

# **City of Las Vegas HOME PROGRAM**

## **Standard Operating Policies and Procedures**



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## **The City of Las Vegas HOME Program Standard Operating Policies and Procedures**

**Objective:** The city of Las Vegas is committed to working throughout the community to expand and improve the supply of affordable housing. The city of Las Vegas works to provide decent, safe and affordable housing to residents by alleviating the problems of excessive rent burdens, homelessness and deteriorating housing stock, as well as to increase opportunities for low income households to become homeowners. These policies were created in an effort to create a streamlined, efficient and transparent process.

**Funding:** Funds available for affordable housing activities are provided by the U.S. Department of Housing and Urban Development (HUD) through the Home Investment Partnership Program (HOME) under 24 CFR 92. Activities assisted with city of Las Vegas funds are approved by the City of Las Vegas Mayor and City Council and HUD.

**Disclaimer:** The following policies are developed within the guidelines of the HOME regulations established by HUD and may be revised at any time as necessitated to be in conformance with Federal mandates.

### **Types of HOME Funded Projects:**

- **New Construction**
- **Acquisition**
- **Rehabilitation**
- **Tenant Based Rental Assistance (TBRA)**

**City of Las Vegas Schedule:** The city of Las Vegas operates on a fiscal year of July 1 through June 30. Planning for each fiscal year begins the previous January. Applications can be submitted via ZoomGrants. The award of any agreement based on applications received is contingent upon the City's receipt of HOME, Account for Affordable Housing Trust Fund (AAHTF), and Redevelopment Agency Set-Aside (RDA) funding.

**Monitoring:** Monitoring is done to ensure production and accountability in funded projects and programs. Monitoring ensures compliance with funding and associated federal requirements and is an evaluation of organizational and project performance (see Appendices C and D).

**Other Federal Requirements:** The city of Las Vegas enforces the required additional federal regulations that may apply to a project or program. Additional federal requirements may include but are not limited to: environmental reviews, labor standards, relocation requirements, lead based paint, conflict of interest, fair housing and affirmative marketing, and women and minority business owners. An explanatory list of applicable federal requirements is provided on pages 21 through 23 of this manual.

## **DEFINITIONS**

**Action Plan** – The one-year portion of the Consolidated Plan that serves as the 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 child care (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.

**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, rental housing, and new construction).

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

**Area Median Income (AMI)** –AMI is the midpoint in the income distribution within a specific geographic area. By definition, 50% of households earn less than the median income, and 50% earn more. HUD calculates AMI levels for different communities annually, with adjustments for family size. AMI is used to determine the eligibility of applicants for both federally and locally funded housing programs.

**Commitment** – (1) The Participating Jurisdiction (City of Las Vegas) has executed a legally binding agreement with a recipient, sub-recipient, or contractor to use a specific amount of HOME funds for an eligible project or program; **or** (2) Has executed a written agreement reserving a specific amount of funds for a CHDO or Developer.

**Consolidated Plan** – A plan prepared in accordance with the requirements set forth in 24 CFR Part 91 that describes community needs, resources, priorities and proposed activities to be undertaken utilizing certain HUD programs, including HOME.

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

**Community Housing Development Organization (CHDO)** – A private, nonprofit organization that meets certification requirements established under the HOME regulations at 24 CFR Part 92.2, and is not under the direction of an entity seeking to derive profit from the CHDO’s activities nor created by a for-profit entity whose primary purpose is the development or management of housing. A participating jurisdiction must set-aside at least 15 percent of its annual allocation to be awarded to CHDO’s for eligible projects.

**Community Housing Development Organization (CHDO) Eligible Project** – Each year a minimum of 15 percent of the HOME annual allocation must be set-aside for award to a project in which a certified CHDO is the developer, owner or sponsor as established in 92.300. If the CHDO owns the project in partnership, it must be the managing general partner with effective control.

**Cost Burden** – The extent to which gross housing costs, including utility costs, exceed 30% of an individual’s or family’s gross income, based on data from the U.S. Census Bureau. Severe cost burden are housing costs (including utility costs) exceeding 50% of gross income. Extreme or severe cost burden is experienced by those paying more than 50% of their household income for housing-related expenses.

**Draw** – The request and receipt of funds by the funded entity from the City of Las Vegas.

**Extremely Low-Income Families** – Those households earning less than 30 percent of the median family income is evaluated and guidelines are issued on an annual, county- wide basis.

**Fair Market Rent (FMR)** – Published by HUD, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe and sanitary rental housing of a modest (non-luxury) nature with suitable amenities. The FMRs are the maximum eligible rent levels allowed under the Section 8 Housing Choice Voucher Program.

**Fixed HOME Unit** – When HOME assisted units are “fixed” in a rental project, the specific units that are HOME assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change.

**First-Time Homebuyer-** An individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with HOME funds. Definition also includes an individual who is a displaced homemaker or single parent as defined by HUD.

**Floating HOME Unit** – When HOME assisted units are “floating” in a rental project, 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.

**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** – The HOME Program distinguishes between the units in a project that have been assisted with HOME funds and those that have not -- hence the term HOME-assisted unit. This distinction between HOME assisted and unassisted units allows HOME funds to be spent on mixed-income projects while still targeting HOME dollars only to income-eligible households.

**HOME Funds** – Refers to all appropriations for the HOME Program, plus all repayments and interest or other returns on the investment of these funds.

**HOME Rents** – The HOME Program restricts the rents of HOME assisted units. Rents of HOME assisted units cannot exceed the High and Low HOME rent levels that have been established by HUD. Rents cannot exceed 30 percent of the targeted AMI for the appropriate unit size.

