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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<sup>1</sup>
- 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 multi-family rental projects [[24 CFR §§92.251\(a\)\(2\)\(vi\) & \(b\)\(x\) and or 93.31\(a\)\(2\)\(vi\)](#)].

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 the HOME Department 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 multi-family housing, including the costs to wire the property for broadband internet. The

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<sup>1</sup> 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.

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).
- 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**

The HOME Department will charge each recipient 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 the HOME Departments’ 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. Recipients may be charged additional monitoring fees when deficiencies require an additional on-site monitoring.

### **Project Completion Deadline**

Multi-family recipients are required to submit all project compliance documentation within six (6) months of the issuance of the project’s final certificate of occupancy.

**Single-family recipients are required to submit final draws and all project compliance documentation within 45 days of issuance of the certificate of occupancy, or submission of final third party inspection report showing no deficiencies; whichever is later.**

Failure to do so may cause the forfeiture of any un-disbursed developer fees and a negative determination of development capacity on future projects. See Project Completion in the Definitions section of this chapter.

### **Eligible Properties**

Multi-family and Single-family

- 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

Multi-family only:

- 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<sup>2</sup>
- 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 recipient 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<sup>3</sup> regardless of percentage the recipient's amounts will count in full. In order for an assisted project in a development not to be counted in either 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 capacity, 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**

The recipient 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.<sup>4</sup>

**Property Standards**

Prior to a commitment of funds, the architectural plans and specifications must be reviewed. Plans and specifications must be approved by both the HOME Department architect-consultant and the recipient's 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.

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<sup>2</sup> During the first year after a project is completed in IDIS, additional HOME/HTF funds may be provided under certain circumstances, as approved by the HOME Department. After 12 months, no additional funds can be provided during the period of affordability.

<sup>3</sup> Combined total of Multi Family and Single Family Awards. **Single family may assign a lower threshold or number of projects based on funding available, IHFA's determination of developer's capacity, or other factors at IHFA's discretion.**

<sup>4</sup> Combined total of Multi Family and Single Family Awards. **Single family may assign a lower threshold or number of projects based on funding available, IHFA's determination of developer's capacity, or other factors at IHFA's discretion.**

### 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 §891.125](#) - Covered multifamily dwellings as defined at [24 CFR §100.201](#), 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)  
[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/accessibilityR](https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/accessibilityR)  
<https://www.access-board.gov/aba/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 [\[24 CFR §§92.251\(a\)\(2\)\(vi\) & \(b\)\(x\) and/or 93.301\(a\)\(2\)\(vi\)\]](#)
  - 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 (the HOME Department) determines, in accordance with [24 CFR §92.508\(a\)\(3\)\(iv\)](#) one or more of the following conditions is present, and the HOME Department determines the project is exempt from the requirement:
    - 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.
  - **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.

- The HOME Department documents property standard compliance based on the architectural review of approved building plans and a the certificate of occupancy (new construction), other local certification(s), and the HOME Department 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), or updated standard found in [24 CFR §§92.251](#) and/or [93.301](#), or any updated standard HUD may impose. NSPIRE is planned to be effective October 1, 2024 and will apply to all projects with funds committed on or after the effective date. Developers will be notified when new standards become effective.
- Residential home inspection performed by an IHFA approved third party inspector showing no deficiencies (other than minor cosmetic) – Single-family only
- Meet HUD Lead Safe Housing Rule ([24 CFR §35](#))
- Must be inspected by the HOME Department prior to loan closing

### Rehabilitation of Existing Housing

- 1) **At Application** - Some or all residential units and the tenant common areas do not 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, or other approved standard found in [24 CFR §§92.251](#) and/or [93.301](#), or any updated standard HUD may impose. NSPIRE is planned to be effective October 1,

2024, and will apply to all projects with funds committed on or after the effective date. Developers will be notified when new standards become effective

- Residential home inspection performed by an IHFA approved third party inspector showing no deficiencies (other than minor cosmetic) – Single-family only
- Broadband Infrastructure

### **Eligible Costs**

Submitted reimbursement requests will be subject to approval by the HOME Department and must follow HOME Department reimbursement procedures, *see Chapter 6*.

- **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 3<sup>rd</sup> 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 the HOME Department in the written agreement.



