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# Chapter 1

## HOME ARP Introduction

On March 11, 2021, section 3205 of the American Rescue Plan Act (P.L. 117-2) (ARP) was signed into law. The HOME Investment Partnerships Program (HOME) received funding (HOME ARP) to provide relief for the continued impacts of COVID-19. HOME ARP activities must primarily benefit qualifying populations who are:

- 1) Homeless
- 2) At-risk of becoming homeless, or
- 3) Other vulnerable populations.

ARP funding is authorized under the HOME statute of Title II of NAHA (42 U.S.C. 12721 et seq.). On April 8, 2021, the United States Department of Housing and Urban Development (HUD) allocated HOME ARP funding to Participating Jurisdictions (PJs) using the HOME formula established at 24 CFR 92.50 and 92.60.

Unless specified in this document, statutes and regulations found at 24 CFR 92 govern the use of HOME ARP resources.

## Administrative Requirements for HOME ARP

Prior to the use of HOME ARP funds, IHFA developed and received approval of its proposed plan by the U.S. Department of Housing and Urban Development. The *HOME ARP Allocation Plan* (Plan) was developed through a needs/gap assessment, consultation and public participation process. The Plan was approved on July 5, 2022.

## Qualifying Populations, Targeting, and Preferences

HOME ARP is required to benefit individuals and families who meet a “qualifying populations” definition. Individuals or families who meet the criteria are eligible to receive assistance through HOME ARP eligible projects or services. Projects or services selected for use of HOME ARP funds, *may* be required to review income. Income must conform to definitions set forth in 24 CFR 5.609 and in accordance with 24 CFR 92.203(a)(1).

### Homeless

As defined in 24 CFR 91.5, homeless is defined as:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - a. An individual or family with a primary nighttime residence that is a public or

private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

- b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
  - c. An individual who is exiting an institution where they have resided for 90-days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will immediately lose their primary nighttime residence, provided that:
- a. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - b. No subsequent residence has been identified; and
  - c. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- a. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - b. Have not had a lease, ownership interest, or occupancy interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - c. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date applying for homeless assistance; and
  - d. Can be expected to continue in such status for an extended period of time because

of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

## At risk of Homelessness

As defined by 24 CFR 91.5:

- 1) An individual or family who:
  - a. Has an annual income below 30% of [area median income](#), as determined by HUD;
  - b. Does not have sufficient resources or support networks, (e.g. family, friends, faith-based or other social network) immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and
  - c. Meets one of the following conditions:
    1. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
    2. Is living in the home of another because of economic hardship;
    3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
    4. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
    5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
    6. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
    7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient’s approved consolidated plan.

- 2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637 (11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14042e-2(6)), section 330 (h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- 3) A child or youth who does not qualify as “homeless” under this section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with him, her, or them.

## Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

This population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. Also defined are the cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place with the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm or further violence if the individual remains within the same dwelling unit that the individual is currently occurring, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer. Broadly, all are defined in 24 CFR 5.2003, but more specifically:

### 1) Domestic Violence

Includes felony or misdemeanor crimes of violence committed by:

- a. A current or former spouse or intimate partner of the victim (the term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship);
- b. A person with whom the victim shares a child in common;
- c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME ARP funds; or

- e. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

## 2) Dating Violence

Violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship;
  - b. The type of relationship; and
  - c. The frequency of interaction between the persons involved in the relationship.

## 3) Sexual Assault

Any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

## 4) Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a. Fear for the person's individual safety or the safety of others; or
- b. Suffer substantial emotional distress.

## 5) Human Trafficking

Includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102).

- a. Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- b. Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

## Other Populations

Where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

- 1) Other Families Requiring Services or Housing Assistance to Prevent Homelessness – defined as households (i.e., individuals and families) who have previously been qualified as “homeless” as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.
- 2) At Greatest Risk of Housing Instability – a household who meets either paragraph (a) or (b) below:
  - a. Has an annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income towards housing costs);
  - b. Has an annual income that is less than or equal to 50% of the area median income, as determined by HUD, and meets one of the following conditions (as found in 24 CFR 91.5) – “At risk of Homelessness”:
    1. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
    2. Is living in the home of another because of economic hardship;
    3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
    4. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by a charitable organization(s) or by Federal, State, or local government programs for low-income individuals;
    5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons per room, as defined by the U.S. Census Bureau; or
    6. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or



7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.
- c. Veterans and Families that include a Veteran Family Member that meet criteria for one of the qualifying populations described and are eligible to receive HOME ARP assistance.

## Use of Funds

Guiding the use of funds are regulations, as found in section 3205 of the American Rescue Plan Act (ARP) of 2021 (P.L. 117-2) for the HOME Investment Partnerships Program (HOME) and community outreach. Idaho Housing and Finance Association (IHFA) will use HOME ARP funding for the following activities:

Supportive Services

Non-profit Capacity Building

Non-profit Operational Assistance and

Rental Housing Development\* (Permanent Supportive Housing)

IHFA will use the maximum allocation for *Administrative and Planning*. An evaluation of funds for supportive services will be evaluated on or around December 31, 2025. IHFA may move uncommitted supportive services, non-profit capacity building, and/or non-profit operational assistance allocations to rental housing development.

*\*Rental Housing Development will have a separate Administration Plan and comment period/application cycle in Summer 2023.*

## Cross Cutting Federal Regulations

### Environmental Reviews

HOME ARP funds may not be used until the Part 58, environmental review has been completed. No written agreements will be executed until this is completed.

For rental housing developments, Project Sponsors (prior to application for funds) must submit [Attachment A](#) with the HOME Programs Environmental and Project Finance Specialist to provide a preliminary review of the site. The preliminary review will minimally evaluate:

- Sources of noise requiring mitigation
- Sources of potential site contamination
- Past uses of the site
- Lead/asbestos abatement requirements

## **Description**

IHFA is a Responsible Entity for HUD-CPD housing development programs in Idaho. As such IHFA is responsible for determining if a HUD-CPD funded project has adverse human health or environmental impact by completing an Environmental Review (ER). If it is determined a project may have adverse human health or environmental impact, the project may be rejected or require mitigation.

The project application **must** include a detailed project description. Project descriptions lacking in detail may delay the Environmental Review process. This must include all contemplated actions which are either geographically or functionally part of the project. This includes actions that are not HUD-funded and before, during, or after IHFA's involvement. One example may be land acquisition under other funding, private or federal. Another example may be this is one phase of a larger project plan.