**Homeownership**- Mean's ownership in fee simple title or a 99-year leasehold interest in a one- to-four unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

**Household** – One or more persons occupying a housing unit.

**Jurisdiction** – A state or unit of local government.

**Low-Income** – Households with earnings that do not exceed 80% of the MFI.

**Match** – The local contribution to HOME program activities. The match contribution must equal not less than 25 percent of the HOME funds drawn down in that fiscal year.

**Median Family Income (MFI)** - Family incomes in a given Metropolitan Statistical Area (MSA), the mid-point at which half of the families earn more than the stated median and half earn less. Median family income is evaluated and guidelines are issued on an annual, county-wide basis.

**New Construction** – Is the creation of new dwelling units. Any project that includes the creation of new or additional dwelling units in an existing structure is considered new construction.

**Participating Jurisdiction (City of Las Vegas)** –Is a state, local government or consortium that has been designated by HUD to administer a HOME Program. HUD designation as a participating jurisdiction 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.

**Poverty Level Family** – Family with an income below the poverty line established annually by the U.S. Office of Management and Budget (OMB).

**Program Income** – Gross income received by the city of Las Vegas, state recipient, or a sub-recipient directly generated from the use of HOME funds or matching contributions. Program Income is used first when received, before drawing down HOME funds for a home eligible activity.

**Project** – A site or an entire building or two or more buildings, together with the site or sites on which the building or buildings are located, are under common ownership, management and

financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking.

**Project Completion** – All necessary title transfer requirements and construction work have been performed; the project complies with all HOME requirements; the final draw down has been disbursed for the project; and the project completion information has been entered into 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)** – Is the rebuilding, on the same lot, of housing standing on the same 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 are 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 city of Las Vegas to administer all or a portion of the city of Las Vegas HOME Program. A public agency or nonprofit organization that receives HOME funds solely as a developer 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, typically by AMI.

**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.

Very Low Income- Households with earnings that do not exceed 50% of MFI

### **GENERAL PROGRAM RULES**

The HOME Program has a number of basic general rules that apply to all program activities, including:

- The definition of a project
- The form and amount of subsidy
- Eligible costs
- The property
- The applicant or beneficiary
- The long-term affordability of the project
- Applicability of other federal requirements

City of Las Vegas funds are intended to provide gap financing for development projects and to fund projects that would otherwise not be available in the community. In addition, city of Las

Vegas funding in a project must not exceed the proportionate share based on the number of units designated as city of Las Vegas units compared to the overall project size.

**Definition of a Project:** Project means a site or sites together with any building (including manufactured housing unit) or buildings located on the site(s) under common ownership, management and financing, to be assisted with HOME funds as a single undertaking. The “project” includes all of the activities associated with the site and building. For tenant-based rental assistance (TBRA), “project” means assistance to one or more families.

**Eligible Forms of Subsidy:** HOME allows virtually any form of financial assistance to be provided for eligible projects and to eligible beneficiaries. The participating jurisdiction, city of Las Vegas, determines what forms of assistance it will provide. Some forms of assistance will require legal instruments for implementation. HOME regulations list the following forms of assistance as eligible:

- **Interest bearing loans or advances:** These loans are amortizing loans, repayment is expected on a regular basis, usually monthly so that over a fixed period of time all of the principal and interest is repaid. Such loans may have interest rates at or below the prevailing market rate. Often, very low interest rates (i.e., one to three percent) can make monthly payments affordable to the borrower. The property or some other assets are used as collateral. The term of the loan may vary. For home purchase, a term of up to 30 years is common while rehabilitation and construction loans tend to have terms of 10 to 15 years.
- **Non-interest-bearing loans or advances:** The principal amount of such loans are paid back on a regular basis over time, but no interest is charged. As with interest-bearing loans, these loans will use the property or other assets as collateral and the term of the loan will vary depending on the nature of the activity funded. Such loans are made when the borrower is able to make regular payments but even a small amount of interest is not affordable.
- **Deferred Loans (forgivable or repayable):** These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred until some point in the future. Deferred loans can be structured in a variety of ways and terms may differ greatly. Deferred payment loans use the property or some other form of collateral as security for repayment.
- **Grants:** Grants are provided with no requirement or expectation of repayment. They require no liens on the property or other assets. They are most commonly used for down payment and closing cost assistance in homebuyer programs or to provide assistance to very low-income owner-occupants for rehabilitation.
- **Interest Subsidies:** This is usually an up-front discounted payment to a private lender in exchange for a lower interest rate on a loan. An interest subsidy may also be a deposit in an interest-bearing account from which monthly subsidies are drawn and paid to a lender along with the homeowner’s monthly payment.
- **Equity Investments:** An investment made in return for a share of ownership. Under this form of subsidy, the city of Las Vegas acquires a financial stake in the assisted property and is paid a monetary return on the investment if money is left after expenses and loans are paid.

- **Loan Guarantees and Loan Guarantee Accounts:** HOME funds may be pledged to guarantee loans or to capitalize a loan guarantee account. A loan guarantee or loans guarantee account ensures payment of a loan in case of default.
- **Other forms approved by HUD:** Other forms of assistance require HUD approval. If the city of Las Vegas intends to use a form of assistance not listed above, the city's Consolidated Plan or Action Plan should describe the proposed form of assistance. Once approved by HUD as part of the Plan, no other HUD approval is required.

