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**HOME INVESTMENT PARTNERSHIPS PROGRAM**  
**UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**POLICIES & PROCEDURES**

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## INTRODUCTION

HOME Investment Partnerships Program, 24 CFR Part 92 (“HOME” – CFDA 14.239)

These Policies and Procedures describe the City of Spokane HOME Affordable Housing Program delivery. To assure complete understanding and compliance, this document should be read in tandem with HOME regulation 24 CFR 92, HUD’s Building Home training modules, and identified (as continuously updated) HUD CPD guidance notifications.

The HOME Program was created under Title II (the HOME Investment Partnerships Act) of the National Affordable Housing Act of 1990. The objectives and intent of the HOME Program are to “expand the supply of decent, safe, sanitary, and affordable housing for very low-income and low-income Americans.” Subsequent legislation updated the HOME program, including a substantial update to the program published July 24, 2013 in the Federal Register, Vol. 78, No. 142 (see also HUD’s helpful “Section by Section Summary of the 2013 HOME Final Rule”).

HOME funds are allocated by formula to Participating Jurisdictions (PJs) by HUD annually. The formula is based in part on factors including population, age of units, substandard occupied units, and the number of families below the poverty line. With its HOME funding allocation, the City of Spokane’s Community Housing and Human Services Department (CHHS) maintains the Affordable Housing Program in Spokane. Affordable Housing projects are selected through a competitive procurement process, and awarded funding may be used to acquire, rehabilitate, and/or construct affordable rental housing units within Spokane City limits. These funds will serve renters at or below 60% of the Spokane area’s median family income (“AMI”).

The City of Spokane may also fund Tenant Based Rental Assistance (TBRA). TBRA programs may provide security deposit assistance, contracts for monthly rental assistance payments for up to 24 months, or security deposit grants or loans.

HOME funds are not intended to fully fund all project expenses. Instead, they serve as “gap financing” where HOME funds fill the gap between project costs and available funds. The City offers HOME funds structured loans. To be considered for HOME funding, a project must meet the goals and objectives of the Five-Year Consolidated Plan, and the Annual Action Plan.

## DEFINITIONS

HUD regulation 24 CFR 92.2 defines certain terms as they are used in the HOME program. Some definitions are repeated here. Some definitions are repeated in later sections where they are most relevant.

- **Action Plan:** Yearly plan for meeting the priorities and objectives of the Five-Year Consolidated Plan. It includes the PJ’s allocated HOME resources and identifies spending priorities in alignment with the Five-Year Consolidated Plan.
- **Adjusted Income:** Adjusted income is annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses and childcare. Adjusted income is used in HOME to compute the actual tenant payment in TBRA programs and the low HOME rent in rental projects in which rents are based on 30% of a family’s adjusted gross income.
- **Affordability:** The requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME Final Rule.

- **Affordability Period:** The time during which HOME Loan financed units must remain affordable to eligible households, as defined by HOME Written Agreement and the HOME regulations. The Affordability Period begins when the project is completed in IDIS, which may be a different date than the dates on the loan documents.
- **Annual Income:** Annual income as defined in 24 CFR 5.609, referred to as "Part 5 annual income", also known as the rules for determining income under the Section 8 voucher program, or adjusted gross income as defined for the purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual tax purposes. Part 5 annual income shall be used for rental and TBRA projects.
- **Commitment:** The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) that meets the minimum requirements for a written agreement in [§ 92.504\(c\)](#). An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (E.G., an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment.
- **Commitment to a specific local project:** If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project has been set up in the disbursement and information system established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.
- **Consolidated Plan:** A five-year plan prepared in accordance with the requirements set forth in 24 CFR Part 91 which describes community needs, resources, priorities, and proposed activities to be undertaken under certain HUD programs, including HOME.
- **Community Housing Development Organization (CHDO):** A private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations at 24 CFR Part 92.2. The HOME New Rule requires that CHDO's have paid staff with demonstrated capacity appropriate to the CHDO's role (this requirement cannot be met through volunteer, donated staff, shared staff, or board members). A participating jurisdiction must award at least 15 percent of its annual HOME allocation to a City-certified CHDO. Multiple CHDO set-asides may be combined in the same project.
- **Extremely Low-Income Families:** Families whose annual incomes do not exceed 30 percent of the median income for the area (adjusted for family size).
- **Final Rule:** The Final HOME Rule was published at 24 CFR Part 92 on July 24, 2013, and became effective on August 24, 2013.
- **HOME-Assisted Units:** A term that refers to the units within a HOME project for which rent, occupancy and/or resale restrictions apply. The number of units designated as HOME-assisted affects the maximum HOME subsidies that may be provided to a project.
- **HOME Funds:** All appropriations for the HOME Program, plus all repayments and interest or other returns on the investment of these funds.
- **Household:** One or more persons occupying a housing unit.

