



MARION COUNTY BOARD OF COMMISSIONERS

**Board Session Agenda Review Form**

Meeting date: June 29, 2022

Department: Board of Commissioners

Agenda Planning Date:

Time required:

15 min

☒ Audio/Visual aids PowerPoint

Contact: Tim Glisson

Phone: 503-302-4700

Department Head Signature:

**TITLE**

Multiple Resolutions approving Community Development Block Grant/HOME Investment Partnerships Program Manuals/Policies/Plans/and or Procedures

**Issue, Description & Background**

Under the Federal Community Development Block Grant and HOME Investment Partnerships Program Marion County must have various written manuals/policies/procedures/plans to administer its program. The required list include the following:

Resolution approving the Community Development Block Grant Program Manual  
the CDBG Program Manual for Public Services  
the CDBG Acquisition and Construction Projects Program Manual

Resolution approving the HOME Program Policy and Procedure Manual

Resolution approving the Affirmative Marketing Policy

Resolution approving the Violence Against Womens Act Transfer Plan

Resolution approving the Residential Anti-Displacement and Relocation Assistance Plan (RARAP)

Resolution approving the Limited English Proficiency Plan (Language Access Plan)

Resolution approving the Section 3 Plan

**Financial Impacts:**

none

**Impacts to Department & External Agencies**

none

**Options for Consideration:**

A.) Approve each Resolution  
B.) Do Not Approve each Resolution

**Recommendation:**

Recommend Approval of each Resolution

**List of attachments:**

Resolutions for each Program Manual/Policy/Plan and or Procedure

**Presenter:**

Tim Glisson

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

**BEFORE THE BOARD OF COMMISSIONERS**  
**FOR MARION COUNTY, OREGON**

In the matter of adopting the                    )  
HOME Investment Partnerships                )  
Policy and Procedure Manual                )

RESOLUTION # \_\_\_\_\_

This matter came before the Board of Commissioners at its regularly scheduled public meeting on June 22, 2022, to adopt the HOME Investment Partnerships Policy and Procedure Manual; and

WHEREAS under Title II of the Cranston-Gonzalez National Affordable Housing Acts HOME Investment Partnerships Program all participating jurisdictions must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities consistent with the requirements of the HOME Investment Partnerships Program pursuant to section 24 CFR 92.504 (a) Responsibilities of participating jurisdictions; and

WHEREAS on December 1, 2021, Marion County officially became an Entitlement community garnering the ability to receive HOME Investment Partnership Funds from the United States Department of Housing and Urban Development; and therefore

IT IS HEREBY ORDERED that the Board of Commissioners adopt the attached HOME Investment Partnerships Policy and Procedure Manual to be followed in administering the HOME Program.

DATED at Salem, Oregon, this 22nd day of June 2022.

MARION COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

§ 92.504

24 CFR Subtitle A (4–1–18 Edition)

**§ 92.504 Participating jurisdiction responsibilities; written agreements; on-site inspection.**

(a) *Responsibilities.* The participating jurisdiction is responsible for managing the day-to-day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the participating jurisdiction of this responsibility. The performance and compliance of each contractor, State recipient, and subrecipient must be reviewed at least annually. The participating jurisdiction must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities consistent with this section, to ensure that the requirements of this part are met.

(b) *Executing a written agreement.* Before disbursing any HOME funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of this part.

(c) *Provisions in written agreements.* The contents of the agreement may vary depending upon the role the entity is asked to assume or the type of project undertaken. This section details basic requirements by role and the minimum provisions that must be included in a written agreement.

(1) *State recipient.* The provisions in the written agreement between the State and a State recipient will depend on the program functions that the State specifies the State recipient will carry out in accordance with § 92.201(b). In accordance with § 92.201, the written agreement must either require the State recipient to comply with the requirements established by the State or require the State recipient to establish

its own requirements to comply with this part, including requirements for income determinations and underwriting subsidy layering guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies, and affordability.

(i) *Use of the HOME funds.* The agreement must describe the amount and use of the HOME funds to administer one or more programs to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance, including the type and number of housing projects to be funded (e.g. the number of single-family homeowner loans to be made or number of homebuyers to receive downpayment assistance), tasks to be performed, a schedule for completing the tasks (including a schedule for committing funds to projects that meet the deadlines established by this part), a budget for each program, and any requirement for matching contributions. These items must be in sufficient detail to provide a sound basis for the State to effectively monitor performance under the agreement.

(ii) *Affordability.* The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. The agreement must state if repayment of HOME funds or recaptured HOME funds must be remitted to the State or retained by the State recipient for additional eligible activities.

(iii) *Program income.* The agreement must state if program income is to be remitted to the State or to be retained by the State recipient for additional eligible activities.

(iv) *Uniform administrative requirements.* The agreement must require the State recipient to comply with applicable uniform administrative requirements, as described in § 92.505.

(v) *Project requirement.* The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted.

(vi) *Other program requirements.* The agreement must require the State recipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the State recipient does not assume the State's responsibilities for release of funds under § 92.352 and the intergovernmental review process in § 92.357 does not apply to the State recipient. If HOME funds are provided for development of rental housing or provision of tenant-based rental assistance, the agreement must set forth all obligations the State imposes on the State recipient in order to meet the VAWA requirements under § 92.359, including notice obligations and any obligations with respect to the emergency transfer plan (including whether the State recipient must develop its own plan or follow the State's plan).

(vii) *Affirmative marketing.* The agreement must specify the State recipient's affirmative marketing responsibilities in accordance with § 92.351.

(viii) *Requests for disbursement of funds.* The agreement must specify that the State recipient may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the State recipient requests funds from the State.

(ix) *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the State in meeting its recordkeeping and reporting requirements.

(x) *Enforcement of the agreement.* The agreement must provide for a means of enforcement of affordable housing requirements by the State or the intended beneficiaries, if the State recipient will be the owner at project completion of the affordable housing. The means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in § 92.252 must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the

HOME requirements. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the State recipient materially fails to comply with any term of the agreement. The State may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(xi) *Written agreement.* Before the State recipient provides funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, homeowners, homebuyers, tenants (or landlords) receiving tenant-based rental assistance, or contractors who are providing services to the State recipient, the State recipient must have a written agreement with such entities that meets the requirements of this section.

(xii) *Duration of the agreement.* The duration of the agreement will depend on which functions the State recipient performs (e.g., whether the State recipient or the State has responsibility for monitoring rental projects for the period of affordability) and which activities are funded under the agreement.

(xiii) *Fees.* The agreement must prohibit the State recipient and its subrecipients and community housing development organizations from charging servicing, origination, processing, inspection, or other fees for the costs of administering a HOME program, except as permitted by § 92.214(b)(1).

(2) *Subrecipient.* A subrecipient is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance. The agreement must set forth and require the subrecipient to follow the participating jurisdiction's requirements, including requirements for income determinations, underwriting and subsidy layering guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies, and affordability requirements. The agreement between the participating jurisdiction and the subrecipient must include:

## § 92.504

(i) *Use of the HOME funds.* The agreement must describe the amount and use of the HOME funds for one or more programs, including the type and number of housing projects to be funded (e.g., the number of single-family homeowners loans to be made or the number of homebuyers to receive downpayment assistance), tasks to be performed, a schedule for completing the tasks (including a schedule for committing funds to projects in accordance with deadlines established by this part), a budget, any requirement for matching contributions and the period of the agreement. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement.

(ii) *Program income.* The agreement must state if program income is to be remitted to the participating jurisdiction or to be retained by the subrecipient for additional eligible activities.

(iii) *Uniform administrative requirements.* The agreement must require the subrecipient to comply with applicable uniform administrative requirements, as described in § 92.505.

(iv) *Other program requirements.* The agreement must require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under § 92.352 and the intergovernmental review process in § 92.357 does not apply. The agreement must set forth the requirements the subrecipient must follow to enable the participating jurisdiction to carry environmental review responsibilities before HOME funds are committed to a project. If HOME funds are being provided to develop rental housing or provide tenant-based rental assistance, the agreement must set forth all obligations the participating jurisdiction imposes on the subrecipient in order to meet the VAWA requirements under § 92.359, including notice obligations and obligations under the emergency transfer plan.

(v) *Affirmative marketing.* The agreement must specify the subrecipient's

## 24 CFR Subtitle A (4-1-18 Edition)

affirmative marketing responsibilities in accordance with § 92.351.

(vi) *Requests for disbursement of funds.* The agreement must specify that the subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.

(vii) *Reversion of assets.* The agreement must specify that upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

(viii) *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.

(ix) *Enforcement of the agreement.* The agreement must specify remedies for breach of the provisions of the agreement. The agreement must specify that, in accordance with 2 CFR 200.338, suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement. The participating jurisdiction may permit the agreement to be terminated in whole or in part in accordance with 2 CFR 200.339.

(x) *Written agreement.* Before the subrecipient provides HOME funds to for-profit owners or developers, nonprofit owners or developers or sponsors, subrecipients, homeowners, homebuyers, tenants (or landlords) receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that meets the requirements of this section. The agreement must state if repayment of HOME funds or recaptured HOME funds must be remitted to the participating jurisdiction or retained by the subrecipient for additional eligible activities.

(xi) *Fees.* The agreement must prohibit the subrecipient and any community housing development organizations from charging servicing, origination, or other fees for the costs of administering the HOME program, except as permitted by § 92.214(b)(1).

(3) *For-profit or nonprofit housing owner, sponsor, or developer (other than single-family owner-occupant).* The participating jurisdiction may preliminarily award HOME funds for a proposed project, contingent on conditions such as obtaining other financing for the project. This preliminary award is not a commitment to a project. The written agreement committing the HOME funds to the project must meet the requirements of "commit to a specific local project" in the definition of "commitment" in § 92.2 and contain the following:

(i) *Use of the HOME funds.* The agreement between the participating jurisdiction and a for-profit or nonprofit housing owner, sponsor, or developer must describe the address of the project or the legal description of the property if a street address has not been assigned to the property, the use of the HOME funds and other funds for the project, including the tasks to be performed for the project, a schedule for completing the tasks and the project, and a complete budget. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement to achieve project completion and compliance with the HOME requirements.

(ii) *Affordability.* The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. The affordability requirements in § 92.252 must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance.

(A) If the owner or developer is undertaking rental projects, the agreement must establish the initial rents,

the procedures for rent increases pursuant to § 92.252(f)(2), the number of HOME units, the size of the HOME units, and the designation of the HOME units as fixed or floating, and include the requirement that the owner or developer provide the address (e.g., street address and apartment number) of each HOME unit no later than the time of initial occupancy.

(B) If the owner or developer is undertaking a homeownership project for sale to homebuyers in accordance with § 92.254(a), the agreement must set forth the resale or recapture requirements that must be imposed on the housing, the sales price or the basis upon which the sales price will be determined, and the disposition of the sales proceeds. Recaptured funds must be returned to the participating jurisdiction.

(iii) *Project requirements.* The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted. The agreement may permit the owner to limit eligibility or give a preference to a particular segment of the population in accordance with § 92.253(d).

(iv) *Property standards.* The agreement must require the housing to meet the property standards in § 92.251, upon project completion. The agreement must also require owners of rental housing assisted with HOME funds to maintain the housing compliance with § 92.251 for the duration of the affordability period.

(v) *Other program requirements.* The agreement must require the owner, developer or sponsor to carry out each project in compliance with the following requirements of subpart H of this part:

(A) The agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with § 92.351.

(B) The federal requirements and nondiscrimination established in § 92.350.

(C) Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with § 92.353.

(D) The labor requirements in § 92.354.

(E) The conflict of interest provisions prescribed in § 92.356(f).

(F) If HOME funds are being provided to develop rental housing, the agreement must set forth all obligations the participating jurisdiction imposes on the owner in order to meet the VAWA requirements under § 92.359, including the owner's notice obligations and owner obligations under the emergency transfer plan.

(vi) *Records and reports.* The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements. The owner of rental housing must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with § 92.252. If the rental housing project has floating HOME units, the owner must provide the participating jurisdiction with information regarding unit substitution and filling vacancies so that the project remains in compliance with HOME rental occupancy requirements. The agreement must specify the reporting requirements (including copies of financial statements) to enable the participating jurisdiction to determine the financial condition (and continued financial viability) of the rental project.

(vii) *Enforcement of the agreement.* The agreement must provide for a means of enforcement of the affordable housing requirements by the participating jurisdiction and the intended beneficiaries. This means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in § 92.252 must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD under which the participating jurisdiction has the right to require specific performance. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

(viii) *Requests for disbursement of funds.* The agreement must specify that the developer may not request disbursement of funds under the agree-

ment until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

(ix) *Duration of the agreement.* The agreement must specify the duration of the agreement. If the housing assisted under this agreement is rental housing, the agreement must be in effect through the affordability period required by the participating jurisdiction under § 92.252. If the housing assisted under this agreement is homeownership housing, the agreement must be in effect at least until completion of the project and ownership by the low-income family.

(x) *Community housing development organization provisions.* If the nonprofit owner or developer is a community housing development organization and is using set-aside funds under § 92.300, the agreement must include the appropriate provisions under §§ 92.300, 92.301, and 92.303. If the community development organization is receiving HOME funds as a developer of homeownership housing, the agreement must specify if the organization may retain proceeds from the sale of the housing and whether the proceeds are to be used for HOME-eligible or other housing activities to benefit low-income families. Recaptured funds are subject to the requirements of § 92.503. If the community housing development organization is receiving assistance for operating expenses, see paragraph (c)(6) of this section.

(xi) *Fees.* The agreement must prohibit project owners from charging fees that are not customarily charged in rental housing such as laundry room access fees, and other fees. However, rental project owners may charge reasonable application fees to prospective tenants may charge parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and may charge fees for services such as bus transportation or meals, as long as such services are voluntary. The agreement must also prohibit the developer that is undertaking a homeownership project from charging servicing, origination, processing, inspection, or other fees for the costs of providing homeownership assistance.

(4) *Contractor.* The participating jurisdiction selects a contractor through applicable procurement procedures and requirements. The contractor provides goods or services in accordance with a written agreement (the contract). For contractors who are administering all or some of the participating jurisdiction's HOME programs or specific services for one or more programs, the contract must include at a minimum the following provisions:

(i) *Use of the HOME funds.* The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the length of the agreement.

(ii) *Program requirements.* The agreement must provide that the contractor is subject to the requirements in part 92 that are applicable to the participating jurisdiction, except §§ 92.505 and 92.506 do not apply, and the contractor cannot assume the participating jurisdiction responsibilities for environmental review, decisionmaking, and action under § 92.352. Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering. If applicable to the work under the contract, the agreement must set forth all obligations the participating jurisdiction imposes on the contractor in order to meet the VAWA requirements under § 92.359, including any notice obligations and any obligations under the emergency transfer plan.

(iii) *Duration of agreement.* The agreement must specify the duration of the contract. Generally, the duration of a contract should not exceed two years.

(5) *Homebuyer, homeowner or tenant receiving tenant-based rental or security deposit assistance.* When a participating jurisdiction provides assistance to a homebuyer, homeowner or tenant the written agreement may take many forms depending upon the nature of assistance. As appropriate, it must include as a minimum:

(i) For homebuyers, the agreement must conform to the requirements in § 92.254(a), the value of the property, principal residence, lease-purchase, if applicable, and the resale or recapture

provisions. The agreement must specify the amount of HOME funds, the form of assistance, e.g., grant, amortizing loan, deferred payment loan, the use of the funds (e.g., down-payment, closing costs, rehabilitation) and the time by which the housing must be acquired.

(ii) For homeowners, the agreement must conform to the requirements in § 92.254(b) and specify the amount and form of HOME assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.

(iii) For tenants, the rental assistance contract or the security deposit contract must conform to §§ 92.209 and 92.253.

(6) *Community housing development organization receiving assistance for operating expenses.* The agreement must describe the use of HOME funds for operating expenses; e.g., salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; and materials and supplies. If the community housing development organization is not also receiving funds for a housing project to be developed, sponsored, or owned by the community housing development organization, the agreement must provide that the community housing development organization is expected to receive funds for a project within 24 months of the date of receiving the funds for operating expenses, and must specify the terms and conditions upon which this expectation is based and the consequences of failure to receive funding for a project.

(7) *Community housing development organization receiving assistance for project-specific technical assistance and site control loans or project-specific seed money loans.* The agreement must identify the specific site or sites and describe the amount and use of the HOME funds (in accordance with § 92.301), including a budget for work, a period of performance, and a schedule for completion. The agreement must also set forth the basis upon which the participating jurisdiction may waive repayment of the loans, consistent with § 92.301, if applicable.



(8) *Technical assistance provider to develop the capacity of community housing development organizations in the jurisdiction.* The agreement must identify the specific nonprofit organization(s) to receive capacity building assistance. The agreement must describe the amount and use (scope of work) of the HOME funds, including a budget, a period of performance, and a schedule for completion.

(d) *On-site inspections and financial oversight.* (1) *Inspections.* The participating jurisdiction must inspect each project at project completion and during the period of affordability to determine that the project meets the property standards of §92.251.