***Subsidy Limits and Project Underwriting Reviews :*** Participating jurisdictions must use the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects, as an alternative to the Section 221(d)(3) limits (no longer in effect) in order to determine the maximum amount of HOME funds a PJ may invest on a per-unit basis in HOME-assisted housing projects. This interim policy remains in effect until the effective date of the new final rule provisions, amending the existing provisions of [24 CFR 92.250\(a\)](#). Participating jurisdictions should [contact the CPD Division in their local HUD Field Offices](#) to obtain the maximum HOME per-unit subsidy limits that apply to their jurisdictions. PJs should not calculate their own HOME per-unit subsidy limits by using the High Cost Percentages and the Section 234 basic mortgage limits that are published in the Federal Register by HUD's Office of Multifamily Housing.

The per-unit subsidy requirements are described in the HOME regulations at [24 CFR 92.250](#). The minimum HOME investment in rental housing or homeownership is \$1,000 times the number of HOME-assisted units as described in the HOME regulations at [24 CFR 92.205\(c\)](#).

The *minimum* amount of HOME funds that must be invested in any project is \$1,000 for every assisted unit in the project. The minimum relates only to HOME funds, not to any other funds, including match that might be used for project costs. The minimum amount does not apply to tenant based rental assistance.

If a project has multiple funding sources, an evaluation must be made to ensure that the HOME funds, in combination with other governmental funds, do not exceed what is necessary to provide affordable housing. This is generally referred to as the "subsidy layering review". City of Las Vegas will conduct a subsidy layering review and underwriting review prior to the award of any funds. City of Las Vegas will evaluate the reasonableness and need for the requested assistance by analyzing project proformas for cash flow, debt-coverage ratios, and the appropriateness of fees charges with and without the HOME funds.

***Match Requirements:*** The HOME program requires participating jurisdictions to have a match of at least 25%. Sources of match can be cash, donated land or real property, infrastructures improvements, bonds issued by state or local government, donated materials, equipment, or professional services, sweat equity, and the value of foregone taxes.



**Eligible Costs:** Eligible costs depend on the activity. HOME funds can be used to cover both hard (construction, rehabilitation) and soft (fees, insurance, appraisals) costs associated with a project. Eligible expenses city of Las Vegas funds may be used for:

- **New Construction:** Funds can be used for new construction of both rental and ownership housing. Any project that includes the addition of dwelling units to an existing structure is considered new construction.
- **Rehabilitation:** Includes the alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with city of Las Vegas funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.
- **Reconstruction:** This refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction also includes replacing a substandard manufactured house with a new manufactured house. During reconstruction, the number of rooms per unit may change, but the number of units may not. NOTE: Replacing a manufactured housing unit with a stick-built unit is considered a homebuyer activity even if the applicant/beneficiary owns the lot and existing manufactured unit.
- **Conversion:** Conversion of an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls of an existing structure, the entire project will be deemed new construction. Conversion of a structure to commercial use is prohibited.
- **Site Improvements:** Site improvements include new on-site improvements (sidewalks, utility connections, sewer and water lines) where none are present that are essential to development or repair of existing improvements. Building new, off-site utility connections to an adjacent street is also eligible. Off-site infrastructure is not eligible as a HOME expense, but may be eligible for match credit.
- **Acquisition of Property:** Acquisition of existing standard property, or substandard property in need of rehabilitation, is eligible as part of either a homebuyer program or a rental housing project. After acquisition, rental units must meet HOME rental occupancy, affordability and lease requirements.
- **Acquisition of Vacant Land:** Acquisition of vacant land is eligible only if construction will begin on a HOME project within 12-months of purchase.
- **Demolition:** Demolition of an existing structure may be funded only if construction will begin within 12 months.
- **Relocation Costs:** The Uniform Relocation Act and Section 104(d) apply to all assisted properties. Both permanent and temporary relocation assistance are eligible HOME costs.



However, these funds are included in the subsidy limit calculation. The Uniform Relocation Act and Section 104(d) (also known as the Barney Frank Amendments, apply to all HOME-assisted properties. Both permanent and temporary relocation assistance are eligible costs. Staff and overhead costs associated with relocation assistance are also eligible. Although eligible, it is the general policy of the City of Las Vegas to not fund relocation costs or projects that cause permanent relocation.

- **Refinancing:** HOME funds may be used to refinance existing debt on single-family, owner-occupied properties in connection with HOME-funded rehabilitation. The refinancing must be necessary to reduce the owner's overall housing costs and make the housing more affordable. Refinancing for the purpose of taking out equity is not permitted. HOME may also be used to refinance existing debt on multi-family projects being rehabilitated with HOME funds, if refinancing is necessary to permit or continue long-term affordability, and is consistent with PJ-established refinancing guidelines.
- **Initial operating reserve:** HOME funds may be used to fund an initial operating deficit reserve for new construction and rehabilitation projects for the initial rent-up period. The reserve may be used to pay for project operating expenses, scheduled payments to a replacement reserve and debt service for a period of up to 18 months.
- **Project Related Soft Costs:** These costs must be reasonable and necessary, including:
  - Finance related costs
  - Architectural, engineering and related professional services
  - Tenant and homebuyer counseling, provided the recipient of counseling ultimately becomes the tenant or owner of a HOME-assisted unit;
  - Costs of a project audit required by city of Las Vegas
  - Affirmative marketing and fair housing services to prospective tenants or owners of a funded project
  - Staff time directly related to carrying out a project
  - City of Las Vegas staff costs directly related to projects (except TBRA)

**Prohibited Activities:** Funds cannot be used for Project Reserve Accounts, Tenant Based Rental Assistance to serve special purposes of the Section 8 program, as Match for federal programs (except McKinney-Vento Act funds), Operations or Modernization of public housing, prepayment of Low-Income Housing Mortgages (LIHPRHA) or the Emergency Low Income Preservation Act (ELIHPA), acquisition of city of Las Vegas-owned property, project-based rental assistance, payment of delinquent taxes, fees, or charges on properties to be assisted with city of Las Vegas funds.

