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RENTAL HOUSING ACTIVITIES

HOME & HTF Rental Housing Activities

- Acquisition of existing Standard Condition units
- Acquisition and rehabilitation of Substandard Condition units
- Rehabilitation of existing units
- Refinance of Existing Debt and Rehabilitation[1]
- Reconstruction
- Conversion of building(s) for use as rental housing (current use of property is other than housing; i.e. a warehouse)
- New construction
- Acquisition of land (purchase of raw land with no structures) for an affordable housing project that will begin construction within 12 months
- Onsite Infrastructure improvements, i.e. sewer, water, etc.

NSP Rental Housing Activities

- Acquisition and Rehabilitation of pre-foreclosure, foreclosed, and abandoned properties
- Redevelopment of blighted or demolished properties
- Development of in-fill properties (must be surrounded by existing residential development)
- Demolish blighted structures, ("Blighted" defined as objectively determinable deterioration that is a threat to human health, public safety, and public welfare as defined by the local unit of government).

General Requirements

Broadband Infrastructure

Applicable to HOME/HTF multifamily rental projects funded after January 19, 2017 [24 CFR 92.251(a)(2)(vi) & (b)(x)]

New construction or substantial rehabilitation activities that involve a structure with more than four (4) rental units shall include installation of broadband infrastructure as defined at 24 CFR 5.100 (see definition of substantial rehabilitation), **except** when IHFA determines one or more of the following conditions are present:

(A) The location of the new construction makes installation of broadband infrastructure infeasible;

(B) The cost of installing the infrastructure would result in a fundamental alteration to the nature of the project or an undue financial burden.

Cost Eligibility

- HOME/HTF funds can be used for the actual costs of constructing or rehabilitating (development hard costs) single family or multifamily housing, including the costs to wire the property for broadband internet. The costs to make utility connections, including off-site connections from the property line to the adjacent street are also eligible. HUD includes internet connectivity in the regulatory definition of "utility connections".
- If the project is not 100% HOME and/or HTF-assisted, only the proportional share of the cost to provide broadband internet access in the project or the cost to construct a computer room can be charged to the program(s)

[1] Refinance of existing debt may be allowed under certain limited circumstances, and only if rehabilitation is the primary activity. See Definitions Section in this chapter.

- HOME/HTF funds may be used for costs to construct or rehabilitate community facilities that are located within the same building as the housing, and which are for the use of the project resident

Compliance and Monitoring Fee

IHFA will charge each project owner that receives a commitment of HOME/HTF funds on or after August 23, 2013 an annual compliance-monitoring fee. The annual fee is the average of the actual costs of performing the monitoring of assisted rental projects throughout Idaho.

The annual fee is determined by averaging the actual compliance monitoring costs during the previous fiscal year, divided by the number of rental units that are in IHFA's portfolio currently within the period of affordability. Costs include all activities related to monitoring, i.e. desk monitoring, risk assessments, physical inspections, training, etc. Each individual project's annual monitoring fee is based on the total number of HOME/HTF assisted units in the project. A project owner could be charged a re-inspection fee if required.

Project Completion Deadline

Owner is required to submit all Project compliance documentation within 6 months of the issuance of the project's final certificate of occupancy. Failure to do so may cause the forfeiture of any un-disbursed developer fee and a negative determination of development capacity on future projects. See Project Completion in the Definitions section of this chapter.

Eligible Properties

- Rental project of one or more buildings on a single site
- Rental project on multiple/scattered sites that are under common ownership, management, and financing
- Mixed-Income
- Mixed-Use
- Transitional Housing(is not eligible under HTF Program)
- Permanent Housing
- Group Home
- Single Room Occupancy (SRO)

Ineligible Properties

- Activities within the Period of Affordability[1]
- Nursing Homes
- Mental Health Facilities
- Homeless Shelters
- A Property in which refinancing of the current debt is the only proposed activity
- Student housing, including dormitories
- HTF Only- Transitional Housing

Maximum Number of Assisted Projects and Maximum Funding

HOME Program

(HOME) To provide the most equitable access to funds, certain limitations may apply. A project sponsor, owner, or developer cannot have more than three (3) assisted projects under development at any one time, or a combined award of funds at any one time, to any one sponsor or developer that exceeds $3,000,000[2] regardless of percentage of developer, owner or sponsor amounts will count in full. In order for an assisted project in development not to be counted in either

[1] During the first year after a project is completed in IDIS, additional HOME/HTF funds may be provided under certain circumstances, as approved by IHFA. After 12 months, no additional funds can be provided during the period of affordability.

[2] Combined total of Multi Family and Single Family Awards.

of these totals, the project must be completed within 60 days after the due date for the HOME application for the additional project or projects. The limitation of three (3) assisted projects under development at any one time may be waived provided the applicant can demonstrate organizational capacity, financial strength, and experience in successfully managing more than three (3) projects under development simultaneously.

A waiver request must be submitted in writing at least 10 working days prior to the application deadline. In addition, the following criteria will be evaluated when a waiver is requested:

- Will the project serve a Special Housing Needs population as identified in the Consolidated Plan;
- Is the project located in an underserved area or a community defined as rural by USDA-RD [see Chapter 1];
- Is the project defined as "Rental Housing Preservation" (See Chapter 2: Definitions)

HTF Program

Owner or developer cannot have more than three (3) HTF-assisted projects under development at any one time or a combined total of HTF funds at any one time of $2,000,000.[1]

Property Standards

Prior to a commitment of funds, the architectural plans and specifications must be reviewed and approved by both the IHFA-HOME Programs Department architect-consultant and the owner/developer architect. Both parties must agree to Fair Housing Design requirements, as applicable to the activity. If the parties are unable to reach consensus, the more stringent interpretation of requirements will apply.

- **New Construction**
  - Current Idaho Building/Residential Code
  - Where relevant; housing must be constructed to mitigate the impact of potential disasters, in accordance with state and local codes
  - Local property/housing quality standards, codes, ordinances, zoning, as applicable
  - International Energy Conservation Code published by the International Code Council
  - Site and Neighborhood Standards Reference: 24 CFR 983.6(b)- Covered multifamily dwellings as defined at 24 CFR 100.21, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act. "Covered" defined as multi-unit residential buildings built for first occupancy after March 13, 1991 with four or more units to meet the accessibility requirements of this law. Subject to specific exceptions, all units in elevator buildings and all one-story ground floor units in non-elevator buildings must meet FHA standards.
  - Section 504
  - Americans with Disabilities Act (ADA)
  - Uniform Federal Accessibility Standards (UFAS) http://www.hud.gov/fha/sfh/mps/4910/4910.html http://www.access-board.gov/ufas/ufas-html/ufas.html
  - Current Edition of the American Society of Heating, Refrigerating, and Air-conditioning Engineers(ASHRAE 90.1) for multifamily buildings
  - Broadband Infrastructure
    - Applicable to HOME/HTF multifamily rental projects funded after January 19, 2017 [24 CFR 92.251(a)(2)(vi) & (b)(x)]
    - New construction or substantial rehabilitation activities involving a building with more than four (4) rental units **shall** include the installation of broadband infrastructure as defined at 24 CFR 5.100 (see definition of substantial rehabilitation), **except** when the participating jurisdiction (IHFA) determines, in accordance with 24 CFR 92.508(a)(3)(iv) one or more of the following conditions is present, and IHFA determines the project is exempt from the requirement:

[1] Combined total of Multi Family and Single Family Awards

- The location of the new construction makes installation of broadband infrastructure infeasible; or
- The cost of installing the infrastructure would result in a fundamental alteration to the nature of the project or an undue financial burden.[i]

- **Cost Eligibility**

  (i) HOME/HTF funds can be used for the actual costs of constructing or rehabilitating (development hard costs) single-family or multifamily housing, including the costs to wire the property for broadband internet.

  (ii) The costs to make utility connections, including off-site connections from the property line to the adjacent street are also eligible. HUD includes internet connectivity in the regulatory definition of "utility connections".