- **Integrated Disbursement and Information System (IDIS):** A nationwide database that is used to manage and account for disbursement of HOME funds to Participating Jurisdictions; and to collect, consolidate and report information regarding HOME Program performance.
- **Low-Income Families:** Families whose annual incomes do not exceed 60 percent of the median income for the area (adjusted for family size).
- **Match:** Match is the City’s contribution to the HOME Program – the local, non-Federal contribution to the partnership. The City’s match contribution must equal not less than 25 percent of the HOME funds drawn down for projects in that fiscal year. The City may use local 1590 and 1406 Sales and Use Tax Revenue to meet the HOME match requirement, in addition to other City contributions.
- **Moderate-Income:** Families whose annual incomes do not exceed 80 percent of the median income for the area (adjusted for family size).
- **New Construction:** The creation of new dwelling units. Any project which includes the creation of new or additional dwelling units in an existing structure is considered new construction.
- **Participating Jurisdiction (PJ):** The term given to any state, local government or consortium that has been designated by HUD to administer a HOME Program. HUD designation as a PJ occurs if a state or local government meets the funding thresholds, notifies HUD that they intend to participate in the program and has a HUD-approved Consolidated Plan. The City of Spokane is a participating jurisdiction.
- **Program Income:** Gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions.
- **Project:** A site or an entire building or two or more buildings, together with the site or sites on which the building or buildings is located, that are under common ownership, management and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking.
- **Project completion:** All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down of HOME funds has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion may occur upon completion of construction and before occupancy. For TBRA, project completion means the final draw-down has been disbursed for the project.
- **Reconstruction (also rehabilitation):** The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. Except that housing that was destroyed may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction the number of housing units on the lot may not be changed as part of the reconstruction project, but the number of rooms per unit may change. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing.
- **State Recipient:** State PJs can award their HOME funds to units of local government to run HOME locally. Any unit of local government designated by a state to receive HOME funds is called a “state recipient.” The state is responsible for ensuring that HOME funds allocated to state recipients are used in accordance with the HOME regulations and other applicable laws.
- **Subrecipient:** A public agency or nonprofit organization selected by the City to administer all or a portion of the City’s HOME Program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing (CHDO) is not a subrecipient.

- **Targeting:** Requirements of the HOME Program relating to the income or other characteristics of households that may occupy HOME-assisted units.
- **Tenant-Based Rental Assistance (TBRA):** A form of direct rental assistance in which the recipient tenant may move from a dwelling unit with a right to continued assistance. Includes security and utility deposits associated with the rental of dwelling units.
- **Very-Low-Income Families:** Families whose annual incomes do not exceed 50 percent of the median income for the area (adjusted for family size).

## FUNDING ALLOCATIONS

HUD’s annual formula allocation of HOME funds to the City may vary each year based on changes in the City’s population, age of units, the number of substandard occupied units, and the number of families below the poverty line. Of the annual allocation, HUD mandates 10% Administration (AD) and 15% “CHDO Reserve” (CR). The balance of funds is Entitlement (EN) and available for all other eligible HOME activities.

Program Income (PI) is accrued in the program year received. PI can be spent once received or PI can be accumulated in the program year received for programming and used in the subsequent program year. However, in the subsequent program year, accumulated PI shall be spent before any HOME EN funds are spent.

An annual Request for Proposals will publicly announce the amount of HOME funds available for eligible costs/activities during that program year.

## ANNUAL HOME PROGRAM FUNDING CYCLE

In compliance with HUD’s regulations regarding the Citizen Participation Process, the Five-Year Consolidated Planning Process, and the Annual Action Plan, annual public hearings regarding affordable housing needs in the community, are publicly noticed. Requests for Proposals (RFPs) are developed in alignment with the Five-Year Consolidated Plan and after considering public comment gathered as part of the public comment process.

RFP applications for HOME are made available to all interested parties on the City of Spokane’s website. Notice of the RFP is publicly posted in the Spokesman Review, announced through the City’s distribution lists, and announced via the City’s social media presence.

Review of proposals begin immediately after the submission deadline. HOME funding applications are received and underwritten by the HOME program administrator. The CHHS Affordable Housing Committee reviews application underwriting and advises the CHHS Board on HOME funding and conditions. The CHHS Board makes formal funding recommendations to the Spokane City Council who has final contracting authority. Projects are notified of the funding decisions.

The Affordable Housing Program RFP typically seeks proposals that will increase the supply of affordable rental housing within the City of Spokane via acquisition, rehabilitation, and/or construction of rental housing affordable to households at or below 60% AMI.

If selected for funding, HOME-assisted units must meet maximum household income and rent restrictions for a Period of Affordability that combines a HOME-prescribed period. HOME funds are offered as loans in an amount that closes a funding gap between necessary project costs and available development grants/loans. HOME loans are further limited by both federal per-unit HOME funding maximums.

## ELIGIBLE APPLICATIONS

A HOME application requires a complete application that demonstrates that the applicant is an eligible applicant, the project is an eligible project, cost/activities are eligible, the tenants are eligible, and that the developer has site control. Additionally, the development budget must demonstrate that the costs of the project are reasonable, that the project will be fully funded; and the operating pro forma must demonstrate that the project is financially viable for the Period of Affordability.

Competitive applications will identify a housing need satisfied by the project proposal; demonstrate capacity and capability for housing development and long-term management; and evidence of capability to comply with federal development-period and affordability-period federal requirements. Competitive applications will describe how the project will contribute to meeting the goals and objectives of the Five-Year Consolidated Plan and the Annual Action Plan.

Each application is underwritten per HOME requirements. The HOME program administrator conduct a comprehensive underwriting and threshold review. A citizen-based Affordable Housing Committee reviews each project's underwriting and threshold report and makes recommendations to the CHHS Board for projects to fund, funding amounts, and funding conditions. Consideration includes capable developer, capable manager, reasonable project, reasonable fees, reasonable plan, and compelling project that meets a goal of the Five-Year Consolidated Plan.

An application fee of .05% of requested HOME funds is collected at time of application submission to discourage frivolous applications (CFR 92.214(b)(1)(ii)).

See HOME Affordable Housing Program RFP, application questions, and application spreadsheets for more detailed information on HOME funding competitions.