During the first year after completion of a project, the city of Las Vegas may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a previously assisted project. However, rental assistance to families may be renewed, rental assistance may be provided to families that will occupy housing previously assisted with city of Las Vegas funds, and a homebuyer may be assisted to acquire a unit that was previously assisted with HOME

funds. Funds cannot be used for rent assistance if the recipient of the rent assistance is tied to occupancy in a particular project. The city of Las Vegas may not use funds to reimburse itself for property in its inventory. However, the city may use funds to acquire property or reimburse itself for property acquired with other funds in anticipation of an eligible project.

**Property & Property Standards:** Depending on the nature of the activity, specific guidelines apply to the properties to be eligible for funding.

For owner-occupied and homebuyer properties, the value and purchase price of the property are limited. The price or value may not exceed 95% of the area median purchase price for the housing type; in the case of rehabilitation the limit is based on value after rehabilitation. Current maximum value limits may be obtained by contacting city of Las Vegas.

Assisted properties must also meet established guidelines regarding physical condition (Table 1 below). Generally, a unit/structure must meet the more stringent of the HUD determined property standards identified in the table below or the local building code. Locally, this means assisted properties must be inspected for and determined to be in compliance with the local building code and other applicable standards. In addition, all assisted housing must comply with the accessibility requirement of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. Site and neighborhood standards apply to all new construction, rental housing.

The HOME Program is designed to provide affordable housing to low-income families and individuals. Therefore, the program has rules about targeting program resources and establishing **applicant eligibility**.

**Table 1. Property Standards to be utilized by Activity Type**

Activity	Property Standard to be Used
Acquisition of Existing Owner-Occupied Housing, with or without rehabilitation	Local Building Code or HQS Applicable state or local housing quality standards and code requirements. If no local standards/codes apply, Section 8 HQS.
Tenant-Based Rental Assistance	Section 8HQ
Rehabilitation of Housing, Multi-family or Owner-Occupied	Local Rehabilitation Standards And Local Building Codes or Minimum Property Standards And Applicable Accessibility requirements Local written rehabilitation standards. AND State and local code requirements. If no local codes apply, one of the following national model codes: <ul style="list-style-type: none"> <li>• Uniform Building Code (ICBO)</li> <li>• National Building Code (BOCA)</li> <li>• Standard Building Code (SBCCI)</li> </ul>

	OR • Council of American Building Officials one- or two-family code (CABO) OR • Minimum Property Standards* at 24 CFR 200.925 or 200.926 (FHA). AND Handicapped accessibility requirements, where applicable.
New Construction of Housing	State and local code requirements. If no state and local codes apply, one of the following national model codes: • Uniform Building Code (ICBO) • National Building Code (BOCA) • Standard Building Code (SBCCI) OR • Council of American Building Officials one- or two-family code (CABO) OR • Minimum Property Standards* (FHA) at 24 CFR 200.925 (for multi-family) or 200.926 (for one- and two-unit dwellings). AND International Energy Conservation Code. AND Handicapped accessibility requirements, where applicable. New construction of rental housing must meet site and neighborhood standards at 24 CFR 893.6(b).

By regulation, all HOME funds must be used to assist families with incomes below 80 percent of AMI. Additional restrictions apply when HOME is used for rental housing or tenant based rental assistance. For each HOME allocation, 90% of the occupants of HOME assisted rental units and households assisted with HOME funded TBRA must have incomes that are 60% or less of the area median. Twenty percent of the units in each rental housing project with five or more HOME assisted units must be occupied by families with incomes at or below 50% of area median income.

**Income eligibility / Beneficiaries of funds** – homebuyers, homeowners, or tenants – must be determined income eligible based upon a review of their income and projecting their annual anticipated income. Annual income is the gross amount of income anticipated by all adults (everyone over 17 years of age) in a household during the 12 months following the effective date of determination. The determination must not be more than 6 months old at the time assistance is received.

Income:

- 24 CFR 5.609 Part 5 also known as Section 8 annual (gross) income;
- IRS adjusted gross income, using the calculation for “adjusted gross income” on IRS form 1040.  
Note: while the IRS calls this calculation “adjusted gross income,” it is considered “annual income” for the HOME Program.

The city of Las Vegas makes the determination as to what definition will be used. There may be different definitions for different programs, but the same definition must be used within a program. For example, city of Las Vegas can use the IRS definition for its homeowner rehab program and the Section 8 definition for its TBRA program, but it cannot use the IRS definition **and** the Section 8 definition for its homeowner rehab program. *City of Las Vegas recipients must use the Section 8 definition of income unless otherwise specified in the executed funding agreement.*

To determine if applicants are income eligible, recipients must verify income using **source documentation**. Third-party verification is an acceptable method for city of Las Vegas assisted projects and programs; however, in instances where third party verification cannot be obtained source documentation such as wage statements, interest statements, and unemployment compensation statements for a minimum of the most recent 60 to 90 days may be used to calculate anticipated income.

Income eligibility is based on anticipated income, so likely changes in income must also be used in the determination. For example, pay stubs show current income but they do not report projected raises or bonuses, which must be included in the income calculation. If six months has passed before assistance is provided, e.g. rehabilitation has not yet started or family closes on the purchase of a home, income must be re- certified in the manner described above.

For TBRA programs, both initial and subsequent annual income verifications must be based on an examination of source documentation. For rental housing programs, source documentation must be used to verify a tenant's income at initial occupancy and every 6th year of the period of affordability. In the other years, two other options are allowed: a) the household can self-certify its income, or b) another governmental entity can verify the income (e.g., the public housing authority).