  (iii) If the project is not 100% HOME and/or HTF-assisted, only the proportional share of the cost to provide broadband internet access in the project or the cost to construct a computer room can be charged to the program(s)

  (iv) HOME/HTF funds may be used for costs to construct or rehabilitate community facilities that are located within the same building as the housing, and which are for the use of the project resident

- **Acquisition of newly constructed or newly rehabilitated housing**

Existing housing that has been newly constructed or rehabilitated within one year of the date of the commitment of HOME funds must meet the property standards for new construction or rehabilitation.

- IHFA documents property standard compliance based IHFA-architectural review of approved building plans and a the certificate of occupancy (new construction), other local certification, and an IHFA inspection conducted no earlier than 90 days before the commitment of HOME assistance.

- **Acquisition of Existing Housing**

Residential units and tenant common areas must meet the following standards and codes at loan closing

- Current Idaho Building/Residential Code for Existing Structures
- local housing quality standards
- If no state of local standards, then Uniform Physical Condition Standards (UPCS)
- Meet HUD Lead Safe Housing Rule (25 CFR 35)
- Must be inspected by IHFA prior to loan closing

- **Rehabilitation of Existing Housing**

1) **At Application -** Some or all residential units and the tenant common areas <u>do not</u> meet the Idaho Building/Residential code for existing structures and/or local property/housing standards and are in need of rehabilitation.

2) **At Project completion -** All residential units and tenant common areas meet:
   - Applicable state and local standards, codes, ordinances, and zoning requirements
   - Local Disaster Mitigation requirements
   - Local rehabilitation standards

   (See Exhibit C for more information)
   - Lead-Based Paint requirements- As applicable (original construction began on or before January 1, 1978 See LBP section of this chapter for additional information.
   - UFAS-As applicable to a multi-family rental rehab projects to the maximum extent feasible
   - Americans with Disabilities Act

- Site and Neighborhood Standards (new construction rental housing)
- Section 504 as applicable
- Local property/housing quality standards, codes, and ordinances
- Uniform Physical Condition Standards
- Broadband Infrastructure-

Eligible Costs

Submitted Draw Requests will be subject to approval by the HOME Department and must follow HOME Program Draw procedures. Contact the HOME Programs Department for a copy of the current procedures.

- **Acquisition of Vacant Land**

  Development must begin construction within one year of the acquisition.

- **On-Site Improvements**

  Broadband infrastructure, sewer and water hookups, power, roads, and sidewalks

- **Relocation Costs**

  Costs related to permanent and temporary relocation are eligible, including any related staff and overhead costs.

- **Project Soft Costs**
  - ***Finance Related Costs***
    Origination fees
    Credit reports
    Title reports and updates
    Recordation fee
    Preparation and filing legal documents
    Appraisals
    Attorney's fees
    Loan processing fees
    Translator fees
    Other customary fees
  - ***Construction Related Costs***
    Architectural fees
    Engineering fees
    Preparation of work write-ups/cost estimates
    Builder or Developer fees
    Environmental studies
    Performance bonds
    Impact Fees
  - ***Certified Audit Costs-*** Certification costs are eligible when performed by a 3rd party Certified Public Accountant
  - ***Costs Incurred Prior To Funding Award-*** Professional services may be an eligible cost if the costs were incurred within 24 months of the HOME Commitment and authorized by IHFA in the Award or written agreement

- **Project Hard Costs**
  - Improvements to meet Codes/Standards
  - Rehabilitate laundry and community facilities, parking structures- If located in or connected to the same building as the rental housing units and are for the use of tenants
  - Essential improvements

- Energy-related improvements
- Removal of lead-based paint hazards
- Accessibility Improvements
- Infrastructure including Broadband Internet connectivity-

  HOME/HTF funds can be used for the actual cost of constructing or rehabilitating single-family or multifamily rental housing, including the costs to wire the property for broadband internet.

  Costs to make utility connections, including off-site connections from the property line to the adjacent street are also eligible under HOME at §92.206(a) (3) (ii). HUD includes internet connectivity in the regulatory definition of utility connections:

  a. If the project is not 100% HOME-assisted, only the proportional share of providing broadband internet access in the project or the cost to construct a computer room may be charged to the program(s)

  b. HOME/HTF funds *can* be used to construct or rehabilitate community rooms (computer room, library, etc.) only if located within the same building as residential housing units and the room(s) is for the tenant's use.

  c. HOME funds *cannot* be used to pay for any furniture, equipment

- Initial Operating Deficit Reserves (HOME) - For new construction or rehabilitation of rental housing only. Operating deficit reserve fund may only be used during the initial 18 months lease-up period to pay for operating expense deficits. Remaining funds may be transferred to a project's replacement reserve account or reduce the outstanding principal balance with IHFA written approval.

HTF Specific-Project Operating Assistance & Reserves [§93.201 (e)]

Because operating cost assistance reserves are an eligible activity and may be provided by more than one grant, the prohibition on providing additional HTF funds to a project during the period of affordability (§ 93.205(a)) does not apply to renewal of operating cost assistance reserves. HTF funds may be used to pay for operating assistance and operating cost assistance reserves for rental housing activities.

In any given year, operating assistance/reserve can be awarded from Non-appropriated HTF funds, Appropriated HTF funds, or a combination of both. The type of funding will determine how the owner/developer should apply for the operating assistance during the HTF period of affordability. IHFA strongly urges the owner/developer to contact IHFA early in the development/application process to determine how a future project's operating assistance/reserve would be funded.

The following conditions apply:

- Eligible costs include insurance, utilities, real property taxes, maintenance, and scheduled payment to a reserve for replacement of major systems;
- Eligible costs must be calculated using HUD methodology (See Definitions)
- HTF- Specific- HUD Methodology for determining Operating Assistance Reserve
- Operating assistance can ONLY be provided if the HTF-assisted units do not have project-based assistance;
- Operating costs assistance must be based on the underwriting of the project and must be specified in the written agreement (HTF Award Agreement) between IHFA and owner/developer
- Operating reserves must be calculated using HUD methodology

  a) For reserves funded with non-appropriated HTF funds- Reserve may be funded for the amount estimated to be necessary for the entire period of affordability at the time the written agreement is executed.

  b) For reserves funded with Appropriated HTF funds-For each grant, assistance is limited to the amount necessary for a period of up to five (5) years.

- Funding for the operating cost assistance may be provided in addition to funding an initial operating deficit reserve, which would help meet any shortfall in project income during the period of project rent-up (not to exceed 18 months).

Ineligible Costs & Fees

- Project reserve accounts, except as provided in Sec 92.206(d)(5) (HOME)
- Operating subsidies (HOME)
- Tenant-based rental assistance
- Off-site infrastructure cost
- Delinquent taxes, fees or charges on properties
- Any cost not eligible under Sec. 92.206 through 92.209 & 93.204 (a) (b)
- Laundry, community facilities, parking structures, or any other structure not located in, or connected to a building in which rental housing units are also located

Match Requirements

- **HOME Program**

For every HOME entitlement dollar drawn, a 25% match liability is incurred. Match is defined as a non-federal, permanent contribution of cash, assets, services, labor, and other resources of value to the HOME an activity. See Chapter 4 for more information.

- **HTF Specific**

No match requirement

Financial Accountability Standards

Applicability-Owner and Developer

- An entity receiving less than $500,000 in combined federal financial assistance would be permitted to submit an Owner Certified financial statement.
- An entity receiving more than $500,000 but less than $750,000 in combined federal financial assistance would be required to submit CPA reviewed financial statements.
- An entity receiving $750,000 or more in combined federal financial assistance would be required to submit a CPA audited financial statements. Requirements located at: Multifamily Housing (FASSUB 7.4.0.0)

IHFA will use the statements to determine if the owner and developer have adequate financial management systems and practices, and sufficient financial resources to carry out the project to its completion.

Financing Terms

In order to maximize the benefit of program funds and create a renewable resource for the development of affordable housing in Idaho, funds invested in rental housing are awarded as a loan. The terms may be determined using the guidelines below.