## ELIGIBLE APPLICANT

An eligible applicant includes individuals, for-profit organizations, nonprofit organizations, housing authorities, and Faith Based Organization where explicitly religious activities are excluded from the project. The applicant demonstrates adequate/relevant experience and financial viability. Nonprofits receiving more than \$750,000 in federal funds in its fiscal year must provide its most recent financial audit. Eligible CHDO applicants must also identify their role as either owner, sponsor, or developer. The applicant shall have an active UEI number and SAM.gov account at time of application.

## ELIGIBLE PROJECT

An eligible Project increases the supply of affordable rental housing by constructing new housing; acquiring existing housing to preserve and extend quality affordable housing; and/or rehabilitating

housing to improve and extend quality affordable housing. HOME units will remain affordable for the Period of Affordability. Requirement except that at least 20% of HOME units must meet the 50% AMI Affordability Requirement.

An eligible Project must control the project site. Site control is ownership or binding agreement to ownership. This is necessary to assess reasonableness of proposed development and operating costs. HUD-required site & neighborhood standards, National Environmental Policy Act (NEPA), and timeliness reviews must be completed for a specific site.

New construction projects must be built to meet current City building code (Certificate of Occupancy) Model Energy code and meet Section 504 and Fair Housing Act accessibility requirements.

Acquisition and/or rehabilitation projects having 26 or more total units must have a current Capital Needs Assessment (CNA) that assesses the remaining useful life of all major systems and all CNA-required repairs occurring during the HUD Period of Affordability. The work undertaken must be either completed as part of the HOME project or completed over time using adequately funded (excluding HOME funds) replacement reserves.

CHHS Multifamily Written Rehabilitation property standards must also be met, which generally describe methods/materials to be used for rehab, health & safety (address life threatening deficiency immediately if occupied), assess major systems (structural, roofing, cladding, windows/doors/siding), plumbing, electrical, and HVAC.

Projects constructed before 1978 must undergo a certified Lead Inspection and Risk Assessment, lead-based paint repairs must be performed by certified supervisor/workers and completed workspaces must pass Clearance testing.

Uniform Relocation Assistance (URA) compliance must be satisfied including URA Notice to Seller prior to acquisition and/or URA notices to existing tenants.

## INELIGIBLE PROJECTS

Projects which include land banks, transitional housing, dormitories, shelters, nursing homes, halfway houses, and housing where participation in tenant services or religious activities are mandatory are ineligible projects for HOME funding.

## ELIGIBLE TENANTS/HOUSEHOLDS

Eligible tenants/households of HOME-assisted units must have incomes that meet the household AMI restrictions assigned to the rental unit in the HOME Agreement. Eligible tenants/households must meet all requirements as described in the City approved Tenant Selection Policy for the project.

## INELIGIBLE TENANTS

Ineligible tenants include over income, student, and related party (family, agents, and employees - excluding any onsite manager - of the project's owner or consultant) occupants. Tenants over 80% AMI



occupying HOME-assisted units prior to project inception are not eligible. A student under age 24 is not eligible unless the student is independently eligible or a member of an income eligible household or a veteran, married, or has dependent child (see Section 8 student exceptions at 24 CFR 5.612).

## ELIGIBLE HOME COSTS/ACTIVITIES

These costs are generally the hard and soft development, construction, and financing costs to acquire, construct, reconstruct, convert, and/or rehabilitate property and structures.

Examples include:

- Acquisition Costs: costs of acquiring improved or unimproved real property.
- Development Hard Costs: actual cost of constructing or rehabilitating housing; utility connections; permits; demolition of existing onsite structures and improvements.
- Related Soft Costs: finance and/or development professional services costs incurred within 24 months of HOME Commitment. Services typically include architect, engineer, environmental, attorney, and appraiser. Also included are lender fees, title/recording fees, project audit, and developer fee. Other soft costs include project's initial affirmative marketing and fair housing promotion as well as required Uniform Relocation Act (URA) costs for temporarily and/or permanently moving protected tenant.
- Reserves: fund a project reserve account to meet up to 18 months of planned operating and/or debt-service losses during lease up.

## INELIGIBLE HOME COSTS/ACTIVITIES

These activities/costs are generally costs incurred by a project prior to a HOME Commitment, excluding professional services incurred not more than 24 months prior to Commitment and included in the committed funds budget.

Examples of ineligible activities/costs include commercial improvements, land-bank acquisition, offsite infrastructure, syndication costs, operations/services, furnishings, free-standing accessory structures, reserves (beyond 18 months), improvements to public housing, delinquent fees, refinance permanent debt, and any added HOME contribution after the first year of HOME project completion.

Note that HOME can refinance debt only for rehabilitation projects if: necessary for continued affordability, rehab is the primary project activity, providing HOME funds will maintain or create affordability, the minimum HUD Period of Affordability is at least 15 years, the refinanced loan isn't federally made or insured, past management did not disinvest in the property, and the project is viable for the HUD Period of Affordability.

## MAXIMUM HOME SUBSIDY

There are two limits on the maximum amount of HOME subsidy available to a project on a per-unit basis.

**HUD Maximum HOME Subsidy:** New maximum HOME per-unit subsidies are based on Section 234 Condominium mortgage limits for elevator projects. HUD's Office of Multifamily Housing updates the

Section 234 basic mortgage limits annually and publishes them in the Federal Register. HUD Region X Seattle staff annually calculate the local amounts of the subsidies based on bedroom sizes. HUD Region X then sends the established maximum HOME per-unit subsidy limits to the City via email. These HUD subsidy limits cannot be exceeded!