**No work to the site** may occur after the submission of application to IHFA and prior to the completion of the ER. **No funds** can be committed to an activity before the completion of the Environmental Review Process and IHFA determines that the project has Environmental Clearance. IHFA will notify the project sponsor when Environmental Clearance is obtained.

## **Purpose**

To determine if a federally funded activity will have an adverse human health or environmental impact.

If the environmental review determines there is an adverse impact, the ER then establishes whether the impact is "significant," and what, if any, measures must be taken to mitigate the impact. Note: Mitigating actions may be required even if the impact is not considered significant. If the environmental review requires conditions to mitigate any environmental impacts, then IHFA should enter into an agreement with the Purchaser to ensure the conditions will be undertaken.

IHFA follows 24 CFR Part 58 to document the criteria, standards and policies, regulations of the laws and authorities specified at 24 CFR 58.5 for all projects that are categorically excluded at 58.35(a) and for all projects that require environmental assessments.

IHFA must meet the requirements listed at Section 58.6 and maintain documentation in the environmental review record for all activities/projects. This includes Exempt activities (Section 58.34) and Categorically Excluded activities (under Section 58.35(a) or (b)).

## **Choice-Limiting Activities**

Any activity that adversely affects and/or limits the choice of "reasonable alternatives" for a project before the completion of the Environmental Review Process is considered a Choice-Limiting Activity.

## Purchase Option Agreement/Contract

A Purchase Option Agreement and/or a Conditional Contract (see definition below) must adhere to the following requirements: A **Purchase Option Agreement** is a legal agreement between the potential buyer of real property and the owner, giving the potential buyer the exclusive right to buy the property at a specific price, within a specific timeframe. A Purchase Option Agreement 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.

***A Purchase Option Agreement can be used for any HOME ARP assisted activity, including new construction and the purchase of existing units.***

A **Conditional Contract** is a legal agreement between the potential buyer and the owner that includes conditions which must be met for the obligation to purchase to become binding.

***A Conditional Contract can only be used for an existing single-family (1-4 unit) and multi-family units.***

Environmental 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 the 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, the transfer to the buyer should go forward, and IHFA has obtained approval of a Request for Release of Funds and environmental certification, where applicable. IHFA shall use its best efforts to conclude the environmental review of the property expeditiously."
- 2) **For existing 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 \$1000.00.

Once an application is submitted to IHFA the ER Process begins, and an owner, developer, or contractor can undertake no choice-limiting activity 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:

- a. Property acquisition
- b. Rehabilitation
- c. Conversion
- d. Leasing
- e. Renting
- f. Repair
- g. Construction
- h. Demolition

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 ARP Project.

## Timing of Environmental Review Process and Related Restrictions

*After the submission of the application, this is the general process and timelines.*

First Step- The Environmental Review Process begins with an application to IHFA (this is separate from the pre-environmental review prior to the application being submitted).

Second Step- Although IHFA may issue a Conditional Reservation and/or an Award Agreement of HOME ARP funds during the ER Process, the ER must be completed (see Steps 1-4 of Environmental Review Process) before any choice-limiting activities occur.

Third Step- IHFA will send the Project Sponsor written notification when/if a project receives Environmental Clearance.

Some activities may be “exempt” or “categorically excluded” from the Statutory Authorities Checklist (as defined at 58.35(a)), however, only IHFA is responsible for making this determination.

The Environmental Review Process begins with an application to IHFA. Although IHFA may issue a Conditional Reservation and/or an Award Agreement of HOME ARP funds during the ER Process, the ER must be completed before any choice-limiting activities occur.

The estimated timeline for an environmental review is dependent on the level of review. Some activities may be “exempt” or “categorically excluded” from the Statutory Authorities Checklist (as defined at 58.35(a)), however, only IHFA is responsible for making this determination. The ER Process for an Exempt review is 30 days, a Categorically Excluded review is 60-75 days, and an Environmental Assessment review is 120 days.

IHFA will send the Project Sponsor written notification when/if a project receives Environmental Clearance. The Project Sponsor will be notified of all required mitigation actions at this time.

IHFA's first step is to determine the level of review required, i.e., whether the project consists solely of exempt activities, categorically excluded activities, or if an environmental assessment is required to determine if there will be significant impacts on the environment, triggering preparation of an environmental impact statement. An Environmental Review Requirements manual has been prepared by IHFA for use in completing Environmental Reviews. This manual is available upon request from IHFA.

There are five possible levels. This section describes the review process for each of these five levels as they relate to HOME-assisted projects.

- 1) **Exempt:** If the federally funded portion of the project consists solely of the types of activities listed below, the project can be classified as an "exempt activity" (24 CFR Part 58.34). IHFA must review and place a dated "Exempt Certification" in the HOME ARP project file. Exempt activities must still comply with the requirements in 24 CFR 58.6. Some examples of exempt activities are administrative activities including: operating capacity building, most supportive services, environmental studies; development of plans and strategies,
- 2) **Categorically Excluded Not Subject To 58.5:** If the activity can be defined as categorically excluded (24 CFR Part 58.35), the project shall be reviewed for compliance with a variety of federal laws and authorities designed to protect the environment (listed in 58.5 and 58.6). If no laws and authorities are triggered, the project can be converted from categorically excluded to exempt under (58.34(a) (12)), when compliance with federal requirements are documented in the file the project may proceed. With respect to HOME ARP assisted projects, categorically excluded activities may include:  
  
Some supportive services, economic development, expenses not associated with construction or expansion;
- 3) **Categorically Excluded Subject To 58.35(a):** The following activities are defined as Categorically excluded subject to 58.5 statutory authorities (Statutory Checklist):  
  
Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped; single family housing rehabilitation if the unit density is not increased beyond 4 units (for permanent supportive housing), the project doesn't involve change in land use, cost of rehab is less than 75% of the estimated cost of replacement after rehab; multi-family housing rehab if the unit density change is not more than 20%, project doesn't involve change in land use, cost of rehab is less than 75% of the estimated cost of replacement after rehab; individual action (e.g., disposition, new construction, demolition, acquisition) on a 1 to 4 family dwelling; or individual action on five or more units scattered on sites more than 2,000 feet apart and no

more than 4 units per site; acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use; combinations of these activities.

- 4) **Environmental Assessment:** If the project cannot be classified as exempt or categorically excluded, an Environmental Assessment (EA) is required (as described in 24 CFR Part 58.36). Some examples are: generally, new construction of five or more homes, and conversion from one type of land use to another.