(i) *Completion inspections.* Before completing the project in the disbursement and information system established by HUD, the participating jurisdiction must perform an on-site inspection of HOME-assisted housing to determine that all contracted work has been completed and that the project complies with the property standards of §92.251.

(ii) *Ongoing periodic inspections of HOME-assisted rental housing.* During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of §92.251 and to verify the information submitted by the owners in accordance with the requirements of §92.252. The inspections must be in accordance with the inspection procedures that the participating jurisdiction establishes to meet the inspection requirements of §92.251.

(A) The on-site inspections must occur within 12 months after project completion and at least once every 3 years thereafter during the period of affordability.

(B) If there are observed deficiencies for any of the inspectable items in the property standards established by the participating jurisdiction, in accordance with the inspection requirements of §92.251, a follow-up on-site inspection to verify that deficiencies are corrected must occur within 12 months. The participating jurisdiction may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation

(e.g., paid invoice for work order) rather than re-inspection. Health and safety deficiencies must be corrected immediately, in accordance with §92.251. The participating jurisdiction must adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.

(C) The property owner must annually certify to the participating jurisdiction that each building and all HOME-assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the participating jurisdiction to meet the requirements of §92.251.

(D) Inspections must be based on a statistically valid sample of units appropriate for the size of the HOME-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-assisted units, participating jurisdiction must inspect 100 percent of the HOME-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-assisted units.

(iii) *Annual inspections.* Tenant-based rental assistance (TBRA). All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards in 24 CFR 982.401 or the successor requirements as established by HUD. The participating jurisdiction must perform annual on-site inspections of rental housing occupied by tenants receiving HOME-assisted TBRA to determine compliance with these standards.

(2) *Financial oversight.* During the period of affordability, the participating jurisdiction must examine at least annually the financial condition of HOME-assisted rental projects with 10 units or more to determine the continued financial viability of the housing and must take actions to correct problems, to the extent feasible.

[61 FR 48750, Sept. 16, 1996, as amended at 64 FR 50224, Sept. 15, 1999; 67 FR 61757, Oct. 1, 2002; 68 FR 56404, Sept. 30, 2003; 78 FR 44680, July 24, 2013; 80 FR 75935, Dec. 7, 2015; 81 FR 80804, Nov. 16, 2016; 81 FR 86952, Dec. 2, 2016]



# **HOME Investment Partnerships Program Policy & Procedures Manual**

Marion County Board of Commissioners Office



## Table of Contents

<b>I.</b>	<b><u>Introduction</u></b> .....	4
	a. Governance	
	b. Background and Purpose	
	c. Marion County's HOME Program	
	d. Distribution of Funding	
	e. Definitions	
<b>II.</b>	<b><u>General Requirement</u></b> .....	9
	a. Project Eligibility	
	b. Eligible Project Costs	
	c. Project Selection Guidelines	
	d. Property Standards	
	e. Project Underwriting Subsidy Layering	
	f. Methods of Assistance	
	g. Minimum Long-Term Affordability Period	
	h. Matching Funds	
	i. Site and Neighborhood Standards	
	j. Authorization and Payment of Pre-Award Costs	
	k. Project Completion deadline and Terminated Projects	
	l. HOME Development Process	
	m. Overarching Program Regulations and Requirements	
<b>III.</b>	<b><u>Homeowner Rehabilitation</u></b> .....	24
	a. Project Eligibility	
	b. Eligible Project Cost	
	c. Property Standards	
	d. Project Underwriting and Subsidy Layering	
	e. Methods of Assistance	
	f. Minimum Long-Term Affordability Period	
	g. Project Completion Deadline	
	h. Overarching Program Regulations and Requirements	
<b>IV.</b>	<b><u>Homebuyer Unit Development</u></b> .....	29
	a. Project Eligibility	
	b. Eligible Project Cost	
	c. Property Standards	
	d. Project Underwriting and Subsidy Layering	
	e. Methods of Assistance	
	f. Minimum Long-Term Affordability	

	g. Resale and Recapture	
	h. Homebuyer Counseling	
	i. Program Policies	
	j. Project Completion Deadline	
	k. Overarching Program Regulations and Requirements	
<b>V.</b>	<b><u>Direct Homeowner Assistance</u></b>	<b>37</b>
	a. Project Eligibility	
	b. Eligible Project Costs	
	c. Property Standards	
	d. Project Underwriting and Subsidy Layering	
	e. Methods of Assistance	
	f. Minimum Long-Term Affordability	
	g. Resale and Recapture	
	h. Homebuyer Counseling	
	i. Program Policies	
	j. Project Completion Deadline	
	k. Overarching Program Regulations and Requirements	
<b>VI.</b>	<b><u>Rental Housing</u></b>	<b>44</b>
	a. Project Eligibility	
	b. Eligible Project Costs	
	c. Property Standards	
	d. Project Underwriting and Subsidy Layering	
	e. Methods of Assistance	
	f. Minimum Long-Term Affordability Period	
	g. HOME Rent Requirements	
	h. Tenant Leases	
	i. Financial Management and Oversight	
	j. Project Completion Deadline and Lease-Up	
	k. Overarching Program Regulations and Requirements	
<b>VII.</b>	<b><u>Community Housing Development Organization</u></b>	<b>58</b>
	a. CHDO Eligibility	
	b. CHDO Annual Certification	
	c. CHDO Operating Support	
	d. Overarching Program Regulations and Requirements	

<b>VIII.</b>	<b><u>Tenant-Based Rental Assistance</u></b>	<b>60</b>
	a. Project Eligibility	
	b. Eligible Project Costs	
	c. Property Standards	
	d. Methods of Assistance	
	e. Hosing Agreements	
	f. Supportive Services	
	g. TBRA Assistance Summary	
	h. Overarching Program Regulation and Requirements	
<b>IX.</b>	<b><u>Overarching Program Federal Regulations and Requirements</u></b>	<b>66</b>
	a. Fair Housing and Civil Rights	
	b. Equal Opportunity	
	c. Labor Standards	
	d. Environmental Review	
	e. Lead Based Paint Hazards	
	f. The Uniform Act and Section 104 (d)	
	g. Procurement	
	h. Financial Management Requirements	
	i. Program Income	
	j. Conflict of Interest	
	k. Recordkeeping	
	l. Annual Income	
	m. Other Federal Requirements	
	n. Loan Provisions (County)	
	o. Site Control	
	p. Appraisal Requirements	
	q. Development Fees	
	r. Mixed-Use Projects	
	s. Management of Housing Units	
	t. Contracting Requirements	
	u. Monitoring	

## **I. INTRODUCTION**

This Policy and Procedure Manual establishes the framework for guiding the operation of the Marion County HOME Program. It is intended to provide applicants, reviewing entities, and decision-makers with the basic criteria for entry, selection, and long-term management of HOME projects.

Updates and changes to The HOME Program Policy and Procedure Manual will undoubtedly be necessary as the County encounters situations which either need to be standardized, or in some cases, there is an apparent need to ensure the limited resources of the program are applied.

Any variances, changes, or waiver to these policies must be submitted to the CDBG/HOME Program Manager who will then submit it to the Board of Commissioners at a subsequent meeting for discussion.

### **A. Governance**

The Marion County Board of Commissioners make all final decisions regarding the reasonable and appropriate use of federal, state, or local subsidies derived from, or used in conjunction with the CDBG and HOME programs.

### **B. Background and Purpose**

The HOME Investment Partnership Program (HOME Program) is a federally funded program created under Title II of the National Affordable Housing Act of 1990 and administered by the Federal Department of Housing and Urban Development. Marion County, as the lead agency for the Marion County HOME Consortium, is the recipient of HOME funds for the Consortium, which is allocated to the County using a formula established by HUD. The main purposes of the program are:

- To strengthen partnerships among all levels of government and the private sector, including for profit and nonprofit organizations, in the production of affordable housing.
- To expand the supply of decent and affordable housing, particularly rental housing, for low to moderate income Americans.
- To strengthen the abilities of state and local governments to design and implement strategies for achieving an adequate supply of decent, affordable housing.

As the Lead Agency, Marion County is responsible for the overall administration, planning, monitoring, and reporting requirements for the HOME Program.

Only housing related activities can be funded with HOME funds. All HOME-assisted units must provide housing for household with incomes less than 80% of the area median income.

Eligible activities are defined in accordance with the following HOME assistance categories.

- Homeowner Rehabilitation
- Homebuyer Unit Development
- Direct Homeownership Assistance
- Rental Housing
- Community Housing Development Organization Operating Support
- Tenant Based Rental Assistance

### **C. Marion County's HOME Program**

Marion County Board of Commissioners administers the HOME Program for the Marion County Consortium. All projects funded under the HOME Program are governed by the rules and regulations set forth at 24 CFR Part 92. The purpose of these guidelines is to clarify specific aspects of Marion County's HOME Program.

Marion County receives an annual allocation from the Federal Department of Housing and Urban Development (HUD). The allocation is based on a formula set forth at 92.50 that considers factors such as the age, condition and amount of rental housing units and the County's population and poverty rate. A maximum of 10 percent of the annual allocation can be set aside for program administration.

The County's HOME Funds, and any Program Income received, must be used for HOME-eligible purposes and to address the housing needs for low-to-moderate income households identified in the County's Consolidated Plan.

### **D. Distribution of Funding**

The Marion County HOME Consortium distributes HOME funds within the boundaries of its HOME consortium area and among different categories and according to the priorities of housing needs and goals identified in its approved Consolidated Plan.

The Marion County HOME Consortium only invests HOME funds in eligible projects within its Consortium boundaries. The boundary includes all unincorporated areas of Marion County plus all cities except for the city of Salem (not eligible due to having their own program) and the city of Gates (did not join the consortium).

### **E. Definitions**

**Action Plan:** The annual one-year portion of the Consolidated Plan. It includes the annual HOME project awards and is the participating jurisdiction'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).

Agency: Includes Developers, Owners, Sponsors, and Subrecipients.

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: Annual income is the annual household income as defined in 24 CFR 5.609 or the adjusted gross income as defined under the IRS 1040 series for individual Federal annual income tax purposes.

Commitment: The participating jurisdiction has executed a legally binding written agreement

Community Housing Development Organization (CHDO): A private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR 92.2. A participating jurisdiction must award at least 15% of its annual HOME allocation to one or more CHDO.

Consolidated Plan: A five-year strategic plan prepared in accordance with the requirements set forth in 24 CFR part 91 for certain HUD programs, including HOME, which prioritizes community needs for affordable housing and community development. The plan identifies anticipated resources and develops goals and other actions that will assist in making sure the plan is successful. The plan also guides the investment of the HOME and other HUD funds for the five-year period. Projects that are funded through HOME must be consistent with the plan.

Consortium: Geographically contiguous units of general local government consolidated in a single unit of general local government for the purpose of receiving HOME funds each year as a formula grant to use for locally determined needs and priorities. The Marion County HOME Consortium consists of Marion County and all the cities within the County except for the cities of Salem (not eligible due to having their own program) and the city of Gates (did not agree to be part of the Consortium). Marion County is the lead agency and grant recipient for the Consortium.

Developers, Owners, and Sponsors: Includes individuals, for-profit entities, and nonprofits that are developers, owners, or sponsors of housing.

Draw-Down: The process of requesting and receiving HOME funds. Marion County draws down funds from a line of credit established by HUD.

Final Rule: The Final HOME Rule was published at 24 CFR part 92 on July 24, 2013 and became effective on August 24, 2013.

First-Time Homebuyers: An individual and their spouse who have not owned a home during the three-year period prior to the purchase of a home with HOME assistance.



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.

Low-income Families: Families whose annual income does not exceed 80% of the median income for the area (adjusted for family size).

Match: Match is the Marion County Consortium's required contribution to the HOME Program, it is the local, non-federal contribution to the partnership. The overall match contribution must equal not less than 25% of HOME funds disbursed for projects and programs each federal fiscal year (October 1-September 30).

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. Marion County is the PJ for the Marion County HOME Consortium.

Program Income: Gross income received by Marion County, or a sub recipient 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 are 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: There is a four-year project completion deadline for all projects to which HOME funds are committed. A one-year extension of the four-year deadline is possible if the PJ can demonstrate that the project will be completed within the one-year timeframe.

It also means that 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 homebuyer projects, the final transfer has occurred, and the beneficiary information is entered into IDIS.

*Property Standards:* Activities and costs are eligible for HOME funding only if the housing meets the property standards in 92.251 upon project completion.

*Reconstruction:* The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. 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.

*Rehabilitation:* All rehabilitation that is performed using HOME funds must meet the Marion County Rehabilitation standards, to ensure that housing rehabilitated with HOME funds is decent, safe, sanitary, and non-luxury housing with suitable amenities.

*Subrecipient:* HOME subrecipients receive funds to carry out programs (i.e., down payment assistance, homeowner rehabilitation, or tenant-based rental assistance programs, etc.). A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient.

*Targeting:* Requirements of the HOME Program relating to the income or other characteristics of households that may occupy HOME-assisted units.

*Tenant-Based Rental Assistance (TBRA):* A form of direct rental assistance in which the recipient tenant may move from a dwelling unit with a right to continued assistance.

*Terminated Projects:* A HOME assisted project that is terminated before completion, either voluntarily or involuntarily, constitutes an ineligible activity, and the participating jurisdiction must repay any HOME funds invested in the project to the participating jurisdiction's HOME Investment Trust Fund in accordance with 92.503 (b). Any project that does not meet the HOME requirements for affordable housing (affordability provisions, income targeting, property standards, etc.) must repay HOME funds expended for the project.

## **II. GENERAL REQUIREMENTS**

### **A. Project Eligibility**

HOME Funds may be used for the following activities to develop and support affordable rental housing and homeownership affordability of permanent housing that, upon completion, must meet applicable Property Standards. Descriptions of the eligible activities and the eligible Costs are below:

<b>Eligible Activities</b>		
HOME Assistance	Eligible Activities	Description
Homeowner Rehabilitation	*Repair *Rehabilitation *Reconstruction	Assistance to existing owner-occupants
Homebuyer Unit Development	*Acquisition *Acquisition and Rehabilitation *New Construction	Development of affordable homes
Direct Homeownership Assistance	*Acquisition *Acquisition and Rehabilitation	Assistance to first-time homebuyers in acquiring affordable homes
Rental Housing	*Acquisition *New Construction *Rehabilitation	Affordable rental housing
CHDO Operating Costs	Agency Operating Expenses	For development of affordable housing
Tenant-Based Rental Assistance	*Rental Assistance Programs *Security Deposit and Utility *Deposit Assistance Programs	Financial assistance provided to tenants

### **Eligible Properties**

HOME funds may be used only for eligible properties within Marion County. The eligible properties vary depending on the HOME assistance provided.

#### **Inclusions:**

- Manufactured Housing
- Permanent Housing
- Single-Room Occupancy Housing
- Group Homes
- Transitional Housing
- Manufactured Housing Lots

#### **Exclusions:**

- Emergency Shelters (including shelters for disaster victims)
- Hospitals
- Halfway Houses

- Nursing Homes
- Residential Treatment Facilities
- Housing for Students
- Convalescent Homes
- Correctional Facilities
- Dormitories (including farmworker dormitories)

Entities eligible to Administer HOME Funds:

HOME funds may be administered only by eligible entities, which vary depending on the HOME assistance provided. The following are eligible to administer HOME activities:

1. Developers, Owners, Sponsors: Individuals, for-profit entities, public agencies, or nonprofits.
2. Subrecipients: Public agency or non-profit organization.
3. Community Housing Development Organizations
4. Contractors: a private for-profit contractor procured through a competitive process in accordance with applicable Office of Management and Budget (OMB) procurement requirements.

**B. Eligible Projects Costs**

Home funds may be used for a variety of costs. These project costs vary depending on the HOME assistance provided and the nature of the project activity; below are examples of the general categories of eligible costs, which are explained in further detail in the applicable HOME assistance section.

- a. Acquisition Costs: Costs of acquiring improved or unimproved real property.
- b. Development Hard Costs: Actual cost of constructing or rehabilitating housing.
- c. Project Related Soft Costs: Other reasonable and necessary costs incurred by the owner and associated with the financing, or development (or both) of new construction, rehabilitation, or acquisition of housing assisted with HOME funds.
- d. Relocation Costs: Costs of relocation payments and other relocation assistance to persons displaced by the project.

Ineligible Activities, Costs, and Fees

- Acquisition of vacant land only (without the construction of housing within 12 months).
- Demolition only (without the construction of housing within 12 months).
- Project-based rental assistance: Rental assistance tied to occupancy in a particular project.
- Project reserve accounts or operating subsidies.
- TBRA for the special purpose of the existing section 8 program.

- Double-dipping-assistance (other than TBRA, or assistance to a homebuyer to acquire housing previously assisted with HOME funds), a project previously assisted with HOME funds during the period of affordability established by the participating jurisdiction in the written agreement. Additional HOME funds may be committed to a project up to one year after project completion.
- Development, operations, or modernization of public housing.
- Delinquent taxes, fees, or charges on properties to be assisted with HOME funds.
- Fees not customarily charged in rental housing.
- Servicing, origination, and other fees for the purpose of administering the HOME Program.