Updated subsidy limits are posted to the City’s website at the following link:

<https://my.spokanecity.org/chhs/programs/>

**Reasonable Subsidy:** The HOME subsidy must be reasonable. Prior to Committing an amount of HOME subsidy, the subsidy amount must be subjected to underwriting and subsidy layering testing, which are further described at 92.250(b) and CPD-98-01.

## AFFORDABILITY PERIOD

Multi-Family Rental projects assisted with HOME funds are required to remain affordable for a designated length of time. The affordability period is dictated by the amount of HOME funds committed to each HOME-assisted unit and the type of housing activity funded. See table below. Federal Final Rule Section 92.252 (e) addresses the period of affordability for rental units. Note that these are the minimum required periods of affordability, and the City may impose longer affordability periods, or an “Extended Affordability Period”.

### HOME Period of Affordability

Project Type	HOME \$ per HOME Unit	HUD Period of Affordability
Acquisition and/or Rehabilitation	< \$15,000	5 years
	\$15,000 to \$40,000	10 years
	> \$40,000	15 years
New Construction	Any Dollar Amount	20 years

## APPLICATION UNDERWRITING

HOME applications must demonstrate a development budget with reasonable costs and full funding as well as an operating pro forma demonstrating a financially viable project for the Period of Affordability. CHHS underwriting analyzes applicant assumptions and risks to verify projects can meet affordability requirements during the Period of Affordability and assure a viable and sustainable project. Underwriting may also be provided by HUD, Commerce Housing Trust Fund, or Housing Finance Commission and reviewed by the CHHS HOME program administrator.

The HOME program administrator underwrites each project after considering the following underwriting factors. An underwriting summary is prepared and presented to a citizen Affordable Housing Committee who makes HOME funding recommendations to the CHHS Board. The CHHS Board considers the underwriting summary and funding recommendation to formally advise City Council on City contracting.

**Developer is Capable.** Developer demonstrates relevant experience including public funding; adequate financial capacity including owner’s equity investment in the project and/or leverage of other project funds; demonstrated financial stability including no unresolved bankruptcy; identified any plan to

change ownership; and consideration of applicable federal requirements. If applicable, a Developer's previous performance on City-funded projects may be a consideration.

**Manager is Capable:** Project management demonstrates relevant experience including federal compliance; understanding leasing and monitoring requirements; complete operating budget including onsite and off-site management costs; and written management and tenant selection plan(s). If applicable, a manager's previous performance managing City-funded projects may be a consideration.

**Development is Reasonable:** Development budget costs are complete, reasonable, necessary, and HOME eligible; total funding equals total uses; all financing resources can be reasonably obtained. Development timeline must demonstrate timely financing, construction start within 12 months of HOME Commitment, reasonable construction period, timely HOME draws, and full occupancy within 6 months of project completion.

Pro forma is reasonable with rents within the HOME maximums for HOME-assisted units; HOME units are proportionate to HOME funding and comparable to non-HOME units (Cost Allocation); adequate reserves are planned and funded; cash flow is dedicated to maintaining quality and viable housing; and project cash flow is sufficient to sustain the project throughout the period of affordability without unreasonable return to the owner.

The City can require projects to provide copies of other financing documentation and construction contracts. CHHS may require a project to provide a third-party cost analysis.

**Fees and Expenses are Reasonable:** the application demonstrates that the project has reasonable costs.

**Housing Plan is Reasonable:** Housing demand is demonstrated in the project's market area based on appraisal, market study, or rental housing vacancy rates. Vacant unit absorption rate is reasonable; location is desirable with access to public transit, jobs, and services; any tenant-population restriction is reasonable and supported; any rent or operating subsidy is committed and should not be required beyond the term of a written agreement; and services and services provider are adequate, appropriate, and committed.

**Project is Compelling:** The project serves high-need renter population(s), location benefits low-income renters, project creates an appropriate number of affordable housing units, and/or budget significantly leverages equity or other funding.

**Fixed vs. Floating HOME Units:** Fixed units are specified units (comparable or not comparable) that remain HOME-assisted during the entire HUD Period of Affordability. If 100% of project units are HOME-assisted units then HOME units are considered fixed. Fixed units are identified at project inception. Note that if project units are not comparable then project should have fixed HOME units.

Floating HOME units must be comparable to all other project housing units by configuration, size and amenity (excluding minor variations). Floating HOME units must be distributed proportionally across unit types. The number and type of floating HOME units must remain constant throughout the HUD period of affordability.

Note that if more than one Participating Jurisdiction (e.g., City, County, and Commerce) is contributing HOME funds to the same project, a HOME unit cannot be committed to more than one of those PJs.

**Cost Allocation:** HUD requires Cost Allocation as part of HOME underwriting. Staff use HUD’s Cost Allocation Excel spreadsheet to confirm that a project provides the correct number of HOME-assisted units for the provided HOME subsidy.

**Subsidy Layering Review:** HUD requires Subsidy Layering Review as part of HOME underwriting when HOME funds are combined with other government assistance (i.e., any form of direct/indirect federal/state/local loan, grant, or subsidy). This review considers cash flow, debt coverage ratio, necessary costs, reasonable costs, and development and financial risks.

**Further Underwriting Review:** The City is required to recheck the project underwriting at initial closing or construction start, and at construction completion or final draw, when all sources and uses can be verified.

## HOME ALLOCATION/COMMITMENT LETTER

Projects allocated HOME funds will receive an Allocation letter via email. This letter will provide the amount of the award. This is a non-binding HOME award announcement, following completion of the RFP process.