The EA includes:

- a. An inspection of the project site to determine if any conditions exist that might, in the event the project is funded, create an impact on the environment;
- b. A review of the project's compliance with the laws and authorities listed in 58.5 and 58.6, as described in the previous section on categorically excluded activities;
- c. Solicitation of written responses or compliance documentation from a variety of local, state, and federal authorities as to the potential impact of the project on human health and the environment .

In the event, “*no significant impact*” is found:

- a. A Notice of Finding of No Significant Impact (FONSI) must be prepared and made available for public review and comment, along with the record of the EA, for a period of 15 days (per 58.43); and
- b. A Notice of Intent to Request a Release of Funds (NOI/RROF) must be prepared and made available for public review and comment, and the RROF must be submitted to HUD (except in the event the HOME ARP funds have been awarded to a unit of local government, in which case the RROF is submitted to IHFA by the unit of local government). The comment period for the NOI/RROF ends approximately 15 days following the end of the comment period for the FONSI. See 58.45 for all public comment periods.

In the event that “*significant impact(s)*” is found, an Environmental Impact Statement is required.

- 5) **Environmental Impact Statement:** In the event the EA reveals the project would have a potentially significant impact on human health or the environment, an Environmental Impact Statement (EIS) (24 CFR 58.52-66) must be prepared. The most stringent level of review is the EIS.

*Any project that would significantly impact the quality of human health or the environment and therefore require an EIS under National Environmental Policy Act will be declared ineligible for HOME funds.*

## Compliance Areas

A. All Project Sponsors should be aware that all levels of environmental review are subject to 24 CFR 58.6. The following regulations are compliance requirements of 24 CFR 58.6:

### 1) The Flood Disaster Protection Act of 1973

Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), funds may not be used with respect to a project located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR Parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards. Properties located within the 100-year floodplain will not be assisted with HOME funds unless the property owner obtains flood insurance.

### 2) The Coastal Barrier Resources Act

Coastal Zone Management Act of 1972, as amended in 1976, 1980, and 1996, particularly section 307 (c) and (d). This Act does not apply because there are no coastal zones in Idaho.

### 3) Airport Clear Zones (as applicable to 24 CFR 58.6)

24 CFR 51.303(a)(3) and 24 CFR 58.6 (d)

This regulation as it pertains to 58.6 requires notification for purchase or sale of an existing property in a Runway Protection Zone (RPZ) or Accident Potential Zone (APZ). If a property is in an RPZ or APZ the buyer must sign a statement acknowledging that the property is in the RPZ or APZ and be notified of the safety and other implications of the zone, and the realization that the airport operator may acquire the property in the future.

All Project Sponsors should be aware of the following environmental review requirements for activities that are Categorically Excluded and subject to 58.5 or that require an Environmental Assessment. The following regulations are compliance requirements for projects subject to 24 CFR 58.5

### 4) Historical Preservation

National Historic Preservation Act, 16 U.S.C. 470(f), section 106.

Section 106 of the Historic Preservation Act requires federal agencies to consider the effects of their undertaking on historic properties and resources.

When the project will alter environmental conditions (such as groundbreaking to develop vacant land) or has the likelihood to affect historic properties, a complete Section 106 review must be completed prior to committing funds.

Rehabilitation Activities involving properties 50 years old or older must obtain a statement from the Idaho Historical Society that the property:

- a. Is not listed on the National Register of Historic Places and not considered eligible for listing; or
- b. May be eligible but the use of the building and the changes proposed will not impact the qualities that make it eligible; or
- c. Is eligible and/or listed but the use of the building and the changes proposed would not impact the qualities that made it eligible. In this case, historic preservation requirements will be followed as set forth in 24 CFR 58.17.

Section 106 also has a specific requirement for the agency to make a reasonable and good faith effort to identify tribes that might attach religious and cultural significance to the properties in the area. IHFA will:

- a. Make a good faith effort to notify the Tribal Historic Preservation Officer that under Section 106 they have the right to comment.
- b. If the tribe demonstrates interest, they must be invited to participate in a consultation.

## **5) Floodplain Management**

Executive Order 11988, May 24 1977.

Floodplain Management is more restrictive than the Flood Disaster Protection Act. The purpose of floodplain management is to avoid adverse impacts of floodplains and to avoid development in a floodplain whenever there are practicable alternatives. If a project is located in a FEMA 100 year Special Flood Hazard Area, it is encouraged to choose an alternative site not located in a flood zone. The completion of an 8-Step Process is to determine there are no alternate, suitable sites available. If this can be demonstrated through the 8-step process, then the project must obtain a Conditional Letter of Map Revision (CLOMR), build the building pads above the Base Flood Elevation (BFE) and achieve a Letter of Map Revision (LOMR). Until a LOMR has been issued, the Sponsor must obtain and maintain flood insurance. Additionally, 500-year flood zones are restricted from critical actions such as nursing homes and childcare centers.

## **6) Wetlands**

Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 CFR 26961 et seq.); particularly section 2 and 5.

If a site is determined to be located in a wetland as defined by the Executive Order, an 8-Step Process is required to be completed to determine that there are no other suitable sites available. The exception to the 8-step process would be if any development activities were located outside of the wetland and would not impact the wetland area.

## **7) Sole Source Aquifer**

The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended, particularly section 1424(e) (42 U.S.C. 300 h-303(e)).

Project developers must consider the applicability and feasibility of the Best Management Practices (BMPs) in reference to the nature of the storm water run-off. New construction located over a designated sole source aquifer shall incorporate BMPs or local government requirements into storm water run-off treatment. Storm water run-off systems are subject to the Environment Protection Agency's approval, as agreed to in a Memorandum of Understanding between IHFA, HUD, EPA, and Department of Commerce.

## **8) Endangered Species**

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536).

IHFA must comply with the laws and authorities at 58.5, and is not limited to allowing the entities the opportunity to comment on a project. IHFA must obtain a species list relative to any specific project and then based on credible information make a determination if the



project will affect the endangered species. If there is a “may affect, not likely to adversely affect” or “may adversely affect” determination, IHFA must consult with FWS and/or NOAA fisheries.

#### **10) Wild and Scenic Rivers**

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended: particularly section 7 (b) and (c) (16 U.S.C. 1278 (b) and (c)).

Idaho has several rivers designated as wild and scenic. The Act safeguards the designated rivers to keep them free-flowing, unaltered, unpolluted and maintains cultural and natural values. If a project is located within one mile of a designated Wild and Scenic River, consultation with the National Park Service will help determine if the project will have an adverse effect.

#### **11) Air Quality**

The Clean Air Act (42 U.S.C. 7401 et seq.) as amended particularly section 176 (c) and (d) (42 U.S.C. 7506 (c) and (d)).

