



Skagit County HOME Consortium
HOME Investment Partnership Program
Policies and Procedures Manual

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Skagit County Consortium
HOME Investment Partnership Program Policies and Procedures Manual

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I. INTRODUCTION

The Skagit County Consortium HOME Program

The HOME Program is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing. The national objectives of the program are:

- Provide decent, affordable housing for low-income households
- Develop the capacity of nonprofit housing agencies to address the housing needs of low-income households
- Provide funding for state and local governments to address low-income housing needs
- Leverage private sector participation

The Skagit County HOME Consortium represents a unique HOME collaboration between three counties: Island, Skagit, and Whatcom. The Consortium enjoys the size and strength a regional approach provides while remaining flexible enough to meet local needs.

Purpose of Policies and Procedures

This Policies and Procedures Manual addresses the following purposes:

- To provide a uniform guide to the administration of the Consortium HOME Program locally. While it conforms to federal rules and guidelines, it focuses primarily on locally-crafted procedures.
- To ensure that all Consortium stakeholders, including applicants for funding, local jurisdictions and interested residents, have access to information about program administration.
- To demonstrate to HUD that the HOME Program is administered in a way that is consistent with federal regulations and guidelines.

Amendments to Policies and Procedures

As an administrative document, this Manual may be amended at any time with the approval of the Skagit County HOME Consortium Committee.

The latest version of this Manual will be distributed to key stakeholders prior to each funding cycle. The most recent copy may be found at <https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm>.

Principal Documents Governing the HOME Program

The HOME Program is administered in compliance with a complex structure of federal and local rules. The principal documents describing these rules, as well as the goals and performance of the Skagit HOME Consortium, are summarized in the table below.

| Authority | Documents | Description | Links |
|------------------|-------------------------------|---|---|
| Federal | HOME regulations and guidance | Provides the binding rules (Code of Federal Regulations), agency guidance and advice for the HOME program nationally. | <p>Comprehensive source for HOME policy guidance, including laws and regulations, CPD Notices, HOME FACTS and HOMEfires: https://www.hudexchange.info/programs/home/</p> <p>Training materials on HOME Program: https://www.hudexchange.info/resource/23</p> |

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|------------|--|--|---|
| | | | 68/building-home-a-home-program-primer/ |
| Consortium | Consolidated Plan | Required plan that contains needs assessment, housing market analysis, priorities and strategies for use of HOME funds over the five-year period ending June 30, 2022. | https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm |
| Consortium | Analysis of Impediments to Fair Housing Choice | Required assessment of Fair Housing issues in the tri-county region and measures to address them. | https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm |
| Consortium | Action Plan | Time-specific goals and annual budget describing how the available HOME resources will be spent. | https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm |
| Consortium | CAPER | Annual performance report on the actual use of HOME funds and what was produced. | https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm |
| Consortium | Policies & Procedures Manual | Information and rules about the administration of the Consortium's HOME Program (this document) | https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm |

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II. CONSORTIUM GOVERNANCE

This section is reserved for information about roles, responsibilities, decision-making processes and other information about how the jurisdictional members of the Consortium conduct business on behalf of the Consortium.

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III. GENERAL HOME PROGRAM POLICIES & PROCEDURES

Eligible Activities

Consortium HOME funds may be used to support the following activities:

- Tenant Based Rental Assistance (TBRA)
- Development of Homeownership Housing
- Development or Acquisition of Rental Housing
- Community Housing and Development Organization (CHDO) Operating Support

The Notice of Funding Availability will identify which of these activities may be funded in that particular funding cycle. All applications must be submitted in the format and with the information prescribed by the program or Notice of Funding Availability (NOFA).

Eligible Applicants

Public agencies, nonprofit organizations, and for-profit entities are all eligible to apply to Skagit County for HOME funds. Fund recipients (hereafter called “Project Sponsors”) are classified into one of three categories:

- Subrecipients: A subrecipient is a public agency or nonprofit housing service provider selected by the Skagit County Consortium to administer HOME Programs.
- Developers, Owners, Sponsors: For-profit entities, housing authorities, nonprofit organizations, and CHDOs can receive HOME funds in the roles of developers, owners, and sponsors of eligible activities.
- Community Housing Development Organizations (CHDO): A CHDO is a private nonprofit organization which meets certain specific criteria, including having 1) IRS tax exempt status, 2) a mission/purpose related to housing and service to a low-income community, and 3) a board composition which includes one-third low-income residents or their representatives.

Distribution of Funding

Skagit County, as lead agency for the Consortium, distributes HOME funds within the boundaries of the County’s HOME Consortium area, and among different categories of housing need, according to the priorities of housing need identified in its approved Consolidated Plan.

The Consortium only invests HOME funds in eligible projects within the boundaries of Island, Whatcom, and Skagit Counties. Projects within the non-member cities of Sedro-Woolley and the City of Bellingham are generally ineligible for funding. Sedro-Woolley and Bellingham projects are eligible for capital funding only in situations when funds must otherwise be returned to HUD due to a lack of eligible Consortium projects. Specific marketing and HUD match conditions must be met for these projects.

Applications for Skagit County Consortium HOME funds are solicited annually (subject to fund availability) through a Notice of Funding Availability (NOFA) process and reviewed competitively. Before committing funds to a project, Skagit County will evaluate the project and will not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing. Additionally, Skagit County will not enter into contract on any project before all other sources of funding are secured.

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

Matching Funds

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The Consortium is required to match at least 25% of the HOME funds that are spent on projects/programs. “Match” can be provided through cash, assets, services, labor, and other contributions of value to the HOME program. Federal resources (i.e., CDBG funds) are not an eligible source of match.

Match does not have to be provided on a project-by-project basis. The match requirement applies to the expenditure of HOME funds on projects/programs in a given federal fiscal year (October 1 - September 30). Match is tracked on an ongoing basis using a HUD provided (HUD form 40107). This information is monitored and maintained by the Consortium. The Consortium will only commit HOME funds up to the percent that banked match will allow.

Eligible sources of matching funds include:

- Cash from a non-federal source
- Value of waived taxes, fees, or charges
- Value of donated land
- Cost of infrastructure improvements
- 25% to 50% (depending on the type of bonds) of the proceeds of government issued housing bonds provided as a loan to a project
- Value of donated materials, equipment, labor, or professional services
- Sweat equity
- Costs of supportive services for residents of HOME projects
- Cost of homebuyer counseling services. The County is responsible for calculating match credits and providing the required information to HUD.

Affirmative Marketing and Outreach

All Project Sponsors must undertake outreach efforts in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach, and access to the Program.

Project Sponsors must inform potential applicants of the program via flyers, public notices, local media articles, or meetings with Subrecipient staff. The marketing information will include basic eligibility requirements, a general description of the Program, and the appropriate Fair Housing logo.

The Project Sponsor’s marketing approach must address: (1) how the program will be announced (i.e., which media and other sources); (2) where applications will be taken (i.e., at one site or more); (3) when applications will be accepted (i.e., daily, during normal working hours, or extended hours for a specified period); and (4) the method for taking applications (i.e., in person, by mail).

The Project Sponsor must maintain a file that contains all marketing efforts (i.e., copies of newspaper ads, memos of phone calls, copies of letter, etc.) The records, which help assess the results of these actions, must be available for inspection by the Consortium.

The Project Sponsor also has an obligation to assure that information about the program reaches the broadest possible range of potentially qualified applicants.

To further fair housing objectives, the Project Sponsor should identify those households that have been determined to be “least likely to apply,” and determine what special outreach activities, including placing advertising in minority-specific media, will ensure that this population is fully informed about the program. The Project Sponsor should work with the Consortium to assure that all marketing initiatives and materials adequately reflect the available assistance types.

Conflict of Interest

In the procurement of property and services by Project Sponsors, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. Any person who exercises or has exercised any functions or responsibilities

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with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may not have an interest in any contract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, board member, loan committee member, elected official or appointed official of the participating jurisdiction or Project Sponsor that is receiving HOME funds.

Project Sponsors shall ensure that officers, employees, agents or consultants will not occupy any HOME assisted affordable housing units in the project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the CHDO who occupies a housing unit as the project manager or maintenance worker.

Skagit County, as lead agency for the Consortium, may provide an exception to the provisions listed above on a case-by-case basis when the County determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the Project Sponsor's HOME assisted project. For the County to provide this exception, the Project Sponsor must make a written request and the County will make its determination based on the following factors:

- a. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group;
- b. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question;
- c. Whether the tenant protection requirements of Section 92.53 are being observed;
- d. Whether the affirmative marketing requirements of Section 92.351 are being observed and followed; and
- e. Any other factor relevant to the County's determination, including the timing of the requested exception.

Project Sponsors must maintain a written code of standards of conduct that will govern the performance of its officers, employees, or agents engaged in the award and administration of contracts funded with Federal dollars.

Program Accessibility

Section 504 of the Rehabilitation Act of 1973 requires that a HOME-funded activity, when viewed in its entirety, is usable and accessible to persons with disabilities. The obligation to provide accessible units, in accordance with 24 CFR 8.22 and 8.23 is broader and includes the following:

All program activities, including public hearings, homebuyer briefings, counseling sessions, and meetings should be held in locations that are accessible to persons with disabilities.

Information about all programs and activities should be disseminated in a manner that is accessible to persons with disabilities. Auxiliary aids and special communication systems should be used for program outreach, public hearings related to housing programs, and other program activities.

Reasonable steps should be taken to provide information about available accessible units to eligible persons with disabilities. Homebuyer projects are not required to produce accessible units but reasonable accommodations during the application process are required for any buyers with accessibility needs. Program advertising should acknowledge that the program will work with households with accessibility needs. Should a successful homebuyer applicant have a need for a unit with an accessible design, the program must accommodate those needs.

Information about the accessibility requirements of HOME-funded multifamily housing is included in the rental housing chapter of this manual.

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Non-Discrimination

No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with HOME funds on the basis of religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status, physical or mental disability, gender identity or expression of a person, national origin, ancestry, military status, or other arbitrary cause.

Reasonable Accommodations for Persons with Disabilities

Employers receiving HOME funds may not discriminate against prospective or current employees with disabilities. Employers must remove physical and administrative barriers to employment and make reasonable accommodations for employees with known disabilities.

If a subrecipient has 15 or more employees, it must designate a Section 504 Coordinator and notify program participants and employees of its non-discrimination policies.

Business Enterprises Owned by Minorities, Women and Disadvantaged Business Enterprises

The Skagit County Consortium encourages participation by business enterprises owned by minorities and women, and disadvantaged business enterprises (M/W/D-BE). Contracts for the procurement of services should be awarded to the maximum extent possible to M/W/D-BE. Section 24 CFR 84.44(b) of the Uniform Administrative Requirements outlines recommended steps for achieving participation goals.