- **Project Hard Costs:**

- Improvements to meet building codes or local 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 (Multi-family only)
- 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 [24 CFR §92.206\(a\)\(3\)\(ii\)](#). HUD includes internet connectivity in the regulatory definition of utility connections:

- 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)
  - 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. (Multi-family only)
  - 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. (Multi-family only)

#### **HTF Specific-Project Operating Assistance & Reserves [24 CFR §93.201(e)]**

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 ([24 CFR § 93.204\(a\)\(1\)](#)) 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/reserves 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. The HOME Department strongly urges the recipient to initiate conversation 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 the HOME Department and recipient
- 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 [24 CFR §92.206\(d\)\(5\)](#) (HOME)
- Operating subsidies (HOME)
- Tenant-based rental assistance
- Off-site infrastructure cost
- Delinquent taxes, fees, penalties or charges
- Any cost not eligible under [24 CFR §§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 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 **is required to complete a single audit**, and will be required to submit a CPA audited financial statements. These requirements as expressed in Subpart F of 2 CFR 200 are located at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F>

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 provided 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 the HOME Department 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 Fees 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, the HOME Department must evaluate the project in accordance with guidelines, and will not invest any more HOME funds, in combination with other sources, than is necessary to provide affordable housing. See Exhibit "Q".
- **Reservation Fee of \$500.00 per developer per project for Multi-Family projects will be due to Idaho Housing and Finance Association HOME Department once HOME/HTF conditional reservation is received (not applicable for Single-Family).**
- **Interest rates** on project loans will be 1% for Multi-family non-profit developers, and 3% for for-profit developers, and **0% for Single-family non-profit developers.**
- 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 the HOME Department 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 (written agreement), the HOME Department will consider the sale, transfer, or restructure of a current, non-delinquent HOME or HTF loan(s). 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 annual 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 requests to be completed/approved/closed by December 31, all documentation must be provided no later than November 15 of the same year.**
- 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 five (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 the HOME Department 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. The HOME Department may not approve a subordination agreement to a new proposed senior lender if there is cash-out to the borrower. The HOME Department may request cash-out be applied to existing HOME debt and/or 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. **This will not be subordinated under any circumstance.**
- If both HOME and HTF funds are invested in the same project; the most restrictive Memorandum of Restrictive Covenants (MORC) 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 multi-family projects.

**Interest rate** on project loans will be 1% for Multi-family non-profit developers, and 3% for for-profit developers, and **0% for Single-family non-profit developers.**

- 1) **(HOME Only) Regular Scheduled Payment-** When feasible (as determined by the HOME Department), 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-** If the project is owned by 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 & Regulatory Agreement in the following order:
  - 1<sup>st</sup>- Fixed percentage of the HOME loan amount;
  - 2<sup>nd</sup>- One-twelfth (1/12) of the lesser of the actual Deferred Developer Fee (DDF) or the DDF represented in the application for funding;
  - 3<sup>rd</sup>- Remaining Surplus Cash to the extent generated from the operation of the project shall be split between Borrower and the HOME Department. The HOME Department will receive a minimum of 50%.
  - Surplus Cash repayment to only be approved as repayment **at the sole discretion of the IHFA HOME.**
    - If approved by the HOME Department 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 and Regulatory 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 the HOME Department 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 the HOME Department 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 recipient 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 recipient, distributions to persons or entities having an ownership interest in the recipient, deposits to reserve accounts and escrow accounts (other than deposits specifically approved in advance, in writing by the HOME Department), 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 the HOME Department), and payments to the recipient or any Affiliate (other than payment specifically approved in advance, in writing by the HOME Department).
- 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 recipient's cash revenues of every kind from the recipient'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:** Recipient and Key Principals acceptable to the HOME Department 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 recipient 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 the HOME Department.
- e) To support the Surplus Cash calculation, recipient will furnish the following:
- Within one hundred and twenty (120) days after the end of each fiscal year of recipient, 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 recipient, 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 recipient, a statement that identifies all owners of any interest in the recipient and the interest held by each, if recipient is a corporation, all officers and directors of recipient, and if recipient is a limited liability company, all managers who are not members. Please see Attachment B for a sample Certification that meets the HOME Department'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 the HOME Department, and in accordance with all applicable requirements.
- f) Application of Payment-Loan payment will be applied to the following categories in the following order unless otherwise pre-approved by the HOME Department at its sole discretion:
- Any fees or penalties, to include late and NSF
  - Principal
  - Escrows
  - Other IHFA Approved Deductions
  - Interest

### Cost Allocation Process- Designation of Assisted Units

HUD allows the HOME Department 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<sup>5</sup>. While these costs are not included in the recipient'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 federal 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.