Projects must comply with the air rules (IDAPA 58.01.01) as applicable. If a project is located in an area that is designated as non-attainment or maintenance for any of the six criteria air pollutants, then the project must comply with the area specific maintenance plan within the Idaho Department of Environmental Quality State Implementation Plan.

#### **12) Farmlands Protection**

Farmland Protection Policy Act of 1981(7 U.S.C. 4201 et seq.) particularly section 1540(b) and 1541(7 U.S.C. 4201 and 4202).

If a project is located on prime or important farmland, consultation with the Natural Resources Conservation Service (NRCS) and completion of the Farmland Conversion Impact Rating form is required. The NRCS has 45 days to respond. “Zoning” does not exempt a project from compliance with the FPPA.

#### **13) Environmental Justice**

Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority and Low-Income populations (3 CFR, 1994 Comp Pg 859). The purpose of considering environmental justice is to determine if a project places low-income people and/or minorities at a greater environmental risk than that of the general population. If it is determined that no adverse human health or environmental impacts result from the project, then environmental justice is not a concern. Mitigation of any potential adverse impacts may solve any environmental justice concerns.

***Note: Environmental Justice as defined here as it relates to the Environmental Review process only; it does not pertain to Social Justice or the Fair Housing Act.***

#### **14) Noise Abatement and Control**

Noise Control Act of 1972, The Quiet Communities Act of 1978 as amended, OMB Circular 75-2. New noise-sensitive use projects must be evaluated to ensure that the noise levels do not exceed HUD’s acceptable levels. New construction located within HUD’s Normally Unacceptable noise exposures are prohibited unless noise attenuation features reduce noise exposure to HUD acceptable levels. For major or substantial rehabilitation, projects located within HUD's normally unacceptable noise levels the project developer

shall seek to incorporate noise attenuation features as practical during rehabilitation activities. Mitigation can include specific construction materials, barrier walls and structure location placement.

#### **15) Explosive and Flammable Operations**

Sec.2 of the Housing and Urban Development Act of 1969 (42 U.S.C. 1441 (a).

All applicable projects must be assessed to determine if any above-ground storage tanks that contain flammable or explosive materials are located at least the Acceptable Separation Distance (ASD) (as defined by HUD and calculated by the Responsible Entity (RE)) away from the project site. New Construction projects are prohibited if located less than the acceptable separation distance from a hazard, as defined in 51.201, unless appropriate mitigating measures are implemented, as defined in 51.205, or unless mitigating measures are already in place.

Aboveground LPG/propane tanks with a water capacity up to 1,000 gallons that comply with NFPA Code 58 (2017) are excluded from the definition of “hazard.”

#### **16) Toxic Chemicals and Radioactive Materials**

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by Superfund Amendments and Reauthorization Act.

Any toxic or radioactive substances which could affect the health and safety of occupants or conflict with the intended use of the property must be mitigated or the project must be rejected. Particular attention should be given to nearby landfills, polluting industrial sites or other operations with hazardous wastes which could potentially impact the project site.

#### **17) Airport Clear Zones (as applicable to 24 CFR 58.5)**

24 CFR 51, Subpart D

This regulation as it pertains to 58.5 does not allow HOME funded new development in an RPZ or APZ unless the development will not frequently be used or occupied by people and the airport operator provides written assurances that there are no plans to purchase the project site.

#### **18) Environmental Assessment Factors**

Under 24 CFR 58.5, the review includes an analysis of the project’s impacts on land development, socioeconomic factors, community facilities and services, and natural features [24 CFR 58.40].

#### **19) Alternative Sites and Project Modifications Analysis**

Assessment must include other reasonable courses of action that were considered, such as other sites, design modification, or other uses of the proposed site. Assessment must describe the benefits and adverse impacts to the human environment of each alternative site(s) and the reason(s) for rejecting it. [See Exhibit R of this Plan for a sample Analysis that must be submitted as part of the HOME/HTF application for funding (rental projects)].

## Phase 1 Environmental Site Assessment – *New Construction Only*

### **Applicability**

The purpose of the Phase I Environmental Site Assessment (ESA) is to document compliance with 24 CFR 58.5(i) (2) (i), HUD’s policy that requires all properties proposed for use in HUD-funded programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. This policy must be described in the “Purpose” subsection in the "Introduction" Section of the required Phase I ESA. To meet the "purpose", in addition to the standard Phase I determination of whether Recognized Environmental Conditions (RECs) have been identified in connection with the site, the Evaluation (section) discussion of Findings, Opinions, and Conclusions should clearly state if further investigation or corrective action is recommended to meet §58.5(i)(2)(i).

The Phase 1 ESA will make an initial determination of the presence of “hazardous substances”, as defined by CERCLA, and of petroleum and petroleum products. The Phase I ESA should also make a determination of radon, lead-based paint, and asbestos when applicable.

Phase 1 ESA report is considered valid for 180 days. When IHFA begins the Environmental Review, Developers should request the report be updated, if over 180 days, to verify the conditions have not changed since the Phase 1 ESA was first issued.

The Phase 1 ESA should **not** review all the Laws and Authorities; this is the responsibility of IHFA. Developers should clarify this with the company preparing the Phase 1 ESA. The firm needs to certify, in their professional analysis of the toxics in the area, there is not a concern with public health and safety regarding the future use of the site. If there are concerns, the firm should detail what mitigation is necessary to ensure safety.

More information on this at <https://www.hudexchange.info/resources/documents/Using-a-Phase-I-ESA-in-HUD-Environmental-Review.pdf>

A Phase I ESA is required for all multi-family new construction, single-family new construction in largely undeveloped areas, and projects changing an existing buildings use.

### **Environmental Approval**

IHFA notifies the Project Sponsor if and how they may proceed. The Project Sponsor is required to certify and provide evidence of identified environmental Conditions.

If the scope of work changes or funding from any source increases after the completion of an Environmental Review, the ER may require re-evaluation.

## Uniform Relocation Act

HOME ARP projects involving real property acquisition, rehabilitation, conversion, or demolition and the potential displacement of persons, businesses, or farms are subject to the provisions of the Uniform Relocation Act (URA).

*It is strongly advised that consultation with IHFA occur prior to the acquisition of land/existing building to understand all requirements. This may include the hiring of an outside contractor to ensure compliance.*

- Documenting acquisition of land was voluntary
- Provide a third-party appraisal
- Ensure any tenants (residential or business) displaced are provided proper notification and compensation
- Hire an approved third party contractor (if there is displacement) to ensure compliance
- For any low-income households displaced, a one-for-one unit replacement will be required

## Section 104(4) of the Housing & Community Development Act of 1974

[24 CFR part 42] Owner must have a residential anti-displacement and relocation assistance plan is for: (1) occupied and vacant “occupiable” low-and moderate-income dwelling units demolished or converted to another use; (2) provide relocation assistance to low or moderate-income housing.