Procurement

Nonprofit organizations receiving HOME funds must comply with the procurement requirements of 24 CFR Part 84, with the exception of currently certified CHDOs undertaking CHDO-eligible projects (as stated in HUD CPD Notice 97-11).

Environmental Review

Prior to entering into a contract with a Project Sponsor, Skagit County, as lead agency for the Consortium, will complete a federal Environmental Review in compliance with the National Environmental Policy Act (NEPA) and other related federal and state environmental laws. No choice-limiting activities may be undertaken by the applicant for HOME funds during the time between the submission of the application and the completion of the Environmental Review (receipt by Skagit County of Authority to Use Grant Funds from HUD).

Tenant-Based Rental Assistance is categorically excluded and not subject to §58.5 authorities. Skagit County will document this determination and place the document into the Consortium's Environmental Review Record.

Public Records

Materials and information submitted to the Consortium are subject to public disclosure unless otherwise exempt from disclosure under the Washington Public Records Disclosure Act (RCW 42.17 et seq.). No assurances can be given that any materials provided can be protected from public review and copying.

Recordkeeping and Retention of Records

Records related to HOME-funded projects and programs must be retained for at least five years. For rental and homeownership development projects, general records must be kept for five years after project completion, and tenant/homeowner data must be maintained for the most recent five years, until five years after the conclusion of the affordability period.

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ADDITIONAL GENERAL POLICIES AND PROCEDURES FOR DEVELOPMENT PROJECTS

The remaining provisions in this chapter apply to HOME-funded rental housing development, rental housing acquisition (no rehabilitation), and homebuyer development projects, collectively referred to as “Development Projects.”

Applicant Standards

Applicants for HOME Development Funds will need to demonstrate, with a reasonable level of assurance, that the sponsoring organization is fiscally sound and has reliable systems to manage and account for public funds. The following documents will be submitted at the Consortium’s request:

- Complete audit reports for each of the past two years for the applicant, including an OMB circular A-133 supplement as appropriate, any audit findings, corrective action plan, management letter and agency response.
 - If the applicant organization has not been audited, financial statements for each of the past two fiscal years and a year to date statement certified by the applicant's Chief Financial Officer. Financial statements will include balance sheets and cash flow, revenue, and long-term debt statements.
- Nonprofit organizations will need to submit an IRS Form 990 for the prior two years.
- Outstanding HOME Annual, Close-out or Monitoring Reports.

Applicants must demonstrate that the skills and experience of the development team and the property management team, and the capacity of the organization are appropriate to the size and complexity of the project. If the applicant does not have prior experience in affordable housing development or has not had experience within the past ten (10) years, they must partner with a development consultant experienced in affordable housing development.

Applicants will need a signed board resolution or board minutes authorizing submittal of a Development application. If selected for funding, the organization's board must designate in writing the person(s) authorized to execute agreements on behalf of the organization.

Eligible Development Costs

HOME development funds may be used for, but are not limited to:

- Site preparation or improvement, including demolition if construction begins within 12 months
- Securing buildings
- Construction materials and labor
- Onsite improvements in keeping with surrounding projects, including sidewalks, utility laterals, etc. Offsite infrastructure is not eligible as a HOME expense
- Relocation costs, including moving costs, replacement housing costs, advisory services, staff costs related to relocation assistance
- Financing fees
- Credit reports
- Title binders and insurance
- Recording fees and transaction taxes
- Legal and accounting fees, including project audit costs
- Appraisals
- Architectural and engineering fees
- Environmental reviews
- Developer fees (subject to a limit)
- Permit fees
- System development charges
- Affirmative marketing, initial leasing and marketing costs

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- Initial operating deficit reserve during lease-up: limited to 18 months (new construction projects only)
- Homebuyer counseling to purchasers of HOME-assisted housing units only

Appraisal and Real Property Acquisition

If the applicant is proposing the purchase of real property and/or building(s), a full appraisal must support the purchase price. Appraisals and acquisition must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. The URA generally applies to federally-funded projects involving acquisition, rehabilitation, or demolition, and requires compliance with the following real property acquisition process, unless the project meets the requirements of 49 CFR 24.101(b)(1)-(5).

Applicants must follow the procedures for a Voluntary Acquisition under the URA. Prior to making an offer for the property, the applicant must, in writing, advise the owner of the property that federal funds may be involved in the purchase of the property, let the owner know that the applicant does not have the power of eminent domain and that it will be unable to acquire the property if negotiations fail to result in agreement, and provide the owner with what it currently believes to be the market value of the property. If the applicant has not yet completed an appraisal of the property at the time of the offer, the statement of market value provided to the seller must have a reasonable basis (e.g., assessed value).

The application for HOME funding must include a current appraisal. An appraisal must be dated no more than 12 months prior to the application due date. A letter updating an appraisal completed more than 12 months prior to the application due date will be accepted. The appraisal must be conducted by someone with a current general appraisal certificate in the State of Washington.

Minimum Property Standards

HOME-assisted Development Projects must meet the following standards:

- **New construction:** New construction is required to meet all state and local codes and ordinances plus the Model Energy Code and all Handicapped Accessibility requirements. While new single-family homes are not required to comply with Section 504 accessibility standards, if the applicant for the housing is disabled, the home must meet their accessibility needs. Where it is practical to do so, new single-family homes should be constructed to be visitable by a person with mobility impairments and adaptable to the needs of future residents seeking to age in place. New construction of rental housing must meet HOME site and neighborhood standards, as described below.
- **Acquisition (no rehabilitation):** Acquired housing must meet applicable state and local housing quality standards, if relevant standards exist, including lead based paint hazard requirements. If none exist, then acquired housing must comply with Section 8 Housing Quality Standards.

Construction contracts and construction documents must be provided in adequate detail and reviewed by Skagit County to ensure that the documents address minimum housing and property standards, as well as city and/or state code requirements. Applicants must also provide written cost estimates prior to execution of construction contracts to ensure that costs are reasonable.

Section 504 Barrier Removal Standards for Multifamily Housing

For new construction of rental or owner-occupied multifamily projects of four or more units, a minimum of 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2%, at a minimum, of the units (but not less than one unit) must be accessible to individuals with sensory impairments. The total number of units in a HOME-assisted project, regardless of whether they are all HOME-assisted, is used as the basis for determining the minimum number of accessible units. Also, in a project where not all the units are HOME-assisted, the accessible units may be either HOME-assisted or non-HOME-assisted. The standards for ensuring compliance with Section 504 are the Uniform Federal Accessibility Standards, although deviations are permitted in specific circumstances. Accessible units must be, to the maximum

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extent feasible, distributed throughout the projects and sites and must be available in a sufficient range of sizes and amenities so as not to limit choice.

Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They must also take reasonable non-discriminatory steps to maximize use of such units by eligible individuals. When an accessible unit becomes vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.

Prevailing Wage and Labor Requirements

Applicants should assume that state prevailing wage rates (Chapter 39.12 RCW) will apply and build the requisite costs into all project development budgets, unless they obtain a determination otherwise from the Washington State Department of Labor and Industries (L&I). Applicants are advised to consult with L&I and/or private legal counsel prior to applying for funding to determine whether prevailing wages must be paid and, if so, whether commercial or residential rates apply.

If an applicant receives a loan that is incurring interest, is not forgivable, and is required to be repaid in full, such loan in and of itself is not expected to trigger a requirement that prevailing wages be paid on the project. However, if the applicant is receiving other public funds and/or is a public entity (e.g., housing authority), it may be required to pay state prevailing wages on the project. A definitive determination regarding the applicability of state Prevailing Wage law can only be obtained from L&I.

Federal Davis Bacon prevailing wages apply to all projects with 12 or more HOME-assisted units regardless of whether HOME funds were used for construction or other projects costs. When triggered, Davis Bacon wages apply to the entire project. When federal funds trigger prevailing wages determined under the Davis-Bacon Act in a project, the higher of either the State Residential Prevailing Wage Rates (unless modified as stated below) or Davis-Bacon wage rates will apply to each job classification, unless applicable law requires otherwise. In cases where Davis-Bacon wages are triggered, Davis-Bacon monitoring procedures are followed.

Debarred Contractors

Prior to entering into a contract with contractor or subcontractor, the applicant must verify that they are not listed in the Federal publication of debarred, suspended and ineligible contractors. HOME funds may not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of a contractor during a period of debarment, suspension, or ineligibility.

Section 3 Economic Opportunity

Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources in any one year, per 24 CFR §135. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction. All contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3. The purpose of Section 3 to ensure that employment (e.g., new hires) and other economic opportunities generated by this HUD financial assistance shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

Affordability Period

At a minimum, all projects must comply with the following HOME affordability periods, during which HOME regulations apply:

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- New construction of rental housing: 20 years
- New construction of homeownership housing or acquisition of rental housing
 - HOME investment of less than \$15,000 per unit: 5 years
 - HOME investment of \$15,000 - \$40,000 per unit: 10 years
 - HOME investment of more than \$40,000 per unit: 15 years

For new construction of rental housing, an extended Consortium affordability period of 50 years applies and begins upon project completion and runs concurrently with the HOME affordability period. HOME regulations do not apply after the HOME affordability expires, but the project must still comply with local affordability requirements as established by the Consortium throughout the Consortium affordability period.

Site Control

Site control is typically required at the time of application for development projects. Site control documentation includes the following: a deed of trust, current option, current purchase and sale agreement, a current title report showing the entity holding fee simple title, an executed lease agreement for the length of the commitment to serve low-income households, or an executed disposition or development agreement.

Phase I Environmental Site Assessment

Development projects must provide a Phase I Environmental Site Assessment (ESA) at the time of application to ensure that any environmental hazards are recognized and mitigated. The Phase I ESA should be prepared in accordance with the requirements of ASTM E-1527 “Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessment Process,” and must clearly document compliance with 24 CFR 58.5(i)(2) or 50.3(i). Each assessment will include limited surveys of lead-based paint, asbestos, mold, and wetlands as applicable. If any hazards are identified, they will be abated or mitigated before occupancy. The Phase I ESA must be dated six months or less from the due date of the Consortium application. If, at the time that Skagit County undertakes the federal Environmental Review, the Phase I ESA is more than six months old, an update will be required. If the Phase I ESA is more than a year old at the time that Skagit County undertakes the federal Environmental Review, a new Phase I ESA must be completed. Development projects must also meet state requirements under the State Environmental Policy Act (SEPA) and federal environmental review requirements under the National Environmental Policy Act (NEPA) as applicable.