### **C. Project Selection Guidelines**

Applications for Marion County HOME funds are solicited annually (subject to fund availability), through a Notice of Fund Availability (NOFA) process and reviewed competitively. Awards are included each year in the Action Plans and to the Consolidated Plan, which are approved by the Board of Marion County Commissioners. Before committing funds to a project, Marion County underwrites and evaluates the project and will not invest any more HOME funds, in combination with other project financing, than is necessary to provide affordable housing.

Funding applications are assessed for such characteristics as community need, conformance with adopted plans and priorities, nature and extent of benefit, financial and technical feasibility, and/or other factors bearing upon the merit of proposals competing for funding.

**The specific competitive selection criteria for projects will be published at the time applications are solicited.**

To be considered for HOME funding a project must meet the following threshold requirements. The proposed project MUST be:

1. Located within Marion County and not in the cities of Salem and Gates
2. Eligible under the HOME Program regulations; and
3. Consistent with Marion County's Consolidated Plan and HOME Program priorities.

Projects that meet the threshold requirements will be further evaluated based upon the extent to which the project meets the following criteria:

**Readiness to Proceed:** The project should be ready to begin construction within 12 months.

**Developer Capacity:** The Developer/Sponsor and Owner must have the experience and ability to carry out the proposed project.

Need/Demand: The Developer/Sponsor/Owner must provide evidence that there is a need and a demand for the project.

Underwriting Criteria:

- a. Feasible and cost effective: The development proforma must show that the project is financially feasible, and costs are reasonable.
- b. Complete Financial Package: The project must have firm commitments from other reliable funding sources (e.g., owner's equity, non-federal assistance) to cover the total cost of the project.
- c. Matching Funds: The project must provide matching resources as described in 24 CFR 92.218.
- d. Subsidy Layering: In accordance with 24 CFR 92.250 (b), the development proforma must show that the HOME funds, in combination with other government assistance, is not more than is necessary to provide affordable housing.
- e. Sustainable: The operating proforma must show that the project will generate sufficient income to sustain the project in compliance with all applicable HOME property standards for the duration of the period of affordability.

Location: Priority may be given at times to geographical location of projects based on need. This will be communicated during application time.

Supportive Services: If the proposed project targets persons with special needs, the proposal must describe how supportive services will be offered and funded.

Public-Private Partnerships: The project must stimulate investment and participation by the private or nonprofit sector

**D. Property Standards**

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion. Minimum property standards vary according to the nature of the activity (i.e., acquisition, new construction, rehabilitation) and are described in further detail in the applicable HOME assistance section.

- The PJ must conduct an on-site inspection of each project at project completion and during the period of affordability, if applicable, to determine that the project meets the minimum property standards. Additional inspection requirements may apply, depending on the activity.

## **E. Project Underwriting and Subsidy Layering**

HOME Funds are limited to gap financing. The PJ's subsidy layering and/or underwriting must demonstrate that it is not investing any more HOME funds, alone or in combination with other funds, than are necessary to provide quality, affordable, and financially viable housing for at least the duration of the affordability period. The evaluation must determine a reasonable level of profit or return on the owner's or developer's investment in a project. Project underwriting and subsidy layering requirements vary by the HOME assistance provided and are described in further detail in the applicable section.

**The PJ subsidy layering, and underwriting guidelines require the PJ to:**

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

### **Project underwriting**

Underwriting (review of sources and uses) of all HOME projects (rental and homebuyer) is required whether or not the projects are assisted with other governmental assistance.

### **Subsidy Layering Review Guidelines**

The County must determine that no more than the necessary amount of HOME funds, in combination with other governmental funds, is invested than is necessary to provide quality affordable housing that is financially viable for a reasonable period.

As part of the review of applications for County funding and again at the time of funding commitment, the County conducts a layering review of projects that include state or other public funds. The review includes a consideration of the sources and use of funds proposed for a project, the reasonableness of project development costs, the proposed project operating costs, and the amount of cash flow generated over time. The per subsidy limit review formula will round-up to the nearest whole number.

## **F. Methods of Assistance**

### **Eligible Forms of Subsidy**

Marion County HOME funds are provided through a subsidy to eligible entities. The following subsidies are eligible under HOME; the particular type of subsidy provided will be determined through the application and contracting process.

Please note that Marion County does not currently provide all the subsidies listed. It is at the Board of Commissioners discretion to amend an individual program and change the form of subsidy offered for the program.

### **Type of Subsidy**

1. **Deferred loans (forgivable or repayable)**
  - a. Loans that are not fully amortized; some, or all, principal and interest payments are deferred to a point in the future. May be structured in many ways.
  - b. May be forgivable or repayable.
  - c. Can accrue interest or be non-interest bearing.
  - d. The property is used as collateral.
2. **Grants**
  - a. Provided with no requirement or expectation of repayment. No lien on the property (or other assets) is required.
3. **Interest-Bearing Loans**
  - a. 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.
  - b. May have interest rates at or below the prevailing market rate.
  - c. The property (or other assets) is used as collateral.
  - d. Loan term varies depending on the nature of the activity funded and the discretion of the board of commissioners.
4. **Non-interest-bearing loans**
  - a. Principal amount of these loans is paid back on a regular basis over time, but no interest is charged.
  - b. The property (or other assets) is used as collateral.
  - c. Loan term varies depending on the nature of the activity funded.
5. **Interest Subsidies**
  - a. Up-front discounted payment to a private lender in exchange for a lower interest rate on a loan. May be deposit in an interest-bearing account from which monthly subsidies are drawn and aid to a lender along with the homeowner's monthly payment.



6. Equity Investments
  - a. Investment made in return for a share of ownership.
7. Loan guarantees and loan guarantee accounts
  - a. Both types ensure the payment of a loan in case of default.
  - b. Loan guarantee: written promise to pay the lender some percentage of the outstanding principal balance of a loan in the event the borrow defaults.
  - c. Loan guarantee account: loan loss reserve held by the lender in an amount equal to some percentage of the outstanding principal.
8. Other forms approved by HUD and Marion County
  - a. Requires HUD and County approval, in writing.

### Subsidy Limits

HOME establishes a minimum HOME investment and maximum HOME subsidy limit per project, as set forth below.

- *Minimum HOME Investment*  
\$1,000 of HOME funds per unit assisted

For multi-unit properties, the average must be \$1,000 per unit assisted, but a single unit may receive less than \$1,000.

- *Maximum HOME Subsidy Limit*

The current Maximum Per unit subsidy limits established by HUD may not exceed 240% of the per unit dollar limitations established under section 234.

### Projects Containing both HOME and Non-HOME units

HOME funds may be used to assist one (1) or more housing units in a multi-unit project that contains other non-HOME units. However, only the actual HOME eligible development costs may be supported by the HOME Program. The method for determining the allocation of eligible costs that may be charged to the HOME program depends on whether the units are comparable in terms of size, features, and number of bedrooms.

Home Project with Comparable units- Pro Rata Share Method: Prorate the total HOME Eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project.

HOME project with Incomparable units- Actual Cost Allocation Method

## **G. Minimum Long-Term Affordability Period**

To ensure investments provide affordable housing over the long term, rent and occupancy restrictions throughout the affordability period depends on the amount of the HOME investment in the property and the nature of the activity, and will be specified in the applicable HOME assistance section and in each project contract.

Throughout the period of affordability, income eligible households must occupy the assisted units and agencies must comply with all applicable regulations. The HOME affordability and Program Compliance periods are listed below.

### **Homebuyer/Rehabilitation**

- <15,000: 5 Years
- \$15,000 to \$40,000: 10 years
- >40,000: 15 years
- New Construction of Homeowner Housing: 15 years if over \$40,000 per unit.
- New Construction of Rental Housing: 20 years.

The Board of Commissioners reserves the right to require additional affordability terms beyond these minimums within each program design.

## **H. Matching Funds**

Marion County is required to match at least 25% of all HOME funds disbursed on projects and programs each federal fiscal year. The HOME Program does not require every project or program that receives HOME funding be provided with a 25% match.

The County will coordinate with agencies awarded funding for HOME activities to identify eligible sources of matching funds and the amount of matching funds to be contributed by each activity in order to meet the overall HOME match requirement.

Matching funds are permanent contributions to affordable housing and can be provided through cash, assets, services, labor and other contributions of value to the County's HOME program. Federal resources (i.e. CDBG Funds) are not an eligible source of match.

### **Eligible source of matching funds include:**

1. Cash from a non-federal source
2. Value of waived taxes, fees, or charges
3. Value of donated land
4. Cost of infrastructure improvements
5. Value of donated materials, equipment, labor, or professional services
6. Sweat equity
7. Costs of supportive services for residents of HOME projects
8. Cost of homebuyer counseling services

Marion County prefers that each project provide eligible matching contribution of at least 25% of the HOME funds in the project; however, Marion County recognizes that projects that serve persons with special needs may not achieve the 25% match. The project developer is required to document the amount of matching funds that are being contributed to the project.

#### **I. Site and Neighborhood Standards**

Housing provided through the HOME program must promote greater choices of housing opportunities. HOME-assisted housing must be suitable from the standpoint of facilitating and furthering compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD regulations.

In addition, construction of new rental housing with HOME funds must meet the site and neighborhood standards under 24 CFR 983.57 (e) (2) and (e) (3) which places limiting conditions on building in areas of minority concentration or in racially mixed areas if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

A site and neighborhoods standards review will be conducted for all new construction rental projects requesting HOME funds. The review will occur as part of the application threshold eligibility criteria review. New construction rental projects must meet the following site and neighborhood standards:

1. The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
2. The site must not be located in an area of minority concentration.

#### **J. Authorization and Payments of Pre-Award Costs**

At the County's discretion, HOME funds may be used to reimburse the project/program sponsor for costs incurred after the award of funds to the project in the approved Annual Action Plan and prior to the effective date of the County's annual HOME Agreement for that year of funding (subject to certain conditions). Such project costs may be reimbursed as long as the costs meet all regulatory requirements, including but not limited to, NEPA and Uniform Relocation Act (URA) requirements, the costs represent eligible uses of HOME funds, the Agency has received written authorization from the County prior to incurring the costs, the total of all pre-award costs is less than 25% of the current HOME allocation and the costs are within the allowable amount of pre-award costs allowed under the regulations.

### Costs incurred before Commitment of HOME Funds

HOME funds may be used to pay architectural and engineering and other professional services costs that are incurred before the County has made a commitment of HOME funds. These costs can be paid when the County expressly authorizes payment in the written agreement and when the costs have been incurred in the 24 months prior to the commitment of funds. This allows flexibility to the County and affordable housing developers that are planning a project that is intended to eventually receive HOME financing. It also permits the County to reimburse these costs for projects that are already under construction when it becomes clear that HOME financing is necessary to complete the project.

The County will not pay for the architectural, engineering, and other professional services costs upfront. The cost of such services should be paid by the applicant and indicated on the application.

### **K. Project Completion Deadline and Terminated Projects**

Typically, the County must be able to execute a written agreement with the Agency for the project within 12 months of July 1, of the year in which funding is awarded. The agency must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

When HOME funds are expended for projects that are terminated before completion, for whatever reason, the HOME funds that have been expended are ineligible and must be repaid. The County must terminate any project that does not meet the HOME requirements for affordable housing (i.e., affordability provisions, income targeting, property standards, etc.) and repay HOME funds expended for the project.

### **L. HOME Development Process**

Project Owner, Sponsor, or Developer must submit an application to Marion County in order to be considered for funding.

The application narrative must:

- a. Describe the scope and purpose, population to be served and need for the project.
- b. Describe the proposed site, how it is appropriate for the targeted population, status of site control and explain how relocation issues will be addressed, if applicable.
- c. Provide unit rent information. Show comparable unit market rents and tenant income range.
- d. Indicate which utilities the tenant will pay, and which will be included in the unit rent. (Use the Housing Authority's current utility allowances.)
- e. Identify the amount and type of non-federal sources of HOME matching funds.
- f. Identify who will estimate costs and determine that the costs are reasonable.

- g. State why HOME funds are needed for the proposed project and what happens to the project if HOME funds are not awarded.

**The following documentation must be submitted:**

1. Development team members, roles, responsibilities, and qualifications.
2. Process for selecting General Contractor.
3. Background information and financials on borrowers.
4. Copy of IRS 501 (c) (3) determination and by-laws if nonprofit.
5. Current Needs Assessment
  - a. Market Analysis may also be required
6. Proforma
  - a. Development Proforma (Statement of Sources and Uses of Funds)
  - b. Operating Proforma (Budget)
7. Project schedule/timeline.
8. Preliminary commitment letters from other funding sources. (Final commitment must be received before HOME approval).
9. Site information/documentation
  - a. Evidence of site control
  - b. Evidence of compliance with URA
  - c. Title report
  - d. Evidence of proper zoning
10. Property management agreement
11. Model lease agreement (Must comply with 24 CFR Part 92)
12. Letters of Community support (optional)
13. Preliminary architectural design work (site plan, floor plan and unit design).

**Environmental Review Process (ER)**

An environmental review must be completed before HUD issues a Release of Funds.

Non-compliance of either of the following two issues will cause the entire project to become ineligible for HOME funds:

1. Under no circumstances can any property be acquired by any applicant using any resource, including a predevelopment loan, after application for HOME funds, but before the ER is completed
2. No member of the development team or any independent third party can purchase the property between the application for HOME funds and completion of the ER.

HOME-funded projects must comply with the applicable sections of the Uniform Relocation Assistance and Real Estate Acquisition Policies Act of 1970 (URA) and Section 104 (d) of the Housing and Community Development Act of 1974. Applicants that acquire property as part of

the project must ensure that the transaction complies with the provisions of a “voluntary sale” under the URA regardless of whether HOME Funds are to be used to reimburse the cost of acquisition. To establish a voluntary sale the applicant must inform the seller of the following two things in writing:

1. The buyer does not have the power of eminent domain; and
2. An estimate of the fair market value of the property. However, the offer to purchase may be less than market value and the sale price can be freely negotiated.

The buyer must give the seller this written information and must obtain evidence that the seller received this information before making an offer. Guide form Notice Exhibit 5-1 of the HUD Handbook 1378 should be used as a guide for this purpose.

To minimize potential displacement, relocation or replacement, Marion County prefers projects that do not involve the acquisition or the demolition of existing rental properties.

#### Site Control methods and timing

The following are common methods of obtaining site control:

1. Applicant purchases property after ER is completed (Preferred Method)
  - a. At the time of application for HOME funds, the applicant has site control in the form of a written non-binding option or earnest money agreement with the seller.
  - b. The applicant must demonstrate that the purchase of the property is a “voluntary sale” as defined by the URA.
  - c. No choice-limiting actions (acquisition, demolition, construction, awarding of contracts) can take place until the ER process has been completed.
  - d. The property can be purchased with HOME funds or non-HOME funds after completion of the ER process. In order to use HOME funds for acquisition, however, the applicant must have also completed all conditions of award and have executed the HOME Agreement and loan documents.
2. Obtain Site Control using a HOME Predevelopment Loan
  - a. A CHDO may use a predevelopment loan to obtain site control of the property prior to completion of the ER. Once an application for HOME funds is submitted, however, no choice-limiting actions can take place on the property prior to the completion of the ER.
  - b. The transaction must be established as a voluntary sale under the URA as indicated above.
  - c. HOME funds can be used to reimburse the purchase if the project is subsequently awarded HOME funds and an ER is completed.

3. Purchase of property prior to applying for HOME Funds (No HOME Predevelopment Loan)
  - a. HOME funds cannot be used to reimburse the purchase if it was made prior to completion of the ER.
  - b. Once an application for HOME funds is submitted, no choice-limiting actions can take place until the ER process has been completed.
  - c. Before acquisition the transaction must be established as a voluntary sale under the URA as indicated. Exception:
4. URA Acquisition or voluntary sale requirements would not apply for acquisition prior to application if:
  - a. The developer did not anticipate applying for HOME funds at the time of purchase. Anticipating HOME funding would occur if the developer, or others involved in the project, had discussed applying for HOME funds with the County or others prior to the purchase.
  - b. HOME funds are not used to reimburse the acquisition cost.
  - c. If the property is purchased by a third party with the intent to transfer the purchase to the applicant at some point.
  - d. The transfer cannot take place until the ER is complete.
  - e. The eventual transfer price from the third party to the applicant cannot be for more than the original purchase price by the third party. In other word, the third party cannot obtain holding fees for the transaction.
  - f. The third party may not initiate any choice-limiting action on the site after application for HOME funds but prior to completion of the ER.

### **Insurance**

Specific insurance requirements are stated in the loan agreement. Insurance may include: title insurance, property insurance, liability, and builder's all risk.

### **Zoning**

Applicants must attach documentation from the local planning department indicating that the property is properly zoned for the use intended, or the intended use is allowed with conditions and that the application has been made for a conditional use permit. Under no circumstances will anything other than documentation from the local planning department be accepted as evidence of proper zoning. If the project site requires a zone change or annexation, the application will not be accepted.