## Project

For tenant relocation purposes, a project is defined as an activity or series of activities funded with Federal assistance, received or anticipated. URA covers all tenants permanently displaced as a direct result of the activity, regardless of their income, including the unit(s) not “tainted” with federal funds.

## Relocation and Displacement

URA requirements cover all persons/businesses in the project that will be permanently displaced as a direct result of rental acquisition and/or rehab, regardless of their income.

In almost all cases, displacement and relocation can be avoided with careful planning.

Displacement is defined not only as the physical displacement of persons and businesses, but also includes "rent burdened", the inability of an existing tenant to afford the new higher rent for their unit after completion of the assisted acquisition or rehabilitation. Displacement occurs when a person/business must move as a DIRECT RESULT of an acquisition, demolition, or rehabilitation activity. **Note:** *A permanent move within the same project is not considered displacement.*

## URA Notices

### Deliver the General Information Notice (GIN)

Upon the execution of a Purchase Agreement, all tenants should immediately receive a GIN notice. Note that all tenants on the lease, or are known to live in the apartment should receive a GIN.

Sample notices can be obtained when working with IHFA. A notice must be sent certified mail or personally hand-delivered to every resident in every unit, and a written record kept of the delivery of each notice to verify proper delivery to all tenants. A copy of this notice and the documentation to support delivery must accompany the funding application for all projects involving acquisition.

### Notice to New Tenants

New prospective tenants must be provided with a written notice informing them of the assisted project under consideration or construction, and advising them that they may be asked to move or pay increased rent and they will not be eligible for relocation benefits. The tenant must sign a form acknowledging receipt of this notice. Failure to provide the notice and obtain verification of delivery can be very costly.

This notice must be signed by Tenant and Owner verifying reason for voluntarily vacating the unit, and that they have been advised of their rights, and they understand they are not eligible for relocation benefits. Documentation must be kept on all tenants that move out after the funding application submission date. A tenant may still be evicted for Good Cause (Idaho Landlord Tenants Law), if properly documented. Eviction to avoid paying relocation benefits is not allowed. A copy of the court order in a "Good Cause" eviction must be retained in the relocation file.

The above notices should accompany the funding application. In the event that the Application for FUNDING Funds does not result in a reservation of funds, a notice that the acquisition will not take place should be sent to all tenants as soon as possible.

### Notice of Non-displacement

Tenants that may be moved permanently to another unit in the project should receive a Notice of Non-Displacement that details the terms and conditions including temporary relocation details, including management plan for moving tenant belongings, transfer of security/non-refundable deposit, etc.

### Notice of Temporary Move

The following rules apply for residential tenants who will be required to relocate temporarily from their unit.

- 1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
- 2) Appropriate advisory services, including reasonable advance written notice of the following:

- a. The date and approximate duration of the temporary relocation; The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- b. The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project.

Additional relocation assistance may be available to low-income residents pursuant to Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)). Section 104(d) requirements focus on the “loss” of low income housing, both rental and owner occupied as a result of the demolition or conversion. It has two distinct components:

- 1) People: 104(d) specifies relocation assistance for displaced low-income families.
- 2) Units: 104(d) requires one for one replacement of low-income dwelling units that are demolished or converted to other use.

### One-for-One Replacement – Section 104(d)

HOME/NSP/HTF funding can never be used to reduce the supply of low-income dwelling units. Section 104(d) requires for an affordable unit lost, it must be replaced by an "equal" affordable unit.

#### Section 104(d) one-for-one replacement

- A unit **MUST** be replaced if:
  - 1) It meets the definition of low-income dwelling unit; AND unit is occupied
  - 2) Is vacant but considered a “habitable” dwelling unit AND it is to be demolished or converted to a unit with market rents above the FMR, or to a use that is no longer for permanent housing
- Unit may not need to be replaced if:
  - 1) It does not meet above criteria; and
  - 2) Is a substandard unit not suitable for rehabilitation that has been vacant for over three (3) months.

### Davis-Bacon

Davis-Bacon will apply to projects with 12 or more HOME ARP assisted housing units (constructed or rehabilitated). It will be the responsibility of the developer to contract with an IHFA approved third-party to ensure compliance.

Contracts for the construction or rehabilitation of affordable housing consisting of **12 or more HOME ARP assisted housing units** must contain the provision that requires not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276 a-5).

Prevailing wages will be paid to all laborers and mechanics employed on the job, and such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work

Hours and Safety Standards Act (42 CFR Part 327-333). All contractors, subcontractors, and other participants must comply with regulations issued under these Acts and with other federal laws and regulations pertaining to labor standards including HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable.

The developer is responsible to monitor, compile the appropriate documentation and forward copies to IHFA. IHFA requires certification of compliance with the provisions of this section before making any payment under such contract.

Davis-Bacon provisions do not apply to volunteers.

**Volunteer defined as:**

- Works without pay on the construction project to which Davis-Bacon and related Acts apply
- Restriction: Cannot be paid for work on the project and then volunteer for other work on the same project
- Permissible: May cover reasonable costs such as travel or other incidental benefits

## Definitions

Small business defined as a business that is independently owned, not dominant in its field of operation, nor an affiliate or subsidiary of a business dominant in its field of operation.

Minority-owned business is defined as one in which is at least 51% owned by one or more minority group members, or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. A women's business enterprise is defined as a business that is at least 50% owned by a woman or women who are U.S. Citizens and who also control or operate the business.

Labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the U.S. Department of Labor in 20 CFR 654, Subpart A (See Appendix D).

Affirmative Steps may include, but not limited to:

- Including MBE/WBE on solicitation mailing lists;
- Encouraging MBE/WBE participation through direct solicitation of bids or proposals when they are potential sources;
- Utilizing the local media, electronic and print, to market and promote contract and business opportunities for MBE/WBEs;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- Establishing delivery schedules, where the requirements permit, which encourage participation by such firms;

- Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above;
- Sponsoring business opportunity-related meetings, conferences, seminars for MBE/WBE

HOME ARP recipients will also be responsible for assuring completion of an MBE/WBE Activity Report by each contractor. This report will include minority or women owned business status, Social Security or Tax ID numbers, and addresses for all contracts and sub-contracts.