Relocation

HOME-funded projects are subject to relocation requirements contained in the Uniform Relocation Act (URA) and, in some cases, Section 104(d) of the Housing and Community Development Act (also known as the Barney Frank Amendments). URA relocation requirements are triggered whenever displacement occurs as a direct result of rehabilitation, demolition or acquisition of a HOME-assisted project. Displacement includes residential and commercial tenants and owners. More information is available in HUD Handbooks 1378 and 1374.

As a practical matter, the Consortium discourages applications that involve permanent displacement because of the impact on residents, the cost, and the delay.

Subsidy Layering and Underwriting Guidelines

The Consortium must determine that no more than the necessary and allowable amount of HOME funds (in combination with other governmental funds), are invested in projects. The procedure for making this determination is the layering review.

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The layering review will be conducted for those projects that include state or other public funds. It will take place as part of the review of applications for funding and again at the time of funding commitment. The review will consider the sources and uses of funds proposed for a project, the reasonableness of project development costs, the proposed project operating costs, and the amount of cash flow generated over time.

Subsidy layering also applies to homebuyer units with multiple government funding awards.

Before committing funds to a project, the County will evaluate the project in accordance with the following guidelines that determine a reasonable level of profit or return on the owner's or developer's investment in a project.

- Reasonable Costs
 - Rental Development Projects: Rental development project costs are considered reasonable if they are within the Total Development Cost (TDC) Limits set by the Washington State Housing Finance Commission. If the project exceeds these limits, the owner or developer will be required to submit a waiver request that identifies project characteristics that create cost levels above these limits.
 - Homebuyer Projects: No housing purchase value, constructed or after-rehabilitation, may exceed 95 percent of the median purchase price of owner-occupied homes or exceed the maximum per unit HOME investment value.
- Debt Coverage Ratio for Rental Projects: Projects must have an overall Debt Coverage Ratio (DCR) that provides a cushion against risk that may result from unforeseen circumstances, including higher than anticipated vacancy rates. Deferred loans are not considered in the DCR calculation during the deferral period, only the year when they become due and payable. The annual contributions to operating and replacement reserves must be included in the operating expenses when calculating the DCR. Projects should have an overall DCR of at least 1.10:1. The County reserves the right, during contract development, to direct the use of excess cash flow when a project has an overall DCR greater than 1.20:1.
- Developer Fee: A reasonable maximum developer fee is ten percent (10%). For projects serving homeless, special needs populations or with 12 or fewer units, a reasonable developer fee is 15 percent (15%).
- Project Contingencies. If the Consortium is providing funds for construction of housing, a 10% contingency for new construction is required. The Consortium may grant exceptions.
- Market Demand. Applicants must, at a minimum, describe efforts to identify properties that are within the proposed project's market area and are available to the target population. A third-party market study must accompany the application if the project involves low-income housing tax credits or if another funder requires a market study. Market studies are not required for the following projects:
 - Projects for persons with Developmental Disabilities (DD)
 - Projects for persons with chronic mental illness (CMI)
 - Projects for homeless persons
 - Domestic violence (DV) projects
 - Special needs projects for persons with chronic substance abuse issues combined with homelessness and/or other conditions requiring intensive support servicesIf the project does not meet any of the above criteria, a market study is required. The market study must be submitted with an application for funding if the applicant has site control. If site control has not been obtained, the market study must be submitted upon receipt of site control.
- Vacancy Rates. Applicants should use a 5 percent (5%) residential vacancy rate for rental projects and a 10 percent (10%) nonresidential vacancy rate when preparing their operating pro forma. Exceptions will be allowed if adequate justification is provided, such as in the case of very small or special needs projects.

Additional assumptions to use in underwriting projects will be outlined in the annual NOFA, as necessary.

Costs Associated with Skagit County Administration of Development Projects

Skagit County, as lead agency for the Consortium, incurs costs associated with the oversight and administration of individual development projects, including both those that occur during the development phase (e.g., environmental review, underwriting, subsidy layering analysis, loan processing, and construction inspection/oversight) and those

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that occur during the HOME and Consortium affordability periods (e.g., monitoring and inspections). Skagit County may charge these costs to individual projects.

The costs incurred during the development phase will be included in the project's per-unit subsidy and match calculations, but they will not be included in any indebtedness incurred by the Project Sponsor and thus are not included in the loan amount.

Costs incurred during the affordability periods will be charged as they are incurred by Skagit County. The Project Sponsor must include the estimated monitoring fee (as established by Skagit County) as an allowable operating cost in their operating budget for the project.

Definition of Income

HUD's "Technical Guide for Determining Income and Allowances for the HOME Program" provides the method by which income for HOME-assisted projects must be calculated. Applicants must use HUD's "CPD Income Eligibility Calculator" to determine eligibility and document records. See <https://www.onecpd.info/incomecalculator/>

- For HOME Rental Housing projects, annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as defined in 24 CFR Part 5 (Part 5 annual income). This is called the "Section 8 income determination method." For rental projects, initial income must be verified using source documentation. Income must be recertified annually and source documentation obtained every six years.
- For new construction of owner-occupied housing using HOME funds, annual income shall be the adjusted gross income as defined for the purpose of reporting under IRS Form 1040 series for individual Federal annual income tax purposes. For this determination, the exclusions established at 24 CFR 5.611 must be used. This is called the "IRS income determination method." Income must be verified with source documentation within six months of entering into a contract to purchase the property.

Use of Combined Funders Application

All applicants must use the Washington State Combined Funders Application when applying for HOME funds. The revised Combined Funders Application will be released annually with the HOME NOFA.

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IV. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDOs)

Overview

A Community Housing Development Organization (CHDO) is a private non-profit, community-based service organization that has significant capacity and whose primary purpose is to develop affordable housing for the community it serves.

HOME regulations require a 15% set-aside of the Skagit County HOME Consortium (herein referred to as Consortium) annual HOME allocation exclusively for qualified, eligible CHDO projects. Once an organization becomes a certified CHDO, it is eligible to take advantage of the HOME funds set-aside and financial support for a portion of the CHDO's operating expenses. Skagit County will review and re-certify a CHDO's eligibility immediately prior to the commitment of CHDO development set-aside funds.

Requirements for CHDO Certification

In keeping with the U.S. Department of Housing and Urban Development (HUD), The Consortium has established eleven (11) criteria for becoming a certified CHDO:

1. **Organized Under State/Local Law.** A nonprofit organization must show evidence in its Articles of Incorporation that it is organized under state or local law.
2. **Nonprofit Status.** The organization must be conditionally designated or have a tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c) of the Internal Revenue Code of 1986. A 501(c) certificate from the IRS must evidence the ruling.
3. **Purpose or Mission.** Among its primary purposes, the organization must have the provision of providing housing that is affordable to low- and moderate-income people. This must be evidenced by a statement in the organization's Articles of Incorporation and/or Bylaws.
4. **Board Structure.** The board of directors must be organized to contain no more than one-third representation from the public sector and a minimum of one-third representation from the low-income community.
5. **Prohibition of For-Profit Control.** The organization may not be controlled by, nor receive directions from, individuals or entities seeking profit from or that will derive direct benefit from the organization.
6. **No Individual Benefit.** No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's Articles of Incorporation.
7. **Clearly Defined Service Area.** The organization must have a clearly defined geographic service area outlined in its Articles of Incorporation and/or Bylaws. CHDOs may serve individual neighborhoods or large areas. However, while the organization may include an entire community in their service area (such as a city, town, village, county, or multi-county area), they may not include their entire state.
8. **Low-Income Advisory Process.** A formal process must be developed and implemented for low-income program beneficiaries and low-income residents of the CHDO's service area to advise the CHDO in all its decisions regarding the design, location, development and management of affordable housing projects.
9. **Capacity/Experience.** The key staff and board of directors must have demonstrated experience and capacity to carry out HOME-assisted projects in its service area. At least one paid staff

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member must have demonstrated development experience.

10. Community Service. Organizations applying for CHDO certification must have a minimum of one year of related experience serving the community where it intends to develop affordable housing.
11. Financial Accountability Standards. The organization must meet and adhere to the financial accountability standards as outlined in 24 CFR 84.21, "Standards for Financial Management Systems."

CHDO Organizational Structure Requirements

The HOME Program establishes requirements for the organizational structure of a CHDO to ensure that the governing body of the organization is representative of the community it serves. These requirements are designed to ensure that the CHDO is capable of decisions and actions that address the community's needs without undue influence from external agendas.

There are four specific requirements related to the CHDO board of directors, which must be evidenced in the organization's Articles of Incorporation and/or Bylaws. These are:

1. Low Income Representation. At least one-third of the organization's board must be representatives of the low-income community served by the CHDO. There are three ways a board member can meet the definition of a low-income representative:
 - The person lives in a low-income neighborhood where 51% or more of the residents are low-income. This person does not necessarily need to be low-income; or
 - The person is a low-income (below 80% area median income) resident of the community; or
 - The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups.

The CHDO is required to certify the status of low-income representatives.

2. Public Sector Limitations. No more than one-third of the organization's board may be representatives of the public sector, including elected public officials, appointees of a public official or any employees. If a person qualifies as a low-income representative and a public sector representative, their role as a public sector representative supersedes their residency or income status. Therefore, this person counts toward the one-third public sector limitation.
3. Low-Income Advisory Process. Input from the low-income community is not met solely by having low-income representation on the board. The CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. The process must be described in writing in the Articles of Incorporation and/or Bylaws. Each project undertaken by the CHDO should allow potential program beneficiaries to be involved and provide input on the entire project from project concept, design and site location to property management. One way to accomplish this requirement is to develop a project advisory committee for each project or community where a HOME assisted project will be developed. Proof of input from the low-income community will be required at the CHDO's annual recertification.
4. For-Profit Limitations. If a CHDO is sponsored by a for-profit entity, the for-profit may not appoint more than one-third of the board. The board members appointed by the for-profit may not

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appoint the remaining two-third of the board members.

Experience and Capacity Requirements

CHDOs must demonstrate that their key staff and board of directors have the *relevant* experience necessary to perform the HOME-assisted activities they plan to undertake. CHDOs must provide resumes and/or statements of key staff members that describe their experience in successfully completed projects similar to those proposed.