Awarded projects will receive a HOME Commitment Letter describing the HOME funding amount, period of affordability, loan conditions, grant/repayment requirements, and applicable federal, state, and local compliance requirements. This Commitment Letter informs other funders of the City’s HOME allocation and terms to be included in the City loan documents. This Commitment Letter is also nonbinding and is not sufficient for committing HOME funds to a project in IDIS.

## LETTERS OF CONSISTENCY WITH THE CONSOLIDATED PLAN

Affordable housing projects (both HOME and not-HOME funded) typically also seek other state or federal funding. Those funders frequently require that the project provide a local certification of consistency with the local jurisdiction’s Consolidated Plan. The requestor should provide project information sufficient for City to determine consistency. If consistent, the City provides a Letter of Consistency which can be the HUD form found at [www.hud.gov/sites/documents/19561\\_HUD-2991.PDF](http://www.hud.gov/sites/documents/19561_HUD-2991.PDF).

## HOME WRITTEN AGREEMENTS

The City may not execute legally binding HOME written agreements committing HOME funds unless the NEPA is complete; the HOME underwriting is complete including market and developer capacity analysis; all necessary project financing is secured; a budget and schedule is set; and construction start is scheduled within 12 months of the agreement date.

The HOME Program requires that all HOME agreements must be entered into by the project owner. The City will utilize attorneys to prepare HOME Written Agreements. The project will pay all outside attorney fees associated with HOME loan documentation as a HOME-eligible expense. Spokane City Council must formally authorize City’s entry into HOME funding contracts. The City loan documents include:

- HOME Written Agreement, which is recorded. This document will include the project HOME-mandated provisions and references to HOME regulatory requirements, the affordability

requirements, budget, and development schedule (as attachments) and any preference for occupancy by special populations (paragraph XVIII D & 24 CFR 92.253(d)).

- Deed of Trust, which may be recorded in a subordinate lien position to private debt or other project debt of higher dollar value. The Deed of Trust will not be subordinate to a developer or owner loan/lien.
- Promissory Note, which is not recorded.
- Lenders Priority Agreement, if necessary, which is recorded.
- Priority Agreement may be required or advisable when there are multiple project funders. This optional agreement helps establish where each funder's recorded documents (Covenants and Deeds of Trust) lie in recorded lien priority. There will always be a priority agreement for tax credit projects.
- An ALTA Lenders title policy is purchased for each loan. HOME funds may be disbursed at closing, as approved by the HOME program administrator and only for HOME-eligible expenses.

The HOME Written Agreement is generally organized as follows:

SECTION 1.	DEFINITION <b>Error! Bookmark not defined.</b>
SECTION 2.	USE OF FUNDS (Project description, address, funding amount, use of funds, project timeline)
SECTION 3.	AFFORDABILITY (Period of affordability, securing affordability, rent restrictions)
SECTION 4.	PROJECT REQUIREMENTS (Tenant selection, VAWA, Affirmative Marketing, Fair Housing, lease agreement)
SECTION 5.	COMMUNITY HOUSING DEVELOPMENT ORGANIZATION PROVISIONS (CHDO specific requirements)
SECTION 6.	OTHER FEDERAL REQUIREMENTS (Conflict of interest, anti-lobbying, compliance with federal, state and local laws and statutes,
SECTION 7.	FUNDS DISBURSMENT (Payment requests, change orders and repayment of funds)
SECTION 8.	REPORTING AND RECORD MAINTENANCE (Reporting during the development process, occupancy phase, affordability period and record retention)
SECTION 9.	UNIFORM ADMINISTRATIVE REQUIREMENTS (Cost principles, internal controls and audits)
SECTION 10.	ENFORCEMENT PROVISIONS (Required inspections, audits and program reviews)
SECTION 11.	RECORDATION; AMENDMENTS; TERMINATION <b>Error! Bookmark not defined.</b>
SECTION 12.	NO CONFLICT WITH OTHER DOCUMENTS
SECTION 13.	SEVERABILITY
SECTION 14.	DURATION
SECTION 15.	NOTICES
SECTION 16.	REMEDIAL ACTION (Non-compliance, corrective actions, remedies, default)
SECTION 17.	INVOLUNTARY LOSS (Continuation of HOME Agreement covenants)
SECTION 18.	GOVERNING LAW AND VENUE
SECTION 19.	EXHIBIT NARRATIVE
SECTION 20.	SALE OR CONVEYANCE OF THE PROJECT (Restrictions in the event of a project sale)
SECTION 21.	DEBARMENT, SUSPENSION or INELIGIBILITY
SECTION 22.	MISCELLANEOUS
EXHIBIT A	LEGAL DESCRIPTION
EXHIBIT B	DEVELOPMENT TIMELINE
EXHIBIT C	DEVELOPMENT BUDGET & SOURCES AND USES

EXHIBIT D SPOKANE CITY HOME PROGRAM INCOME AND RENTS  
EXHIBIT E AFFIRMATIVE MARKETING POLICY AND PROCEDURES

Once all authorized signatures have been obtained on the HOME Written Agreement, the project funds can be committed in IDIS.

## DISTRIBUTION OF FUNDS

Any new subrecipient must submit City New Vendor forms requesting a Vendor ID.

There are three minimum documents that must be submitted in order for a reimbursement/draw request to be approved. The City may also require all receipts, purchase orders, billing statements and other proof of costs as part of a draw request. However, requests will not be processed without these minimal pieces of documentation.