- Project development costs will be examined to determine cost reasonableness and necessity. Project costs determined to be unreasonable will receive an additional level of review for acceptance or denial.
- Project income and expense projections, including any syndicator and/or partner fees, must be reasonable and customary to the area. Any exceptional expenses must receive written approval of IHFA prior to project implementation.
- Project must maximize private funding for permanent financing and other sources of leverage before program funds.
- The project's pro-forma must demonstrate a reasonable expectation that the HOME loan can be repaid within the term of the primary financing.

- A Deferred Developer Fee can be paid out of surplus cash (SC) as defined in this chapter (See Definitions section). If there is inadequate surplus cash to make the scheduled minimum HOME loan payment in any year, the Deferred Developer Fee due for that fiscal year will be deferred until the end of the Deferred Developer Fee repayment term for the project. Any annual amounts of forgone Deferred Developer Fee cannot be added to the following year's Deferred Developer Fee amount entitlement.
- The potential for owner's equity investment will be examined and utilized to the maximum amount feasible.
- Subsidy Layering -Before committing funds to a project, IHFA must evaluate the project in accordance with guidelines that IHFA will not invest any more HOME funds, in combination with other sources, than is necessary to provide affordable housing. See Exhibit "Q".
- Interest rates may be based on project's ability to pay
- Repayment may be based on amortization period of primary lender's loan

HTF-Specific

In order to maximize the benefit of HTF Program and create a renewable resource for the development of affordable housing in Idaho, the HTF funds invested in rental housing development may be a loan or a grant. The terms may be determined using the guidelines below. Application must demonstrate financial feasibility using the following guidelines:

- Development costs must be reasonable and necessary. Project costs determined to be unreasonable will receive an additional level of review for acceptance or denial.
- Project income and expense projections, including any syndicator and/or partner fees, must be reasonable and customary to the area. Any exceptional expenses must receive written approval of IHFA prior to project implementation.
- Project must maximize all other sources before HTF funds.
- Deferred Developer Fees can be paid out of Surplus Cash (SC) as defined in this chapter (See Definitions section). In the event there is inadequate Surplus Cash to make the scheduled minimum HTF loan payment in any year, the deferred Developer Fee due for that fiscal year will be deferred until the end of the deferred Developer Fee repayment term for the project.
    - Any annual amount of forgone deferred developer fee cannot be added to the following year's deferred Developer Fee amount entitlement.
- The potential for owner's equity investment will be examined and utilized to the maximum amount feasible.
- Subsidy Layering -Before committing funds to a project, IHFA will evaluate the project in accordance with its guidelines that it will not invest any more HTF funds, in combination with other sources, than is necessary to provide affordable housing.

SALE/TRANSFER/RESTRUCTURE

- Subject to the terms in the Loan and Regulatory Agreement, IHFA will consider the sale, transfer, or restructure of a current, non-delinquent HOME or HTF loan. Any request will require all items on the HOME checklist (Exhibit Z of the Admin Plan). The HOME department will have 30 days to review the request once all items have been received. During application processing (August through October) IHFA will have 60 days to review requests. Requests will not be reviewed until **ALL ITEMS** have been received.
- For owner/agent changes, additional requirements are applicable as found in the Tax Credit Compliance Manual. See Owner/Agent Changes https://www.idahohousing.com/housing-compliance/home-program-compliance/
- To initiate requests, an email needs to be sent to the HOME department so a Procorem workcenter can be set up to accommodate document uploads and to ensure timely and comprehensive reviews.

- If any restructure of the loan is requested and approved the loan cannot be modified or transferred for 5 years or be subject to repayment of any interest forgiven.

Subordination Terms

Subordination of the HOME and/or HTF Deed of Trust may occur when a proposed senior lender is asking IHFA to subordinate the HOME and/or HTF position due to one of the following:

- A construction loan was used to finance the construction phase of the project
- A term loan is refinanced to provide the borrower more favorable terms than the current term loan. IHFA may not approve a subordination agreement to a new proposed senior lender if there is cash-out to the borrower. IHFA may request cash-out be applied to existing HOME debt. IHFA may approve a cash-out refinance under mutually beneficial circumstances.
- The Memorandum Restrictive Covenants is filed in the senior position ahead of all regulatory and debt instruments.
- If both HOME and HTF funds are invested in the same project, the most restrictive Memorandum of Restrictive Covenants will be filed first. However, both MORCs will always be filed in the senior position ahead of all other regulatory and debt instruments.

Rental Housing Loan Terms

Loan terms are determined using several factors, including pro-forma, ability to make reasonable loan payments, overall financial viability, and current and past financial performance on other multifamily projects.

Interest rate will be 1% for non-profit developers and 3% for for-profit developers.

1) **(HOME Only)** ***Regular Scheduled Payment***- When feasible (as determined by IHFA), the annual payment will be amortized and fixed. The amount of the payment shall be determined by IHFA.
2) **(HOME/NSP/HTF)** ***Due-on-Sale-*** When owner is a qualified non-profit or 100% of the units are designated as Special Needs housing [see Chapter 8 for definitions of Special Needs Population], the loan may be Due-on-Sale".
3) **(HOME/NSP/HTF)** ***Surplus Cash-*** Payments solely from Surplus Cash as defined in the Loan Agreement in the following order:
   - 1st- One percent (1%) of the HOME loan amount;
   - 2nd- One-twelfth (1/12) of the lesser of the actual Deferred Developer Fee or the DDF represented in the application for funding;
   - 3rd- Remaining Surplus Cash to the extent generated from the operation of the project shall be split between Borrower and IHFA with IHFA receiving 50%.
   - Surplus Cash repayment to only be approved as repayment at sole discretion of IHFA HOME.
     - If approved by IHFA HOME to use surplus Cash as repayment method; CPA audited project financials will be required to verify payment calculation.

Surplus Cash

Cash (excluding tenant security deposits) remaining at the end of each fiscal year after: (1) payment of all Operating Expenses for such fiscal year, and (2) payment of all sums due or currently required to be paid under the terms of any permitted Senior Lender, as defined in Loan Agreement, encumbering the Project and the promissory note secured by such Permitted Senior Loans, and (3) payment of all amounts required deposits to any reserve fund for the payment of operating expenses, reserve for replacements, or any other special reserve funds as required by the permitted senior lender or the loan documents, subject to IHFA consent, provided the amounts for required reserves, which may also be project operating expenses shall not be deducted more than once.

Notwithstanding the foregoing, accrued Deferred Developer Fees, advances made under the ***Operating Deficit Guaranty*** (see *Operating Deficit* and ***Operating Deficit Guaranty*** below), or any other operating advances to the property by the borrower or affiliates of the borrower may only be repaid from the borrower's share of positive Surplus Cash.

a) ***Project Operating Expenses*****:** All cash costs and cash expenses of every kind and character which the Borrower incurs in connection with the operation of the Project (excluding principal and interest due and payable under the Loan and those expenses previously accrued, but including capital expenditures other than those paid for out of replacement reserves), and amounts required by IHFA to be allocated to any reserve account (less amounts paid and reflected in the operating expenses), and all operating expenses of the Project that must be accrued monthly (including property taxes and insurance premiums based upon the completed Project); Project Operating Expenses do not include Non-Operating Expenses.

b) ***Non-Operating Expense:*** All expenses and costs of the Borrower other than Project Operating Expenses. Non-Operating Expenses may not be paid from the operating account. Non-Operating Expenses shall include, without limitation: any and all costs of developing the project, payment of deferred developer fee, asset management fees and investor service fees, tax credit adjusters, income taxes of the Borrower, distributions to persons or entities having an ownership interest in the Borrower, deposits to reserve accounts and escrow accounts (other than deposits specifically approved in advance, in writing by IHFA), payments on any loans other than a Permitted Senior Loan, payments to the management agent or any Affiliate (other than the property management fee and other payments specifically approved in advance, in writing by IHFA), and payments to the Borrower or any Affiliate (other than payment specifically approved in advance, in writing by IHFA).

c) ***Operating Deficit:*** For the relevant period, the excess of Project Operating Expenses (or a portion thereof), plus the payment of principal and interest due and payable on the Permitted Senior Loan over the Borrower's cash revenues of every kind from the Borrower's operation of the Project for such fiscal period (excluding extraordinary cash proceeds and capital contributions, and excluding amounts drawn from a reserve account).