**Long-Term Affordability:** To ensure investments provide affordable housing over the long term, rent and occupancy restrictions continue throughout the period of affordability.

- **Period of Affordability** – It is the intention of the city of Las Vegas to ensure the long-term affordability of assisted properties. While the minimum length of affordability period depends on the amount of the HOME investment in the property and the nature of the activity (outlined in Table 2 below).

**Table 2. Minimum Affordability Period by  
Funding Amount and Project Type**

<b>Funding/Activity</b>	<b>Affordability Period</b>
Less than \$15,000	5 Years
\$15,000 to \$40,000	10 Years
Greater than \$40,000	15 Years
New construction of Rental	20 Years
Refinancing of rental housing	15 Years

**Occupancy** – Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent.

**Homebuyer Assistance** - If a home purchased with HOME assistance is sold during the period of affordability, resale or recapture provisions, outlined in the homebuyer section below, ensure the continued provision of affordable housing apply.

**Other Federal Requirements:** Funded projects and programs are also subject to a number of cross cutting federal regulations. Some of the major additional requirements are:

**The National Environmental Policy Act of 1969 as set forth in P. O. 91-190 and the implementing regulations in 24 CFR, Parts 51 and 58:** (P. O. 91-190 – 42 USC§4321) The purposes of the act are to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources; important to the National and to establish a Council on Environmental Quality. 24 CFR 51 and 56 are the environmental criteria and standards and the environmental review requirements.

**Title VIII of the Civil Rights Act of 1968, P.L. 90-284 (Fair Housing Act):** Prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, national origin, disability or familial status, as well as establishing administrative enforcement mechanisms, revised and expanded Justice Department jurisdiction, and contains design and construction accessibility provisions for certain new multifamily dwellings developed for first occupancy. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, which:

- expanded the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status (presence of child under age of 18, and pregnant women);
- established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and
- revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts.

**Title VI of the Civil Rights Act of 1964, P. L. 88-352 and the regulations of HUD with respect thereto, including 24 CFR, Parts 1:** Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. <http://www.usdoj.gov/crt/cor/coord/titlevi.htm>

**Section 3 of HUD Act of 1968:** Section 3 requires HOME recipients to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low income residents in the program service area. HOME recipients will be required to keep records and provide reports on their Section 3 efforts.

**Executive Order 11063, as amended:** Prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds. <http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm>

**Age Discrimination Act of 1975:** Prohibits age discrimination in programs receiving Federal financial assistance. Age Discrimination Act regulations may be found in 24 CFR Part 146.

**Section 504 of the Rehabilitation Act of 1973:** Prohibits discrimination based on disability in any program receiving federal financial assistance. <http://www.hud.gov/offices/fheo/disabilities/sect504.cfm>

**Executive Order 11246 (Applies to contracts in excess of \$10,000):** Bars discrimination in federal employment because of race, color, religion, sex, or national origin. <http://www.hud.gov/offices/fheo/FHLaws/EXO11246.cfm>

**The Fair Labor Standards Act:** <http://www4.law.cornell.edu/uscode/29/ch8.html>

**Section 202(a) of the Flood Disaster Protection Act of 1973:** Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(a) of said Act (42 U.S.C. 400(a)), one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, for use in any area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program.

**Sections 302 and 401 (b) of the Lead-Based Paint Poisoning Prevention Act:** This sub-part implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

**Davis Bacon Act, as amended:** Any contract for the construction of Affordable Housing with 12 or more units will require that all laborers and mechanics who are employed to perform work on any project, or any contractor or construction work which is financed, in whole or in part, with assistance which is received under the Housing and Community Development Act of 1974 shall be paid wages at rates which are not less than those that prevail in the locality for similar construction and shall receive overtime compensation in accordance with the Contract Work Hours and Safety Standards Act. The contractor and its subcontractors shall also comply with all applicable Federal laws and regulations which pertain to labor standards, including the minimum wage law.

**Title I of Housing and Community Development Act of 1974:**

Grantee shall:

- a. not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give preference in employment to persons on the basis of religion; and
- b. not discriminate against any person applying for such public services on the basis of religion and not limit such services or give preference to persons on the basis of religion; and
- c. provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of such public services.
- d. <http://www.hud.gov/progdesc/sec-109.cfm>

**Executive Orders:**

**11625** - Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise,

**12432** - Minority business enterprise development, and

**12138** - National Women's Business Enterprise Policy and National Program for Women's Business Enterprise.

[http://www.archives.gov/federal\\_register/codification/executive\\_order/11625.html](http://www.archives.gov/federal_register/codification/executive_order/11625.html)

[http://www.archives.gov/federal\\_register/codification/executive\\_order/12432.html](http://www.archives.gov/federal_register/codification/executive_order/12432.html)

<http://www.usdoj.gov/crt/cor/byagency/sbaeo12138.htm>

**49 CFR Part 24: Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs:**

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

- a. To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;
- b. To ensure that persons displaced as a direct result of Federal or federally- assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and
- c. To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.



**Financial Management Requirements:** Projects and programs receiving HUD funds must abide by the financial management requirements of the Federal Office of Management and Budgets which pertain to their particular type of organization, whether it is an institution of Higher Education, a hospital, other non-profit, a state, a local government, etc. For instance, a CHDO serving as both a sub-recipient for the city of Las Vegas and as a development organization has different OMB requirements based on each activity.

## **WRITTEN AGREEMENTS**

A written agreement ***must be entered into before any funds are committed or disbursed to a recipient.*** When executed the agreement is:

- A statement of the relationship between the city of Las Vegas, Subrecipient and/or the funding recipient;
- A statement of the conditions under which the funds are provided;
- Tool for monitoring performance and verifying compliance;
- A tool for parties using funds to learn about the applicable rules and regulations;
- A method for enforcing the program requirements and protecting the city of Las Vegas investment.