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<sup>5</sup> It is never the HOME Department's intent to trigger Davis-Bacon or cause the number of required HOME-assisted 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. Units are identified in the written agreement(s).
- **Floating:** When assisted units are defined as "floating," when the designated unit(s) may change.
  - 1) If the floating designation is used, the recipient 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**

- The HOME Department 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 outlined in the written agreement(s).
- Rent Limits are established annually by HUD-CPD and are located on the 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  $\leq 50\%$  AMI
- The balance of the units can be designated High HOME Rent Units, and target tenant households  $\leq 80\%$  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  $\leq 30\%$  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 are allowed for 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 [[24 CFR §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/>

The HOME regulations at [24 CFR §92.250\(a\)](#) limits the amount of HOME/HTF funds invested 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). *High Cost geographic areas are determined by HUD.*

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

**Tenant Income Limits and Requirements**

Resources- Income Limits (<https://www.idahohousing.com/federal-programs/home-program/> )

**HOTMA: Multi-Family Rental activities will begin compliance no later than January 1, 2025. Information with specific changes to income calculations will available in the HOME Compliance Manual at: <https://www.idahohousing.com/housing-compliance/home-program-compliance/>**

(HOME & HTF)- In addition, in each year during the period of affordability, the recipient must re-examine each tenant’s annual income. (1) A recipient 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 recipient must re-examine the tenant’s annual income in accordance with the project-based assistance rules. Otherwise, a recipient 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)**

Recipients 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, then the unit would be re-designated a High HOME rent unit, and at the next lease renewal tenant's rent is increased to the High HOME Rent. Recipient 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.
- 3) If a tenant's income increases  $\geq 80\%$  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
- 4) Tenant cannot be evicted or required to move into another unit solely based on over-income.
- 5) Rent can only be increased at lease renewal with a 30-day written notice (60-day notice if increase exceeds 5%). The instructions and form for requesting annual HOME rents can be located on the IHFA website at:

<https://www.idahohousing.com/documents/home-rent-increase-request-form.pdf>

**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 recipient.

**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

A recipient 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 [[24 CFR §92.253](#)]
- 4) Direct threat to employees, tenants, or property

### **Tenant Selection Criteria**

HOME, HTF, ~~NSP~~ programs are defined as rental 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
- A recipient 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 [2020-2024 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  $\geq$  age 62)
  - Disabled (minimum of one household member)
  - Household Annual Gross income  $\leq$ 30% AMI
- 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 recipient 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 the HOME Department 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**.

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

HOME & NSP Programs		
Activity Type	Average <u>Per-unit</u> 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 first. This must 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**

The HOME Department may consider subordinating the HOME/HTF Memorandum of Restrictive Covenants (MORC) 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 the HOME Department.

**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, or other defined standard found at [24 CFR §§92.251](#) and/or [93.301](#).

**Alterations**

~~The International Existing Building Code (IEBC) defines an alteration as any construction or renovation to an existing structure other than a repair or addition. 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.~~

**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 must be completed and certified by a qualified independent third-party and 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.

### **Capital Needs Assessment (CNA) for Refinances**

The HOME Department 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  $\geq$ \$25,000 per unit hard rehabilitation costs. Hard rehabilitation for this activity is defined as site work, physical improvements, and a construction contingency.
- 6) CNA 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 CNA 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) or updated standard found at 24 CFR §§92.251 and/or 93.301, applicable federal crosscutting regulations (Fair Housing Act, Section 504, ADA, UFAS, HUD Lead Safe Housing Rule) and ASHRAE 90.1 for Multifamily buildings.

### **CNA Inspectable Components**

- Site- Topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities, playground, site furniture, irrigation system;
- Site- 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.