d) ***Operating Deficit Guaranty:*** Borrower and Key Principals acceptable to IHFA will be required to guarantee annual operating deficits. The Operation Deficit Guaranty shall become effective on the first day of the first full fiscal year for the Borrower following completion of construction of the Project. Annual operating deficits shall be funded by the Key Principals under the Operating Deficit Guaranty on or before the date on which annual audited financial statements for the Project are due to IHFA.

e) To support the Surplus Cash calculation, Owner will furnish the following:

- Within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a rent schedule for the Project showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable for the current month, the date through which rent has been paid;
- Within one hundred and twenty (120) days after the end of each fiscal year of Borrower, an accounting of all security deposits held pursuant to all leases. For the purposes of this submission, the Security Deposit Asset (as a cash item in the Surplus Cash Computation) and the Security Deposit Liability (as a short-term obligation in the Surplus Cash Computation) are to be included on the Balance Sheet and in the Surplus Cash Computation.
- Within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a statement that identifies all owners of any interest in Borrower and the interest held by each, if Borrower is a corporation, all officers and directors of Borrower, and if Borrower is a limited liability company, all managers who are not members. Please see Attachment B for a sample Certification that meets IHFA's requirements.
- Within one hundred and twenty (120) days of the end of each fiscal year of Borrower, an audited calculation of Surplus Cash for such fiscal year, in form and substance acceptable to IHFA, and in accordance with IHFA requirements.

f) Application of Payment-Loan payment will be applied to the following categories in the following order unless otherwise pre-approved by IHFA at their sole discretion:

- Principal
- Late Fees
- Penalties
- Escrows
- NSF Fee
- Other IHFA Approved Deductions
- Interest

Cost Allocation Process- Designation of Assisted Units

HUD allows IHFA to charge a project for specific costs it incurs during the application and development phase of the project, i.e. underwriting, architectural review/inspections, etc. These costs can be charged to the project[1]. While these costs are not included in the owner's loan amount, they must be included in the Cost Allocation calculation.

HOME/HTF/NSP programs follow the HOME Cost Allocation Method to determine the number of assisted units needed when less than 100% of the units in the project are HOME/HTF assisted.

- Program funds are expended on actual, eligible costs up to the maximum per-unit subsidy limit (of the program).
- The actual (eligible) costs of the assisted units will ensure the minimum number of units will be designated as "assisted".
- The amount of funds invested cannot exceed the lesser of the total HOME/HTF/NSP-eligible costs per unit and the maximum per-unit subsidy (for each program as established by HUD-CPD).

Cost Allocation Methods

HOME/HTF/NSP Program funds may be used to assist one or more housing units in a multi-unit project, but only actual eligible development costs may be charged to the program.

- **Standard Method (Can be used in all projects, whether or not the units are comparable in terms of size, quality, and amenities)**-If assisted and unassisted units are not comparable, the actual costs must be determined based on a method of cost allocation such as the *Standard Method*, so that the amount of the total development costs charged to the program does not exceed the cost of assisted units in the project.
- **Proration Method (Can be used only if the units are comparable)** - If assisted and unassisted units are comparable in size, features, and number of bedrooms, the cost of the assisted units can be determined using the Proration or the Hybrid Method (i.e. a variation on the *Proration Method*). This ensures the proportion of the total development costs charged to the Program does not exceed the proportion of the assisted units in the project.

Additional information, examples, and sample worksheets:

https://www.hudexchange.info/resources/documents/Notice-CPD-16-15-Allocating-Eligible-Costs-and-Identifying-HOME-Assisted-Units-in-Multi-Unit-HOME-Rental-and-Homeownership-Development-Projects.pdf

https://www.hudexchange.info/resource/5190/home-cost-allocation-tool/

Fixed/Floating assisted-Units

Units must be designated "fixed" or "floating" at the time the application is submitted and identified in the written agreement. When a project has a mix of unit sizes and/or amenities and the number of assisted units is based on prorating the program funds to the total development cost, the HOME assisted unit mix must match the total project unit mix.

[1] It is never IHFA's intent to trigger David-Bacon or cause the number of required Low-HOME rental units to increase because of IHFA project costs.

- **Fixed**: Assisted units are "fixed" when the specific units are subject to program rental and occupancy requirements during the period of affordability and can never change to another unit. These units are identified in the written agreement.
- **Floating**: When assisted units are defined as "floating" when the designated unit(s) may change.
  1. If the floating designation is used, the owner must ensure that the assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features, and number of bedrooms.
  2. The floating designation gives the owner some flexibility in assigning units, and can help avoid stigmatizing the assisted units.
  3. Assisted units must be representative of the total mix of the project, in terms of size, amenities, and total bedrooms.

Rent Limits

- IHFA enforces rent and occupancy requirements through a covenant and deed restriction. All assisted units are subject to rent limits.
- Ongoing rents are never required to lower than the initial rent limits as indicated in the written agreement.
- Rent Limits are established annually by HUD-CPD and are located on the IHFA-HOME Programs webpage Rent Limits.
- Rent Limits are calculated by HUD-CPD based on Fair Market Rents (FMR) and percentage of area median-incomes (AMI).
- Rent must be adjusted for the utility allowance if the tenant pays any utilities.

(HOME/NSP) Rent Limits

- A rental project with five (5) or more HOME-assisted units must designate at least 20% of the total HOME units as **Low HOME Rent Units**, which serve a target population of ≤50% AMI
- The balance of the units can be designated High HOME Rent Units, and target tenant households ≤ 80% AMI, or as required by other funding programs (LIHTC, HTF, etc.)
- All NSP rental units are Low HOME Rent units.

(HTF) Rent Limit

- All HTF units must serve extremely low-income households, defined as ≤ 30% AMI.
- HTF rent limits (rent plus tenant paid utilities) are calculated by HUD-CPD on an annual basis and based on the greatest of, 30% of the federal poverty line or 30% of the income of a household with an annual income equal to 30% of the median income for the geographic area. Adjustments are made for the number of bedrooms in the unit.
- Use the published HTF rent limits available at HOME Program - HOME Program - Idaho Housing and Finance Association

Project-Based Subsidy (Federal or State Program)

Any unit receiving federal or state **project-based** rental assistance is allowed to use the project based rent only when the following conditions are met:

a) The unit is occupied by household defined as Very-low income (at or below 50% AMI); and

b) The tenant contribution to toward the rent (rent plus utilities/utility allowance) is no more than 30% of the household's adjusted gross income [§92.252(b)(2)]

c) Tenant income eligibility requirements:

- Income eligibility based on anticipated income according to source documents obtained prior to occupancy.
- Annual (gross) Income household income calculation as defined at 24 CFR 5.609 (24 CFR Part 5).

Maximum per Unit Subsidy Limits

Current maximum per unit subsidy limit in effect at the time funds are committed to the activity are available at **https://www.idahohousing.com/federal-programs/home-program/**

Starting in 2013, Section 221(d)(3) subsidy limits are no longer calculated and published by HUD due to the elimination of the 221(d)(3) Mortgage Program. The HOME regulation at 24 CFR 92.250(a) limits the amount of HOME/HTF funds a PJ may invest in an assisted unit. The maximum per-unit subsidy limit is set at the basic Section 221(d)(3)(ii) mortgage limit for elevator-type projects, by bedroom size(with adjustments up to 240% for "high cost" geographic areas).

For additional information: https://www.hudexchange.info/resource/2315/home-per-unit-subsidy

Tenant Income Limits and Requirements

IHFA website at Resources- Income Limits (https://www.idahohousing.com/federal-programs/home-program/)

- (HOME & HTF)- In addition, in each year during the period of affordability, the project owner must re-examine each tenant's annual income. (1) An owner who re-examines a tenant's annual income through a statement and certification in accordance with must also examine the source documentation of the income of each tenant every 6th year of the affordability period, except that, for units that receive project-based assistance, the owner must re-examine the tenant's annual income in accordance with the project-based assistance rules. Otherwise, an owner who accepts the tenant's statement and certification is not required to examine the income of tenants, unless there is evidence the tenant's written statement failed to include information about the family's size and income.
- (NSP)- The annual gross income of each household must be determined at initial occupancy (prior to occupancy/signing lease agreement) of an NSP-assisted unit. Tenant's income is not determined again.