### **Documentation for Final Disbursement of HOME Funds**

1. The County must receive the following documentation prior to final disbursement of HOME funds:

- a. Property Standards:
    - Certification from the architect that the completed project meets the accessibility requirements of 24 CFR 92.251 (a) (3)
    - A copy of the certificate of occupancy
  - b. Project Financing:
    - Final sources and uses or cost certification that identifies the actual cost and funding source of each line item on the development budget
    - Documentation for each source of match
  - c. General Contractor information, forms and assurances:
    - Debarment or suspension. Certification that no participants in lower tier covered transactions having to do with the project are currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from the participation in federal projects
    - Affidavit of payment of debts and claims
    - Affidavit of Release of Liens
    - Consent of Surety Company to Final Payment (if bonded)
    - Section 3 Summary Report
    - Minority-and Women owned Business Enterprise Activity form
    - For project with 12 or more HOME-assisted units. Documentation that all federal labor standard requirements have been met.
  - d. For rental projects:
    - Copy of tenant lease; and
    - Copy of the written tenant selection criteria
  - e. For Rehab projects:
    - If the structure was vacant prior to rehab work and the structure was constructed before 1978, then a Lead Based Paint Notification letter must be given to each new tenant at initial rent-up. This must be signed and forwarded to the County.
    - Relocation information (if applicable.)
2. Within 30 days of initial occupancy, the owner must submit a household characteristics survey for each HOME-assisted unit as delineated on the form HUD-40097. If there are existing tenants in a rehab project, then a new survey must be completed.



## **M. Overarching Program Regulations and Requirements**

All projects and programs must comply with the overarching program regulations and requirements.

### **III. HOMEOWNER REHABILITATION**

**Homeowner Rehabilitation:** Rehabilitation includes repairs to existing structures or the conversion of an existing structure to affordable housing. Rehabilitation also includes the reconstruction or the rebuilding, on the same lot, of housing as long as the number of housing units remains the same. However, the number of rooms per units may be increased or decreased. The reconstructed housing must be substantially similar to the original housing. Reconstruction also includes replacing an existing substandard unit or manufactured housing.

#### **A. Project Eligibility**

**Eligible Activities:** Activities allowed with the use of Marion County HOME funds are activities that assist homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units to ensure decent, safe, sanitary, and non-luxury housing with suitable amenities.

**Eligible Properties:** Properties that are eligible for HOME assistance include those properties that are:

- Owned and occupied by a homeowner (with good and marketable title) who qualifies as a low-income family; and
- The homeowner's principal residence

**Home assistance may be provided for the following single family property types:**

- 1–4-unit dwelling (single family home, duplex, triplex, or four-plex)
- Condominium unit
- Cooperative Unit
- Manufactured home

**Families or individuals must have the following ownership of the eligible property:**

- Fee simple title to the property
- Owns a condominium unit
- Maintains a 99-year leasehold interest in the property or a 50-year leasehold on Community Land Trust.
- Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law.
- Manufactured housing, including a mobile home, on ground leased for a period at least equal to the applicable affordability period.

**Ineligible ownership:**

- Land Contract
- Installment Contract

- Contract for deeds

### **Maximum Property Value**

To be considered an eligible property, the estimated after rehabilitation value of the property, which must be determined prior to any work being performed, must not exceed 95% of the median purchase price for the area.

HUD establishes the median purchase price limits, and these limits can be found on its website. The County will provide current and updated limits as they become available.

### **Entities eligible to Administer HOME Funds:**

HOME funds may be administered only by eligible entities, which include:

- Subrecipients: public agency, non-profit organization or CHDO.
- Unit of General Local Government in the Marion County HOME Consortium (PJ).
- Contractors: a private for-profit contractor procured through a competitive process in accordance with applicable Office of Management and Budget (OMB) procurement requirements.

### **Eligible Applicants/Beneficiaries**

Homeowner household assisted must have incomes at, or below, 80% of the area median income (AMI), also refer to the General requirements and Project Eligibility. Income limits are established by HUD; the County will provide current and updated limits yearly as they become available.

Income must be calculated in accordance with 24 CFR 5.609 (commonly referred to as the Part 5 (section 8 program) definition) except that for homeowner rehabilitation the value of the homeowner's principal residence may be excluded from the calculation of Net Assets as defined in 24 CFR 5.603. The passbook saving rate for calculation of imputed asset income over \$5,000 shall be the same passbook savings rate utilized by the local public housing authority (Marion County). The projected annual income of each homeowner must be determined initially before HOME assistance is provided. Income must be documented according to the acceptable forms of documentation listed in the HOME regulations. A reexamination of income does not need to occur unless more than six (6) months have elapsed from the time for the initial determination to the provision of HOME assistance.

### **B. Eligible Project Costs**

Development Hard Costs-The actual cost of repairing, reconstructing, or rehabilitating the homeowner housing unit is consider Development Hard Costs.

### **Eligible Soft Costs**

1. Architectural Services
2. Engineering Services
3. Related Professional Services
4. Private Lender Origination Fees
5. Credit Reports Fees for Title Evidence
6. Fees for Recordation & Filing of Legal Documents
7. Building Permits
8. Attorney Fees
9. Private Appraisal Fees & Fees for Independent Cost Estimate
10. Builders or Developers Fees
11. Cost of a project audit

### **Relocation Costs**

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project:

1. Replacement Housing Payments
2. Payments for moving expenses
3. Payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons
4. Timely written notices to occupants
5. Referrals to comparable & suitable replacement property
6. Property inspections
7. Counseling
8. Other assistance necessary to minimize hardship

### **C. Property Standards**

All properties rehabilitated with HOME funds must meet or exceed the minimum housing rehabilitation standards set forth in the Marion County Urban County Consortium Rehabilitation Standards for HOME-Funded Projects and Programs. These standards provide the minimum acceptable material, equipment, and workmanship standards for items to be furnished and installed under the rehabilitation specifications. These standards are intended to ensure that housing rehabilitated with HOME funds is decent, safe, sanitary, and non-luxury housing with suitable amenities.

All properties rehabilitated with HOME funds must also comply with the following below: The specifications for bidding should incorporate both the minimum property standards listed below and the Marion County Urban County Consortium Rehabilitation Standards for HOME-Funded Projects and Programs.

- State and Local Codes, ordinances, and zoning requirements

- Accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act implemented at 28 CFR part 35 and 36
- Lead Based Paint

#### **Inspection Requirement**

Construction documents must be in sufficient detail so that an initial property inspection can be conducted to identify the deficiencies that must be addressed, and so that progress and final inspections can be conducted by the PJ to determine that work was done in accordance with work write-ups.

#### **D. Project Underwriting and Subsidy Layering**

Generally, underwriting (review of sources and uses) of all HOME projects is required whether or not the projects are funded with other governmental assistance; however, the following exceptions apply to Homeowner Rehabilitation.

- a. Underwriting does not apply unless HOME funds are provided as an amortizing loan.
- b. Market analysis
- c. Developer Capacity Assessment

#### **E. Methods of Assistance**

Method of Assistance will be determined if/when Homeowner Rehabilitation under the HOME Program becomes a priority of the Marion County Board of Commissioners.

#### **F. Minimum Long-Term Affordability Period**

Marion County Board of Commissioners have established the following Minimum Long-Term affordability period.

- <15,000: 5 Years
- \$15,000 to \$40,000: 10 years
- >40,000: 15 years
- New Construction of Homeowner Housing: 15 years if over \$40,000 per unit
- New Construction of Rental Housing: 20 years

The Board of Commissioners reserves the right to require additional affordability terms beyond these minimums within each program design.

#### **G. Project Completion Deadline**

Typically, the Agency must be able to execute a written HOME agreement with the homeowner for home rehabilitation within 12 months of July 1, of the year in which funding is awarded. The

agency must typically be able to complete the rehabilitation and expend all funds within two (2) years of the execution of the written agreement.

#### **H. Overarching Program Regulations and Requirements**

All projects and programs must comply with the Overarching program regulations and requirements.

## **IV. Homebuyer Unit Development**

### **A. Project Eligibility**

Activities allowed with the use of Marion County HOME funds are activities that support the development of affordable homes for first-time homebuyers and that address the needs identified in the Consolidated Plan.

*Acquisition:* Acquiring property for the purposes of developing first-time homebuyer units. Acquiring vacant land or demolition is allowable only for specific affordable housing projects within allowable timeframes.

*Acquisition and Rehabilitation:* Assisting a Developer to acquire and rehabilitate substandard properties to be sold after rehabilitation to low-income homebuyers.

*New Construction:* Assistance to construct affordable housing.

#### *Maximum Property Value:*

For new construction or acquisition of standard housing, to be considered an eligible property, the property must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area.

For acquisition with rehabilitation of existing units, to be considered an eligible property, the estimated after-rehabilitation value of the property, which must be determined prior to any work being performed, must not exceed 95% of the median purchase price for the area.

HUD establishes the median purchase price limits, and these limits can be found on its website. The county will provide current and updated limits as they become available from HUD.

#### *Entities eligible to Administer HOME Funds*

HOME Funds may be administered only by eligible entities, which include:

- Subrecipients: Public agency or non-profit organization
- CHDO-Community Housing Development organizations

#### *Eligible Applicants/Beneficiaries*

Homebuyer households assisted must have incomes at, or below, 80% of the area median income (AMI). The County will provide current and updated limits as they become available per year from HUD.

When determining annual income for homebuyer development, income must be calculated in accordance with adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual federal annual income tax purposes.

### Income Eligibility Determination

The projected annual income of each prospective household must be determined at the times described below, depending on the type of assistance provided. A re-examination of income does not need to occur unless more than six (6) months have elapsed from the time of the initial determination to the provision of HOME assistance.

Contract to purchase existing housing: Determine eligibility at the time the HOME written agreement is entered into with the homebuyer.

Contract to purchase housing to be constructed: Determine eligibility at the time the HOME written agreement is entered into with the homebuyer.

Lease-purchase agreement (for existing housing or housing to be constructed): Determine eligibility at the time the lease purchase agreement is signed.

Income must be documented according to the acceptable forms of documentation listed below:

- Frequency: Initially (and for Subsequent Determinations if more than six (6) months have elapsed before HOME assistance is provided).
- 2 months of source documents evidencing annual income (e.g., wage statements, interest statement, unemployment, compensation statement, etc.) for the household plus any additional required documentation as established by HUD.

### **B. Eligible Project Costs**

There are a variety of costs that may be paid with HOME funds. Below is a list of eligible Homebuyer project costs.

- Acquisition Costs: Include the costs of acquiring improved or unimproved real property, including, but not limited to, the following costs:
- Acquisition of property: Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Includes the acquisition of a manufactured housing unit.
- Acquisition of vacant land: Only if construction will begin on a HOME project within 12 months of project commitment. Includes the acquisition of the land upon which a manufactured housing unit will be located.

### **Development Hard Costs**

The actual cost of constructing or rehabilitating housing considered eligible development hard costs. Eligible costs include, but are not limited to:



### Acquisition:

- a. Site Improvements: Improvements to the project site (only property owned by the project owner, where the project is located) necessary to the development of the project and in keeping with improvements of surrounding, standard projects; including on-site roads, sewer lines, water lines.
- b. Utility Connections- Creation of utility connections including off-site connections from the property line to the adjacent street.

### New Construction

- a. Generally, the cost of Construction.
- b. Demolition of existing structures only if construction will begin on the HOME project within 12 months of project commitment.
- c. Site Improvement and Utility Connections (same as above for acquisition).

### Rehabilitation

- a. Generally: Alteration, improvement, or modification of an existing structure; includes project costs to meet rehabilitation property standards.
- b. Conversion: Conversion of an existing structure from another use to affordable residential housing.
- c. Demolition: Refer to new construction demolition.
- d. Reconstruction: Rebuilding, on the same lot, of housing standing on a site at the time of project commitment.
- e. Site Improvements and Utility Connections (same as above for acquisition).

### Project Related Soft Costs

Costs include other reasonable and necessary costs incurred by the owner and associated with the financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HOME funds. These costs include, but are not limited to

Costs required preparing plans, drawings, specifications, or work write ups:

- a. Architectural Services
- b. Engineering Services
- c. Professional Services

### Other development costs

- a. Private lender origination fees
- b. Credit reports
- c. Fees for title evidence
- d. Fees for recordation and filing of legal documents

- e. Building Permits
- f. Attorney's Fees
- g. Private Appraisal Fees and Fees for independent Cost Estimate
- h. Builders or Developers Fees

#### Costs of a project audit

Costs to provide information services: Affirmative marketing and fair housing information to prospective homeowners for projects containing 5 or more HOME assisted units.

Costs of environmental review in accordance with 24 CFR part 58 which are directly related to the project.

Payment of impact fees that are charged for all projects within a jurisdiction.

### **C. Property Standards**

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

#### General Inspection Requirement

The PJ or subrecipient must conduct an on-site inspection of each project prior to occupancy and at project completion to ensure that the project meets the applicable property standards.

#### New Construction must comply with:

- a. All applicable state and local codes, ordinances, and zoning requirements.
- b. Must comply with accessibility requirements of 24 CFR part 8 which implements Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act implemented at 28 CFR parts 35 and 36.
- c. Housing must be constructed to mitigate the impact of potential disasters (earthquakes, hurricanes, flooding, and wildfires).
- d. Manufactured Home Construction must be on a permanent foundation, meaning a foundation system of supports that is capable of transferring all design loads to the ground and meets the requirements of 24 CFR.

#### Inspection Requirement

- Construction contracts and documents must describe the work to be undertaken in adequate detail so that progress and final inspections can be conducted to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.

All properties rehabilitated with HOME funds must comply with the property standards described below:

- a. Lead-Based Paint requirements at 24 CFR part 35
- b. Uniform Physical Condition Standards as described in 24 CFR
- c. Marion County Rehabilitation standards

#### **D. Project Underwriting and Subsidy Layering**

The PJ will evaluate the project, according to its established underwriting and subsidy layering requirements, to determine financial viability before making a funding commitment of funds for new construction or rehabilitation. Subsidy layering also applies to homebuyer units with multiple government funding awards.

#### **Underwriting Standards**

The County allows agencies providing purchase assistance to conduct their own screening and loan underwriting for first-time homebuyers, so long as the underwriting procedures are substantially consistent with the following procedures and policy requirements. Each homebuyer subrecipient must provide a copy of their underwriting procedures and policy requirements that must be approved by the County in advance of executing a HOME agreement with the County.

Agencies will complete a mortgage subsidy layering worksheet provided by the County prior to executing a home loan using mortgage assistance from more than one government agency with the prospective homebuyer and will submit it to the County for approval. The County staff will review each mortgage subsidy layering worksheet to ensure that there is not an excess of HOME funds awarded to the homebuyers. After receiving County approval, an Agency may proceed with the loan. The subsidy layering review documentation for each homebuyer loan will be maintained in each Agency's Project Folder.

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. Resale of the property during the affordability period, and if applicable, qualification of subsequent buyers will be governed by the Marion County HOME Homebuyer Program Guidelines for Resale and Recapture.

The PJ's underwriting guidelines specify how the PJ evaluates the homebuyer's ability and willingness to pay and the appropriateness of the proposed HOME subsidy amount. The homebuyer is evaluated according to:

- a. Housing debt and overall household debt
- b. Recurring household expenses
- c. Assets available to acquire the housing

- d. Monthly expenses of the household
- e. Financial resources available to the household to sustain homeownership

#### **E. Methods of Assistance**

The sale method is used when Marion County provides funding directly to a developer as a subsidy to reduce development costs, thereby, making the price of the home affordable to the buyer. Commonly referred as a “Development Subsidy,” these funds are not repaid by the developer to the County but remain with the property for the term of affordability. These subsidies are subject to resale provisions.

The HOME statute states that “resale provision must limit subsequent purchase of the property to income-eligible families, provided the owner with a fair return on investment, including any improvements, and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.”

Marion County’s policy is to assist households whose income is between 60-80% of AMI through its HOME-funded homeownership activities. Marion County considers affordability as a household spending no more than 30% of its income on the fixed costs of owning a home (payments of principle, interest, taxes, and insurance).

*\*\*See Marion County Resale/Recapture Policy for additional clarifications.*

#### **F. Minimum Long-Term Affordability Period**

To ensure investments provide affordable housing over the long term, the housing must be the principal residence of a low-income household throughout the period of affordability. Funding agreements will define the term of affordability. Affordability requirements will be recorded on the property through

- A deed restriction or covenant running with the land
- Loan Documents

The affordability shall be maintained for the minimum period even if the homebuyer sells the property or if the property is foreclosed.

The minimum length of an affordability period is below:

- <15,000: 5 Years
- \$15,000 to \$40,000: 10 years
- >40,000: 15 years
- New Construction of Homeowner Housing: 15 years if over \$40,000 per unit
- New Construction of Rental Housing: 20 years

Refer to the resale and recapture subsection for more details on those provisions. The County reserves the right to extend the affordability period after the minimum HOME affordability period ends.