## Section 3

Section 3 applies to projects in excess of \$200,000 for any portion of HUD funding is invested into projects involving construction, demolition, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 requires that economic opportunities generated by certain HUD financial assistance (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low and very-low income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons. **This is a statutory requirement for the award of jobs and contracts generated from projects that receive HUD funding.** The Section 3 regulations are found at 24 CFR Part 75.

Note: Section 3-covered contracts do not include contracts for the purchase of supplies and materials.

## Lead-Based Paint and Asbestos

Buildings constructed prior to January 1, 1978 must adhere to the following requirements for lead-based paint:

1. Entities defined as the Owner-Developer or Developer must be an EPA-Certified Renovation Firm.
2. Funding proposal must include evidence the area in which the property is located has an adequate supply of EPA-Certified Risk Assessors/Renovation contractors and workers. This requirement will help ensure the project is completed within the specified timeframe and within the approved budget.
3. The Federally funded hard rehabilitation costs minus any Lead-based Paint costs (i.e. Lead-based Paint Inspection, EPA- Certified Risk Assessment, Interim Control of lead hazards, and clearance testing) cannot exceed \$24,999 per unit.
4. A project assisted with HOME, HTF, NSP funds must comply with rules and guidelines of the EPA Renovation, Repair and Paint Rule and HUD's Lead-Safe Housing Rule, as amended at 24 CFR Part 35, subparts B-R.

Additional LBP requirements under HUD's Lead Safe Housing Rule:

[https://www.hud.gov/sites/documents/RRP\\_LSHR\\_GUIDANCE.PDF](https://www.hud.gov/sites/documents/RRP_LSHR_GUIDANCE.PDF)



*IHFA recommends consulting prior to the testing and/or work on a project that was constructed prior to January 1, 1978 to ensure compliance.*

### Asbestos

Undertaking rehabilitation where asbestos is present is subject to increasing regulations at all levels of government. Careless, improper, or illegal handling of asbestos-containing materials (ACMs) can subject the contractors, workers, building occupants, and the general public to health hazards, placing the contractor, manager, and owner in a position of potential civil and criminal liability.

Most housing and buildings constructed before 1979 will probably contain some form of asbestos. While there are no federal regulations that require a building owner to inspect, survey, test, or assess for ACMs, there are federal regulations that govern worker exposure to asbestos, abatement procedures, and disposal procedures.

The Environmental Protection Agency and the Occupational Safety and Health Administration are responsible for federal regulations governing asbestos removal. If asbestos is present in an assisted project, an assessment may protect the recipient from being in violation of the law, or from becoming subject to any lawsuits.

### Uniform Administrative Requirements

All projects will require conformance with [2 CFR 200](#) Subpart [D](#), [E](#), and [F](#) for administrative requirements, cost principles, and audit expectations.

### Unique Entity ID

Organization applying for HOME ARP funds will be required to “Register Their Entity” with [Sam.Gov](#) prior to the submission of application. IHFA does not operate Sam.Gov, **it is highly recommended that if your organization has not fully registered, this is your first step. There can be delays.**

### Affirmative Marketing

All projects must have an affirmative marketing plan to ensure compliance with 24 CFR 92.351. *Affirmative marketing ensures that the program is reaching those “least likely to apply.”*

### Applicability

All HOME ARP assisted projects with five or more units.

### Description

In furtherance of IHFA's commitment to non-discrimination and equal opportunity in housing, Owners are required to establish procedures to affirmatively market their project. The procedures are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

Affirmative Marketing consists of actions taken to provide outreach to attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial/marital status, sexual orientation, gender identity or disability, that are the least likely to apply

Owners are required to sign an agreement to affirmatively market newly constructed or rehabilitated units beginning on the date on which all the units in the project are completed. A plan for the affirmative marketing of units must be included with the project application.

#### *Affirmative Marketing Plan*

An Affirmative Marketing Plan should include, at a minimum, the following elements:

1. Method for informing the public, owners, and potential tenants about federal Fair Housing laws and affirmative marketing policies by:
  - a. Visiting tenants/owners in buildings selected for rehabilitation and posting signs regarding the Program in each building project. The HUD Equal Housing Opportunity logo must appear on all postings;
  - b. Using the Equal Housing Opportunity logo or slogan in press releases and other written communications used in the marketing of rehabilitated units.
2. Requirements and practices each owner must adhere to in order to carry out the affirmative marketing procedures and requirements, like use of commercial media, community contacts, the Equal Housing Opportunity logo-type or slogan, and display fair housing posters.
3. A procedure to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach using such resources as:
  - a. Advertise in the local news media;
  - b. Place flyers in the local unemployment center, community groups, offices of the local housing authority, places of worship, fair housing groups, offices of any other local housing counseling agencies and other agencies serving low-income persons;
  - c. Notify applicants on the local housing authority's waiting lists about upcoming vacancies.
4. Special Outreach may be accomplished through:
  - a. Announcements in general circulation newspapers and/or ethnic; neighborhood, community, or school newspapers;
  - b. Announcements in church or school bulletins, posters, or oral presentations to community organizations;
  - c. Posters publicizing the housing placed in grocery stores, job center sites, community centers, schools, etc;
  - d. Supportive outreach assistance provided by organizations such as social service agencies, housing counseling agencies, or religious organizations;
  - e. Community organizations run by minorities or those who primarily serve minorities, minority churches, etc.

5. Project sponsors must keep records describing actions taken by the owners to affirmatively market units and records to assess the results of these actions for the duration of the period of affordability concerning:
  - a. The racial, ethnic, and gender characteristics of:
    1. Tenants/owners occupying units
  - b. Activities they undertake to inform the general renter public, specifically:
    1. Copies of advertisements placed in the news media
    2. Dates on which the owner contacted other agencies
    3. Dates on which the owner contacted the local housing authority
  - c. Activities recipients undertake for special outreach
  - d. Applications for tenancy

### *Monitoring*

IHFA will conduct periodic at least an annual review of each project as described in the regulatory agreement at which time local affirmative marketing results will be analyzed. Effectiveness of affirmative marketing efforts will be assessed by IHFA as follows:

1. Determine if good faith efforts have been made; and
2. Determine the results of the efforts.

IHFA requires corrective action if a sponsor fails to carry out the procedures. Corrective action may include, but is not limited to: withholding unallocated funds; requiring the return of unexpended funds; repayment of expended funds; the return of program income. If, after discussing ways to improve procedures the Project Sponsor fails to meet the affirmative marketing requirements (within 90 days), IHFA may suspend future participation in its programs.

## **Language Access Plan**

All organizations must identify how information will be shared with those who do not speak English as a first language.