Increase in Tenant Income (HOME and HTF Only)

Owner must take steps to ensure the correct number of High HOME rent and Low HOME rent units are maintained during the Period of Affordability. There are certain steps an owner is required to take to maintain the proper number and type of assisted units.

General Rules:

1. If the income of a tenant occupying a Low HOME rent unit increases but does not exceed 80% of area median income, than the unit would be re-designated a High HOME rent unit, and at the next lease renewal tenant's rent is increases to the High HOME Rent. Owner then designates the next available comparable unit as a Low HOME rent unit and rents it to a 50% AMI tenant household. The project is defined as "temporarily" out of compliance until the correct number of High and Low HOME rent units is achieved once again.
2. If a tenant's income increases ≥80% AMI, follow the same steps in 1 above to bring the project back into HOME compliance. At lease renewal, tenant's rent should be increased to market rate and the unit no longer defined as a HOME assisted unit. In units designated as both HOME and Low Income Housing Tax Credits (LIHTC), LIHTC rules apply
3. Tenant cannot be evicted or required to move into another unit solely based on over-income.
4. Rent can only be increase at lease renewal with a 30-day written notice.

Tenant Selection/ Protections/ Preference Populations

The lease agreement in HOME/ NSP/HTF-assisted housing must be a minimum 12 months unless stated in writing *and mutually agreed upon* between both the tenant(s) and owner/management.

Prohibited lease terms

- **Agree to be sued**- Agreement by tenant to be sued, admit guilt, or a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- **Treatment of property**- Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties;
- **Excuse owner from responsibility-** Agreement by tenant not to hold the owner or the owner's agent legally responsible for any action or failure to act, whether intentional or negligent;
- **Waiver of notice-** Agreement by tenant that the owner may initiate a lawsuit without notice to the tenant;
- **Waiver of legal proceedings**- Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- **Waiver of jury trial**- Agreement by tenant to waive any right to a trial by jury;
- **Waiver of right to appeal court decision**- Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
- **Tenant chargeable with cost of legal actions regardless of outcome**- Agreement by tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owners against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses;
- Require tenant to accept supportive services (except residents of a Transitional Housing project) - A requirement that the tenant(s) accept supportive services as a condition of tenancy is a violation of Section 504 of the Rehabilitation Act. Termination of Tenancy

An Owner can terminate a tenant under the following conditions:

1) Serious and/or repeated violations of the terms and conditions of the lease
2) Violation of Federal, State, or local laws
3) Transitional Housing- Completion of, or failure to participate in a required supportive services plan [§92.253]
4) Direct threat to employees, tenants, or property

Tenant Selection Criteria

HOME, HTF, NSP programs are defined as rental/homebuyer development programs for low, very low, and extremely low-income households. In general, these programs are not designed to serve a specific population other than low-income. Under specific conditions, HUD-CPD will allow an owner to provide a tenant preference for *disabled persons, and priority housing needs populations* when identified in the State of Idaho's Five-Year Consolidated Plan for Affordable Housing Programs (under permanent rental housing).

A written Tenant Selection Policy must include the following components:

- Must limit the assisted units to income-eligible households;
- Criteria will be reasonably related to applicants' ability to perform the obligations of the lease:
- Ability to pay rent
- Not damage the housing
- Not to interfere with the rights and quiet enjoyment of other tenants
- Does not impose a blanket prohibition on anyone with an arrest record
    - Will include an individualized review of an applicant's conviction record that distinguishes between criminal conduct that demonstrates a potential risk to resident safety and/or property, and criminal conduct that does not; The review policy should take into account the nature, severity, and age of the conviction

- An owner may provide a tenant waitlist preference for a particular segment of the population only under the following conditions:
  - Identified in the HOME/HTF or NSP written agreement as identified in the 2015-2019 Consolidated Plan.
- Current Permanent Rental Housing Tenant Preference Populations identified in the State of Idaho Five-Year Consolidated Plan
  - Elderly (minimum of one household member ≥ age 62)
  - Disabled (minimum of one household member)
  - Household Annual Gross income ≤30% AMI
- (b) A project may provide a preference for persons with disabilities who need the services offered at a project if:
- The limitation or preference is limited to the population of households (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- Such households will not be able to obtain or maintain themselves in housing without appropriate supportive services;
- Such services cannot be provided in a non-segregated setting. Applicant must not be required to accept services as a condition of tenancy;
- In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project;
- Do not exclude an applicant with a voucher under the Section 8 Housing Choice Voucher program;
- Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;
- Give prompt written notification to any rejected applicant of the grounds for rejection.

Project Rule (HOME)

For rental projects of five (5) or more HOME-assisted units, **20%** of the HOME-assisted units must be occupied by households whose annual income (at the time of occupancy) **≤ 50% of area median income.** This rule in effect during the HOME period of affordability

Program Rule (HOME)

HOME regulations require IHFA to ensure 90% of all HOME-assisted rental units in the portfolio are initially (first time only) occupied by households whose annual income is ≤ **60% of area median income.** This rule remains in effect throughout the period of affordability. IHFA's HOME Programs meets this Program Rule through its partnership with the LIHTC program.

- Project owners can implement more restrictive income or rent limits based on the goals or mission

HOME & NSP Programs		
Activity Type	Average Per-unit Cost	Affordability Period
Rehabilitation or acquisition of existing rental housing	< $15,000/unit	5 years
	$15,000-40,000/unit	10 years
	>$40,000/unit	15 years
New Construction or acquisition of new Construction rental housing	Any amount	20 years

Housing Trust Fund	
Activity Type	Affordability Period
All Rental Housing Activities	30 Years

Recordation Order of Loan Documents

When HOME and/or HTF-assisted housing fails to meet the affordability requirements during the period of affordability, all HOME and/or HTF funds invested in the activity must be repaid without regard to any loan terms, transfer of ownership, foreclosure, transfer in lieu of foreclosure, or assignment to HUD. Therefore, the Memorandum of Restrictive Covenants must be filed, and remain in place throughout the entire Period of Affordability, in the senior position above all other regulatory agreements, senior liens, and restrictive covenants.

HUD 811/202 Capital Advance Program

IHFA may consider subordinating the HOME/HTF Memorandum of Restrictive Covenants to a HUD MORC during the period of affordability, if the HOME/HTF MORC is revived to its original terms before the foreclosure, or a transfer by deed in lieu of foreclosure. Without this or other assurance from HUD, that the project will remain affordable (based on HOME or HTF requirements) for a period equal to the HOME/HTF period of affordability, would create a regulatory repayment liability that is not acceptable to IHFA.

DEFINITIONS

(NSP) Abandoned/Blighted Property

- **Abandoned-** A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.
- **Blighted Structure-** Exhibits objective determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare as determined by the jurisdiction in which the property is located.

Acquisition

At application, all units and tenant common areas must meet or exceed local and state building codes/standards/code/ordinances in effect at the time the housing was originally constructed as applicable.

At loan closing, all units and common areas meet the local and/or state building code that was in effect at the time the housing was built, any local property standards/code/ordinances. If no local property or housing quality standard exists, the applicable standard will default to the inspectable areas of the Uniform Physical Conditions Standards.

Capital Needs Assessment (CNA)

An assessment to determine the amount of funds needed **in the future** to perform necessary replacement and repair of major components and systems. The assessment is based on the average useful life of each component/system throughout the life of the project. The CNA will include the timing of necessary replacement and repair during the period of affordability and through the term of the Note. The CNA will include the following components:

- **Long-Term Physical Needs**- An estimate of the useful life of all major components/systems based on their age and condition. Major Components include structural support, roofing, cladding and weatherproofing, plumbing, electrical, heating and air conditioning, paving, roadways, fencing, irrigation system parking, gas lines, playgrounds, site furniture, and earthwork. This is not an all-inclusive list but the CNA shall include at a minimum all of the items contained within the Major Components list above.
- **Analysis of Replacement Reserves**- An estimate of the necessary initial and monthly deposits to Replacement Reserves to fund future physical needs. The deposit is indexed for inflation at the same rate as the operating expenses for the term of the Note. Analysis needs to show a positive replacement reserve balance throughout the term of the Note.