#### **F. Resale and Recapture**

Resale and recapture provisions apply to the use of HOME funds in homebuyer development programs. Resale and recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability.

#### **G. Homebuyer Counseling**

Homebuyers receiving HOME assistance must receive pre-post purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling.

#### **H. Program Policy**

The agency must use fair housing marketing practices when selling HOME units. All HOME assisted homebuyers must obtain an appropriate term fixed rate conventional mortgage; homebuyers must receive the pre-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling. Homebuyers must receive a homebuyer counseling “certificate of completion”.

#### **I. Project Completion Deadline**

Typically the County must be able to execute a written agreement with the agency for the project within 12 months of July 1 of the year in which funding is awarded. The agency must be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

When HOME funds are expended for projects that are terminated before completion, for whatever reason, the HOME funds that have been expended are ineligible and must be repaid. The County must terminate any project that does not meet the HOME requirement for affordable housing (i.e., affordability provisions, property standards, income requirement) and repay HOME funds expended for the project.

Any unit not sold within nine (9) months of the completion of construction must be converted to rental housing 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.

## **K. Overarching Program Regulations and Requirements**

All projects must meet the overarching Program Regulations and Requirements.

## **V. Direct Homeownership Assistance**

### **A. Project Eligibility**

Activities allowed with the use of Marion County HOME Funds are activities that support first-time homebuyers in acquiring affordable homes and that address the needs identified in the Consolidated Plan.

- Acquisition of Affordable Housing: Assisting eligible homebuyers to purchase affordable homes through down payment or closing cost assistance, reducing the monthly carrying costs of a loan from a private lender, or providing mortgages for home purchase.
- Acquisition and Rehabilitation: Assisting eligible homebuyers to perform rehabilitation after purchase.

### **Eligible Properties**

Properties that are eligible for HOME assistance include those properties that will serve as the purchaser's principal residence throughout the period of affordability.

HOME assistance may be provided for the following property types:

- a. 1-4 Unit Dwelling (single family home, duplex, triplex, or four-plex)
- b. Condominium unit
- c. Cooperative unit
- d. Manufactured home

### **Homebuyer Ownership**

- a. Fee Simple Title in a 1–4-unit dwelling
- b. Owns a condominium unit
- c. Maintains a 50-year leasehold on Community Land Trust

### **Excluded form of ownership**

- a. Land Contract
- b. Installment Contract
- c. Contract for deeds

### **Maximum Property Value**

To be considered an eligible property, the homes acquired must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area. HUD establishes the median purchase price limits, and these limits can be found on their website. The County will provide current and updated limits as they become available from HUD.

### Entities Eligible to Administer HOME Funds

**Subrecipients:** Public agency or non-profit organization  
Community Housing Development Organizations (CHDO)

### Eligible Applicants/Beneficiaries

Homebuyer households assisted must have incomes at, or below, 80% of the area median income. Income limits are established by HUD, the County will provide current and updated limits as they become available yearly from HUD.

When determining annual income for homebuyer assistance, income must be calculated in accordance with adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual federal annual income tax purposes.

### Income Eligibility Determination

The projected annual income of each prospective household must be determined at the time described below. A reexamination of income does not need to occur unless more than six (6) months have elapsed from the time of the initial determination to the provisions of HOME assistance.

Contract to purchase existing housing: Determine eligibility at the time the PJ, or subrecipient, enters into a written agreement with the homebuyer.

### Income Determination Documentation

Initially (and for subsequent determinations if more than six (6) months have elapsed before HOME assistance is provided)

Acceptable Forms of documentation include wage statement, interest statement, unemployment compensation statement, social security statement, etc. (details can be found in the federal HOME regulations) The County will provide a checklist for the required forms of documentation.

## **B. Eligible Project Costs**

There are a variety of costs that may be paid with HOME Funds. Below is a no exhaustive list of eligible homebuyer project costs.

### Acquisition Costs

Acquisition costs include the costs of acquiring existing or newly constructed single-family homes including, but not limited to, the following costs:

Acquisition of Property: Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Does include the acquisition of a



manufactured housing unit albeit the housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

#### Projected Related Soft Cost

Costs include other reasonable and necessary costs incurred in associated with the financing acquisition of housing assisted with HOME funds. These costs include, but are not limited to:

- Private Lender Origination fees
- Credit Reports
- Attorney's Fees
- Fees for Title Evidence
- Private Appraisal Fees & Fees for Independent Cost Estimate
- Fees for Recordation & filing of legal documents
- Affirmative marketing and fair housing information to prospective homeowners
- Loan processing inspections
- Other services related to assisting potential homebuyers, such as housing counseling (only for individuals who ultimately own or occupy a HOME unit)

#### **C. Property Standards**

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

##### General Inspection Requirement

The PJ, or an approved home inspector, must conduct an on-site inspection of each property prior to occupancy to ensure that the project meets the applicable property standards.

##### Acquisition Only

For properties receiving assistance for acquisition only, the property must meet the property standards for existing housing or new construction.

##### Existing Housing:

Must be decent, safe, sanitary and in good repair, and meet all applicable state and local housing quality standards and code requirements. Housing must be free of any deficiencies identified in the Uniform Physical Condition Standards (UPCS). The current standard for housing must meet state and local housing property standards or codes, or in their absence, Housing Quality Standards (HQS).

Newly Constructed Housing:

Must meet state and local codes, ordinances, and zoning codes for new construction.

Existing Manufactured Housing: Foundation systems must be inspected and meet the applicable state or local codes, subject to the approval of the PJ's building officials.

In the absence of state and local codes, must meet the model manufactured Home Installation Standards at 24 CFR part 3285.

Must be connected to permanent utility hook-ups.

New Manufactured Housing- Foundations and anchoring must meet all applicable state and local codes and other requirements.

Must be on a permanent foundation, meaning a foundation system of supports that can transfer all design loads to the ground and meets the requirements of 24 CFR 203.43f (c) (i).

Must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280.

Must be connected to permanent utility hook-ups.

Uniform Physical Condition Standards (UPCS) is an inspection protocol that is used to evaluate the condition of housing. The PJ uses this inspection protocol as the minimum property condition standard.

**D. Project Underwriting and Subsidy Layering**

The PJ will evaluate the project according to its established underwriting and subsidy layering requirements to determine financial viability before making a funding commitment.

Agencies will complete a mortgage subsidy layering worksheet provided by the County prior to executing a home loan using mortgage assistance from more than one government agency with the prospective homebuyer and will submit it to the County for approval. The County staff will review each Mortgage Subsidy Layering Worksheet to ensure that there is not an excess of HOME funds awarded to homebuyers. After receiving County approval, an Agency may proceed with the loan. The subsidy layering review documentation for each homebuyer loan will be maintained in each Agency's project folder.

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. This underwriting will include standards for the first mortgage and establish the terms for any subordination of the HOME loan. Resale of the property during the affordability period, and if applicable,

qualification of subsequent buyers will be governed by the Marion County HOME Homebuyer Program Guidelines for Resale and Recapture.

The PJ's underwriting guidelines specify how the PJ evaluates the homebuyer's ability and willingness to pay and the appropriateness of the proposed HOME subsidy amount. The homebuyer is evaluated according to:

- a. Housing debt and overall household debt
- b. Recurring household expenses
- c. Assets available to acquire the housing
- d. Monthly expenses of the household
- e. Financial resources available to the household to sustain homeownership

#### **E. Methods of Assistance**

A maximum of \$25,000 will be allocated to qualified households. The term of the lien is that if the house is sold within years 1-5 then 100% of the lien is due upon sale. If the property is sold within years 6-10 then the lien will be do payable at an incremental declining amount corresponding to the year in which the property is sold. If the property is sold after 10 years, then \$10,000 will be payable upon sale. A written agreement, signed by all parties, in the form of a trust deed and will serve as the security for the assistance. The lien will be recorded in the land records of Marion County. If an increase of down payment assistance is determined to be needed by the County and it results in over \$40,000 or more in assistance the County will update its recapture provisions to determine an appropriate finance mechanism.

*\*\*See Marion County's Resale/Recapture Policy for any additional questions or concerns.*

#### **F. Minimum Long-Term Affordability Period**

To ensure investments provide affordable housing over the long term, the housing must be the principal residence of a low-income household throughout the period of affordability. Funding agreements will define the term of affordability. Affordability requirements will be recorded on the property through:

- A HOME Written Agreement
- Loan Documents
- If assistance is <\$15,000 then the affordability period is 5 years
- If assistance is between \$15,000 to \$40,000 then the affordability period is 10 years
- If assistance is >\$40,000 then the affordability period is 15 years

The Board of Commissioners reserves the right to require a longer period of affordability.

### **G. Resale and Recapture**

Resale and recapture provisions apply to the use of HOME funds in homebuyer assistance programs. Marion County will allow for the use of either resale or recapture provisions as appropriate.

Resale and recapture provisions are triggered when, during the period of affordability, the housing ceases to be the principal residence of the buyer who was assisted with HOME funds. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability.

### **H. Homebuyer Counseling**

Homebuyers receiving HOME assistance must receive pre-and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted National Industry Standards for Homebuyer Education and Counseling (NISHEC)

### **Lender Relations**

When HOME homeownership assistance is provided through a for-profit or nonprofit entity that also provides first mortgage financing to the homebuyer, the following applies:

- A written agreement between the PJ and the lender must specify the forms and amount of homeownership assistance the lender is authorized to provide to families and any conditions that apply to the provision of such homeownership assistance.
- Before the lender provides any homeownership assistance to a family, the PJ must verify that the family is low-income and must inspect the housing for compliance with applicable property standards in 92.251.
- The for-profit or nonprofit organizations are not permitted to charge fees (such as origination fees or points) to the family for the HOME homeownership assistance the organization provides; and
- The PJ must determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable.

### **I. Program Policies**

The agency must use fair housing marketing practices, as detailed further in overarching program regulation and requirements.

### **Predatory Lending**

- All HOME assisted homebuyers must obtain an appropriate term fixed rate convention mortgage.

- Homebuyers must receive pre-and post-purchase homebuyer counseling from a HUD approved housing counseling agency that has adopted NISHEC and includes education on predatory lending and other financial pitfalls.
- Homebuyers must receive a homebuyer counseling “certificate of completion”.

#### **J. Project Completion Deadline**

Typically, the County must be able to execute a written agreement with the Agency for the project within 12 months of July 1 of the year in which funding is awarded. The agency must typically be able to complete the project and expend all funds within two (2) years of the execution of the written agreement.

When HOME funds are expended for projects that are terminated before completion, for whatever reason, the HOME funds that have been expended are ineligible and must be repaid. The County must terminate any project that does not meet the HOME requirements for affordable housing (i.e., affordability provisions, income targeting, property standards, etc.) and repay HOME funds expended for the project.

#### **K. Overarching Program Regulations and Requirements**

All projects and programs must comply with the overarching program regulations and requirements.

## **VI. Rental Housing**

### **A. Project Eligibility**

Activities allowed with the use of Marion County HOME Funds are activities that support the development of affordable rental housing and that address the needs identified in the Consolidated Plan.

#### **Eligible Activities**

**Acquisition:** Acquiring property for affordable rental housing. Acquiring vacant land or demolition is allowable only for a specific affordable housing project within allowable timeframes.

**New Construction:** Constructing affordable rental housing.

**Reconstruction:** Rebuilding housing on the same lot, without increasing or decreasing the number of units, although the number of rooms may be increased or decreased.

Reconstruction also includes replacing a substandard unit of manufactured housing with new or standard unit of manufactured housing.

Conversion of an existing structure to affordable housing, without adding units is considered rehabilitation. If the conversion entails adding one or more units beyond the existing walls, the project is considered new construction.

**Rehabilitation:** Altering, improving, or modifying existing structure(s) of affordable rental housing.

#### **Eligible Properties**

Properties that are eligible for HOME assistance include those properties that are listed below. The project may be one (1) or more buildings on a single site or multiple sites under common ownership, management, and financing, but the project must be assisted with HOME funds as a single undertaking.

#### **Inclusions**

- a. Manufactured Housing
- b. Manufactured Housing Lots
- c. Permanent Housing
- d. Transitional Housing
- e. Single-Room Occupancy Housing
- f. Group Homes

## Exclusions

- a. Emergency Shelters (including shelters for disaster victims)
- b. Nursing Homes
- c. Convalescent Homes
- d. Hospitals
- e. Residential Treatment Facilities
- f. Correctional Facilities
- g. Halfway Houses
- h. Housing for Students
- i. Dormitories (including farmworker dormitories)
- j. Rental properties previously financed with HOME funds cannot receive additional HOME assistance during the HOME affordability period unless assistance is provided during the first year after project completion.

## Entities Eligible to Administer HOME Funds

- a. Small Scale property owners
- b. Nonprofit housing providers
- c. Redevelopment organizations
- d. For-profit developers
- e. Local governments
- f. Public housing authorities
- g. Community Housing Development Organizations (CHDO)

Home regulations require that all HOME funds benefit households with incomes at, or below 80% of the area median income (AMI). If funded, PJ must invest HOME funds for rental units, such that 90% of the units are occupied by households with incomes at or below 60% AMI. In projects with five (5) or more HOME-assisted units, at least 20% of the HOME-assisted units must be occupied by households with incomes at or below 50% AMI.

Projects must be consistent with the Consolidated Plan which further targets eligible applicants/beneficiaries. The income limits are established by HUD and the County will provide current and updated limits.

Income must be calculated in accordance with 24 CFR 5.609 (commonly referred to as the “Part 5 (Section 8 Program) definition”). The passbook savings rate for calculation of imputed assets income over \$5,000 shall be the same passbook savings rate utilized by the local Public Housing Authority. Income must be documented according to the acceptable forms of documentation established by HUD.

- Initially
- Subsequent Determination-Written Statement from the household of the amount of the household's annual income and family size. The certification must state that the household will provide source documents upon request. Written statement from the administrator of a government program under which the household receives benefits and which examines each year the annual income of the household.

\*An owner of a multifamily project with an affordability period of 10+ years who uses this form of documentation to re-examine tenant's annual income, must examine the income of the tenant by 2 months of source documents every 6<sup>th</sup> year of affordability period.

When designated rental units become vacant during the period of affordability, subsequent households must be income-eligible and must be charged the applicable rent.

An owner must have written tenant selection policies and criteria that are consistent with the purpose of providing housing for the very low-income and low-income households. An owner cannot refuse to lease HOME-assisted units to persons with a voucher for Section 8 Tenant Based Assistance. An owner must comply with the PJ's affirmative marketing requirements.

## **B. Eligible Project Costs**

There are a variety of costs that may be paid with HOME funds. Funding is limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project. Below is a non-exhaustive list of eligible Rental Housing project costs; check with Marion County to determine the eligibility of costs that fall outside of these examples.

- Acquisition Costs: Acquisition Costs include the costs of acquiring improved or unimproved real property, including, but not limited to, the follow costs:
- Acquisition of Property: Acquisition of existing standard property that meets applicable HOME standards, or substandard property in need of rehabilitation. Including the acquisition of a manufactured housing unit.
- Acquisition of Vacant Land: Acquisition of vacant land only if construction will begin on a HOME project within 12 months of project commitment. Includes the acquisition of the land upon which a manufactured housing unit is located.

*\*After acquisition, rental units must meet HOME rental occupancy, affordability, and lease requirements*

*\*The manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.*



### Development Hard Costs

The actual costs of constructing or rehabbing housing are considered eligible Development Hard Costs. Eligible costs include, but are not limited to:

- Acquisition (of Standard Housing)
- Site Improvements-Improvements to the project site (only property owned by the project owner, where the project is located) necessary to the development of the project and in keeping with improvements of surround, standard projects; including on-site roads, sewer lines, water lines.
- Utility Connections-Creation of utility connections including off-site connections from the property line to the adjacent street.

### New Construction

- Demolition: Demolition of existing structures (Uniform Relocation Act and Section 104 (d) only if construction will begin on the HOME project within 12 months of project commitment).
- Site Improvements-Refer to Acquisition Site Improvements above for examples.
- Utility Connections-Refer to Acquisition Utility Connections above for examples.
- Laundry and Community Facilities-For multi-family rental housing only, costs to construct or rehabilitate laundry and community facilities located within the project and that are for the use of project residents.

### Rehabilitation

- Generally: Alteration, improvement, or modification of an existing structure, including costs to meet Rehabilitation Property Standards.
- Conversion: Conversion of an existing structure from another use to affordable rental housing.
- Demolition: Refer to New Construction Demolition above for examples of eligible costs.
- Reconstruction: Rebuilding, on the same lot, of housing standing on a site at the time of project commitment.
- Site improvements: Refer to acquisition site improvements above for examples.
- Utility Connection: Refer to Acquisition Utility Connections above for examples.
- Laundry and Community Facilities: For multi-family rental housing only, refer to New Construction Laundry and Community Facilities above for examples.

