has developed with HOME funds in an amount not to exceed 10 percent of the amount of HOME development funds.

2. CHDO as “Owner” – A CHDO that is an "owner" of rental housing is defined at §92.300(a)(2). The CHDO is required to own (in fee simple absolute or long-term
multifamily or single family housing that is rented to low-income families, in accordance with §92.252. The CHDO must own the HOME project during development and throughout the period of affordability, and is required to hire and oversee all aspects of the development process. At a minimum, the CHDO can own the property and hire a project manager or contract with a development contractor to oversee all aspects of the development – including, obtaining zoning, securing non-HOME financing, selecting a developer, or general contractor, overseeing the progress of the work and determining the reasonableness of costs.

3. **CHDO as “Sponsor”** – The Final HOME Rule provides two definitions of a “sponsor” of HOME-assisted rental housing:

   a. §92.300(a)(4) clarifies the requirement for CHDOs to maintain effective project control when acting as "sponsor" of rental housing: A CHDO "sponsors" rental housing when the property is "owned" or "developed" by:
      - A subsidiary of the CHDO (in which case the subsidiary, which may be a for-profit or nonprofit organization, must be wholly owned by the CHDO);
      - A limited partnership (in which the CHDO or its wholly owned subsidiary must be the sole general partner); or
      - A limited liability company (in which the CHDO or its wholly owned subsidiary must be the sole managing member). If the limited partnership or limited liability company agreement permits the CHDO to be removed as sole general partner or sole managing member, respectively, the agreement must require that the removal be "for cause" and that the CHDO must be replaced by another CHDO. In addition, HOME funds must be provided to the entity that owns the project.

   b. §92.300 (a)(5) codifies the pre-2013 Rule definition of "sponsor.” It states that a CHDO "sponsors” HOME-assisted rental housing in situations in which the CHDO owns and develops the housing and agrees to convey the housing to a private nonprofit organization (that does not need to be a CHDO but cannot be created by a governmental entity) at a predetermined time after completion of the project development. Such arrangements typically occur when a CHDO has development expertise and the nonprofit organization has the capacity to own and operate the housing. The CHDO is required to own the property before the development phase of the project and is required to select the nonprofit organization before entering into an agreement with the PJ that commits HOME funds to the project. The nonprofit organization assumes the CHDO’s HOME obligation (including any repayment of loans) for the project. If the property is not transferred to the nonprofit organization, the CHDO sponsor remains liable for the HOME assistance and the HOME project.
Appendix 1: Definitions

1. **Action Plan**: The one-year portion of the Consolidated Plan. It includes the PJ’s annual application for HOME funds.

2. **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). Adjusted income is used in HOME to compute the actual tenant payment in TBRA programs and the low HOME rent in rental projects in which rents are based on 30% of a family’s adjusted gross income.

3. **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).

4. **Annual Income**: Annual income as defined in 24 CFR 5.609, referred to as "Part 5 annual income", also known as the rules for determining income under the Section 8 voucher program.

5. **Commitment**: Commitment means (1) The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with a State recipient, a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance; or has met the requirements to commit to a specific local project, as defined in paragraph (2) of this definition. (See § 92.504(c) for minimum requirements for a written agreement.) An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (e.g., an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment. In addition, and only until October 21, 2013, a properly executed written agreement reserving a specific amount of funds for a CHDO may constitute a commitment. As of October 22, 2013 the requirements for commitment to a specific local project will apply to all CHDO fund commitments.
6. **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 for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within 12 months of the agreement 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 County of Hudson is providing HOME funds to a purchaser, under the agreement, the title of the property must be transferred to the purchase within six months of the agreement date.

(4) If the project consists of TBRA, the County of Hudson/Subrecipient must enter into a rental assistance contract with the owner or the tenant in accordance with the provisions of 24 CFR Part 92.209.

(5) Note that preliminary or conditional “commitments” may be made, but no funds are considered committed under the rules unless the above conditions have been met.

7. **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.

8. **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.

9. **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. The HOME New Rule requires that CHDO’s have paid staff with demonstrated capacity appropriate to the CHDO’s role (this requirement cannot be met through volunteer, donated staff, shared staff, or board members). A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs.

10. **Draw-Down:** The process of requesting and receiving HOME funds. The County of Hudson will draw down funds from a line of credit established by HUD.
11. **Final Rule:** The Final HOME Rule was published at 24 CFR Part 92 on July 24, 2013 and became effective on August 24, 2013.

12. **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.

13. **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.

16. **Household:** One or more persons occupying a housing unit.

17. **Jurisdiction:** A state or unit of general local government.

18. **Low-Income Families:** Families whose annual incomes do not exceed 80 percent of the median income for the area (adjusted for family size).

19. **Match:** Match is the other funding contributions to projects receiving funding from the HOME Program – the private, local, or other non-Federal contribution to the partnership. The Consortium’s match contribution must equal not less than 25 percent of the HOME funds drawn down for projects in that fiscal year.

20. **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.

21. **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 C, state recipient, or a sub recipient directly generated from the use of HOME funds or matching contributions.

22. **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.

23. **Project completion:** All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down of HOME funds has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion occurs upon completion of construction and
before occupancy. For TBRA, project completion means the final draw-down has been disbursed for the project.

24. **Reconstruction (also rehabilitation):** The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. Except that housing that was destroyed may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction 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.
Appendix 2: Subsidy Limits
Appendix 3: 2015 Jersey City, NJ HUD Metro FMR Area Income Limits
Appendix 4: 2015 Jersey City, NJ HUD Metro FMR Rents and HOME Rents
Appendix 5: HUD Utility Allowance Limits
Appendix 6: Calculating Income Eligibility
Appendix 7: Rental Compliance Monitoring Guide
Appendix 8: Closing Checklist
Appendix 9: Affirmative Fair Housing Marketing Plan
Appendix 10: CHDO Application