IHFA reserves the right to require the owner to provide IHFA a CNA performed by an independent third party if the property has not passed the physical assessment performed by the Compliance Department of IHFA.

Conditional Contract

A legal agreement between the potential buyer and the owner that includes conditions which must be met by both parties for the obligation to purchase to become binding.

★A Conditional Contract **can only be used for existing residential properties**

NEPA case law has determined entering into Purchase and Sales agreement (either a Purchase Option agreement or a Conditional Contract) is a choice-limiting action. Therefore, if the agreement is entered into before the environmental review is complete, it is a violation of 24 CFR 58.22, unless the following additional requirements are met.

1) The agreement includes the following (or similar intent) Environmental Review Clearance Clause:

> "This agreement is subject to a determination by IHFA on the desirability of the property for a project as a result of the completion of the environmental review in accordance with 24 CFR Part 58; no transfer of title to the purchaser or removal of the environmental condition(s) in the purchase contract occurs unless and until IHFA determines, on the basis of the environmental review, transfer to the buyer should go forward; and IHFA obtains approval of a Request for Release of Funds and environmental certification, as

applicable. IHFA will use its best efforts to conclude the environmental review of the property in an expeditious manner."

2) **For existing multi-family rental structures only** - The structure(s) is not located within a Special Flood Hazard Area;

3) The cost of the option should be a reasonable nominal portion of the purchase price. For multi-family, if the option is non-refundable deposit, it cannot exceed 3% of purchase price or less.

4) The term or automatic renewal language is sufficient to provide assurance the agreement will not expire prior to loan closing.

5) For single family, activities, a non-refundable deposit cannot exceed $1000

6) Once an application or an Exhibit S is submitted, the ER Process has begun, and an owner, developer, can undertake no choice limiting activity or contactor until a Request for Release of Funds (RROF) has been issued. This includes expending any public or private funds AND/OR executing an agreement to conduct any of the following activities regarding a specific site:

- Property acquisition
- Rehabilitation
- Conversion
- Leasing
- Renting
- Repair
- Construction
- Demolition

7) Engaging in any choice-limiting activity before the entire Environmental Review process is complete may result in the denial of federal funds to the HOME/HTF/NSP project/activity.

Commitment of Funds

A legally binding written agreement with the owner under which funds are provided to an identifiable project for which all other funding has been reasonably secured.

HUD-CPD defines "reasonably secure" as all other financing has been provided in enough detail to show these transaction(s) can be reasonably expected to close before the disbursement of funds[1], is consistent with the PJ's underwriting and other HOME and/or HTF requirements have been completed, a budget and schedule have been established, and construction/rehabilitation is scheduled to begin within 12 months of the agreement date.

Prior to a commitment of HOME/HTF fund, the architectural plans and specifications must be review and approved by the HOME Program's consulting architect and the Owner-developer architect. Both parties must be in agreement regarding the Fair Housing Design requirements, as applicable to the scope of the project. If both parties are unable to reach consensus, the more stringent interpretation will apply to the project.

Developer Fee

Developer Fee is based on total cost of development as reflected in the initial HOME application.

1) **Joint HOME and/or HTF/Low-Income Housing Tax Credit Projects**

- HOME and HTF defer to the LIHTC calculation for joint projects up to a maximum of 15%.

2) **HOME and/or HTF Projects (no Low-Income Housing Tax Credits)**
Developer Fee is calculated based on the following:

[1] LIHTC- A reservation from the LIHTC credit allocator and a good faith offer of equity.

- **Minor Rehabilitation** – 10% of total project cost (includes hard and soft costs) when rehab costs are ≤10% of the purchase price. To be determined by physical inspection according to HOME rehabilitation standards and approved budget;
- **Moderate Rehabilitation** – 15% of total project costs when total rehab costs (hard and soft costs) do not exceed 75% of the replacement value of the unit. Units requiring 75% or more in rehab costs will not be eligible for funding, and will be denied.
- **New Construction** -15% of total eligible project costs

Developer Fee Schedule- Single Family only

Developer Fee is calculated at budget approval, and adjusted at final disbursement after the property is occupied by a qualified tenant, and all final documentation is received by IHFA. Disbursement schedule is as follows:

- 25% at acquisition
- 25% at 50% completion (drywall stage for new construction)
- 25% at Certificate of Occupancy or completion of rehabilitation work
- 25% at closeout when all necessary info has been submitted and approved by IHFA

Draw Request

Submitted Draw Requests will be subject to approval by the HOME Department and must follow HOME Program Draw procedures.

Eligible Applicants

- Includes the purchasing and/or rehabilitating rental housing, if not previously a principal in the ownership or management of the project to be rehabilitated, or the existing owner or manager of a project that can document the need for the rehabilitation is due to reasons beyond their control, such as long term disastrous economic conditions external to the project but existing in the community as a whole.
- Property managers hired on an interim basis to manage properties in receivership or foreclosure that can demonstrate they meet the conditions of the interim management agreement and that the need for rehabilitation existed prior to becoming the management agent are excluded from this restriction.
- IHFA reserves the right to work with eligible applicants to design a project that is consistent with the housing strategies and resource investment as identified in Idaho's Five-Year Strategic Plan for Affordable Housing and Community Development programs.

Environmental Review

The Environmental Review determines the appropriate level of environmental analysis for a project or activity. This may include Compliance Determination, Environmental Assessment, or Environmental Impact Statement.

Environmental Review Process

The completion of all procedural steps of an environmental review, including conducting and documenting an environmental review, environmental determination, publishing required public notices, submission of a Request for Release of Funds and Certification Form, and receipt of Authority to Use Grant Funds.

Individual Action on a one-four unit dwelling unit [CPD Notice 01-11] - An individual decision regarding the acquisition, construction, demolition, leasing, moving, or rehabilitation, of a one to four family residential building. An environmental assessment with a finding of no significant impact under NEPA is not required for such activities unless and extraordinary circumstance as defined at §58.2(a) (3) occurs.

- **Extraordinary Circumstances [§58.2(a)(3)**] - a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

  (i) actions that are unique or without precedent;

  (ii) actions substantially similar to those that normally require an EIS;

(iii) actions that are likely to alter existing HUD policy or HUD mandates; or

(iv) actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

Existing Structure

Chapter 34 International Building Code-A structure erected prior to the date of adoption of the appropriate code, or one for which a legal building permit has been issued. **From Section 34-04**

Alterations-3404.1 Except as provided by Section 3401.4 or this section, alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less complying with the provisions of this code than the existing building or structure was prior to the alteration.

Fair Market Value

1) For Single-Family Homebuyer & Rental Properties Activities, Estimated Fair Market Value can be established by one of two methods: (1) appraisal or (2) Broker's Price Opinion (BPO) or (3) property valuation.
   - Property valuation- Conducted by a person with sufficient understanding of the local real estate market and sufficiently qualified to make such valuation
   - Developer will determine the fair market value for each property no more than 60 days of the initial listing/advertising date. Thereafter, fair market value will be updated every 60 days until the property is under contract.
   - The Initial and Updated Fair Market Value for each property will be submitted to IHFA within 7 days of the valuation.
2) For Multifamily Rental Activities- Fair Market Value established only by Appraisal.

HTF-Operating Assistance and Operating Cost Assistance Reserves

§93.201 (7)(e) - HTF-assisted units for which project-based assistance is not available, when necessary and subject to limitations in §93.200(a), HTF funds may be used to pay for operating costs and operating cost assistance reserves.

Methodology for determining Operating Assistance Reserve

IHFA may provide HTF funding for a rental project's operating assistance reserve during the HTF period of affordability if the need for annual or monthly contributions to these reserves is determined through the underwriting process.