1. Billing Form
2. Expense report
3. General ledger for project account

### BILLING FORM

Subrecipient will complete the Excel City HOME Billing Form with the abbreviated budget line items and corresponding current and previous draw amounts. This billing form also requires borrowers to complete a Payee Expense Detail form and attach receipts for individual expenses exceeding \$1,000. An AIA draw form is an adequate receipt for invoices from the project's general contractor (who is not affiliated with the subrecipient). Subrecipients seeking reimbursement for construction labor provided to the project (e.g. owner/builder) must also complete a Labor Timesheet showing onsite hours worked. If the project is a Davis Bacon project, then the subrecipient will also provide weekly Davis-Bacon payrolls for CHHS review. If the project is a State Prevailing Wage project, then the subrecipient will provide for all project contractors a Statement of Intent with/before the 1<sup>st</sup> HOME draw, and an Affidavit of wages paid with/before the final HOME draw.

### EXPENSE REPORT

The Payee Expense Detail form, the Labor Expense Detail/Labor Timesheet forms, the Davis Bacon/Prevailing Wage forms are all considered to be parts of a project's expense report. Not all parts are applicable to all projects.

### GENERAL LEDGER FOR PROJECT ACCOUNT

All Reimbursement/draw requests must include a general ledger report for the project's account. The organization of the general ledger reports may be different depending on the subrecipient's accounting software. An acceptable general ledger report will include a record of all financial transactions related to the costs and sources of funding for the project. General ledger reports allow the City to demonstrate to HUD during a monitoring that expenses paid with HOME funds, were not also paid by another source of funding on the project.

### DRAW REVIEW

CHHS will review the reimbursement/draw request to compare rates of construction progress and loan funds drawn as well as expenses incurred to budgeted items. Added scrutiny is applied to any exceptional cost or loan increase. For any construction change order, the existing project budget or

updated project budget (showing source of any newly required funding) must accompany the change order for CHHS Cost/Price Analysis. CHHS expects subrecipients to supply any added funds in their role as developer and primary risk agent. Subrecipient's submission for HOME funding is their indication of acceptance of all HOME-funded work.

CHHS will periodically visit the site during construction. CHHS intends to perform at least one site visit during construction to verify extent of construction completed and verify that major expense items are onsite/installed. Third party inspections including inspections by other funders is an acceptable substitute.

#### DISBURSEMENTS

CHHS disburses HOME funds for eligible project expenditures, expense obligations, and/or real estate acquisition closing. HOME funds cannot be held in escrow for more than two days. HOME funds cannot be disbursed to a bank for their later distribution. Some eligible HOME expenses can occur prior to HOME funding Commitment.

HOME funds will be disbursed to reimburse eligible project construction costs. All purchased materials should be onsite before requesting reimbursement. In exceptional circumstance, CHHS may reimburse materials stored offsite provided demonstrated need, evidence that materials exist in secure storage,

#### FINAL DISBURSEMENT

The final HOME disbursement is released after all permits are final, a Certificate of Occupancy is issued (if new construction), and state/federal (as applicable) prevailing wage documentation is received and approved. This final disbursement typically consists of the developer fee and a retainage amount to be determined by the City held until project Completion. CHHS will inspect the project prior to final HOME disbursement.

### DEADLINES

Projects not meeting HOME deadlines may be "involuntarily terminated" by HUD. A 1-year extension is possible. All HOME funds have a 4-year expenditure deadline.

Other deadline applicability and dates vary by the Program Year (PY) of the HOME entitlement funding. Refer to specific information provided in the earlier "Definitions" section.

HOME deadlines include:

#### COMMITMENT

HOME funds must be "Committed" to projects prior to the HOME Commitment Deadline. The Commitment deadlines shown at 24 CFR 92.500(d)(1) apply differently based on the HOME allocation Program Year and are described below.

#### INSPECTION

##### 2013 HOME Final Rule

The City must perform periodic onsite inspections during each project's development period. CHHS must complete an initial HOME compliance inspection within 12 months of project Completion. For new construction, the Certificate of Occupancy indicates that the project has met all building code requirements. For acquisition/renovation, CHHS must verify that all required Capital Needs

Assessment (CNA), Multifamily Rehab Standard, and modified UPCS (when provided by HUD) repairs are completed.

#### EXPENDITURE

HOME funds must be expended by the last day of the month 5 years after HUD executes the HOME grant agreement. This date is found on form HUD-40093 which shows HUD's actual HOME grant agreement date.

#### COMPLETION

CHHS must close the IDIS activity upon project Completion to start the HUD Period of Affordability. For Completion, CHHS must have drawn HOME funds and updated IDIS with a final project budget. The final HOME disbursement should be held until the project has provided all required documentation.

#### OCCUPANCY:

HOME-assisted units must be occupied within deadlines following project Completion or HUD imposes penalties, per the 2013 HOME Rule Update. These requirements are included in the HOME agreements.

### RECORD RETENTION REQUIREMENTS

HOME written agreements, and the accompanying documents must be retained for 5 years after the HOME agreements terminate.

Rental Housing Project Records:

- Tenant income, rent and inspection information are kept for the most recent five years, until five years after the affordability period ends.
- General records are retained for five years after project completion.

TBRA Records must be kept for five years after rental assistance ends.