- **Requirements:** The Consortium may not commit annual HOME funds to a CHDO for development activities unless the Consortium has determined that the CHDO has staff with demonstrated development experience. The Consortium must ensure that the current CHDO staff has experience developing projects of the same size, scope and level of complexity as the activities for which HOME funds are being committed. CHDO staff is defined as paid employees responsible for the day-to-day operations of the CHDO. Staff does not include volunteers, board members, or consultants (except for consultants engaged during a CHDO's first year of operation).
- **Paid Staff:** A person whose salary, payroll taxes, and unemployment insurance are paid by the organization and from whom the organization withholds payroll and income taxes is considered paid staff. Paid staff may be full or part-time depending on the needs of the project.
- **Use of Consultants:** During the first year of a CHDO's operation, a consultant may be used to meet the staff requirement. However, the consultant must also train staff in housing development and management to ensure capacity is established after the first year.
- **Applicability to the Consortium Activities:** This requirement applies to all commitments of CHDO set-aside funds made from the Consortium's annual HOME allocation in which the CHDO is acting as the developer.
- **HUD Implementation:** Any time the Consortium sub-grants HOME funds from its annual CHDO set-aside fund to a CHDO for a project, the Consortium will certify in IDIS that it has carefully evaluated the development capacity of the CHDO staff and has determined that the CHDO staff has the knowledge, skills, and experience necessary to undertake eligible CHDO set-aside projects.

Financial Accountability

CHDOs must have financial accountability standards that conform to the requirements detailed in 24 CFR 82.21, "Standards for Financial Management Systems." This can be evidenced by:

- A notarized statement by the president or chief financial officer of the organization.
- Certification from a certified public accountant.
- Audit completed by CPA.

CHDO Service Area

CHDOs must demonstrate a history of serving the community where the HOME assisted housing will be located. The Consortium requires that organizations show a history of serving the community by providing:

- A statement that documents at least one (1) year of experience serving one or more communities within the five-county Northwest Washington Area (Island, San Juan, Snohomish, Skagit, Whatcom Counties).
- For newly created organizations, provide a statement that the parent organization (if applicable) has at least one (1) year experience serving the community.

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CHDOs will be required to provide updates and documentation on how it is ensuring that it is active and visible in the communities included in its service area.

CHDO Development Set-Aside

HOME regulations (24 CFR Part 92.300) require the Consortium to set aside at least 15% of its annual HOME allocation for projects owned, developed or sponsored by CHDOs. A certified CHDO must serve as the owner, developer, or sponsor of a HOME-eligible project when using funds from the 15% CHDO set-aside. A CHDO may serve in one of these roles or it may undertake projects in which it combines roles, such as being both an owner and developer.

Eligible Uses of Home CHDO Set-Aside Funds

CHDO set-aside funds can be used for the following types of projects:

- New construction of homeownership housing
- New construction of rental housing
- Acquisition of existing rental housing

Please note that to be considered a CHDO eligible project, CHDO set-aside funds must be used during the development of the project.

Availability of Operating Support for CHDOs

From time to time, funds may be available to provide general operating assistance to CHDOs receiving or expected to receive CHDO set-aside funds for activities.

Operating funds will be provided based on availability and the CHDO's demonstrated need and performance. To be eligible for operating support, CHDOs must demonstrate incrementally increasing production goals and/or expansion of its services to the community. . If the CHDO is not currently administering an eligible project, it must have a CHDO-eligible project in pre-development that will be submitted to the Consortium for funding within 12 months and be able to describe the intended project design and location. The CHDO must provide a copy of its annual operating budget.

Eligible operating expenses for which CHDOs may use operating funds include:

- Salaries, wages, benefits, and other employee compensation
- Employee education, training and travel
- Rent and utilities
- Communication costs
- Taxes and insurance
- Equipment, materials and supplies

Because the purpose of providing CHDO operating support is to nurture successful CHDOs and ensure their continued growth and success, the Consortium will periodically evaluate the performance of any CHDO applying for or receiving CHDO operating funds.

Quarterly Progress Report for CHDO Operating Support

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To document its performance and eligibility to receive operating funds, the CHDO must provide quarterly progress reports coinciding with the quarterly draw requests for CHDO operating funds (the last progress report will be contained in the annual recertification). At its discretion, the Consortium may increase or reduce the number of reports required. The CHDO must use the quarterly progress report form provided by the Consortium and describe the following:

- The status of the currently funded CHDO project. If the CHDO is not currently administering an eligible project, it must have a CHDO-eligible project in pre-development that will be submitted to the Consortium for funding within 12 months and be able to describe the intended project design and location. If the CHDO does not have an eligible project funded by the Consortium within that timeframe, operating support will not be awarded until an eligible project is funded.
- The uses of CHDO operating funds and what the receipt of operating funds has enabled the CHDO to undertake or accomplish that it would otherwise have been unable to achieve.
- The CHDO's progress in meeting its project completion goals
- How the CHDO has engaged with the community, including both the intended beneficiaries of its projects and as partner organizations and other entities involved in serving low- and moderate-income households.
- The activities and involvement of the board of directors in the planning and development of the CHDO's projects.
- The ongoing development of its staff and board of directors; i.e., trainings completed, certifications achieved, recognition awarded, etc.

Effective Period of CHDO Certification

CHDO status is evaluated at the time a CHDO development set-aside project is proposed. The period of certification begins on the date that the written agreement for CHDO set-aside funding is executed by the CHDO and Consortium.

CHDO Procurement

As noted in HUD CPD Notice 97-11, CHDO organizations are not subject to the requirements of 24 CFR, Part 84 with respect to the procurement of goods and services. This exemption is only applicable to procurement associated with CHDO-eligible projects; CHDOs must follow appropriate procurement procedures compliant with Part 84 for its projects completed as a subrecipient.

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V. TENANT-BASED RENTAL ASSISTANCE (TBRA)

OVERVIEW

The Tenant Based Rental Assistance (TBRA) Program provides targeted, very low-income households with utility, deposit, and rent costs for up to two years.

Eligible Activities and Costs

- Up to 24 months of rent assistance per household to help pay the costs of monthly rent and utilities. A household may continue to receive assistance following the initial 24 months, dependent on available funding.
- Security deposits, regardless of whether the household will be receiving rental assistance.
- Utility deposit assistance, **only** in conjunction with rental assistance.
- Project delivery costs, which specifically includes administrative time determining income eligibility.
- When HOME TBRA is combined with other subsidies, the HOME TBRA assistance may only be used as a supplement to further reduce the household rent payment to 30 percent of income.

Ineligible Activities

- Project-based rental assistance. Households must be free to use the assistance in any eligible unit.
- Rental assistance to a household already receiving rental assistance under another Federal program, or a state or local rental assistance program that reduces the tenant rent payment to 30% of income.
- Providing TBRA for overnight or temporary shelter.
- Move-in costs and credit checks.
- Case management and support services.
- Utility deposits without rental assistance.
- Payment of rent arrearages.

Subrecipient Eligibility

Eligible applicants are public housing authorities and nonprofit community-based organizations assisting households in areas throughout Island, Whatcom, and Skagit counties. Applicants must have prior experience administering a tenant based rental assistance program, unless an experienced entity has agreed to mentor the applicant for the term of the contract.

Target Populations

This program targets households that are literally homeless or exhibit characteristics that make them highly vulnerable to becoming homeless. Persons within the target population shall be identified through locally determined coordinated entry access and referral policies and procedures.

Eligible Beneficiaries

The following is an overview of criteria households must meet to be eligible for TBRA. Further details regarding eligibility verification and documentation can be found in Program Administration and Implementation: Eligibility Verification and Documentation.

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- The household’s verified income must be below 50 percent of the area median income (AMI) for the area being served.
- The household must apply and be referred to the TBRA HOME program through the area’s local coordinated entry system, in compliance with all coordinated entry policies and procedures as established by the local continuum. Coordinated entry eligibility and referral must be clearly documented in the client file.

PROGRAM ADMINISTRATION AND IMPLEMENTATION

Tenant Selection

Tenants must be selected from the target population as detailed in the TBRA Overview. Within the target population, Subrecipients will use a vulnerability index or assessment tool to prioritize applicants for selection, as indicated by local coordinated entry policies and procedures. Subrecipients should not administer their TBRA program on a first-come, first-served basis.

The Subrecipient’s program cannot be administered in a manner that limits the opportunities of persons based on race, color, religion, sex, national origin, handicap, sexual orientation, gender identification, or familial status. A person selected for the TBRA program may not be prohibited from applying for or participating in other available programs or forms of assistance for which he or she might qualify.

Subrecipients must administer the TBRA HOME program in compliance with Fair Housing Law and the Washington Law Against Discrimination.

Eligibility Verification and Documentation

Initial eligibility documentation must be dated within 6 months of the lease start date, and must include the following:

1. Housing Status and Coordinated Entry Referral Verification
 - a. The Subrecipient must verify and document the housing status of the household, as well as coordinated entry eligibility and referral as determined by local coordinated entry policies and procedures.
 - b. The Subrecipient shall verify housing status per the following situations and documentation methods:

| Situation | Documentation |
|---|--|
| Persons living on the street or in short-term emergency shelter | Information should be obtained to indicate that the participant is living on the street or in short-term emergency shelter. This may include names of organizations or outreach workers who have assisted them in the past, whether the client receives any general assistance checks and where the checks are delivered, or any other information regarding the participant’s activities in the recent past that might provide documentation. If unable to verify that the person is living on the street or in short-term emergency shelter, the participant or staff person may prepare a short written statement about the participant’s previous living place. The participant should sign the statement and date it. |
| Persons coming from transitional housing for homeless persons | Obtain written verification from the transitional housing staff that the participant has been residing at the transitional housing facility. The verification should be signed and dated by the referring agency personnel. Also obtain written verification that the participant was living on the streets or in an emergency shelter prior to living in the |

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| | |
|--|---|
| | transitional housing facility (see above for required documentation for emergency shelter), or was discharged from an institution or evicted from a private dwelling prior to living in the transitional housing and would have been homeless if not for the transitional housing (see below for required documentation for eviction from a private dwelling). |
| Persons being evicted from a private dwelling | <p>Obtain evidence of formal eviction notice indicating that the participant was being evicted within a week before receiving homeless assistance. Also obtain information on the participant’s income and efforts made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter.</p> <p>If the participant’s family is evicting, a statement describing the reason for eviction must be signed by the family member and dated. In other cases where there is no formal eviction process, persons are considered evicted when they are forced out of the dwelling unit by circumstances beyond their control. In those instances, obtain a signed and dated statement from the participant describing the situation. The Subrecipient must make efforts to confirm that these circumstances are true and have written verification describing the efforts and attesting to their validity. The verification should be signed and dated.</p> |
| Persons from a short-term stay (up to 90 consecutive days) in an institution who previously resided on the street or in an emergency shelter | Obtain written verification from the institution’s staff that the participant has been residing in the institution for less than 91 days and information on the previous living situation. See above for guidance |
| Persons being discharged from a longer stay in an institution | Obtain evidence from the institution’s staff that the participant was being discharged within the week before receiving homeless assistance. Obtain information on the income of the participant, what efforts were made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter. |
| Persons fleeing domestic violence | Obtain written verification from the participant that he/she is fleeing a domestic violence situation. If a participant is unable to prepare verification, the grantee/recipient may prepare a written statement about the participant’s previous living situation for the participant to sign and date. |

2. Income Verification

- a. The Subrecipient must verify and document that the household income is below 50 percent of the area median income (AMI) for the area being served. Verification and documentation of income eligibility must be completed before assistance is provided.
- b. Updated income limits are published annually by the Department of Housing and Urban Development. The county will distribute updated income limits as soon as they are available, which may be prior to the date of implementation for the updated area median income. The Subrecipient must implement updated income limits in accordance with “effective by” dates as published by the Department of Housing and Urban Development.
- c. Income must be counted for all household members, including nonrelated individuals, according to the requirements of 24 CFR 5.609.
- d. At least two months of source documentation (e.g. wage statements, interest statements, or unemployment compensation documentation) must be examined when determining household income for potential TBRA beneficiaries. A tax return is not an acceptable form of income documentation for the purposes of TBRA.
- e. The Skagit County Consortium TBRA program uses the Section 8 definition of income, also known as the Part 5 definition, found at 24 CFR 5.609.