- HTF Appropriation Funds
  - Funding for capital or operating reserves "up front" for the present value of the entire amount needed over the required period of affordability (30 years) is not possible because funds cannot be drawn years in advance of need;
  - Applicant must demonstrate the necessity of the reserve amount based on an analysis of potential deficits remaining after the expected rent payments for the HTF-assisted unit are applied to the HTF-assisted unit's expected share of operating costs;
  - The allowable amount of the reserve may not exceed the amount necessary to provide operating assistance to HTF-assisted units for a period of up to 5 years. IHFA may renew operating assistance reserves during the period of affordability by executing a new written agreement
- HTF Non-Appropriation Funds (from Fannie Mae/Freddie Mac)
  - Applicant must demonstrate the necessity of the reserve amount based on an analysis of potential deficits remaining after the expected rent payments for the HTF-assisted unit are applied to the HTF-assisted unit's expected share of operating costs

- The allowable amount of the reserve may be funded for the amount estimated to be necessary for the entire period of affordability up front, or if this amount would exceed one-third of each annual grant, it can be funded in phases from future grants, as determined to be suitable and necessary to secure advantageous financing.

Leverage

Leverage is defined as the other funding sources in an activity. Leverage includes match. See chapter 4 for additional information.

Major Systems

Structural support, roofing, cladding and weatherproofing, plumbing, electrical, heating and air-conditioning.

New Construction

At project completion, all residential units and tenant common areas will meet the following requirements:

- State of Idaho's current International Building Code
- Local property/housing quality standards, codes, ordinances, zoning, as applicable
- International Energy Conservation Code
- Site and Neighborhood Standards Reference: 24 CFR 983.6(b)
- Covered multifamily dwellings, as defined at 24 CFR 100.21 and design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act. "Covered" defined as multi-unit residential buildings built for first occupancy after March 13, 1991 with four or more units to meet the accessibility requirements of this law. Subject to specific exceptions, all units in elevator buildings and all one-story ground floor units in non-elevator buildings must meet FHA standards.
- Section 504 & Uniform Federal Accessibility Standards (UFAS)
- Americans with Disabilities Act (ADA)
- Current Edition of the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) 90.1 for multifamily buildings.

Newly Constructed or Rehabilitated Housing

Existing housing that was constructed or rehabilitated within one year of the date of the commitment of HOME/HTF funds must meet specific standards:

- If constructed within 12 months of commitment, the housing must meet all HOME new construction standards
- If rehabilitated within 12 months of commitment, the housing must meet the HOME Rehabilitation
  - Applicant must be able to document the property complies with code, local and IHFA property standards. This is based on approved building plans, Certificate of Occupancy (for new construction only), other local certification(s), and an inspection conducted no earlier than 90 days before the commitment of the assistance.
  - If applicant is unable to provide documentation necessary to document it meets Rehabilitation Standards, then the property cannot be acquired with HOME and/or HTF funds unless it is brought up to the HOME/HTF Rehabilitation Standard as part of the project. See Exhibit C- Rehabilitation Standards

Physical Needs Assessment (PNA)

IHFA may allow refinancing of existing debt if the debt **was not made or insured** by any Federal Program (CDBG, USDA-RD, VA, HUD-202 or 811 or 221(d(4), PHA Capitol Fund, FHA), and substantial rehabilitation will be the primary activity. Activity is eligible within Idaho, except the City of Boise.

Requirements:

1) Refinancing is necessary to permit the continued affordability of the project;

2) Affordability period is no less than 15 Years;
3) A review of the owner's financial and property management practices clearly demonstrates there was no disinvestment in the property;
4) Feasibility of serving the current target population over an extended period is demonstrated by pro forma;
5) Substantial Rehabilitation of all units and tenant common areas is necessary as demonstrated by a Physical Needs Assessment;
   - "Substantial Rehabilitation" defined as ≥$25,000 per unit hard rehabilitation costs. Hard rehabilitation for this activity is defined as site work, physical improvements, and a construction contingency.
6) PNA must meet the following requirements:
   - Assessment must be conducted or updated within the previous 6 months;
   - Assess the physical condition of all major systems, structures, units, and tenant common areas;
     - Identify any major system with a useful remaining life of less than 15 years. Any system with less than 15 years useful remaining life must be replaced as part of the rehabilitation project.
   - Be prepared by an independent architect/engineer who is licensed and certified by the State of Idaho;
   - Architect or Engineer must certify the PNA is an accurate assessment of the property and includes an assessment of the items needed to comply with the Property Standards:
     - Property Standards- State of Idaho's building codes, applicable local property standards and ordinances, Uniform Physical Condition Standards (UPCS), applicable federal crosscutting regulations (Fair Housing Act, Section 504, ADA, UFAS, HUD Lead Safe Housing Rule) and ASHRAE 90.1 for Multifamily buildings.

PNA Inspectable Components

- Site- Topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities, playground, site furniture, irrigation system;
- Assess potential impact of natural disasters, (e.g. earthquake, flooding, wildfires, drought) in accordance with state and local code;
- Estimate the useful remaining life of all Major Systems and components based on current age and condition. *Major Systems defined as structural support, roofing, cladding and weatherproofing, plumbing, electrical, heating, and air conditioning.*
- Exterior walls, balconies, exterior doors and windows, roofing system and drainage;
- Interior finishes of all units and tenant common areas (carpeting, vinyl tile, plaster walls, paint condition, etc.), unit kitchen finishes and appliances, unit bathroom finishes and fixtures;
- Lobbies and corridors
- ***Critical Repair Items-*** Any health and safety deficiencies/violations of building code and local property standards/code that require immediate remediation.
- ***On-site inspections of all units and tenant common areas***
  - Identify all physical deficiencies based on
    - visual inspection and survey;
    - review of pertinent documentation;
    - interviews with the property owner, management staff, tenants, community groups, and government officials
- Explain how the Project will meet handicap accessibility requirements;

- Identify physical obstacles and describe methods that can be taken to make the project accessible;
- Prepare a Scope of Work that follows the HOME Rehabilitation Standards See Admin Plan Exhibit C;
- Determine the cost/benefit of each significant work item in the rehabilitation plan (items greater than $5,000) that will reduce operating expenses and/or tenant expenses (e.g., individual utility metering, extra insulation, thermopane windows, and setback thermostats.

Preservation of Affordable Rental Housing

See Rental Housing Preservation

Project Completion- Defined

The date on which all title transfer requirements have been satisfied, all development completed, inspected, and the final Certificate of Occupancy issued, residential units and common areas meet state building code, local code, ordinances, zoning, and property standards, and applicable federal cross-cutting regulations, the final drawdown of funds disbursed, owner-certified sources and uses submitted to the HOME Programs Department, and project completion data entered into HUD's Information and Disbursement System (IDIS).

Rehabilitation of Existing Housing

Existing residential housing not constructed or rehabilitated within 12 months of a commitment of funds.

Rehabilitation the alteration, improvement, or modification of an existing structure. It may include adding rooms outside of the existing walls of a structure, does not include the addition of any units (adding new housing unit is defined as a new construction activity).

At application some or all residential units and/or tenant common areas do not meet the applicable Idaho and local code in effect at the time the housing was built, as determined by the Physical Needs Assessment.

At project completion, all residential units and tenant common areas must meet HOME or HTF Rehabilitation Standards. See Exhibit C of this Annual Administrative Plan.

Substantial Rehabilitation-

≥$25,000 per unit hard rehabilitation costs. Hard rehabilitation for this activity is defined as site work, physical improvements, and a construction contingency.

Rehabilitation with Refinancing of Existing Debt

IHFA may consider refinancing existing debt only if the debt was not made or insured by any Federal Program (CDBG, USDA-RD, VA, HUD-202 or 811 or 221(d(4), PHA Capitol Fund, FHA, etc.) and Substantial Rehabilitation is the primary activity, ***which is necessary to reduce the overall housing costs and will result in the housing being more affordable.***

Requirements:

1) Refinancing is necessary to permit the continued affordability of the project;
2) Affordability period is no less than 15 Years;
3) A review of the owner's financial and property management practices clearly demonstrates there was no disinvestment in the property;
4) Feasibility of serving the current target population over an extended period is demonstrated by pro forma;
5) Developer fee is only eligible on improvement of the project; acquisition cost cannot be included in the calculation.