Records and files to be retained include, at a minimum, the following:

- HOME Program Application
- HOME Agreement and any modification
- Correspondences with the City describing steps taken to satisfy agreement condition(s) and supporting documentation.
- Correspondence from the City accepting compliance with the agreement condition(s);
- Environmental review documentation
- HOME Program Activity Budgets
- Expenditure Reimbursement Request Forms submitted to the City for payment

HOME Program owners/developers/contractors must retain an accurate and complete set of accounting records for all financial transactions, supporting documents, statistical records, and all other records pertinent to the HOME Program until all loans made under the HOME Program have been repaid, **or** for a period of five years after the Project Completion, whichever occurs later.

### ADDITIONAL FEDERAL REQUIREMENTS



Multiple regulations broadly apply to federally funded activities and are referred to as “other federal requirements” for HOME and Subpart K Crosscutting Regulations for CDBG. Compliance requirements for each requirement are listed in regulations separate from HOME or CDBG regulation.

Quick Reference Guide

Regulation	Compliance Trigger
NEPA	Perform CENST, CEST, or EA prior to site limiting choice or HOME Commitment. If ground disturbed, Archeological consult with SHPO & only City performs Tribal consultation including 30 days opportunity to comment. Consult WISAARD/SHPO consult if affecting structure >45 years old. If EA, then do RROF including 15 day local plus 15 day HUD public comment periods.
Davis-Bacon Federal Prevailing Wages	Applies if 12 or more HOME units in a project. ≤4 stories & residential character is Residential federal prevailing wages. Add FLSA & sample wages to bid & contract.
Affirmative Marketing	Projects with 5 or more HOME-assisted units. Project provides HUD AFHMP form 935.2A, Fair Housing poster in leasing office, EHO logo in vacancy ads.
Section 504 Accessibility	If newly constructing 5 or more housing units then require 5% type “A” ADA (until UFAS is revised) plus 2 % sensory adaptable units. Substantial rehab (rehab cost is 75% or more of replacement cost of completed project) of Multifamily Housing (15 or more units) triggers new construction standard.
Fair Housing Act Accessibility	Applies to new housing construction. 4 or more units then all ground floor units and common spaces handicap accessible and on accessible route. 4 or more units including elevator then all elevator-served units handicap accessible.
HUD Title X Lead Based Paint	Applies to any HUD-assisted pre-1978 housing. Notice form prior to leasing. Renovations are \$1-5K Do No harm, \$5-25K Interim Controls, > 25% Abate. Maintain lead-safe housing during HUD POA.
EPA RRP Lead Based Paint	All for-hire construction use Certified Renovator for renovation to pre-1978 child-occupied facilities. Notification and documentation required.
Section 3	>\$200K HUD funds requires Section 3 Business Concern solicitation and job opportunity.
M/WBE	Projects invite bids from 3 M/WBE contractors. Report annually with HUD 2516 to HUD Seattle and in CAPER.
URA	Applies to any property acquisition or occupied commercial/residential property occurring after Initiation of Negotiation. Document occupant notice. Determine if Displacement. 104(d) 1-for-1 payment and/or replacement if demolish or convert any “affordable” (habitable & rent < FMR) housing.
VAWA	Applies to HOME commitments after 8/16/2016. Project notifies tenants at leasing or eviction of HUD domestic violence protections. Project should have Emergency Transfer Plan HUD 5381.
HOME Inspections	Onsite inspect within first 3 months and at least every 3 years. If ≤4 HOME units then inspect all HOME units. If >4 HOME units then inspect 20% of HOME units in each building but not less than 1 unit in each building for a total of not less than 4 HOME units inspected.

CONTRACTOR UTILIZATION

If applicable, the prime contractor is responsible for Davis-Bacon and cross-cutting federal regulations. See [Construction Contractors Technical Assistance Guide \(dol.gov\)](#)

#### HANDICAP ACCESSIBILITY

HOME-assisted housing must increase handicap accessibility per Section 504 and federal Fair Housing Act and comply with Fair Housing Act accessibility guidelines.

#### AFFIRMATIVE MARKETING

Projects must make special outreach by advertising vacancies to persons who are less likely to apply for housing without special outreach. Special outreach includes advertising vacancies with the Spokane Housing Authority, displaying the Equal Housing Opportunity logo in advertising, and displaying the Fair Housing poster in the project leasing office. Projects with 5 or more units must submit a HUD 932-2a affirmative marketing plan available at <http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.pdf>. This marketing plan includes demographics of affordable housing need and project marketing methods that encourage application from populations less likely to apply for housing.

#### HOME & TENANT PREFERENCE

HOME projects can include tenant preference if the special needs population is included in the Consolidated Plan (92.253(d)(3)). Tenant preference is not discriminatory because it promotes HUD-required Affirmative Marketing whereby the project provides housing for those least likely to apply. The City's Consolidated Plan identifies Safe Affordable Housing Choice as a high priority need for priority populations: extremely low income, low income, moderate income, large families, families with children, elderly, public housing residents, chronic homelessness, individuals, mentally ill, veterans, victims of domestic violence, unaccompanied youth, disabled (mental, physical, developmental) persons, and persons with HIV/AIDS and their families.

Student Exclusion: HOME is a permanent affordable housing production program and excludes dormitory style housing including student housing. The 2013 HOME rule specifically excludes student households similar to the Housing Choice Voucher program. HUD defines a student household as having a full-time or part-time student unless that student is a member of an income-eligible household, not a dependent member of another household (emancipated youth), a US Military veteran, married, has a dependent child, or disabled.