### Project Related Soft Costs

- a. Architectural Services
- b. Engineering Services
- c. Professional Services

- d. Private lender origination fees
- e. Credit Reports
- f. Fees for Title Evidence
- g. Fees for Recordation & filing of legal documents
- h. Building Permits
- i. Attorney Fees
- j. Private Appraisal Fees and Fees for independent Cost estimate
- k. Builders or Developers Fees
- l. Cost of a project audit
- m. Cost to provide information services-Affirmative marketing and fair housing information
- n. Cost of environmental review

#### Relocation Costs (for persons displaced by the project)

Relocation costs include the cost of relocation payments and other relocation assistance to persons displaced by the project.

- a. Replacement Housing Payments
- b. Payments for moving expenses
- c. Payments for reasonable out of-pocket costs incurred in the temporary relocation of persons
- d. Property inspections
- e. Counseling

### **C. Property Standard**

Activities and costs are eligible for HOME assistance only if the housing meets certain minimum property standards upon project completion.

#### General Inspection Requirement

The PJ must conduct an on-site inspection of each project at project completion and during the period of affordability to determine that the project meets the applicable property standards. Additional inspection requirements may apply, depending on the activity.

Marion County may charge fees to cover the cost of ongoing monitoring and physical inspection of HOME projects during their period of affordability.

#### Acquisition of Existing Housing

The property standards for acquisition vary depending on the HOME assistance provided. The requirements below apply when existing housing is acquired without rehabilitation or construction.

- Rental Housing that was newly constructed or rehabilitated less than 12 months before the Date of Commitment of HOME funds: Must meet the New Construction or Rehabilitation Property Standards.
- Rental Housing acquired with HOME funds (housing that was not newly constructed or rehabbed within 12 months of project commitment of HOME funds): Must meet the applicable Rehabilitation Property standards, which are described hereafter. Property that does not meet these standards cannot be acquired with HOME funds unless it is rehabilitated to meet this standard.

### Inspection Requirement

An inspection must be conducted by the PJ no earlier than 90 days before the commitment of HOME assistance in order to document compliance. In addition, rental housing that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME funds, the approved building plans and Certificates of Occupancy must be reviewed to document compliance.

### New Construction

New Construction projects must meet the Property Standards below:

- a. State and Local codes, ordinances, and zoning requirements.
- b. Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act implemented at 28 CFR parts 35 and 36, as applicable.
- c. Covered multifamily dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act.
- d. Housing must be constructed to mitigate the impact of potential disasters, in accordance with State and Local Codes, ordinances, or other requirements, or such other requirements as HUD may establish.
- e. Manufactured Homes must be on a permanent foundation, meaning a foundation system of supports that can transfer all design loads to the ground and meets the requirements of 24 CFR 203.43f(c)(i). This definition is consistent with the FHA mortgage insurance requirements for all manufactured homes.
- f. At the time of completion, must be connected to permanent utility hook-ups.
- g. At the time of completion, must be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

## Rehabilitation

All properties rehabilitated with HOME funds must meet or exceed the minimum housing rehabilitation standards set forth in the Marion County Rehabilitation standards for HOME-Funded Projects and Programs. These standards provide the minimum acceptable material, equipment, and workmanship standards for items to be furnished and installed under the rehabilitation specifications. These standards are intended to ensure that housing rehabilitated with HOME funds are decent, safe, sanitary, and non-luxury housing with suitable amenities.

All properties rehabilitated with HOME funds must also comply with the property standards described below.

The specifications for bidding should incorporate both the minimum property standards listed below and the Marion County Rehabilitation Standards for HOME-funded Projects and Programs.

- a. State and Local codes, ordinances, and zoning requirements.
- b. Must comply with accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act implemented at 28 CFR parts 35 and 36, as applicable.
- c. Covered multifamily dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act.
- d. Housing must be constructed to mitigate the impact of potential disasters, in accordance with State and Local Codes, ordinances, or other requirements, or such other requirements as HUD may establish.
- e. Lead-Based Paint.
- f. In the absence of State and Local codes, must meet the Model Manufactured HOME installation Standards.
- g. Manufactured Homes must be on a permanent foundation, meaning a foundation system of supports that can transfer all design loads to the ground and meets the requirements of 24 CFR 203.43f(c)(i). This definition is consistent with the FHA mortgage insurance requirements for all manufactured homes.
- h. At the time of completion, must be connected to permanent utility hook-ups.
- i. At the time of completion, must be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

### Rental Housing-Ongoing Property Standards

Home-assisted rental housing must meet all ongoing property condition standards throughout the HOME affordability period to ensure the housing is maintained as decent, safe, and sanitary housing in good repair.

### Inspection Requirement

Owners of rental properties will be required to provide an Annual Owner's Certification as to the continued operations of the housing in compliance with the HOME requirements and established local standards. In addition, the PJ must conduct ongoing property inspections, in accordance with 92.504 (d). HOME properties will be inspected utilizing the Uniform Physical Condition Standards (UPCS) or other such standards acceptable to the County.

Marion County will perform an inspection within 12 months of project completion and every three (3) years thereafter (until the affordability period ends).

If the PJ identifies deficiencies, the PJ must conduct a follow-up inspection within 12 months to ensure the deficiencies have been corrected. However, for certain non-hazardous deficiencies, a third party, may document (i.e., through a paid invoice for work order) that the deficiency has been corrected. Any deficiencies affecting health and safety must be corrected immediately.

### **D. Project Underwriting and Subsidy Layering**

The PJ will evaluate the project, according to its established underwriting and subsidy layering requirements, to determine financial viability before making a funding commitment of funds for new construction or rehabilitation.

In addition, for multi-family rental housing projects of 26 more total units, the PJ must determine that all work will be performed in the rehabilitation of the housing and the long-term physical needs of the project through a capital needs assessment of the project.

### **E. Methods of Assistance**

- The County will provide gap financing in the form of a loan or grant to affordable housing projects, with terms determined by the County in its underwriting review of the project.
- HOME funds may be used with Low-Income Housing Tax Credits (LIHTCs). Where HOME and LIHTC regulations vary, generally, the more restrictive regulations apply.

Currently, it was not established in the Consolidated Plan that rental housing is a priority therefore any method of assistance will be evaluated at the time if/when it becomes a priority for the County.

### Projects Containing both HOME and Non-HOME units

- When HOME funds are used to fund rental housing projects with multiple units, the HOME funds should reflect the proportional allocation of development costs to the HOME-Assisted units.
- When a project contains HOME and non-HOME units, the owner, developer, or sponsor of the rental housing may designate, at the time of project commitment, whether the units are “fixed” or “floating.” This designation must be contained in the written agreement between the County and the owner, and the HOME units must be identified no later than the time of initial occupancy of the unit. Regardless of the designation, the number of HOME-assisted units must be the number determined by the County.

### Fixed vs. Floating Units

- Fixed-Units designated as HOME remain the same throughout the period of affordability.
- Floating Units designated as HOME change over time but must remain comparable to the non-assisted units over the affordability period in terms of size, features, and number of bedrooms. The total number of HOME assisted units must remain constant.

### **F. Minimum Long-Term Affordability Period**

Funding agreements will define the term of affordability. The HOME requirements described in this Rental Housing section apply throughout the period of affordability. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership.

New Construction of or acquisition to Rental Housing: 20 years

The Board of Commissioners reserves the right to require a longer-term affordability period if it so chooses if/when the requirement needs to be established.

### **G. HOME Rent Requirements**

- The HOME program establishes two (2) types of rent restrictions, which apply to the rent plus the utilities (or the utility allowance, as applicable). The applicable maximum rents established by HUD annually for each category. The County will provide current and updated maximum rents.
- The owner must maintain documentation to back up rent and utility allowance calculations.

## HOME and Low-income Housing Tax Credits

If the assisted unit has multiple financing sources, e.g., HOME, State Housing Trust Fund, LIHTC, etc., the most restrictive guidelines must be met for the rent and income limits. The tenant can at no time be charged more than HOME rent limits even in conjunction with another program, except where there is federal or state project-based rent subsidy program.

### Rent Restriction

High HOME Rents: The maximum High HOME rent is the lessor of:

- HUD-Established Fair Market Rent (FMR) or
- Rent does not exceed 30% of the adjusted income of a family whose annual income equals 60% of the area median income (AMI) as determined by HUD.

### Low HOME Rents:

- Rent does not exceed 30% of the annual income of a family whose annual income equals 50% AMI.
- Rent does not exceed 30% of the family's adjusted income. If the unit receives federal or state project based rental subsidy and the very-low-income family pays as a contribution toward rent no more than 30% of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the federal or state project based-rental subsidy program.

### Utility Allowance Calculations

- The PJ is required by 24 CFR Section 92.252 (d) (1) to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. Marion County requires properties receiving County HOME funding to submit annual utility allowance calculation for approval. Utility allowance submission including all back up documentation must be submitted.
- Every unit assisted with HOME funds is subject to annually updated rent limits, which are recalculated after HUD publishes updated FMRs and AMIs. The County will publish on its website the current HUD HOME Program Monthly Rent Limits for Low and High HOME Rents by unit size. Regardless of changes in FMR's and AMI's 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 PJ must review and approve (or dis-approve) the rents for each HOME-assisted rental project each year to ensure that they comply with the HOME limits and do not result in undue increases from the previous year. Owners must annually provide the PJ with information on rents and occupancy of HOME-assisted units to demonstrate that rents do not exceed the HOME maximum rent limits.

- Owners may adjust rents as soon as after the effective date as the lease permits. For any increases in rent, the owner must provide tenants with not less than 30 days written notice.
- Occupants of HOME-assisted units must be recertified as income eligible on an annual basis. If a households' income has changed, the owner may increase or decrease the rent, while maintaining the agreed upon number of units renting in the high and low HOME rent categories. If a unit moves from one category to the other, the rent for the next available unit must be set to bring number of units back into compliance.
- Tenants who no longer qualify as low-income must pay as rent the lesser of the amount payable by the tenant under State or local law or 30% of the household adjusted income, except those 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 not in excess of limits governed by section 42. For tenants in HOME units designated as floating, who no longer qualify as low-income, rent must not exceed the FMR for comparable, unassisted units in the neighborhood, and as may be otherwise regulated by other regulatory agreement limits.

## **H. Tenant Leases**

The tenant and the owner of rental housing must enter into a written lease agreement of not less than one year unless a shorter period is mutually agreed upon.

The following lease provisions are explicitly prohibited; refer to the regulation for a description of these prohibited lease provision.

### **Prohibited Lease Provisions**

- a. Agreement to be sued
- b. Treatment of property
- c. Waiver of a jury trial
- d. Waiver of notice
- e. Excusing owner from responsibility
- f. Waiver of right to appeal court decision
- g. Tenant chargeable with cost of legal actions regardless of outcome
- h. Waiver of legal proceedings
- i. Mandatory supportive services (except as permitted in transitional housing projects)

### **Lease Terminations**

Termination of the lease requires a 30-day notice of refusal to renew or termination of tenancy. Owners may only refuse to renew or terminate the lease of a tenant residing in a HOME-assisted



unit for good cause. Good cause is defined as: repeated violation of lease terms; violations of federal, state, or local law; or for transitional housing: completion of the tenancy period or a failure to follow any required transitional housing supportive services plan. An increase in a tenant's income does not constitute good cause for termination of, or refusal to renew, a lease. Terminating the occupancy of a tenant whose income increase could result in creating a disincentive for tenants to increase their incomes, for fear of losing their housing.

## **I. Financial Management and Oversight**

Except for acquisition and financing costs, HOME funds are available as reimbursement for eligible expenses. All costs must be in direct relation to the County's approved budget and supporting documentation of all expenditures is required for all costs paid with HOME funds.

If HOME Funds will be reimbursing construction related costs, eligible costs will be reimbursed at a pro-rata share, i.e., if the County's portion of the total development costs is 25%, the county will reimburse 25% of the eligible construction related costs on each invoice.

### **Project Close-Out**

As part of the project close-out requirements with the County, the owner shall prepare a final accounting, including sources and uses, for the final development costs. In the event a cost certification is required by another funder, a copy of the Cost Certification will be provided to the County.

### **Financial Oversight**

At least annually, the PJ must examine the financial condition of HOME assisted rental projects to determine the continued financial viability of the project. The purpose of this requirement is to enable that PJ to identify HOME-assisted projects that may become financially troubled before problems become severe. If the financial review indicates potential problems, the PJ must take actions to correct those problems to the extent feasible.

The Owner must submit an annual performance report to Marion County for review or as may subsequently be required by the County. If problems are identified, the County may offer technical assistance and/or request additional documentation and corrective action.

### **Troubled Home-Assisted Rental Housing Projects**

A HOME-assisted rental unit is considered no longer financially viable when its operating costs significantly exceed its operating revenue. For troubled projects, the County may take the following actions with prior written HUD approval:

### **Investment of additional HOME Funds for troubled HOME Assisted Rental Housing Projects**

With HUD pre-approval, Marion County may invest additional funds to rehabilitate the HOME-assisted units, to recapitalize project reserves, or take other pre-approved actions for the HOME units.

The total HOME funding for the project (initial investment amount plus the additional funds) may not exceed the maximum per unit subsidy, established at 92.250(a). This determination is made using the maximum per unit subsidy that is in effect at the time the additional funds are invested.

HUD's approval for this action must be in the form of a written memorandum of agreement. In granting approval for an additional investment of funds, HUD may require an extension of the affordability period and/or an increase in the number of HOME-assisted units.

#### Reduction of the number of HOME-assisted units

A reduction in the number of HOME-assisted units is permitted only if the project contains more than the minimum number of units required to be designated as HOME-assisted units under 92.205(d)

#### **J. Project Completion Deadline and Lease-Up**

The following deadlines apply to all HOME rental housing projects:

##### Within two (2) years of contract execution:

Projects must be completed within two (2) years of the date of the executed loan agreement, in accordance with the HOME Project Completion deadline. Marion County may request a one-year extension of this deadline to HUD for their review and approval.

Rental projects must be complete, meaning 100% of HOME funds have been disbursed for the project; and the project completion information has been entered in the disbursement and information system (IDIS) established by HUD

##### Within six (6) months of Project Completion:

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 this timeframe, the Developer must submit marketing information and, if appropriate, a marketing plan.

##### Within Eighteen (18) months of project completion:

HOME funds invested in any housing unit that have not been rented to eligible tenants within this timeframe shall be repaid to Marion County and or HUD.

## **K. Overarching Program Regulations and Requirements**

All projects and programs must comply with the overarching program regulations and requirements.

## **VII. Community Housing Development Organizations (CHDO)**

In accordance with 92.300, a minimum of 15 percent of the County HOME allocation must be set aside for housing projects developed by a Community Housing Development Organizations (CHDOs). CHDO activities must result in the development of affordable housing in Marion County that meets the requirements of the County's HOME Program Guidelines and all regulatory requirements. A CHDO must act as project owner, developer, or sponsor.

### **A. CHDO Eligibility**

To be eligible for certification as a CHDO, an organization must meet the HOME Program requirements and have a history of successfully developing affordable housing or must demonstrate the ability to develop affordable housing. The organization must be incorporated as a nonprofit organization under Oregon law and must have IRS not-for-profit tax-exempt status, e.g., 501 (c) (3). Nonprofit organizations that are affiliated with religious organizations must demonstrate that the housing development programs of the organization are conducted in a wholly secular manner. The 2013 Rule expands this definition to include: (1) a subordinate of a central organization under IRC 905; or (2) a wholly owned entity that is regarded as an entity separate from its owner for tax purposes (e.g. a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), when the owner organization has a tax exemption ruling from the IRS under section 501 (c) (3) or 501 (c) (4) of the IRC.

At least one-third of the CHDO board members must be "residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations". Marion County considers a person to be a resident of a low-income neighborhood if they live in a block group where 51% or more households are at or below 80% of median income.

The 2013 Rule requires that a nonprofit have paid employees with housing experience appropriate to the role the nonprofit expects to play in projects (i.e., developer, sponsor, or owner) in order to receive a CHDO designation. Note, the definition of "owner" has been significantly revised in the 2013 Rule at 92.300. The Rule now permits a CHDO to own and operate housing that it does not develop. Therefore, a nonprofit that will undertake development activities must demonstrate development capacity. A nonprofit that will undertake property ownership and management must demonstrate ownership/management experience. The requirement for development capacity can no longer be demonstrated through the use of consultants with development experience, except during the first year of operation as a CDHO, provided that the consultant trains the CDHO staff.

Organizations may not discriminate in their membership or in the implementation of their activities on the basis of race, color, religion, national origin, sex, disability, sexual orientation, gender identity or familial status.

## **B. CHDO Certification**

Before funds can be dispersed to a CHDO the CHDO must be certified by Marion County.

## **C. CHDO Operating Support**

As provided in 24 CFR 92.208 and 92.300, the County may award up to five percent (5%) of its annual HOME allocation to qualified CHDOs for operating assistance. In order to be considered for operating assistance:

1. The CHDO must submit an application requesting operating funds for the following program year.
2. The CHDO must be certified by the County as a CHDO in the year prior to the year for which the CHDO is requesting operating funds.
3. The County must be reasonably certain that the CHDO will receive CHDO set-aside funds under 24 CFR 92.300(a) from the County within 24 months of receiving funds for operating expenses.