### **Conditional Contract or Purchase and Sales Agreement**

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. *Chapter 10 contains all requirements regarding Environmental Reviews.*

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

### **Commitment of Funds**

The Loan and Regulatory Agreement, is the written document used to commit funds for the project, and minimally, will not be executed until the project is expected to be under construction within 12 months **and** all requirements of [24 CFR §§§92.2, 92.504, 93.2](#), and [93.404](#). Prior to the execution of the Loan and Regulatory Agreement, the HOME Department may execute an award agreement after the completion of the Environmental Review. This award agreement is for the purposes of the recipient securing all sources of funding and conveys requirements for the long-term compliance. The award agreement does not constitute a commitment of funds, but is transparent to convey federal requirements of funding.

### **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:

- **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 the HOME Department. 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 the HOME Department

### **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.

The HOME Department 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 and Affordable Housing 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. *See Chapter 10 for additional Environmental Review information*

### **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**

### **Fair Market Value**

- 1) For 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
  - Recipient 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 the HOME Department within 7 days of the valuation.

2) For Multifamily Rental Activities- Fair Market Value established only by Appraisal.

### **Financial Capacity**

The ability of a borrower to repay the loan based on the proposed amount of the loan and its associated terms in the applicable market conditions over the life of the loan. Factors evaluated by IHFA to determine capacity include some of the following: past performance illustrated by the borrower's payment history and maintenance of loan collateral; debt service coverage ratio; adequacy of capital and liquidity; and reasonableness of assumptions used in an applicant's budgets, CNA's, and pro formas (*i.e., are operating expense ratios and replacement reserves supportable and adequate as the property ages?*).

### **HTF-Operating Assistance and Operating Cost Assistance Reserves**

[24 CFR §93.201\(7\)\(e\)](#) – HTF-assisted units for which project-based assistance is not available, when necessary and subject to limitations in [24 CFR §93.200\(a\)](#), HTF funds may be used to pay for operating costs and operating cost assistance reserves.

### **Methodology for determining Operating Assistance Reserve**

The HOME Department 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;
  - Recipient, at application 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. The HOME Department 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)
  - Recipient, at application 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.

**Internal Controls**

For non-Federal entities is defined as those processes designed and implemented to provide reasonable assurance regarding the achievement of objectives in the following categories:

- i) Effectiveness and efficiency of operations;
- ii) Reliability of reporting for internal and external use; and (iii) Compliance with applicable laws and regulations. See <https://ncdaonline.org/wp-content/uploads/2020/10/Internal-Controls-for-Subrecipient-Management-Appendix-C.pdf>

For Federal awarding agencies is defined in OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. See <https://www.gao.gov/assets/gao-14-704g.pdf>

**Leverage**

Leverage is defined as the other funding sources in an activity and may be used as match, in some cases. 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 §891.125](#)
- Covered multifamily dwellings, as defined at [24 CFR §100.201](#) 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 applicable property standards found at [24 CFR §§92.251](#) and/or [93.301](#). 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

### **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.

### **Preservation of Affordable Rental Housing**

See [Rental Housing Preservation](#)

### **Project Completion**

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 Department, and project completion data entered into HUD's Information and Disbursement System (IDIS).

### **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's IDIS System.

### **Purchase Option Agreement/Conditional Contract**

A Purchase Option Agreement and a Conditional Contract (see definition above) 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 Capital 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.

### **Reimbursement Request**

Submitted reimbursement requests will be subject to approval by the HOME department and must follow established procedures found in Chapter 6 and the Loan and Regulatory Agreement.

### **Recipient**

The word recipient is used to define the organization who will be receiving the federal resources. This may include a developer, sponsor, owner, agent, etc.

### **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, property standards found in [24 CFR §92.251](#) 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**

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 <https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=rbs>

### **Special Housing Needs Populations**

As defined in the most current Five-Year Consolidated Plan (2020-2024)

- 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  $\leq 30\%$  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 standards found in [24 CFR §§92.251](#) and/or [93.301](#).

**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 State or local building code (for existing structures), or the program's applicable property standards found in [24 CFR §§92.251](#) and/or [93.301](#).

**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, the HOME Department 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 recipient's fiscal year 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 the HOME Department's 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 recipient or affiliates may be repaid only from the recipient'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.