6) The rehabilitation costs must be greater than the amount of debt to be refinanced and ***proportional to the number of the assisted units in the rental project;***

- Substantial Rehabilitation is defined as ≥$25,000 per unit hard rehabilitation costs. Hard rehabilitation costs defined as site work, physical improvements, and construction contingency.

Physical Needs Assessment must meet the following:

- Assessment must be conducted or updated within the previous 6 months;
- Assess the physical condition of all major systems, structures, units, and tenant common areas;
- Identify any major system with a useful remaining life of less than 15 years. Any major system with less than a 15-year useful remaining life must be replaced as part of the rehabilitation project.
- Prepared by an independent architect/engineer who is licensed and certified by the State of Idaho;
- Architect or Engineer must certify the PNA is an accurate assessment of the entire property and includes an assessment of the items needed to comply with the Property Standards:
  - Property Standards- State of Idaho's building codes, applicable local property standards and ordinances, Uniform Physical Condition Standards (UPCS), applicable federal crosscutting regulations (Fair Housing Act, Section 504, ADA, UFAS, HUD Lead Safe Housing Rule) and ASHRAE 90.1 for Multifamily buildings.

Physical Needs Assessment Inspectable Components

- **Site-** Topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities, playground, site furniture, irrigation system;
- **Assess potential impact of natural disasters**, (e.g. earthquake, flooding, wildfires, drought) in accordance with state and local code;
- **Estimate the useful remaining life of all Major Systems and components based on current age and condition.**
- **Major Systems-S**tructural support, roofing, cladding and weatherproofing, plumbing, electrical, heating, and air conditioning.
- **Exterior walls, balconies, exterior doors and windows, roofing system and drainage;**
- **Interior finishes of all units and tenant common areas (carpeting, vinyl tile, plaster walls, paint condition, etc.), unit kitchen finishes and appliances, unit bathroom finishes and fixtures;**
- **Lobbies and corridors**
- **Critical Repair Items-** Identify all health and safety deficiencies and violations of building code, and local property standards/code that require <u>immediate</u> remediation.
- **On-site inspection of <u>all</u> units and tenant common areas-** Identify all physical deficiencies based on
  - Visual inspection and survey
  - A Review of pertinent documentation
  - Interviews with the property owner, management staff, tenants, community groups, and government officials. **Explain how the project will meet handicap accessibility requirements**; identify physical obstacles and describe methods that can be taken to make the project accessible
- **Prepare a scope of work that follows the HOME Rehabilitation Standards** (see Admin Plan Exhibit C);
- **Determine the cost/benefit** of each significant work item in the rehabilitation plan for all items greater than $5,000 that will reduce operating expenses and/or tenant expenses, i.e. individual utility metering, extra insulation, thermopane windows, and setback thermostats.

Project Completion Date

The Period of Affordability will begin when a project is closed (completed) in HUD's Integrated Disbursement & Data System (IDIS). *Project Completion defined as the date the construction is complete, all assisted units are rented to income eligible tenants, all closeout documentation submitted to IHFA and the final status of the project is changed to "completed" in HUD Integrated Disbursement and Information System (IDIS.*

Purchase Option Agreement/Conditional Contract

Effective January 1, 2015, a Purchase Option Agreement and a Conditional Contract (see definition below) signed on or after this date must adhere to the following requirements:

Purchase Option Agreement

An agreement that does not impose any obligation upon the potential buyer to purchase the property. The Purchase Option Agreement obligates the seller to sell at the specified price, if the potential buyer exercises the option in the manner described in the contract.

★The Purchase Option Agreement can be used for any HOME/HTF/NSP-assisted activity, including new construction and the purchase of existing units.

Rehabilitation of Existing Housing

Existing residential housing not constructed or rehabilitated within 12 months of a commitment of funds.

Rehabilitation the alteration, improvement, or modification of an existing structure. It may include adding rooms outside of the existing walls of a structure, does not include the addition of any units (adding new housing unit is defined as a new construction activity).

- **At application,** some or all residential units and/or tenant common areas do not meet the applicable Idaho and local code in effect at the time the housing was built, as determined by the Physical Needs Assessment.
- **At project completion,** all residential units and tenant common areas must meet HOME or HTF Rehabilitation Standards. See Exhibit C of this Annual Administrative Plan.

Reconstruction

Residential building(s) rebuilt on the same site with the same number of units, are deemed reconstruction projects. **NOTE:** If additional units are added, the project is defined as new construction, with all applicable requirements.

Reconstruction of unit(s) if destroyed by a disaster, not standing on the site at the time of the commitment of funds, provided the funds are committed within 12 months of the date of the destruction of the units.

Rehabilitation

The repair or replacement of existing items to bring the property into compliance with HOME or HTF Rehabilitation Standards (See Admin Plan-Exh C). Rehabilitation Standards include Idaho and local code(s), local property/housing quality standards, UPCS for rental housing/ HQS for homebuyer housing, and crosscutting federal regulations, i.e. Lead-based Paint, ADA, UFAS, and Section 504.

Rental Housing Preservation

An affordable rental housing project that currently receives Federal project-based subsidy and will continue to do so during the period of affordability.

Rural- Definition

Defined as an area with a population no more than 35,000 and "rural" in character. For qualifying areas in Idaho, see the USDA Income and Property Eligibility website is found at http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do

Special Housing Needs Populations

As defined in the most current Five-Year Consolidated Plan (2015-2019)

- Age 62 years or older (At least one household member must be age 62+)
- Disabled (as defined by Federal law, Executive Order, or HUD program)
- Households with an annual income ≤30% AMI

Sponsor

- Owner
- Developer

Standard Condition Housing

Prior to acquisition, a residential property meets applicable state and/or local code (for existing structures), local property/housing quality standard, and the Program's property standard.

Substandard Condition Housing

Prior to acquisition, a residential property does not meet one of the following: Applicable state and/or local code/property/housing quality standard, **or** Idaho's building code (for existing structures), **or** the Program's applicable Property Standard.

Substandard Condition But Suitable for Rehabilitation

Prior to acquisition, a residential property is defined as Substandard but can be brought up to the applicable existing state and local (applicable) code for existing structures and property/housing quality standards, and the applicable property standard, at a total project cost that is less than <75% of the property's replacement cost**.**

Substantial Rehabilitation

- Rehabilitation costs on substandard housing with a total repair/replacement costs greater than 75% of the property's total replacement cost.
- Five percent (5%) of the all rental dwelling units or a minimum of one must be made accessible to persons with mobility disabilities. In addition, 2% of the dwelling units, or a minimum of one unit (whichever is greater), must be made accessible to persons with hearing or visual disabilities.
- At its discretion, IHFA may waive the 75% total replacement value threshold if the rehabilitation activity meets one of the following designations, and other conditions as IHFA deems appropriate
    - The property currently serves a Special Needs population as defined in the current Five-Year Consolidated Plan; or
    - The property receives Project-Based Rental Subsidy and will continue to do so during the period of affordability

Surplus Cash

Cash (excluding tenant security deposits) remaining at the end of the fiscal year of the Borrower after (A) payment of all Project Operating Expenses for such fiscal year, (B) payment of all sums due or currently required to be paid under the terms of any Permitted Senior Loans encumbering the Project and the promissory note secured by such Permitted Senior Loans, and (C) payment of all amounts required to be deposited into any reserve for replacements to the Project, or any other special reserve funds required to be maintained by the Project under the Permitted Senior Loans or the Loan Documents, subject to IHFA consent, provided that amounts for required reserves that may also be Project Operating Expenses shall not be deducted more than once. Notwithstanding the foregoing, accrued Deferred Developer Fees, advances made under the Operating Deficit Guaranty, or any other operating advances to the property by the borrower or affiliates of the borrower may be repaid only from the borrower's share of positive Surplus Cash.

Underserved

A locality in which an affordable multifamily rental project has not been approved by IHFA for five (5) or more years.

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