### **Eligible costs:**

- Related to day-to-day operations of the housing development functions: If an organization has multiple functions or missions, the eligible activities and costs must relate to the housing development activity rather than other organizational activities (e.g., housing property management, housing related services, social services, community organizing, etc. are ineligible activities under this program).
- May include costs associated with staff involved in section and acquisition of properties, obtaining project financing, securing, and supervising contractor (including technical assistance providers as well as construction contractors), initial lease-up or sale of completed projects.
- May include administrative supervision and support for housing development functions. Such costs must be budgeted and billed as direct costs rather than as an overhead percentage. Indirect costs are not generally eligible unless the organization has a federally approved indirect cost allocation plan.

### **Ineligible costs include:**

Capital costs for improvement to office space.

Project-specific costs such as financing, pre-development costs (architectural, engineering, appraisals, legal, etc.), site control and project equity.

## **D. Overarching Program Regulations and Requirements**

All projects and programs must comply with the overarching program regulations and requirements.

## **VIII. Tenant Based Rental Assistance**

The Board of Commissioners will annually monitor the subrecipient to ensure compliance with the HOME Rule.

### **A. Project Eligibility**

Home tenant-based rental assistance (TBRA) must be provided to allow individuals and families to locate permanent housing (i.e., housing that does not have a designated length of state) of their choice. Three (3) key features distinguish HOME Rental Housing and HOME TBRA.

#### **Eligible Activities**

Activities allowed with the use of Marion County HOME funds are activities that provide financial assistance to households to obtain and maintain permanent housing and that address the needs identified in the Consolidated Plan.

- Project Delivery: Administering Rental Assistance.
- Rental Assistance: Subsidy designed to make housing more affordable.
- Security Deposit and Utility Deposit: Subsidy designed to assist households move into housing.

Properties that are eligible for HOME assistance include those properties that are listed below. Households must be able to select the unit of their choice.

- Privately owned housing.
- Public Housing Including Section 811, Section 202, Hope VI, Continuum of Care Program, and HOPWA.
- Housing units developed or rehabilitated with HOME assistance.

#### **Ineligible properties include:**

- Resident owner of a cooperative or mutual housing unit.
- Overnight or temporary shelter.
- A housing unit that is receiving rental assistance that already reduces the tenant's rent payment to 30% of adjusted monthly income.

Only eligible applicants/beneficiaries may apply to receive TBRA assistance. The Agency must maintain an individual file for each household served.

#### **Income Eligibility**

Households assisted must be below the 80% LMI Threshold to qualify for assistance.

### Income Determination Documentation

Income must be documented according to the acceptable form of documentation listed below. In determining income-eligibility, the Agency must re-verify the household size, composition, as well as income.

Income must be verified initially and each subsequent year with 2 months of source documents evidencing annual income (wage statements, interest statements, unemployment compensation documentation, etc.) as required documents established by HUD.

### HOME TBRA assistance and tenant on section 8 waitlist (92.209)

Tenants on the Section 8 waiting list should not lose their place on the waitlist if they are selected to receive HOME TBRA assistance.

### **B. Eligible Project Costs**

**Project Delivery Costs:** Such eligible costs include the costs to administer the TBRA. Administering Rental Assistance which includes only the specific costs below, is listed in the regulation as an administration cost, however, these costs may be considered a project delivery cost.

- Inspecting housing occupied by a TBRA recipient
- Determining Income Eligibility of applicants

Calculating the amount of TBRA assistance and disbursing the assistance are not eligible project costs as they are administrative costs.

### Rental Assistance

TBRA assistance may be used to provide up to twenty-four (24) months (extensions may be provided subject to HOME funding availability) of rental assistance on behalf of an income eligible household. Rental assistance must be provided to allow individuals and families to locate housing of their choice with Marion County, except as permitted by the Violence against Women Act (VAWA). If the household later moves to another suitable unit, the rent assistance may be applied to the new unit. It does not include rental arrears.

### Security Deposits and Utility Deposits

TBRA assistance may be used to pay for security deposits either with or without Rental Assistance. Only an eligible applicant/beneficiary may apply for HOME assistance; while HOME regulations permit payments directly to the tenant, Marion County policy is that the payment, either as a loan or a grant, must be made directly to the landlord/owner.

- Security Deposit: A one-time payment of up to two (2) month's rent.
- Utility Deposit Assistance: Only if this assistance is provided with rental assistance or security deposit payment.

### **C. Property (Unit) Standards**

The agency must approve the housing unit before assistance is provided on behalf of an eligible household to ensure compliance with the TBRA Property (unit) standards. The Agency must inspect housing units before assistance is provided and at least annually thereafter during the period of assistance to ensure that the following property (unit) standards are met. If security deposit assistance alone is provided (without rental assistance) Housing Quality Standards inspections are required only at the time the security deposit assistance is provided.

Housing standards must be inspected initially and annually. The property must comply with all Housing Quality Standards (HQS), 24 CFR 982.401; if a unit fails HQS, the landlord/owner may be given a reasonable amount of time (generally 30 days) to correct any deficiencies and the Agency must re-inspect the unit.

Occupancy Standards must be inspected initially and annually. The unit must have at least one (1) bedroom or living/sleeping room for each two (2) persons

Rent Reasonableness must be evaluated initially and annually. Gross rent must be reasonable in relation to other units of comparable size and amenities in the region; rent reasonableness must be documented through the Rent Reasonableness Certification. To demonstrate that the assisted unit is rent reasonable, the Agency must compare the proposed unit's gross rent to the rent of at least three (3) comparable unassisted units in the area by utilizing the Dupre + Scott Rent Reasonableness Survey or completing a Supplemental Analysis of three (3) comparable units on a unit-by-unit basis using other data sources.

Lead-Based Paint Visual Assessment must be evaluated initially and annually, and the property must comply with the requirements set forth in 24 CFR part 35.

In addition to inspections the PJ must conduct annual on-site inspections to determine compliance with the applicable standards established as part of the PJ property standards for the HOME Program.

### **D. Methods of Assistance**

#### **Payment (Rent) Standard**

Marion County establishes the rent standard annually based on a market analysis of moderately priced units that meet Housing Standards in Marion County. Marion County uses this local data to establish the rent standard according to the unit size based on the number of bedrooms. The County will provide current and updated payment standards.



### Subsidy Limit

The rental assistance subsidy varies depending on the participant's income, which must be calculated according to the verification of income method established by the PJ. Income eligible tenants must contribute towards the contract rent in order to receive TBRA rental assistance according to the following parameters:

Minimum Tenant Contribution: 30% of the household monthly adjusted gross income is required. The rental assistance will be the difference between the rent standard and 30% of the household monthly adjusted gross income.

### Utility Allowances

In calculating the tenant contribution, a utility allowance must be factored into the calculation if utilities are not included in the unit rent. The utility allowance schedule established annually by the local public housing authority must be used. Where a utility reimbursement must be made, the reimbursement must be paid to the utility company on behalf of the tenant, while HOME regulations permit payments directly to the tenant, Marion County policy is that utility reimbursements may not be paid directly to the tenant.

## **E. Housing Agreements**

### Tenant Leases

The tenant and the owner of rental housing must enter into a written lease agreement of not less than one (1) year unless a shorter period is mutually agreed upon. The agency must review and approve all leases; if the lease is not reasonable the agency may not approve it. The agency must review any rent increases by the landlord/owner. Please note that it is considered a conflict of interest for the Agency to approve the lease of an Agency-owned unit; therefore, for any unit that is owned by the Agency, the PJ must approve the lease before assistance is provided. The following lease provisions are explicitly prohibited; refer to the regulation for a description of these prohibited lease provisions.

- a. Agreement to be sued
- b. Treatment of Property
- c. Waiver of a Jury Trial
- d. Waiver of notice
- e. Excusing owner from responsibility
- f. Waiver of right to appeal court decision
- g. Tenant chargeable with cost of legal actions regardless of outcome
- h. Waiver of legal proceedings
- i. Mandatory supportive services

## **Lease Terminations**

Termination of the lease requires a 30-day notice of refusal to renew or termination of tenancy. Landlords/owners may only refuse to renew or terminate the lease of a tenant residing in a HOME-assisted unit for good cause. Good cause is defined as: repeated violation of lease terms; violations of federal, state, or local law. Termination of assistance is not required if the lease is terminated; the Agency may continue assistance subsequent to termination of a lease once the participant enters into a new lease. However, the agency must develop standards regarding whether assistance will continue after the termination of a lease and the circumstances under which this may occur. These standards must be applied consistently to all participants.

## **Rental Assistance Agreement**

The term of a rental assistance agreement, both between the Agency and the owner/landlord, as well as between the agency and the tenant, many do not exceed twenty-four (24) months, but may be renewed subject to the availability of HOME funds. The rental assistance agreement must begin on the first day of the term of the lease. Rental assistance agreements must be fully executed before assistance is provided on behalf of the tenant.

### **Between the Agency and the Owner/Landlord**

The agency may make rental assistance payments only to landlords/owners with whom the entity has a rental assistance agreement. The rental assistance agreement must include the terms under which rental assistance will be provided, the term of the agreement (which must terminate on the termination of the lease or within a reasonable amount of time after a tenant is determined to be over-income), that the landlord/owner will provide the Agency with a copy of all written notices to the participant (including notices to vacate, notices of noncompliance, etc.) and that the landlord/owner will comply with the HOME regulations.

### **Between the Agency and the Tenant**

The Agency must enter into a rental assistance agreement with the tenant. The rental assistance agreement must include the terms under which rental assistance will be provided, the term of the agreement (which must terminate within a reasonable amount of time after a tenant is determined to be over-income; but which need not terminate on the termination of the lease, however, no payments may be made after lease termination until the participant enters a new lease), that the landlord/owner will provide the Agency with a copy of all written notices to the participants (including notices to vacate, notices of noncompliance, etc.)

## **Supportive Services**

Supportive services are not an eligible activity or cost under TBRA. Tenants receiving rental assistance may be required to participate in a self-sufficiency program as a condition of receiving assistance; however, rental assistance may not be terminated for a failure to continue

participating in such a program. Appropriate, non-mandatory services may be provided to recipients of TBRA assistance through another program, but receipt of TBRA assistance may not be tied to services.

## **IX: Overarching Program Regulations and Requirements**

### **A. Fair Housing and Civil Rights**

Agencies must comply with federal, state and local fair housing and civil rights laws, regulations, and Executive Orders, including Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq); the Fair Housing Act (42 U.S.C. 3601-3620); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); and the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107).

Discrimination in the provision of housing is prohibited based on a protected class, federal and the state of Oregon recognize the following protected classes:

- Race or color
- National Origin
- Disability
- Creed
- Sex
- Marital Status
- Familial Status
- Sexual Orientation or Gender Identity
- Veteran or Military Status

### **Affirmative Marketing**

Marion County requires all agencies receiving HOME funds for projects with five (5) or more HOME assisted units and for housing programs (direct homeownership assistance, homeowner rehabilitation, and tenant-based rental assistance) to have plans to affirmatively market housing to eligible populations. This requirement is included in the contracts between Marion County and Agencies receiving the HOME funds.

As part of the application process, Agencies will be asked to describe their affirmative marketing plan for the HOME-assisted units and HOME-assisted programs. The affirmative marketing plan must include information on:

- How the agency will inform the public and potential residents about fair housing laws.
- How the Agency will affirmatively market the project units or program assistance and inform persons who might not normally apply for housing through special outreach; and
- How the Agency will document affirmative marketing efforts and evaluate their success.

The marketing plans are reviewed by County staff when the projects are monitored. Housing projects must display the Equal Housing Opportunity information and logo in an area that is accessible to eligible households.

Agencies shall use the Equal Housing Opportunity slogan, logo, or statement in all advertisements, public service announcements, press releases and information mailings. The HUD Fair Housing poster must be displayed in offices where rental activity takes place for all properties with five (5) or more units.

The affirmative marketing requirements and procedures adopted by the sponsor must include:

- a. Methods for informing the public and federal fair housing laws and affirmative marketing policy.
- b. Procedures to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing or housing assistance program without special outreach (community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies).
- c. Records that will be kept describing actions taken to affirmatively market units housing assistance program and records to assess the results of these actions.

Developers to the maximum extent possible, will be inclusive of entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this ACT or any other federal housing law applicable to such jurisdiction.

#### **Housing Accessibility for Persons with Disabilities**

Agencies must comply with the follow's laws:

1. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) and the Fair Housing Amendments Act of 1998 (Amendments Act-FHAA) prohibit discrimination in the provision of housing based on a protected class.
2. Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to those receiving federal assistance.
3. The Americans with Disabilities act (ADA) of 1990 addresses public accommodations, which include rental offices and common areas.

### **Disability Rights of Housing**

Federal laws define a person with a disability as “any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.” Major life activities include walking, talking and hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

Federal laws provide specific protections for persons with disabilities in both public and private housing.

- **Prohibition of Discrimination:** Agencies may not refuse to rent/sell to persons because of a disability. It is unlawful to treat persons with disabilities different than persons who are not disabled.
- **Reasonable Accommodations:** Persons with disabilities have the right to reasonable accommodations. A reasonable accommodation is changing the rules, policies, or services so that a person with a disability has equal opportunity to use and enjoy a dwelling unit or common space.
- **Reasonable Modifications:** Persons with disabilities have the right to reasonable modifications. A reasonable modification is modifying a structure so that a person with a disability has the full enjoyment of the housing and related facilities.

Reasonable modifications are generally made at the residents' expense, with the exception of federally funded housing.

### **Design and Construction Requirements**

The Fair Housing Act requires that new multifamily housing, including both public and private housing is designed and constructed to ADA accessible. Covered multifamily housing consisting of four (4) or more units built for first occupancy after March 13, 1991, with an elevator, all units must comply with the following seven (7) design and construction requirements listed below, for housing without an elevator, all ground floor units must comply with these requirements.

- a. Accessible Entrance on an Accessible Route
- b. Accessible Public and Common-Use Areas
- c. Usable Doors
- d. Accessible Route into and through the Dwelling unit
- e. Accessible light switches, electrical outlets, thermostats, and other environmental controls
- f. Reinforced walls in bathrooms
- g. Usable kitchens and bathrooms

### **People with Disabilities in Federally Assisted Housing**

Programs that receive federal assistance must comply with the requirements of Section 504; Section 504 prohibits discrimination against an otherwise qualified individual with a disability, solely based on the disability.

Housing that complies with Section 504 must meet the Uniform Federal Accessibility Standards (UFAS). Below are examples of Section 504 requirements;

New Construction and Substantial Rehabilitation of Multifamily Housing.

- 5% of the units (but not less than 1 unit) must be accessible to persons with mobility impairments, and
- An additional 2% of the units (but not less than 1 unit) must be accessible to individuals with sensory impairments.

Rehabilitation that is less extensive than substantial rehabilitation.

- Alterations must (to the maximum extent feasible) make the unit accessible to and usable by persons with disabilities until 5% of the units are accessible to persons with mobility impairments.
- Alterations to the common areas must (to the maximum extent feasible) make the project accessible.

### **B. Equal Opportunity**

Federally funded housing projects/programs are subject to Executive Order 11246, as amended which prohibits Agencies from discrimination against employees or applicants for employment based on race, color, religion, national origin, citizenship status, unfair documentary practices regarding employment verification, sex, age, and disability. These requirements are included in all contracts with Agencies.

### **Section 3 of the Housing and Urban Act of 1968 (Section 3)**

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD financial assistance is directed to low-to-very low-income persons to the greatest extent feasible. In accordance with the Marion County Section 3 Plan, solicitation of Section 3 businesses is required during procurement for a construction contract of \$100,000 or more and is encouraged for contracts of less amounts. The Section 3 Plan also requires contractors/subcontractors to follow a specific hiring plan in order to target Section 3 residents.

### **Women and Minority Owned Business Enterprise**

The County is required to take affirmative actions to allow Women-and Minority Owned Business Enterprises (WMBE) to benefit from federal funds. The County passes this requirement on to funded Agencies, which must make a good faith effort to employ WMBE firms when

implementing projects/programs. These efforts can include advertising for professional services or construction contractors in minority publications, notifying WMBE firms directly of employment opportunities, or requiring that contractors hire WMBE subcontractors. Solicitation of MWBE firms is required during procurement for any construction contract of \$50,000 or more.

### **C. Labor Standards**

Labor standards requirements may impact the cost of construction work and should be factored in during the development of the project budget. The labor standards processes may require additional reporting and documentation during construction. Monitoring for compliance with labor standards requirements will be performed by the County.

#### **Davis Bacon and State Prevailing Wages**

Any contract for the construction of affordable housing with 12 or more HOME funded units (inclusive of County and other jurisdictions HOME funding) will require that all laborers and mechanics who are employed to perform work on the project be paid wages at federal rates.

When both Davis-Bacon and state prevailing wages are applicable to a project, all contractors and subcontractors must pay the higher of federal or state prevailing wages to all laborers and mechanics.