#### LEAD-BASED PAINT

Housing constructed before 1978 must complete certified paint inspections and provide certain HUD/EPA tenant notice and disclosure. Maintenance or repair that disturbs known/suspected lead paint must use Safe Work Practices. (24CFR 35)

#### UNIFORM RELOCATION ACT (URA)

Federally assisted projects must address URA requirements for both acquisition and/or rehabilitation/demolition projects. The City discourages displacement of existing residential or business occupants. Any displaced resident or business will be compensated, per URA. CHHS will assure proper notification upon federally assisted acquisition and/or investment in existing property. See HUD Handbook 1378, 49CFR24

#### NATIONAL ENVIRONMENTAL POLICY ACT (NEPA):

CHHS will perform NEPA environmental review assessing project impact upon certain federal environmental laws, including Site & Neighborhood Standards, historic review of buildings over 45 years

old, and SHPO/THPO archeological review if ground disturbance. NEPA review must be complete prior to HOME funds Commitment and/or starting onsite work or CHHS must withdraw all HOME funding. This regulation has separate, department-wide procedures.

#### Environmental Standards:

All projects and activities are reviewed for environmental impacts based on federal environmental laws under the National Environmental Policy Act (NEPA). This review is typically performed by City of Spokane staff. A public notification and comment period may be required.

#### VAWA

The Violence Against Women Act (VAWA) provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking. Federally-assisted housing cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. These protections apply regardless of sex, gender identity, or sexual orientation.

## HOME MONITORING

See the **HOME Monitoring Policies and Procedures** for detailed information on HOME monitoring.

[{LINK}](#)

## HOME MATCH

#### MATCH OBLIGATION & CARRYOVER

HUD requires that 25% of HOME funds (gross HOME award, less allocated admin, less any CHDO operating assistance, and excluding program income) drawn from IDIS be matched by nonfederal funds within each federal fiscal year (not HOME program year).

#### ELIGIBLE MATCH

Eligible forms of match are identified in 24 CFR 92.220 and are listed briefly below:

- Cash Contributions/Cash Equivalents
- Foregone Fees, Taxes, and Charges
- Donated Land or Other Real Property
- On-Site & Off-Site Infrastructure
- Proceeds from Affordable Housing Bonds
- Donated Use of Site Preparation & Construction Materials
- Donated Use of Site Preparation & Construction Equipment
- Donated or Voluntary Labor & Professional Services
- “Sweat” Equity
- Direct Cost of Supportive Services Provided to HOME-Assisted Families
- Homebuyer Counseling Services

#### INELIGIBLE AS MATCH

The following resources cannot be counted as match (they are ineligible):

- Contributions made with or derived from federal resources or funds, regardless of when the funds were received or expended, including CDBG funds.

- Interest rate subsidy attributable to federal tax exemption on financing (e.g., state or local bonds), or the value attributable to federal tax credits.
- Owner equity or investment in a project, except “sweat” and state tax credit equity. Owner equity or investment is generally ineligible because it is not considered a permanent contribution to the project, but rather value accruing to the owner.
- Any contributions from applicants for, or recipients of, HOME assistance or contracts, or from investors who own, are working on, or are proposing to apply for, assistance under the HOME program. (This does not prohibit contractors who do not own any HOME project from contributing professional services, in accordance with 24 CFR 92.220(a)(8), or prohibit persons from contributing “sweat equity”, in accordance with 24 CFR 92.220(a)(9).)
- State Recipient or CHDO cost of administering HOME-assisted programs or projects, or HOME match-eligible projects.
- Contributions already counted as match toward any other federally funded program.
- Any form of match not meeting the requirements of 24 CFR 92.220.

### MATCH REPORTING

Match is documented and reported yearly as part of the Consolidated Annual Performance and Evaluation Report (CAPER).

### FAITH BASED ORGANIZATIONS

Organizations that are religious or faith-based are eligible, on the same basis as any other organization per 92.257.

### COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)

#### CHDO SETASIDE REQUIREMENT

HUD requires that at least 15% of the annual HOME formula grant (excludes PI) be Committed and disbursed to a nonprofit Community Housing Development Organization (CHDO) certified as serving as owner, sponsor, or developer of a housing project. TBRA and owner-occupied housing rehab activities are not eligible for CHDO funds.

This 15% CHDO set aside must be Committed to a CHDO project within 2 years or HUD will recapture those funds. The City must certify a CHDO prior to each HOME funding Commitment. Not-eligible CHDO activities are TBRA, homeowner rehabilitation, and real estate brokering (not including property acquisition). The City does not use CHDO funds for CHDO predevelopment loans, capacity building, or operating costs.

#### CHDO DEFINED

A CHDO is a 501 (c)(3) or (4) private nonprofit organization with specific Board composition whose purpose is providing decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions, or by-laws. A CHDO shall have served the community where HOME-assisted housing will be located for at least 1 year. A CHDO shall have standard financial accountability per 24 CFR 84.21. A CHDO shall demonstrate sufficient experience and capacity. An organization that is a CDBG Community Based Development Organization (CBDO) likely meets CHDO requirements.

#### CHDO CERTIFICATION

Organizations must be certified by the City to be recognized as a CHDO. CHDO's must be certified by the City prior to any HOME commitment. 24CFR 92(G)

#### CHDO CONFLICT OF INTEREST

No employee, agent, consultant, elected official, or appointed official of a CHDO may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition does not apply to an employee or agent serving as an onsite project manager or maintenance worker.

Prior to Committing HOME CHDO funds, the CHDO must recertify its CHDO status including verifying that all CHDO Board members have signed a CHDO Conflict of Interest statement. CHDO Board members will have disclosed any conflict of interest and resolved any conflict by removing the conflict or by the City of Spokane determination of no conflict or exception to Conflict-of-Interest policy. 92.356