**Required Provisions:** The specific contents of agreements will vary and depending upon the type of activity and administrative role of the recipient. Under HOME regulations there are specific provisions that must be included in written agreements. The required provisions are:

- **Use of HOME funds:** Description of tasks to be performed, schedule for completing tasks, a budget in sufficient detail to effectively monitor performance and the period of the agreement. Documents detailing this information must be provided by the recipient to city of Las Vegas prior to the execution of the funding agreement.
- **Requests for Disbursement of Funds:** Requirement that HOME funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.
- **Project Requirements:** Enumeration of all project requirements applicable to the type of projects(s) to be assisted. Examples include affordability requirements, property standards, rents and recapture/resale provisions.
- **Records and Reports:** Enumeration of records that must be maintained, and information and reports that must be submitted.
- **Reversion of Assets/Program Income Requirements:** Statement regarding the disposition of program income or other assets received by the recipient as a result of the city of Las Vegas investment. All program income received from the operation of a city of Las Vegas funded program must be returned to the city of Las Vegas upon receipt.
- **Enforcement and Duration of the Agreement:** This provision is in the agreement with all parties, including owners, and is the means of enforcing the provisions of the written agreement.



- **Affirmative Marketing:** Requirements for affirmative marketing in projects with five or more assisted units.
- **Other Program Requirements:** Requirements regarding other federal requirements, including non-discrimination and equal opportunity, affirmative marketing and minority outreach, environmental review, displacement, relocation and acquisition, labor standards, lead based paint, and conflict of interest.
- **Uniform Administrative Requirements:** Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities. The requirements can be found in **2 CFR Part 200**.
- **CHDO Provisions:** Requirements for the use of funds to CHDOs, including set-aside funds, operating expenses and project-specific loans and capacity building assistance.
- **Conditions for Religious Organizations:** Includes conditions set forth in 24 CFR Part 92.257 concerning religious organizations.
- **Conflict-of-Interest:** Home regulations require city of Las Vegas s, state recipients and developers (including CHDOs acting as developers) to comply with two different sets of conflict-of-interest provisions. The first set is provisions under 24 CFR Parts 84.42 and 85.36; the second, which applies only in cases not covered by 24 CFR Parts 84.42 and 85, set forth in the HOME regulations 92.356.

**Additional Provisions:** In addition there are a number of elements that may be included in the funding agreement to increase its usefulness to both parties. These include:

- The roles and responsibilities of each party.
- A description of the project or program being funded, spelling out the eligible uses of funds.
- A project timetable with major milestones (performance standards).
- Criteria for successful completion of the program or project.
- A description of project close-out requirements.
- The consequences of non-performance.
- CHDO provisions (24 CFR 92.300 and 92.301)
- Monitoring

**Amending Documents:** Written agreements may be amended by mutual agreement of the parties for a change in terms, the receipt of additional funds, or changes in project scope. However, agreements will be automatically amended if so required to ensure compliance with regulations. Agreement enforcement and termination found 2 CFR Part 200, Subpart C.

**Other Documents:** Other types of documents may be executed as conditions of funding and may include mortgage and loan agreements, deed restrictions and other use agreements between the city of Las Vegas and the owner, property management agreements between the owner and property manager, and asset management agreements between the owner and asset manager.

- Mortgage and loan documents are signed at closing and contain the financial terms and conditions of the loan.
- Deed restrictions and other use agreements will be used to place specific restrictions on the property.
- Property management agreements detail the specific responsibilities of the property manager. Copies of management agreements executed assigning the management responsibility of city of

Las Vegas funded projects must be provided to city of Las Vegas prior to the release of retention or within 15 days of execution, whichever is later.

## **RENTAL ACTIVITIES**

### ***Eligible Activities:*** [24 CFR 92.205(a)]

Activities allowed with the use of city of Las Vegas funds are activities and projects that support and provide incentives for the development of affordable rental housing that addresses needs identified in the Consolidated Plan. These activities may include new construction, reconstruction, acquisition or rehabilitation of non-luxury housing available with rent restrictions serving very-low and extremely-low income households. Housing development may only be permanent or transitional housing. Single-room occupancy (SRO) and group homes are permitted but have additional conditions. If Tenant-Based Rental Assistance (TBRA) is identified in the current Consolidated Plan as an appropriate response to market conditions, such programs may be awarded city of Las Vegas funding.

***Funding will be limited to the amount necessary to facilitate completion of the project and will not exceed a proportionate share of costs in a project with floating units.***

***Eligible Costs:*** [HUD Regulations 24 CFR 92.206] Funds may be used to pay the following:

#### Hard Costs

- Acquisition of land (for a specific project) and existing structures
- Site preparations or improvement, including demolition
- Securing of buildings
- Construction materials and labor

#### Soft Costs

- Financing fees
- Credit reports
- Title binders and insurance
- Surety fees
- Recordation fees, transaction taxes
- Legal and accounting fees, including cost certification
- Appraisals
- Architectural/engineering fees, including specifications and job progress inspections
- Environmental reviews
- Builders' or developers' fees
- Affirmative marketing, initial leasing and marketing costs
- Staff and overhead costs incurred by the city of Las Vegas that are directly related to a specific project
- Operating deficit reserves (up to 18 months)

#### Relocation Costs

- Payment for replacement housing, moving costs and out-of-pocket expenses
- Advisory services
- Staff and overhead related to relocation assistance and services

#### Loan Guarantee Accounts

- Amount based upon 20 percent of total outstanding principal balance of guaranteed loans
- A loan in default can be repaid in full

All costs must be in direct relation to a city of Las Vegas assisted unit and supporting documentation of all expenditures is required for all costs being paid for with the city of Las Vegas funding. With the exception of acquisition and financing costs, city of Las Vegas funds are available as reimbursement for eligible expenses. Related soft costs must be necessary for the development of city of Las Vegas units. Again documentation must be provided for any cost re-imbursement.