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1. Use of the HUD exchange CPD Income Eligibility Calculator is now the required method for Subrecipients to determine and document income eligibility. This tool can be accessed by the following link: <https://www.hudexchange.info/incomecalculator/dashboard/>
 - i. Once income verification has been conducted using the CPD Income Eligibility Calculator, a hard copy of this income verification must be retained in the client file.
 - ii. Subrecipients should not record any identifying information in the CPD Income Eligibility Calculator.
 - iii. If a situation arises in which the CPD Income Eligibility Calculator cannot be used to verify the income eligibility of a household, the Subrecipient must communicate with Skagit County staff regarding the situation. The Subrecipient must also clearly document in the client file the reasons for not utilizing the CPD Income Eligibility Calculator.

UNIT SELECTION AND APPROVAL

Unit Type

Approved applicants may select units that are publicly or privately-owned and located within Skagit, Island, or Whatcom County, as determined by the Subrecipient's county of service. TBRA may not be provided to a family who proposes to rent a unit that receives project-based rental assistance through federal, state, or local programs, if the TBRA assistance would lower the household's rent and utility costs to less than 30% of the household income. Student housing units are not eligible for TBRA assistance.

Rent Reasonableness

Units must rent for a reasonable amount, compared to rents charged for comparable, unassisted units. Subrecipients must document the basis of their rent reasonableness determinations, using the Rent Reasonableness Checklist and Certification form. Although documentation of three comparable units is preferable, in some rural areas this may be difficult or impossible. In these cases, comparable units from neighboring communities are acceptable if the rents are similar. Documentation of fewer than three units is also acceptable with a written explanation.

A rental lease must be disapproved if the rent is not reasonable, based on rents charged for comparable unassisted units.

Housing Quality Standards (HQS)

All units must meet Section 8 Housing Quality Standards (HQS). Inspections must be made at initial occupancy and annually during the length of assistance. A copy of the inspection must be retained in the client file. If tenants are occupying a unit owned by the contractor, the unit must be inspected by a third party.

Units must comply with the Washington State Carbon Monoxide Alarm Laws (RCW 19.27.530 (2009) and Chapter 132 Laws of 2012 (SSB 6472)). Alarms must be located outside of each separate sleeping area, in the immediate vicinity of the bedroom and on each level of the residence. Single station carbon monoxide alarms must be listed as complying with UL 2034, and installed in accordance with code and the manufacturer's instructions. Combined CO and smoke alarms are permitted.

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Lead Based Paint

HUD Lead Regulation 24 CFR Part 35, Subpart M applies to the TBRA program. The regulation only applies to structures built before 1978 that house children under the age of six. Please consult the regulation itself to make sure that your agency implements this regulation fully and properly.

1. Evaluation

The Subrecipient must conduct a visual assessment of a unit prior to occupancy and at least annually thereafter. The visual assessment identifies deteriorated paint, dust, debris, and other residue. The visual assessment must be done by a person who is trained in visual assessment.

2. Paint Stabilization

The property owner must correct any conditions identified in the HQS inspection, including stabilizing deteriorated paint identified in the visual inspection. Paint stabilization can involve repairing the substrate, scraping and repainting the surface. All deteriorated paint must be stabilized by properly trained or supervised workers using lead-safe work practices.

Documentation of safe work practices is required, and consists of having copies of certificates of safe work practices training completion on file for those doing the lead reduction work.

When work is complete, the Subrecipient must ensure that the unit passes clearance and keep a copy of the clearance report. Failure to get clearance on any unit where lead hazard reduction activities have occurred will result in rental assistance being discontinued on the unit. Keep records of any unit where clearance is required but has not been obtained to insure that the unit does not become rent assisted, even if another eligible household wants to live there.

3. Communication with Residents

The Subrecipient must ensure that residents receive the following communications:

- a. Lead Hazard Information Pamphlet: Prior to occupying the unit, the Subrecipient must provide the resident with the most up-to-date Protect Your Family from Lead in Your Home pamphlet. This document can be accessed in multiple languages at the following link: <https://www.epa.gov/lead/lead-safety-documents-and-outreach-materials>. The Subrecipient must retain in the client file documentation of receipt of this pamphlet by the resident prior to occupation of the unit, which must include a signature of acknowledgement signed by the resident.
- b. Lead Disclosure Notice: Residents must receive, from the owner, a Lead Disclosure Form notifying them of any known lead-based paint or hazards in the unit, prior to occupying the unit. The Subrecipient must retain in the client file documentation of any Lead Disclosure provided to the resident by the owner, which must include a signature of acknowledgement signed by the resident.
- c. Notice of Lead Hazard Reduction: For instances in which visual assessment and lead hazard evaluation determines a need for paint stabilization and/or abatement, and the owner has conducted paint stabilization activities, the resident must receive a Notice of Lead Hazard Reduction within 15 days of the completion of paint stabilization and clearance. The Subrecipient must retain this documentation in the client file, which must include a signature of acknowledgement signed by the resident.
- d. Notice of Lead Hazard Evaluation: Because a visual assessment is not a method of lead hazard evaluation, a notice of lead hazard evaluation is not required. However, if any lead hazard evaluation is conducted, for example in the event of a child with an Environmental Intervention Blood Lead Level (EIBLL), such a notice is required and must be posted at the applicable work site. The Subrecipient must retain all related documentation in the client file.

4. Child with an Elevated Blood Lead Level (EIBLL)

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- a. Should the Subrecipient be made aware that a child less than 6 years of age living in a dwelling unit participating in the TBRA program has been identified as having elevated blood lead levels, the Subrecipient must conduct an inspection of the dwelling unit for Lead Based Paint risk. The Subrecipient must immediately notify the household and the owner of the unit of the results of the inspection, and the owner must conduct paint stabilization and/or abatement in compliance with the requirements of 24 CFR Part 35, Subpart M. Hazard reduction must occur within 30 calendar days of notification to the owner. The Subrecipient must retain all documentation of the EIBLL, as well as subsequent inspections, notification, and stabilization and/or abatement in the client file.

Occupancy Standards

Occupancy standards are used to determine the unit size for which the household is eligible and thus, the amount of assistance to be provided. Fair housing rules permit a household to select smaller units that do not create seriously crowded conditions. Participants may also select larger units, but the Subrecipient is not required to increase the subsidy to cover the increased costs of a larger unit.

Subrecipients will use the Section 8 Housing Quality Standards (HQS) basic occupancy standard of two persons per living/sleeping area. This basic standard can be modified when a specific household composition or circumstance warrants the need to deviate from this standard. In conjunction with the annual re-examination of income, the Subrecipient should re-examine the household's size and composition to determine whether the current unit is still suitable and appropriate.

Unit and Lease Approval

In addition to ensuring that the unit selected by the household meets the above requirements for Rent Reasonableness, Housing Quality Standards, and Occupancy Standards, the Subrecipient must also ensure that the unit lease meets all requirements of the HOME program, as outlined in 24 CFR 92.253. The lease may not contain any of the provisions prohibited in 24 CFR 92.253(b):

- Agreement to be sued: Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
- Treatment of property: Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the right of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law.
- Excusing owner from responsibility: Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.
- Waiver of notice: Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- Waiver of legal proceedings: Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- Waiver of a jury trial: Agreement by the tenant to waive any right to a trial by jury.
- Waiver of right to appeal court decision: Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

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- Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- Mandatory supportive services: Agreement by the tenant to accept supportive services that are offered.

Rent Standard

Rent standards are determined annually for each county based upon the results of a locally conducted rent study. Current rent standards will be posted on Skagit County Public Health's Housing and Homelessness webpage, located at the following: <https://www.skagitcounty.net/Departments/HumanServices/HousingMain.htm>

The rent study will typically be conducted in the fall to allow for the release of updated rent standards in January of each year. The Skagit County HOME Consortium may choose to review the rent standard more frequently to assure that limits remain appropriate for the Consortium area.

Payment Standard

The Skagit County HOME Consortium uses the Rent Standard for calculating the TBRA subsidy rather than using a separate payment standard. Utility allowances are deducted from the tenant portion of the monthly rent.

Subrecipient may exercise the option of recalculating beneficiary subsidies when rent standard updates are made available.

Calculating the Subsidy

Subrecipients of Skagit County HOME Consortium funds must use a modified Rental Coupon Model to determine the household subsidy amount. While the Rental Coupon model assumes a fixed Subrecipient payment and flexible tenant payment, the HOME Consortium's calculations may result in variations in both the Subrecipient payment and household payment amounts depending on the utility allowance for a particular unit.

Use of the CPD Income Calculator is the required method for determining the household subsidy amount. This tool can be accessed by the following link: <https://www.hudexchange.info/incomecalculator/dashboard/> Documentation from the CPD Income Calculator for the determination of adjusted income and the rental assistance payment must be retained in the client file.

Deposit Assistance

Deposits will be provided as a grant. Subrecipients can decide to provide security and utility deposit assistance to eligible applicants. Security deposit payments may be made to the household or the owner; utility deposits to the household or the appropriate utility company.

- Security Deposits:
The amount of security deposit paid should be based on the landlord's policies. However, the maximum amount of a security deposit is the equivalent of two months' rent for the unit. Only the prospective tenant, not the owner, may apply for TBRA security deposit assistance.
- Utility Deposits:
Utility deposits must be in conjunction with rental assistance. Utility deposits may be paid for any of the tenant-paid utility services included on the utility allowance schedule. This includes fuel for cooking,

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heating and lighting (electric, gas, propane, etc.), water/sewer, and trash collection, if not provided as a city service, but does not include telephone, internet, or cable deposits.