Example:

A reasonable accommodation request is available to persons with physical, visual, and/or hearing impairments and persons with limited- English proficiency. Organizations will determine how to meet the needs of such a request.

## **Equal Opportunity and Fair Housing**

### *Applicability*

All HOME ARP assisted projects

### *Description*

Owners and managing agents of assisted projects must comply with the following:

1. The requirements of the Fair Housing Act (42 U.S.C. 3601-20) which states that no person on the grounds of race, color, national origin, religion, sex, persons with disabilities or

familial/marital status, sexual orientation, or gender identity shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with HOME ARP funds. HUD requires all participants to undertake activities that further fair housing choice for publicly funded housing. A fair housing policy must be adopted by all HOME ARP sponsors and included with HOME ARP applications.

2. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07), the implementing regulations at 24 CFR Part 146, that prohibitions against discrimination against persons with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR Part 8.
3. The requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.
4. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise).

### **Sample Fair Housing Policy**

(Organization Name) hereby certifies, by signature below, that said Recipient of federal funding understands that discrimination in the sale, rental, leasing or financing of housing or land to be used for construction of housing, or in the provision of brokerage services because of race, color, religion, sex, national origin, disability, sexual orientation, gender identity, or familial and marital status is prohibited by Title VII of the 1968 Civil Rights Act, as amended by the Fair Housing Amendments Act of 1988 (Fair Housing Act).

It is the policy of the above named organization to implement this policy to ensure compliance with the provisions of the Fair Housing Act.

The above named organization will assist, within available resources, all persons who feel they have been discriminated against because of race, color, religion, sex, national origin, disability, sexual orientation, gender identity, or familial/marital status to seek equity under federal and state laws by filing a complaint with the Idaho Human Rights Commission, the Idaho Fair Housing Council or the U. S. Department of Housing and Urban Development, Seattle Regional Office Compliance Division.

The above named organization shall publicize this policy when advertising vacancies of available HOME-assisted housing units and by posting the HUD Fair Housing poster in rental offices and common areas of housing assisted with HOME funds.

\_\_\_\_\_ (date).

SIGNATURE

\_\_\_\_\_, (title)\_\_\_\_\_

## Nondiscrimination

All projects must ensure equal access for persons in conformance with applicable Fair Housing and Section 504 laws. *This will require an evaluation of how information will be provided to individuals who cannot physically access the non-profits facility.*

### Applicability

All HOME ARP assisted projects

### Description

Owner/developer/applicant shall not deny service, or otherwise discriminate in the delivery of services against any person who otherwise meets the eligibility criteria for the program, on the basis of race, color, religion, sex, age, national origin, citizenship, ancestry, marital status, disability, familial status, sexual orientation, or gender identity because such person is a recipient of federal, state, or local public assistance.

Assisted housing must be used for secular purposes only and made available to all eligible persons regardless of their religion or lack thereof.

There can be no religious or membership criteria. Owners must adopt a non-discrimination policy and include a copy of this written policy in the application information. The following sample language meets the program requirements:

**Sample Non-Discrimination Policy Language**\_(Organization name) certifies that it shall neither deny service to, nor otherwise discriminate, in the delivery of services against any person who otherwise meets the eligibility criteria on the basis of race, color, religion, sex, age, national origin, citizenship, ancestry, marital status, physical or mental disabilities, familial and marital status, sexual orientation/identity, or because such person is a recipient of federal, state, or local public assistance.

Adopted on: \_\_\_\_\_ (Date)

Signed: \_\_\_\_\_  
Board Chair Executive Director

## Violence Against Women Reauthorization Act of 2013

- Bars eviction and termination of tenancy due to the tenant's status as a victim of domestic violence, dating violence, or stalking, and requires landlords to maintain survivor-tenant confidentiality. It also continues to prohibit a tenant who is a survivor of domestic violence, dating violence, sexual assault, and stalking from being denied assistance, tenancy, or

occupancy rights based solely on criminal activity related to an act of violence committed against them.

- VAWA 2013 now expressly extends housing protections to survivors of sexual assault, and adds “intimate partner” to the list of eligible relationships in the domestic violence definition. Protections also now cover an “affiliated individual,” which includes any lawful occupant living in the survivor’s household, or related to the survivor by blood or marriage including the survivor’s spouse, parent, brother, sister, child, or any person to whom the survivor stands in loco parentis.
- VAWA 2013 continues to allow a lease bifurcation so a tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, or others may be evicted or removed without evicting or removing or otherwise penalizing a victim who is a tenant or lawful occupant. If victim cannot establish eligibility, the PHA, owner, or manager must give a reasonable amount of time to find new housing or establish eligibility under another covered housing program.
- VAWA 2013 requires each appropriate agency to adopt a model emergency transfer plan for use by public housing agencies, owners or managers of housing, and other housing providers participating in HUD covered programs. Tenants must request an emergency transfer and reasonably believe that they are threatened with imminent harm from further violence if the tenant remains in the same unit.
- If a housing provider refuses to rent, evicts, or otherwise treats someone differently because of that person’s status as a victim of domestic violence, dating violence, sexual assault, or stalking, HUD or the courts may find a violation under the Fair Housing Act due to direct discrimination, unequal treatment, or disparate impact. If a jurisdiction or other entity encourages or causes differential treatment toward domestic violence victims, that jurisdiction or entity could encounter liability. For these reasons, we encourage you to review the HUD Notice published in the Federal Register and HUD’s 2011 guidance on domestic violence and fair housing. (Please note that the 2011 guidance covers protections under the Fair Housing Act and under VAWA 2005 but has not yet been updated to include the protections under VAWA 2013).

## Monitoring

Organizations receiving HOME ARP funds will be subject to monitoring for compliance with all regulations. IHFA may utilize any of the following to ensure compliance:

- Onsite monitoring of organization and client files
- Desk monitoring of organization and client files
- Reimbursement requests
- Physical inspections (permanent supportive housing projects)

Results of monitoring will inform future HOME ARP funding made available to the organization.

# Attachment A

## Pre-Environmental Review

### Section #1 – Project Site Information:

Include the following information. Check the box beside each item to indicate the information has been provided to IHFA.