If requesting re-imbursement of staff time, timesheets and payment records documenting time allocated to city of Las Vegas units is required.

***Prohibited Activities:*** [HUD Regulations 24 CFR 92.214] city of Las Vegas HOME funds may NOT be used to:

- Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds;
- Pay for any cost that is not eligible under the HOME program at 92.206 and 209;
- Provide project reserve accounts;
- Pay for the acquisition of property owned by any of the member jurisdictions unless purchased in anticipation of carrying out a HOME eligible project;
- Land Banking;
- Provide tenant-based rental assistance for the special purposes of the existing section 8 program;
- Provide assistance to housing previously assisted with HOME funds (other than TBRA); or
- Activities related to Public Housing Modernization.

#### ***Form & Amount of Assistance:*** [HUD Regulations 24 CFR 92.205(b)]

While regulations allow assistance to be given in any of the forms listed above, city of Las Vegas assistance to development projects will be given in the form of an amortized, deferred loan or grant. Funding Agreements will establish a minimum affordability period that is typically not less than 5 years but will at minimum meet the HOME guidelines for new construction. Before monies are released an agreement will be signed between city of Las Vegas and the recipient. The agreement will satisfy federal requirements and establishes the terms under which the funding is being provided. Funds will not be released until a funding agreement is executed.

City of Las Vegas provides gap financing to affordable housing projects and programs. It is recognized that a significant benefit of funding from the city of Las Vegas is the property tax-exemption that affordable properties receive as a result being funded with federal funds. Therefore, the foregone taxes will be considered in the subsidy layering review and determining the amount necessary HOME subsidy. A federally funded affordable housing project becomes eligible for the property tax-exemption when the federal funds are invested in the project. Upon request the City of Las Vegas will provide a letter for the Clark County Assessor's office concerning the

Federal funds expended on a project. Clark County Assessor's Office awards the property tax exemption.

Assistance for TBRA programs will be provided in the form a grant to the sub-recipient serving households with initial incomes not greater than 80 percent of AMI.

### ***Monitoring***

All projects and programs are monitored annually and include a review of management processes, a file review, and a physical inspection of the property and assisted units. The initial monitoring will be completed upon lease-up. Annually thereafter staff will review 20 percent of client files and inspect the associated units unless staff identifies issues that warrant further review or inspection of additional files and/or units. The on-site inspections must occur within 12 months after project completion and at least once every 3 years thereafter during the period of affordability.

Inspections must be based on a statistically valid sample of units appropriate for the size of the HOME-assisted project, as set forth by HUD through notice. For projects with one-to-four HOME-assisted units, participating jurisdiction must inspect 100 percent of the HOME-assisted units and the inspectable items (site, building exterior, building systems, and common areas) for each building housing HOME-assisted units.

The development process will also be monitored by city of Las Vegas staff through the draw process, including reviewing draw or reimbursement requests.

### **Development Property Management:**

Many established owners have property management departments within their organizations or have created separate organizations to perform this function. Other developers hire one management firm to manage properties in its portfolio. Property management is important to ensure the owner's physical, financial, administration and occupancy performance standards for the property. When working with the city of Las Vegas assisted units, it is expected that the owner enter into an agreement that the units will be operated in accordance with all applicable regulations.

### **Subsidy Layering:**

Before committing funds to a rental project, city of Las Vegas will evaluate the project and verify that the owner did not request or was not allocated any more HOME funds in combination with other governmental assistance than is necessary to provide the affordable housing. City of Las Vegas is required to review and keep project records demonstrating that each rental housing project meets required subsidy layering guidelines. Part of the documentation process includes a Proforma (project income and expense statement) which should include achievable rent levels, market vacancies and operating expenses.

**Underwriting Analysis and Developer Capacity and Market Need:**

In order to comply with HUD Notice CPD 12-007 (Operating Guidance for Implementing FY 2012 HOME Appropriation Requirements), all HOME funded projects from 2012 forward will utilize the HOME Underwriting Template or equivalent to determine project feasibility and debt capacity. In addition, City of Las Vegas will comply with the requirements of the notice through the following steps:

**Requirement:** Before entering into a legally binding written agreement to provide HOME funds to a HOME activity set up in IDIS under a 2015 Consolidated Plan/Annual Action Plan Project, a Participating Jurisdiction (city of Las Vegas) must:

**1) Complete project underwriting, developer capacity analysis, fiscal soundness assessment and examine neighborhood market conditions to determine if there is need for the project.**

- **Underwrite the project or evaluate the underwriting of another funder.**
- **Assess the development capacity and fiscal soundness of the developer; and**

City of Las Vegas will use the CHDO certification documents to determine if the developer, non-profit or CHDO has adequate development capacity and is financially sound. A copy of the results and conclusions shall be placed in the project file.

- **Examine neighborhood market conditions to ensure adequate need for each project.**

City of Las Vegas will use the data in the consolidated plan regarding the need for affordable or special needs housing or another source to document project need. A copy of the determination shall be placed in the project file.

**2) CHDO Development Capacity shall be evaluated to determine if they have the capacity to complete the proposed project.**

City of Las Vegas will use the CHDO certification process to determine if the agencies who desire to be CHDO and develop projects in the city have the capacity to complete proposed projects.