Access to Rent Standard Exception

Throughout the Skagit County HOME Consortium, Skagit County may allow an exception to the published Rent Standard for up to 20% of households on the TBRA program. Exceptions to the Rent Standard will be granted by Skagit County, and must be requested on a case-by-case basis by the Subrecipient on behalf of the household. The rent standard exception cannot exceed the established rent standard for the unit size by more than 10%. To request a rent standard exception, the Subrecipient must submit an explanation to Skagit County detailing the household situation and the unique circumstances of the household which merit consideration of a unit above the rent standard.

In instances in which Skagit County grants an exception to the rent standard for a household, the Subrecipient is not obligated to cover the additional unit cost above the rent standard. The Subrecipient must maintain policies and procedures that detail how the Subrecipient will determine if/when to bear responsibility for the additional unit cost associated with a household who is provided with a rent standard exception, and if/when the household will be responsible for the additional unit cost above the rent standard. If the Subrecipient elects to cover the additional cost of the unit under a Rent Standard Exception, the TBRA subsidy must not reduce the household's rent and utility costs below 30% of the household's adjusted income or 10% of the household's gross income. Documentation that Skagit County has granted a rent standard exception must be maintained in the client file.

ANNUAL ASSISTANCE RENEWAL

The Subrecipient may renew TBRA assistance after the conclusion of the first year of assistance for a household, so long as the annual renewal requirements detailed below are met.

Annual Eligibility Determination

Each household's eligibility to participate in the program and its share of the rent must be confirmed annually. If a participating household's income exceeds the HUD Income Limit the household's assistance must be ended. In order to assure that the re-examination is completed on time and that adequate notice is given to both the owner and the tenant of changes in the household's eligibility or share of the rent, the re-examination process should begin 60-90 days in advance of the household's one-year anniversary.

Using the same basic procedures described previously to determine the household's initial eligibility and share of the rent, the Subrecipient must re-verify household size, composition, and income. The Subrecipient will exclude, from annual income, certain increases in the income of a disabled member of families who receive TBRA assistance in order to further their economic self-sufficiency. These include annual increases that result from:

- The employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment.
- Increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program.

Annual income documentation must be retained in the client file.

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Annual HQS Unit Inspection

The TBRA Program regulation requires that all units assisted with TBRA funds meet Section 8 Housing Quality Standards (HQS). Each unit under contract must be inspected by the Subrecipient, at least annually, to assure that this requirement is met. Units may also be inspected as a result of housing quality complaints initiated by the owner or the tenant.

If a unit fails to pass inspection, the owner may be given a reasonable period of time to correct the deficiencies. If the owner fails to make the needed corrections, the Subrecipient has several options. The Subrecipient may, with adequate notice to the owner and household, terminate the TBRA Rental Assistance Contract and require the household to move to another location in order to continue to receive assistance. Inspection documentation shall be retained in the client file.

Processing Requests for Rent Increases

Typically, owners offer leases that specify the rent for one year. This means that, unless the Subrecipient has negotiated a two-year rent, most owners will request a rent increase at the end of the first year of the contract. The Subrecipient must again determine that the proposed rent is reasonable in comparison to rents charged for comparable, unassisted unit, and also that it is within any other limitations established in the Subrecipient's program.

Moves and Termination of Tenancy

Subrecipients should, at a minimum, require that owners comply with local landlord-tenant ordinances and may impose some additional requirements.

TERMINATION: Agency must notify tenant in writing when terminating tenant assistance. Agency must follow landlord tenant rules of Washington State.

- **End of Assistance Time Period:** Provide notice in writing to tenant and landlord. If deposit assistance was provided at the beginning of the lease term, all returned deposits shall belong to the tenant.
- **Property Owner Termination:** If a property owner terminates the tenancy through no fault of the tenant, and the tenant is still eligible for assistance, the Agency will work to find another unit. Any deposit assistance received at the beginning of the original lease term that is returned to the tenant must be applied to the new unit if assistance is continued.
- **Tenant Caused Eviction:** If the tenant is evicted due to breaking the lease or participating in illegal activities, the agency is under no obligation to continue to provide rental assistance. If it is determined that the tenant may continue to receive assistance and is eligible to receive their security deposit back the returned deposit must be applied to the required deposits for the new unit.
- **Tenant Moves:** Tenant moves are accommodated only in rare instances such as family size, job change, unit not meeting annual HQS standards, or other extenuating circumstances that pose a threat to the tenant's health, safety, or wellbeing as documented by a case manager. Any deposit assistance received at the beginning of the original lease term that is returned to the tenant must be applied to the new unit if assistance is continued.

Notices of moves and Terminations of tenancy must be documented in writing and maintained in the tenant file. Acceptable forms of documentation include eviction letters issued by landlord, notice of lease ending, etc. Documentation should detail why the tenant is moving or tenancy is being terminated. All types of deposits may only be provided using HOME funds twice during a 12 month period per household.

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Progressive Engagement

Subrecipients are highly encouraged to consider the implementation of progressive engagement strategies in conjunction with the requirements of the HOME TBRA program. Progressive engagement can be applied to voluntary supportive services that may support the stability and progress of households on the TBRA program, and can be applied to the level of subsidy assistance provided with TBRA funds. For example, while HOME requires that households on the TBRA program be annually re-evaluated for income eligibility and the amount of subsidy assistance provided, Subrecipients may elect to more frequently evaluate the income and subsidy level of the household in the context of case management focused on increasing the household’s income and independence. Any application of progressive engagement strategies utilized by Subrecipients in the TBRA program must be implemented in accordance with written policies and procedures, and must be consistently applied to all households on the program. For example, if a Subrecipient determines that it will re-evaluate income and subsidy level quarterly, the Subrecipient must have written policies and procedures documenting this progressive engagement strategy, and this strategy must be applied to all households on the HOME TBRA program.

BILLING AND ADMINISTRATION

Billing Procedures

Subrecipient must bill the County on a monthly basis for reimbursement of allowable costs. Invoice must be submitted within 30 days of the end of the month of service. Payment will be made within 30 days of invoice approval. In order to receive reimbursement, Subrecipients must also submit the TBRA Report on a monthly basis. Failure to submit a monthly invoice packet within a timely manner will result in delayed or withheld payment. Subrecipient must submit any billing adjustments within 60 days of the end of the month of service. All end of year billings must be submitted by the Subrecipient no later than January 10th.

The Subrecipient must maintain records that disclose all costs allowable for reimbursement.

Reports

The Subrecipient is responsible for submitting required reports by the dates due using required forms.

| Report | Due Date |
|-------------------------|--|
| Quarterly Report | Due on the 15 th of the month following the end of the quarter. The Subrecipient will be notified of changes in report due date. |
| TBRA Beneficiary Record | Monthly on the 15 th of the month following provision of services. The Subrecipient will be notified of changes in report due date. |

Monitoring

The County will monitor TBRA Subrecipients through data and documentation collected in periodic program reports and on-site monitoring. Subrecipients will also be subject to monitoring and evaluation by the U.S. Department of Housing and Urban Development.

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PERFORMANCE MEASURES

Subrecipients must perform services defined in the Subrecipient's TBRA Program Application (as updated) for the contract period, with amendments, if any; in accordance with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments. The Consortium reserves the right to modify the terms of the performance standards, measures, and outcomes by contract amendment at any time for the duration of the term of the contract.

Number of Households Served

Skagit County will regularly monitor the number of households served by the Subrecipient. If the Subrecipient falls short of serving the number of households identified in their scope of work, the Consortium may request a written explanation for this shortfall. The Consortium may accept the explanation and require the Subrecipient to submit a revised Scope of Work for the remainder of the current contract, or choose to reduce any future requests for funding.

Expenditures

Skagit County shall review the Subrecipient's expenditures as reported on the monthly TBRA invoices and compare to the Subrecipient's expenditure projections. If a Subrecipient fails to expend TBRA funds at the projected rate, the Consortium may request that the Subrecipient submit a written explanation. The Consortium may accept the explanation and require an updated budget that reflects the Subrecipient's ability to spend down the grant before the end date stated on the contract, or choose to reduce any future requests for funding.

Unexpended Funds

The level of funds reduction for failure to meet performance standards, outcomes or expenditure projections shall be negotiated between the Consortium and the Subrecipient, with the Consortium retaining the authority to set the reduction level. Any unused funds will first be reallocated to other TBRA Subrecipients and then placed in the HOME General Fund for use in all HOME programs.

Repayments

HOME TBRA funds used to assist households who do not meet the eligibility requirements, or to lease units not in compliance with HOME requirements, must be repaid.

Environmental Review

Because the proposed project involves the provision of rental assistance to private landlords on behalf of tenant, it is exempt from the National Environmental Policy Act (NEPA) requirements of 24 CFR 58. There are no circumstances that require compliance with laws and authorities in 24 CFR 58.5; therefore, the project is found to be exempt pursuant to Section 58.34(a)(10). The County has certified that the proposed project is exempt from NEPA and SEPA requirements (RCW 43.21C.110).

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VI. DEVELOPMENT OF HOMEOWNERSHIP HOUSING

The Skagit County Consortium will fund the development of homeownership units for first-time homebuyers.

Please refer to the section entitled “General Policies and Procedures for Development Projects” for information related to:

- Applicant Standards
- Eligible Development Costs
- Appraisal and Real Property Acquisition
- Minimum Property Standards
- Section 504 Barrier Removal Standards for Multifamily Housing
- Prevailing Wage and Labor Requirements
- Debarred Contractors
- Section 3 Economic Opportunity
- Affordability Period
- Site Control
- Phase 1 Environmental Site Assessment
- Relocation
- Subsidy Layering and Underwriting Guidelines
- Costs Associated with Skagit County Administration of Development Projects
- Definition of Income
- Use of Combined Funders Application

1. Project Eligibility

a. Eligible Activities

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

- New Construction:
 - Financial assistance provided for the construction of affordable housing units for first-time homebuyers.

b. Eligible Properties

- Properties eligible for HOME development assistance must serve as the purchaser’s principal residence throughout the period of affordability.
- Property types:
 - Single-family dwelling
 - Condominium
 - Manufactured Home

c. Eligible homeownership types

- Fee simple title to the property
- Own a condominium
- Housing located on land owned by a community land trust, for at least 50 years
- Manufactured housing on a ground lease that is at least equal to the applicable affordability period.

d. Homebuyer Eligibility

- First time home buyer: Applicant must not have owned a home during the previous 3

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years prior to receiving federal funds excluding:

- A displaced homemaker who owned a home with his or her spouse or resided in a home owned by the spouse.
 - A single parent who owned a home with his or her spouse or resided in a home owned by the spouse
 - Homebuyer households assisted must have incomes at, or below, 80% of the area median income (AMI).
- e. Maximum Property Value
- For new construction or acquisition of standard housing, to be considered an eligible property, the property must have a purchase price that does not exceed 95% of the median purchase price for single family housing in the area.
 - HUD establishes the median purchase price limits and these limits can be found on its website: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>. The County will provide current and updated limits but the developer is responsible for confirming maximum property values for each transaction.
- f. Resale Policy

The Skagit HOME Consortium has elected to use a resale methodology for ensuring compliance with HUD homebuyer affordability requirements. The Consortium's resale policies and guidelines ensure that the HOME-assisted homes remain affordable and owner-occupied over the entire affordability period. Before each HOME-assisted home purchase, the resale restrictions and affordability period are set forth in a funding agreement and restrictive covenant. Upon sale of the property by the initial homebuyer during the period of affordability, the subsequent homebuyer must be an income-qualified household that will occupy the property as their principal residence. The initial homebuyer must receive net proceeds from the sale that represent a fair return on their investment.