- ☐ Complete legal description if available.
- ☐ Property address for the site. If the address has not been issued or too new to find on Google, then provide closest searchable address and a map showing relation to the site.
- ☐ Detailed Google and Plat maps of the exact location of the proposed site.
- ☐ Labeled color photos, 4 to a page including site and surrounding area of the site.
- ☐ All contemplated actions that will be part of the project (i.e. new construction, acquisition only, acquisition repair/rehabilitation, reconstruction, demolition, infrastructure, etc), including any action(s) taken before and after IHFA's involvement.
- ☐ Historical (past) uses of the site back to 1940.
- ☐ Indicate all sources of federal funds that might be used in this project.
- ☐ Storm water drainage plan (new construction)

Applicant Name: \_\_\_\_\_

1. Project Name: \_\_\_\_\_
2. Project site location(s): \_\_\_\_\_
3. Contact Person: \_\_\_\_\_
4. Address: \_\_\_\_\_
5. Telephone Number: \_\_\_\_\_
6. Email Address: \_\_\_\_\_

### Section #2 – Project Federal Funding

HOME-ARP Funds	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Anticipated amount \$ _____
Other Federal Funds	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Anticipated amount \$ _____
Total Proposed Federal Funding \$ _____			
Total Non-Federal Funding \$ _____			
Total Project Cost from all sources \$ _____			

### Section #3 – Environmental Factors and Threshold Information

<b>Environmental Factors &amp; Threshold Form</b> <i>IHFA will complete the environmental review.</i> <i>This checklist is the preliminary tool to indicate potential environmental issues and nuisances with a potential project site. Please provide a "yes" or "no" response to each threshold item below. If a factor or threshold is unknown or not applicable, indicate in the "Comments" column.</i>			
FACTOR	THRESHOLD	Yes or No	COMMENTS
NOISE	a. Freeway or busy road within 1,000 feet.		
	b. Railroad within 3,000 feet.		
	c. Within 2,500 feet of an airport.		
	d. Any other noise sources threshold criteria.		
RAILROAD'S	Identify any railroad lines within 3,000 feet from the subject property. Identify the location of the right of way in relation to the project property line.		.
HISTORIC PRESERVATION	a. The site is known or suspected to contain archaeological resources.		
	b. Site is in, or is adjacent to, an established or proposed historic district or conservation district.		
	c. Site/existing building is known to be listed in the National Register of Historic Places, or is listed in a local cultural resources inventory.		



	d. Site currently has any structure on it which is 45 or more years old.		
LEAD-BASED PAINT	Was the structure built before January 1, 1978?		
FLOODPLAIN	ANY part of the site or integral offsite development is known to be located within the 100 year floodplain (or 500 year flood for critical actions) according to the applicable FEMA map.		Flood insurance is required until the final <i>Letter of Map Revision</i> is provided to IHFA, if this is an option.
WETLANDS	ANY portion of the site or integral offsite development is known to include jurisdictional wetlands. (“Wetlands” are distinguished by water, vegetation, and soil conditions, and may not be readily apparent to the lay person).		In all cases the wetlands must be delineated.
ODORS	The site is within a mile of odor producing facilities (dairies, asphalt plants, industrial facilities, sewage treatment, etc).		
HIGH VOLTAGE POWER TRANSMISSION OR OTHER TOWERS	Site is within the fall distance of towers.		All residential structures must be outside the engineered fall distance of any tower.
EXPLOSIVE OR FLAMMABLE HAZARDS	Within a one mile radius of the site, is there a direct line of sight from any part of the site to any hazard, which is not shielded from the site by topography. A hazard is any above ground storage tank (AST) over 100 gallons capacity, which stores, handles, or		

	processes explosives or fire prone substances.		
NATURAL GAS OR PETROLEUM PIPELINES	Identify any high pressure pipeline within 220 yards of the closest building.		All structures must be at least 10 feet from the outer boundary of any pipeline easement. Provide architect or engineer certification that design is in compliance with condition.
CONTAMINATED SITES	Site is suspected or is contaminated with a hazardous substance or petroleum product – Reference Phase I Environmental Assessment.		If Yes, a Phase II investigation to determine the extent of contamination and possibly a Phase III remediation.
SITE EXCAVATION	Construction requires site excavation		Indicate the anticipated depth
LANDFILLS	Site is within a mile of an operating or closed landfill.		If Yes, please identify the location of the landfill to the proposed site.
RADON	The project is located in a county which has a higher than recommended average.		Radon safe construction is recommended for new development. If using an existing structure, IHFA recommends Radon testing and mitigation if levels are higher than 4 pico curies per liter.
OTHER CONCERNS	The project site location is in an area of high fire hazards, unstable soils or any other concerns.		

#### Section #4- Alternative Sites Analysis

Environmental Review will include analysis of other reasonable courses of actions that were considered but not selected, such as other sites, design modifications, or other uses of the subject site. It must also describe the benefits and adverse impacts to the human environment of each alternative and the reasons for rejection [24 CFR 58.40(e)].

## Attachment B – Alternative Site Analysis

Project  
Name  
Alternate  
Site  
Analysis

### Proposed Affordable Housing Project Summary

\_\_\_\_\_, LLC have proposed development of a \_unit affordable housing community. The community is designed to address the significant need for affordable housing in the \_\_ \_\_\_\_\_-County area centered around \_\_\_\_\_, Idaho. The proposed community will include \_\_\_\_\_ units of housing, with appropriate common areas and amenities to meet the needs of \_\_\_\_\_ households.

### Site Analysis

There are limited appropriately zoned properties available within the primary market area for this project. Potential residents need easy access to services, including both medical services and commercial/retail businesses. The most appropriate siting is usually within established residential/commercial areas, typically as infill development. The following details potential alternative sites that were available at the time this property was selected (#1 and #2) and additional current alternative sites (#3 - #5).

### Individual Property Characteristics:

#### Proposed Property

Address: \_\_\_\_\_

Size: \_\_\_\_\_

Net Price: \_\_\_\_\_

Topography: \_\_\_\_\_

Flood Zone: \_\_\_\_\_

Cross \_\_\_\_\_

Streets: \_\_\_\_\_

Uses to W: \_\_\_\_\_

Uses to E: \_\_\_\_\_

Uses to N: \_\_\_\_\_

Uses to S: \_\_\_\_\_

Positives:

Negatives:

Alternative Site #1

Address:

Size:

Net Price:

Topography:

Flood Zone:

Cross Streets

Uses to W:

Uses to E:

Uses to N:

Uses to S:

Positives:

Negatives:

Alternate Site #2

Address:

Size:

Net Price:

Topography:

Flood Zone:

Cross Streets

Uses to W:

Uses to E:

Uses to N:

Uses to S:

Positives:

Negatives:

Proposed project site is superior to the alternate sites for the following reasons:

- 1)
- 2)
- 3)
- 4)

## Attachment C – Level of Environmental Flow Chart