#### **Related Acts**

The Contract Work Hours and Safety Standards Act (CWHSSA) requires contractors and subcontractors to pay laborers and mechanics one and one-half (1.5) times their standards rate of pay for all hours worked in excess of 40 hours in a workweek.

Copeland Anti-Kickback Act prohibits a contractor subcontractor from inducing an employee into giving up any part of wages they are entitled to.

#### **Use of Volunteers**

It is permissible to use the service of volunteers to perform work as a laborer or mechanic on a project assisted with HOME funds if the requirements of 24 CFR part 70 are met. Individuals cannot be considered a volunteer if, during construction of the project, they are employed in the same type of work as they are performing on the project (i.e., a plumber cannot perform voluntary plumbing work but can perform work unrelated to plumbing).

### **D. Environmental Review**

The environmental effects of each activity 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 24 CFR parts 50 and 58. Marion County, as the Responsible Entity, assumes the responsibility for environmental review, decision making, and action that



would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR part 58.

The applicability of environmental review regulations is based on the type of project scope (new construction, rehabilitation, acquisition, etc.) or activity (tenant-based rental assistance), not the cost paid. For example, if a HOME-assisted project is a new construction project, but the HOME funds are used for acquisition of vacant land for the project, the environmental review is based on new construction of housing, as well as the acquisition of the land.

Any funds committed to an 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 as needed, except as authorized by 24 CFR part 58. Incurring costs, expenditure of funds or beginning any work on the project site prior to completion of an environmental review may jeopardize current and future funding for the project. The environmental review process may take up to 90 days or longer depending on the scope of the project.

#### **E. Lead-Based Paint Hazards**

All housing units assisted with County funds must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act of 1971, as amended (42 U.S.C. 4821-4846); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856); and 24 CFR part 35.

Exemptions to the requirements are:

- a. Units built after January 1, 1978
- b. Units which house only the elderly
- c. Studio units and Single Room Occupancy Units

#### **F. The Uniform Act and Section 104 (d)**

HOME assisted projects are subject to the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655), and the government wide implementing regulations issued by the Federal Highway Administration at 49 CFR part 24. In addition, projects that include demolition or conversion of low-income housing are subject to section 104 (d) (also called the Barney Frank amendment).

#### **Acquisition**

The URA requirements apply to all property acquisitions for a project that receives any amount of HOME funding, regardless of whether the funds are used to purchase the property or for other project costs. The regulations may apply to any acquisition for which a purchase offer was made at any time after the date the applicant first intended to apply for HOME funds for the project.

Agencies are exempt from complying with most acquisition requirement of the Uniform Act (subpart B) only if an identified site can be acquired “voluntarily” in accordance with Section 49 CFR 24.101 of Subpart B. A “voluntary” acquisition requires the Agency (buyer) to inform the seller, prior to executing an agreement to purchase.

- That it does not have the power of eminent domain (buyers with eminent domain authority, must agree not to use it, and must not have specific site needs).
- That it will not be able to purchase the property if negotiations fail to result in an amicable agreement; and
- Of the buyer’s estimate of fair market value (FMV) of the property to be acquired.

### Estimating Fair Market Value

An appraisal is not required to establish the FMV of a property, but there must be documentation that includes an explanation, with reasonable evidence, of the basis for the estimate. A Comparative Mart Analysis is acceptable for this purpose.

### Section 104 (d)

Section 104 (d) of the Housing and Community Development Act of 1974, as amended requirements apply when HOME assistance is used for a project involving demolition or conversion.

Section 104 (d) has two distinct components:

1. One for One Replacement: Requires one-for-one replacement of lower-income dwelling units that are demolished or converted to another use. For Section 104 (d) purposes “conversion” is defined as: Altering a housing unit that would rent at or below the fair market rent (FMR) so that it is used for non-housing purposes, rents for above the FMR or is used as an emergency shelter.
2. Relocation of Lower Income Tenants: Requires relocation assistance for displaced lower-income residential tenants and does not provide protection or assistance for persons with incomes above the Section 8 low-income limit

### Housing Replacement

The County has adopted a “Residential Anti-Displacement and Relocation Assistance Plan” which address the Section 104 (d) requirement for one-for-one replacement of low-income housing units.

### Relocation

The County strongly discourages the permanent displacement of low-income households by project and programs. The URA stipulates the content and timing of notices for residents of properties to be acquired with HOME funds. If residents will be displaced by the project, they

must receive moving cost reimbursement, relocation assistance payments, and relocation assistance services.

If an otherwise feasible and fundable project does necessitate permanent or temporary displacement and relocation, the relocation must be carried out in strict compliance with the URA. Prior to selection for funding, the Agency must demonstrate that:

- a. Both personnel and budget resources are available to implement relocation, and
- b. Such projects must have qualified County-approved relocation personnel as part of the development team.

A pre-application conference with County staff is required for any project which may involve relocation to ensure that the Agency understands the URA requirements and that proper relocation notices are given.

No relocation may be initiated prior to funding award except with the prior written approval of the County if relocation is required, a detailed Relocation Plan must be submitted with an application for HOME funds.

#### Temporary Relocation

All conditions of temporary relocation must be reasonable, and tenant shall be provided with reimbursement for all reasonable out-of-pocket expenses incurred in connection with temporary relocation.

Tenant shall receive advisory services, including written notice of the date and approximate duration of the temporary relocation, address of suitable temporary unit, and the terms and conditions under which the tenant may lease and occupy the building/complex upon completion of the project.

***Temporary relocation may not extend beyond one year before the person is returned to his or her previous unit or location.***

Any residential tenant who has been temporarily relocated for more than one (1) year must be offered all permanent relocation assistance which may not be reduced by the amount of any temporary relocation assistance previously provided.

If the project requires tenants to be temporarily relocated off site, a detailed temporary relocation plan is required.

#### **G. Procurement**

All projects must comply with the most restrictive of the applicable federal or state competitive procurement regulations or costs may not be reimbursable.

Procurement requirements are provided in the County's funding notices or written agreements. Agencies are encouraged to contact County staff if they have any questions regarding which procurement requirements will apply to their specific project.

Agencies will be expected to provide a copy of their procurement policies and procedures that meet applicable federal and state regulations with their application for funding. IF a project includes any construction or rehabilitation, a required component of a completed application for funding will be written description of how the Agency intends to procure prime or general contractors, subcontractors, architects, engineers, consultants, etc. in a competitive manner.

Prior to publishing a Notice of Bid Opening in the newspaper, the County requires a review and approval of all bid documents to ensure that all federal, state, and County requirements are included before they are finalized. All other applicable federal requirements will be included in bid specifications, including but not limited to Section 3 of the Housing and Urban Development Act of 1968 and Minority Business Enterprises (MBE).

Only contractors and subcontractors who are not federally debarred or suspended and have current Oregon State business licenses with current Workers' Compensation accounts including proper insurance and bonding can work on capital construction projects. The County will check the state of the general contractor for federal debarment and suspension, licensing, insurance, bonding, and Workers' Compensation accounts for capital construction projects. The entity receiving funding is responsible for checking the status of all subcontractors for federal debarment, suspension, licensing, insurance, and Workers Compensation accounts. Licensing and debarment checks for owner-occupied housing rehabilitation and minor home repair clients, contractors and subcontractors are to be conducted by the entity receiving funding from the County.

#### **H. Financial Management Requirements**

Agencies receiving HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets found at 2 CFR part 200.

Agencies must follow OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards.

#### **I. Program Income**

Some housing activities generate program income, which must be disbursed before seeking reimbursement/draw down of additional HOME funds. Program income is defined as "gross income received by the County, or an agency, which was generated from the use of HOME funds or HOME matching contributions". Income generated by housing projects or programs would typically fall into one of the following categories:

- a. Income from the use or rental of HOME-assisted real property owned by the County, or a public or nonprofit agency selected by the County to operate a portion of its housing program minus the costs of generating the income.
- b. Payments of principal and/or interest on loans made with HOME funds.
- c. Proceeds from the sale of real property which was purchased or rehabilitated with HOME funds.

For example, funds for housing are often provided as low-interest or deferred payment loans. The loan repayments are considered program income. The federal regulations require that:

- a. Program income be spent before drawing funds from the County's HOME trust account.
- b. Program income be spent only for eligible activities; and
- c. Written agreements with the agencies that will generate program income must specify whether program income must be returned to the County or used by the agency for an eligible activity.

Program Income does not include gross income from the use, rental, or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the County.

#### **J. Conflict of Interest**

The Federal Conflict-of-Interest provisions in 2 CFR part 200 prohibit any employee, officer, agent, or elected official or appointed official of the County from participating in the award of funds for any activity if either a real or apparent conflict of interest exists. A conflict of interest would occur if any of the covered persons had, or would be in a position, to gain a financial interest in any funded activity.

The HOME Program has additional conflict of interest provisions (24 CFR 92.356) The additional provisions state that: anyone who has, or has had, any role related to the use of HOME funds, or has been in a position to participate in decision-making or obtain inside information cannot have or obtain a financial interest or benefit from any HOME activity or have an interest in any contract or agreement representing themselves or anyone with whom they have a business or family relationship. The prohibition applies for one year after the person leaves the position in which they had a conflict. Covered familial relationships are limited to immediate family members.

Immediate family members of an office, employee, agent, elected, or appointed official or consultant of an Agency are prohibited from occupying a HOME assisted affordable housing unit in a project. The restriction on occupancy applies during the period of affordability only, and not to the entire period of ownership by the entity that received the HOME assistance.

## **K. Recordkeeping**

As a matter of policy, the County will retain the following records for the prescribed period in compliance with the requirements outlined for Participating Jurisdictions in 24 CFR 92.508 (c):

- Records pertaining to each fiscal year of HOME funds will be retained for the most recent five (5) year period except as provided below.
- Records for rental housing projects that do not include individual tenant income verifications, project rents and project inspections will be retained for five (5) years after the project completion date as defined in 24 CFR 92.2.
- Records for rental housing projects that are individuals tenant income verifications, project rents and project inspections will be retained for the most recent five (5) year period until five (5) years after the affordability period terminates for the rental housing project.
- Records for homeownership housing projects that include documents imposing recapture/resale restrictions will be retained for five (5) years after the end of the affordability period, for the individual home. The end of the affordability period will differ for each home assisted within the homeownership housing project.
- Records for homeownership housing projects that do not include documents imposing recapture/resale restrictions will be retained for five (5) years after the project completion date as defined in 24 CFR 92.2 for the individual home. The project completion date will differ for each home assisted within the homeownership housing project.
- All written agreements under the HOME Investment Partnerships Program will be retained for five (5) years after the written agreement terminates.
- Records covering displacements and acquisition will be retained for five (5) years after the date by which all persons displaced from the property and all persons whose property is acquired for the projects have received the final payment to which they are entitled in accordance with 24 CFR 92.353.

If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the record retention period described above, the records must be retained until the completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

The County will ensure there is reasonable access to these record for citizens, public agencies and other interested parties in accordance with the State of Oregon law and local laws regarding privacy and confidentiality.

The County will ensure access to HUD and Comptroller General of the United States to these records, along with any pertinent books, documents, papers, or other records of the County in order to make audits examinations, excerpts, and transcripts.

#### **L. Annual Income**

The definition of annual income varies by the type of HOME assistance provided. Refer to the applicable HOME assistance section for further detail on calculating annual income.

#### **M. Other Federal Requirements**

The federal requirements set forth in 24 CFR part 5, subpart A, are applicable to participants in the HOME program.

#### **N. Loan Provisions**

HOME funds will be provided to Agencies for housing projects as a loan (no-interest or low-interest loan, either deferred payment or amortizing) secured by a deed of trust and promissory note, due and payable if the sponsor.

1. Fails to maintain the housing at the agreed upon affordability levels for the intended population or
2. Changes the use of the project without prior County approval

The form of assistance will be determined on a case-by-case basis, as will be the specific loan terms. The County will also record a covenant running with the land to control rents.

HOME funds for housing programs, such as homeowner rehabilitation or homebuyer purchase assistance programs, will generally be provided to the Agency operating the program as a grant.

#### **O. Site Control**

An Agency needs not own the site of a proposed project at the time of application. However, the agency must demonstrate site control (ownership or executed purchase and sale agreement) before the County will contract for funds.

#### **P. Appraisal Requirements**

Prior to contracting for funds, Agencies will provide the County with an as-is appraisal of any real property to be acquired in conjunction with a housing project. This policy will ensure that no more than current fair market value (FMR) is paid for land or buildings to be acquired for County-assisted housing projects. The appraisal must be in a form acceptable to the County and have been prepared no more than twelve (12) months prior to the date of the application for funding.

For acquisition/rehab of multi-family rental projects:

- An appraisal to substantiate the purchase price is required at application
- An update appraisal is not required once the purchase price has been set and

For of either multi-family rental or home-ownership projects to be built on vacant land:

- An appraisal to substantiate the purchase price of the land is required during the application process, and

For acquisition/Rehab of home-ownership projects:

- An appraisal to substantiate the purchase price is require during the application process.
- The County requires an appraisal before rehab begins (after the scope of work is finalized) to make sure the after-rehab value won't exceed 95% of the area median purchase price (per HOME regulation 92.254 (2) (ii)). These two valuations requirements could be met in one appraisal with both as is and after rehab values.

The County also reserves the right to require an after-rehabilitation appraisal if the circumstances of the project warrant such information.

#### **Q. Development Fees**

The County recognizes the developer fee as the mechanism for compensating the developer, either nonprofit or for profit, for services provided and risk taken in developing the project. The following table lists activities generally covered by the development fee.

Development Stages		
Feasibility	Pre-Development	Construction
Site search	Obtain predevelopment financing	Monitor Design
identifying funding sources	Negotiate pruchase and sale agreement	Obtain permits
Develop preliminary development and operating budgets	Assemble development team	Develop bid/contract documents
Evaluate ownership structures	Conduct dure diligence	Solicit bids or pre-qualify contractors
	Revise budgets as needed based on due dilligence	Negotiatie contracts
	Neogtiate any changes with seller based on due dilligence	Hold preconstruction conference
	Review plans and drawings	Monitor construction
	Prepare financing applications	Review and act on change orders
	Development management plan	Review and act on draw requests
	Prepare relocation plan if needed	Coordinate relocation if needed
	Review loan documents	Oversee project closeout
		Oversee project rent-up, sale of units, etc.

Agencies may propose a development fee as part of their funding application. In the application, the Agency will be asked to provide a basis for the amount of the fee. An evaluation of the amount and schedule for drawing the fee will be part of the review process. In evaluating the fee, attention will be paid to how much the fee represents as a percentage of total development cost and the complexity of the project.



For projects receiving Low Income Housing Tax Credits (LIHTC), particular attention will be paid to the Agency's proposal for the amount of the fee to be taken during the development period, and the amount to be loaned to the project and paid through the cash flow.

The developer fee will be considered "at risk" until the completion of the project. If, in the course of the development, the project needs funds in excess of budgeted contingencies, the County considers the develop fee a source for payment of those costs.

#### **R. Mixed-Use Projects**

County housing funds may be used in developing mixed-use structures which contain residential and other uses (i.e., retail space, commercial office space, spaces for the provision of services). The inclusion of non-residential spaces for the exclusive use of the residents does not create a mixed-use project. Residential spaces include common area, corridors, stairways, laundry areas, storage areas, office space for management of the building, entry ways and lobbies.

Housing funds may only be used for costs associated with the residential portion of the building. They must represent a proportion of the total development cost that does not exceed the proportion of residential space in the entire project.

review process and considered by the staff and the review committee in scoring and ranking each proposal.

#### **S. Management of Housing Units**

Sponsors of housing projects will be required to address their management capabilities in the fund application. Agencies with adopted management plans will be asked to submit a copy along with the application. Those without such a plan will be asked to describe, in detail, how the units will be managed. Whether addressed through an adopted management plan or in the application, Agencies will need to describe:

- a. Occupancy standards
- b. Tenant selection
- c. Rent collection, late payment, and eviction
- d. Process for determining and implementing rent increases
- e. Experience serving the proposed population
- f. Description of management staff
- g. Use of reserves
- h. Long-term maintenance plan
- i. Marketing of units, including affirmative marketing
- j. Forms of leases or rental agreements

## **T. Contracting Requirements**

The Marion County Board of Commissioners typically approves the housing awards as part of Marion County Annual Action Plan in May of each year. Although the federal funds are generally available July 1<sup>st</sup>, the federal funds cannot be committed until funding agreements are executed between the County and HUD, which usually happens in late July or August.

The County will develop contract documents, including the mortgage, deed of trust, promissory note, and rental covenant for funded projects when all funds have been secured. Preparation and negotiation of final legal agreements can take from 30 to 60 days depending on the complexity of the project. The documents will be provided in draft form to the fund recipient for review prior to signing.

## **U. Monitoring**

Marion County has monitoring policy and procedures that will be followed in monitoring all programs/projects. A list of all required documents in project case files should be utilized as a template for all projects.

### **Monitoring During Project Development**

Marion County will monitor all projects or subrecipients.