The Homeownership Development Program is designed to provide financial assistance to a developer who agrees to sell homes to income-qualified homebuyers, resulting in a direct benefit to the homeowner households. In this case, HOME funding, known as "Development Subsidy," is provided directly to a developer to assist with or reduce development costs, when the developer agrees to sell homes to income-qualified homebuyers under terms that make the monthly cost of the home affordable to the homebuyer. These funds are not provided directly to the homebuyer, but are a "development subsidy" that enables the homes to be affordable to a low-income homebuyer. This includes HOME assistance that helps to close the gap between the cost of producing the home and the market value of the property (i.e., the development subsidy where the cost of development is higher than that market price of the home), but excludes any additional public funds that will reduce the purchase price from fair market value to an affordable price. When HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is considered to be the HOME subsidy.

Enforcement of Resale Provisions

The resale policy is enforced through the use of a Written Agreement and Restrictive Covenant signed by the homebuyer, and developer if applicable, at or before the closing of escrow account for the sale of the home. The Written Agreement and Restrictive Covenant will specify:

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1. **Affordability Period.** The resale policy is enforced for the affordability period and is based on the total amount of HOME funds invested in the home. The typical affordability period for HOME-assisted home purchases is ten years (\$15,000 to \$40,000 of HOME funds) but may be five years if less than \$15,000 or fifteen years if more than \$40,000. If more than one type of funding is used to assist the homebuyer, the home may be subject to multiple affordability periods. Where multiple affordability periods exist in a home, resale of the home will be restricted to the longest period set forth in the Funding Agreement and Restrictive Covenant.
2. **Initial Homebuyer Requirement.** The initial homebuyer must occupy the home as their principal residence, and permanent sublease or renting is not allowable.
3. **Subsequent Homebuyer Requirements and Reasonable Range of Low-Income Homebuyers.** When sold, the home must be made affordable to a reasonable range of low-income households. Affordable is defined as a monthly housing cost for mortgage principal, interest, taxes and insurance of not more than 38% of the gross monthly income for a household between sixty percent (60%) and eighty percent (80%) percent of the area median income, adjusted for household size.

The initial homebuyer may not sell the home during the affordability period except in a manner that results in a subsequent homeowner who will occupy the home as their principal residence and whose household income is between sixty (60%) and eighty percent (80%) of area median income, adjusted for household size. To accomplish this, proceeds from the sale that exceed the fair return on investment will be returned to the HOME account to be used to make the unit affordable for a subsequent homebuyer.

The Consortium will verify the subsequent buyer's income eligibility. To determine maximum purchase price paid by the subsequent homebuyer, the Consortium intends to use the HOME affordable homeownership limits for the area provided by HUD in accordance with 24 CFR 92.254(a)(2)(i).

4. **Security.** Any HOME funds invested in housing that does not meet the affordability and resale requirements must be repaid to the Consortium. The Consortium will secure its financial interest in the affordability requirements through a recorded Restrictive Covenant, a Recoverable Grant Agreement, a Deed of Trust and/or Promissory Note that will ensure repayment in the event that the affordability requirements are not met.

The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability.

In the event of foreclosure, the Consortium may be at risk of losing its HOME investment in the home and may be required to repay the funds to the HOME Investment Trust Fund Treasury account or the local Consortium account. In order to minimize the Consortium's risk for repayment in the event of foreclosure, the Consortium will adhere to the following policies:

- a. If the Consortium's HOME investment is a development subsidy, the Consortium will require the developer to provide other suitable security or assurance that the funds will be repaid to the Consortium.

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- b. If the Consortium's HOME investment assists a homebuyer on property leased from a community land trust, the Consortium will require the community land trust to secure the HOME investment with a recorded Restrictive Covenant, Recoverable Grant Agreement, Deed of Trust and/or Promissory secured against the leased land.
- c. If the Consortium's HOME investment assists a homebuyer on property not leased from a community land trust, the Consortium will require the homebuyer to secure the HOME investment with a recorded Restrictive Covenant, Recoverable Grant Agreement, Deed of Trust and/or Promissory secured against the land.

In the event that the housing does not continue to be the principal residence of the family for the duration of the period of affordability, the housing can be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence.

- 5. Fair Return to Initial Buyer. A homeowner that sells HOME-assisted homes is provided a fair return on her/his investment. The homeowner that sells a home may receive from sale proceeds their original contribution (down payment), plus amounts paid towards mortgage principal, plus the value of any credit-eligible improvements paid by homeowner plus/less any agreed-upon appreciation/depreciation. The calculation is further described below:
 - a. Cash downpayment. The amount of cash paid by the homebuyer to acquire the property.
 - b. Amount paid to principal. The amount of cash paid by the homebuyer that is credited to principal on a mortgage on the property.
 - c. Capital improvements. The addition of livable space (bedroom, bathroom, finished basement, finished attic space, porch or deck, the addition of a garage (either attached or detached)) shall be considered a Qualified Capital Improvement. In order to receive credit for a Qualified Capital Improvement, the homebuyer must submit to the Consortium (or leaseholder if a community land trust), prior to commencing construction, detailed plans, itemization of expected costs and permits for the proposed construction. The Consortium (and leaseholder if a community land trust) may agree to the scope of the proposed construction and timeline for completion, in addition to the future affordability of the improvements for subsequent resale to qualified low-income homebuyers. Fifty percent of the value of the qualified Capital Improvements that is agreed to in advance by the Consortium (or community land trust) shall qualify as Capital Improvement Credit.
 - d. Capital Systems Replacement. For the purpose of qualifying as a Capital Systems Replacement, the roof, plumbing (excluding fixtures), foundation, electrical (excluding fixtures), heating, sewer line, insulation, or windows, shall be considered Capital Systems if at least fifty percent of the Capital System is replaced and the new Capital System has an expected life-span of at least thirty years. The addition of alternative energy production system(s) shall qualify for credit under this passage. In order to receive a credit for Capital Systems Replacement, the homeowner must consult with the Consortium (or community land trust) prior to replacing a Capital System, and an agreement must be reached between the homeowner and Consortium (or community land trust) regarding the scope and cost of the

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proposed replacement. The intention of this credit is to encourage and create incentives for homeowners to maintain the functionality of these systems and to increase the quality of energy efficiency, durability and ease of maintenance over time while simultaneously maintaining affordability. Provided all conditions of this paragraph and the agreement between the Consortium (or community land trust) and homeowner described herein are met, the following payment schedule shall apply:

If the home sale is less than 10 years from Capital System Replacement, 100 percent of the cost can be credited. If the home sale is between 10 and 20 years from Capital System Replacement, 50 percent of the cost can be credited. Replacement of less than fifty percent of any Capital System will be considered repair and the cost of such a repair will not be eligible for credit under this section.

- e. Appreciation/Depreciation. Skagit County uses the housing price index (HPI) calculator, provided by the Federal Housing Finance Agency, to achieve its dual goals of providing a fair return to the original homeowner/seller at resale and ensuring an affordable price to the incoming, low-income homebuyer. The calculator can be accessed at <https://www.fhfa.gov/datatools/tools/pages/hpi-calculator.aspx> using the Mount Vernon-Anacortes, WA MSA.

The resale formula stipulates that the homeowner, should they choose to sell, will be able to sell the home for the original price paid (not including the HOME subsidy at the time of purchase) plus 25% of any increase in the combined value of the home and land based on the HPI during the time of ownership. Additionally, at resale, the homeowner is allowed to receive an equity “credit” for qualified capital improvements made, as follows: 100% of the increase in appraised value attributable to the addition of one (1) or more bedroom and one (1) or more bathroom and 50% of the actual cost for the work of other qualified capital improvements.

- 1. Fair Return at Resale Example. Following is an example of how the resale formula is designed to work, using hypothetical market conditions.

At initial purchase:

| | |
|---------------------|---|
| \$205,000.00 | Market value of land and improvements, as determined by appraisal at initial purchase |
| \$25,000.00 | HOME development subsidy |
| <u>\$180,000.00</u> | Purchase price of home paid by homebuyer |

At resale, five (5) years later:

| | |
|--------------|--|
| \$292,000.00 | Market value of land and improvements, based on HPI calculator at time of resale |
| \$87,000.00 | Increase in value of land and improvements from initial purchase to resale |
| 25% | Homeowner’s percentage share of appreciation in value |

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| | |
|--------------------|--|
| \$21,750.00 | Homeowner's dollar value of appreciation per resale formula (\$87,000 x 25%=\$21,750) |
| \$2,500.00 | Homeowner's initial cash downpayment |
| \$4,500.00 | Amount of principle paid by homeowner |
| \$7,500.00 | Capital improvements (addition of garage after receiving prior approval) |
| <u>\$1,400.00</u> | Capital system replacement—replace water heater in the past year |
| <u>\$37,650.00</u> | Homeowner Fair Return on Investment |

Sale to next buyer:

| | |
|--------------|---|
| \$210,650.00 | Purchase price paid by incoming low-income homebuyer: \$180,000.00 initial affordable purchase price) plus \$21,750.00 (paid to original homeowner as share of appreciation) plus \$8,900 (paid to original homeowner as a credit for capital improvements and replacement |
|--------------|---|

In this example, the home is sold to an income-eligible household—a property that now has a Housing Price Index-calculated market value of \$292,000.00—for an affordable price of \$210,650 without requiring investment of additional affordability subsidies.

By using a market rate appraisal conducted by an independent, state-licensed appraiser to establish the value of the property prior to the initial purchase of the home, Skagit County follow the standard practice for all real estate purchase transactions. By using the Housing Price Index to determine the value, upon notice of intent to sell by the homeowner, Skagit County ensures that the previous and prospective homeowners and the public have a transparent method of determining the home price. In this way, the market values are easily measured, professionally determined, and publicly accessible. No subjective judgments are made by Skagit County or the homeowner as to what constitutes value and how value is determined.

6. Resale Process. The homebuyer must notify the Consortium prior to offering the home for sale. The homebuyer will need to provide the Consortium with documentation of principal paid, capital improvements made, and capital systems replaced in order to help determine the homebuyer's fair return on investment. Within thirty days, the Consortium will provide a written response regarding the homeowner's fair return on investment.

Proceeds from the sale that exceed the fair return on investment will be returned to the HOME account to be used to make the unit affordable for a subsequent homebuyer.

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VII. DEVELOPMENT OR ACQUISITION OF RENTAL HOUSING

Please refer to the section entitled “General Policies and Procedures for Development Projects” for information related to:

- Applicant Standards
- Eligible Development Costs
- Appraisal and Real Property Acquisition
- Minimum Property Standards
- Section 504 Barrier Removal Standards for Multifamily Housing
- Prevailing Wage and Labor Requirements
- Debarred Contractors
- Section 3 Economic Opportunity
- Affordability Period
- Site Control
- Phase 1 Environmental Site Assessment
- Relocation
- Subsidy Layering and Underwriting Guidelines
- Costs Associated with Skagit County Administration of Development Projects
- Definition of Income
- Use of Combined Funders Application

Designating HOME-Assisted Units

The HOME Program distinguishes between the units in a project that are assisted with HOME funds and those that are not -- hence the term HOME-assisted unit. In deciding the number of HOME-assisted units to designate in a project, the following factors should be considered:

- Maximum HOME assisted unit investment: HUD has established the maximum per-unit subsidy limit as 100 percent of the dollar limits for a Section 234-Condominium Housing basic mortgage limits, for elevator-type projects. These limits change annually and will be provided by the Consortium.
- If there are 12 or more HOME-assisted units in a project, Davis-Bacon wage rates apply.

All HOME-assisted units must be designated as “fixed” or “floating” at the time of project commitment.

- Fixed: When HOME-assisted units are “fixed,” the specific units that are HOME-assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change.
- Floating: When HOME-assisted units are “floating,” the units that are designated as HOME-assisted may change over time as long as the total number of HOME-assisted units in the project remains constant.

Most applicants will choose to designate HOME-assisted units as floating because it provides greater flexibility.

Maximum Incomes and Rents for HOME-Assisted Units

In projects of five or more HOME-assisted rental units, at least 20% of the HOME-assisted units must be occupied by households who have annual incomes that are 50% or less of median income. These very low-income tenants must occupy units with rents at or below the Low HOME Rent level. The balance of HOME-assisted units must be occupied by households who have annual incomes that are 60% or less of median income, and the rents must be at or below the High HOME Rent level. More than 20% of HOME-assisted may be designated as 50% or less of median income/Low HOME Rent units.

Site and Neighborhood Standards

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New construction of rental housing must meet the site and neighborhood standards outlined in 24 CFR § 983.57(e)(2) and (3). The site must not be located in an area of minority concentration, except as permitted, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

Additionally, the applicant must demonstrate the residents will have access to core services, such as grocery, transportation, and relevant social services (homeless projects), within easy access. The Consortium will use a ½ mile radius to measure maximum distance to these services. If the development is within ¼ mile of a bus stop, this requirement may be waived.

Form of HOME Investment

The Consortium may provide rental housing development awards in the form of amortized loans, deferred loans, recoverable grants, grants or a combination of these.

Grants may be provided to housing projects serving the lowest income, highest need populations that require public operating subsidy to cover basic operating expenses. These projects will typically not have the cash flow or financial ability to service additional debt reflected in the operating pro forma submitted and reviewed as part of the application process. Grants may need to be structured based on the nature and additional sources being leveraged as in the case of HUD funded projects.

Loans may be amortized or deferred. Loans will be structured based on the project's operating pro forma. Deferred loans will have principal and interest, if interest is being charged, due and payable in full on or before the termination date of the contract. Loan terms may be set based on the needs of other funding sources such as the federal Low-Income Housing Tax Credit program. Skagit County's interest in the property will be secured by appropriate collateral and documentation. The County may authorize deferred payment and/or forgivable loans for those projects with inadequate sources to repay the loans. Deferred payment and/or forgivable loans shall be secured in a manner to ensure that if the project no longer provides the benefits of affordable housing as approved by the County, that the loan (with interest) would become due and payable.

Project Deadlines

HOME-funded projects must meet the following deadlines or face loss or required repayment of HOME funds:

- Before the Consortium can enter into a HOME funding commitment, the Project Sponsor will need to provide evidence of firm written financial commitments from all other funders for the project. Projects failing to obtain these commitments within twelve months from the time of award letter face loss of their preliminary allocation of HOME funds.
- Construction must begin within twelve months of project commitment (Written Agreement signature).
- If the housing is not occupied by eligible tenants within six months following the date of project completion, the owner must submit marketing information and a marketing plan to the Consortium. If the HOME units remain vacant after 18 months from the date of project completion, the Consortium will require the owner to repay the HOME funds invested in those units.

Tenant Protections

- Tenants must be offered written leases for a period of not less than one year, unless by mutual agreement between the tenant and the owner a shorter period is specified.
- Lease terms must be consistent with the tenant protections set forth in the HOME Rules, 24 CFR § 92.253 (HOME Lease Addendum).
- Owners of rental housing must comply with the affirmative marketing requirements pursuant to 24 CFR § 92.351(a) and **Error! Reference source not found.**,
- The owner must adopt and follow written tenant selection policies and criteria consistent with 24 CFR § 92.253(d).

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Recordkeeping

One of the owner's responsibilities is to keep adequate records, to be able to demonstrate compliance with HOME requirements. The owner should keep both project and tenant records.

- Project records should include documentation to back-up rent and utility allowance calculations. If the project's HOME-assisted units are "floating," the owner should also keep records to show how HOME occupancy targets were met (for example, rental logs to show that as units were vacated or tenants became over-income, HOME-assisted units were properly replaced). General rental housing records must be kept for five years after the conclusion of the Consortium's period of affordability.
- Tenant files should include the documentation necessary to demonstrate that each HOME-assisted unit is properly occupied by an income-eligible tenant. Such documentation includes: the tenant's application, initial income verification documents, subsequent annual income recertification documents and the tenant's lease. Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the HOME affordability period.

Project Monitoring

Project owners must submit information on tenant incomes and rents annually on the form provided by the Consortium.

With advance notice to the project owner, Skagit County staff will conduct an on-site inspection of HOME properties at least as frequently as follows throughout the HOME affordability period:

- Annually: Projects with 26 or more total units
- Every two years: Projects with 5 – 25 total units
- Every three years: Projects with 1 – 4 total units

Skagit County will inspect at least 15 percent to 20 percent of the HOME-assisted units in a project, and a minimum of one unit in every building to ensure compliance with property standards. Skagit County will also ask to see a sample of the files of residents of HOME-assisted units to review income documentation, rent calculations, HOME lease provisions and compliance with other HOME regulations.

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APPENDIX A: GLOSSARY

Action Plan: The one-year portion of the Consolidated Plan (see below). It includes the PJ's annual application for HOME funds.

Adjusted Income: Adjusted income is annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses and childcare (these are the same adjustment factors used by the Section 8 Program). 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 requirements vary depending upon the nature of the HOME assisted activity (i.e., homeownership or rental housing).

Annual Income: The HOME Program allows the use of two definitions of annual income: Section 8 annual income and adjusted gross income as defined for reporting on IRS Form 1040.

Commitment: Commitment means one of three things: (1) The PJ has executed a legally binding agreement with a State recipient, subrecipient, or contractor to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance; or (2) has executed a written agreement reserving a specific amount of funds for a CHDO; or (3) has met requirements to commit to a specific local project as defined below.

Commitment to a specific local project. Commitment to a specific local project means that a legally binding agreement was executed meeting one of the following sets of requirements: (1) For rehabilitation or new construction projects, the PJ (or other entity) and the project owner will execute an agreement for an identifiable project under which construction can reasonably be expected to start within 12 months of the agreement date. If the project is owned by the PJ or state recipient, the project must be set up in the disbursement and information system and construction reasonably expected to start within 12 months of the set-up date. (2) If the project consists of acquisition of standard housing by the PJ, the agreement must be a binding contract for the sale of an identifiable property and the property title must be transferred to the PJ (or other entity) within six months of the date of the contract. (3) If the project involves the acquisition of standard housing and the PJ is providing HOME funds to a purchaser, under the agreement, the title of the property must be transferred to the purchaser within six months of the agreement date. (4) If the project consists of TBRA, the PJ must enter into a rental assistance contract with the owner or the tenant in accordance with the provisions of 24 CFR Part 92.209.

Consolidated Plan: A 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.

Consortium: Geographically contiguous units of general local government consolidated to be in a single unit of general local government for HOME Program purposes when certain requirements are met.

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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. A participating jurisdiction must award at least 15 percent of its annual HOME allocation to CHDOs.

Draw-Down: The process of requesting and receiving HOME funds. PJs and authorized state recipients draw down funds from a line of credit established by HUD.

Final Rule: The Final HOME Rule was published at 24 CFR Part 92 on September 16, 1996 and became effective on October 16, 1996.

Group Home: Housing occupied by two or more single persons or families consisting of common space and/or facilities for group use by the occupants of the unit, and (except in the case of shared one-bedroom units) separate private space for each family.

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.

HOME Investment Trust Fund: The term given to the two accounts - one at the Federal level and one at the local level - that "hold" the PJ's HOME funds. The Federal HOME Investment Trust Account is the U.S. Treasury account for each participating jurisdiction. The local HOME Investment Trust Fund account includes repayments of HOME funds, matching contributions and payment of interest or other returns on investment.

Household: One or more persons occupying a housing unit.

Jurisdiction: A state or unit of general local government.

Low-Income Families: Families whose annual incomes do not exceed 80 percent of the median income for the area (adjusted for family size).

Match: Match is the PJ's contribution to the HOME Program -- the local, non-Federal contribution to the partnership. The PJ's match contribution must equal not less than 25 percent of the HOME funds drawn down for projects in that fiscal year.

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.

Program Income: Gross income received by the PJ, 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

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HOME funds, under a commitment by the owner, as a single undertaking. The HOME Final Rule eliminated the requirement that all buildings fall within a four-block radius.

Project completion: All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw-down has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. 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. 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.

Single-Room Occupancy (SRO): Housing consisting of single-room dwelling units that is the primary residence of its occupant or occupants. The unit must contain food preparation and/or sanitary facilities if the project involves new construction, conversion of non-residential space, or reconstruction. If the units do not contain sanitary facilities, the building must contain sanitary facilities shared by the tenants.

Subrecipient: A public agency or nonprofit organization selected by a PJ to administer all or a portion of the PJ's HOME Program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient.

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

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

Source: Building HOME: A Primer, <https://www.hudexchange.info/resource/2368/building-home-a-home-program-primer>