The focus of this analysis shall include a strong emphasis on CHDO staffing. HUD defines CHDO staff as paid employees who are responsible for the day-to-day operations of the CHDO. Staff does not include volunteers, board members, or consultants.

**HOME Investment per Unit:**

The HOME program has minimum and maximum per-unit subsidy limit on projects.

- The minimum HOME investment is \$1,000.00

- The maximum HOME investment is determined by HUD and is adjusted annually. Contact city of Las Vegas for maximum allowed per unit investment.

## **PROPERTY SPECIFICS:**

### **Project Type:**

HOME rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management and financing. Projects may be permanent housing, transitional housing, group homes and SRO's. There are no preferences for project or unit size or style. Any property previously financed with HOME funds that is still in the affordability period is not eligible for additional HOME funding. HOME funds will not be used for operations or modernization of public housing projects.

### **Property Standards:**

All properties constructed or rehabilitated with city of Las Vegas funds will meet the minimum local codes and standards. Properties will be monitored to meet the applicable standards annually. Owners must maintain properties in accordance with property standards throughout the affordability period. Monitoring visits will be conducted by city of Las Vegas to ensure property standards are being met.

### **Accessibility:**

In addition to applicable Fair Housing Requirements, assisted housing must meet the accessibility requirements of 24 CFR Part 8 which address "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development". The purpose of this part is to effectuate Section 504 of the Rehabilitation Act of 1973.

### **Affordability:**

An affordability period will be determined by the amount of funds invested in a project. City of Las Vegas has the right to require a minimum affordability period beyond that required by HUD (outlined above) and typically requires a minimum of 20 years. Throughout the period of affordability the owner must enforce funding requirements. This includes rent limits, income limits and property standards. Affordability requirements apply without regard to the term of any mortgage or loan, or transfer of ownership. During the affordability period the project will be inspected and monitored annually for compliance with funding requirements. During the affordability period all assisted units must be in compliance with rent and income limits.

### **"Fixed" or "Floating" HOME units:**

City of Las Vegas will determine the number of units based on the funding award. Generally, city of Las Vegas allows the owner of the project to determine if the assisted units will be "fixed" or "floating. A "fixed" unit is when the owner applies funding requirements to specific units throughout the affordability period, for example unit #1 would always be an assisted unit. This is

sometimes an easier process because it allows consistent knowledge of which unit is a restricted for monitoring and file inspection purposes. A “floating” unit is when the units throughout the project. No matter which decision an owner makes, there always has to be the required amount of designated city of Las Vegas units in the project.

**Rent Limits:**

Every HOME unit is subject to rent limits. HUD releases rent limits annually. The rent limits are maximums that can be charged per unit by bedroom size including a utility allowance. If a unit has multiple restrictive funding sources, e.g. HOME and Low Income Housing Tax Credits, the more restrictive programs guidelines must be met for rent and income limits. At no time can a tenant be charged more than HOME rent limits even in conjunction with another program. Current limits are available from city of Las Vegas.

**Determining Allowable Rent:**

To determine the maximum rent allowed for contract rents you must consider both the HUD Rent standards and the utility allowances. After you have made sure that a tenant meets the required income levels to occupy an assisted unit, you must also verify you are meeting the rent requirements. You will begin with the rent standards allowed for the unit bedroom size, the High or Low HOME rent or 30 percent of the targeted income for an appropriate family size. The amount of the utility allowances must then be subtracted from rent limit to determine the total tenant rent. Overpayment of rent by either the renter or the Section 8 program will result in the owner reimbursing that amount of the overpayment to the tenant or the housing authority. Rents may be adjusted annually based upon revised rent limits published by HUD, however tenant rents cannot be adjusted until their leases are renewed and must be provided 45 days’ notice.

**TENANTS****Income:**

Before a tenant occupies a HOME unit, all income must be verified with third-party documentation. In such instances where management is unable to obtain third-party documentation sources documents, such as wage statements, interest statements and unemployment compensation statements for the past 60 to 90 days may be used. The agency will be required to collect and obtain this information to be kept in client file. City of Las Vegas requires the Part 5/ Section 8 definition of annual income. If a household member 18 years of age or older are claiming they receive no income, they are required to complete an Affidavit of Non-employment.

**Recertification:**

To ensure compliance with the affordability period, owners must establish systems to re-certify tenant income on an annual basis. Typically each tenant’s income will be examined on the anniversary date of the original income certification or at lease renewal. However, the owner may adopt an annual schedule to perform all verifications at the same time. Recertification

documentation will be monitored by city of Las Vegas. There are two alternative methods to the initial income verification method which may be used:

- 1) A written statement from the family indicating size and income. This must include a signed certification from the family and source documents must be available upon request.
- 2) A written statement from the administrator or other government program from which the family receives benefits. Statements must include family size, current income, current income limit for their program and a statement that the family's income does not exceed that limit.

Full income verifications and collection of source documents is required every sixth year.

#### **Over Income Tenants:**

A tenant's income is likely to change over time. If these changes occur during the affordability period, the project owner must take certain step to maintain compliance with HOME rent and occupancy requirements. The project must maintain the correct number of units targeting the identified incomes.

- Rents must be adjusted for tenants whose incomes rise above 80 percent of the area median income to either 30 percent of tenant income or fair market rent.
- If the income of a tenant occupying a Low rent unit increases, but does not exceed 80% of the area median income, that unit becomes a High rent unit and the Low rent unit must be the next available unit (if floating units) or HOME assisted unit (for fixed units) to a very low income tenant that meets the 50% median income requirement. Subject to the terms of the lease, the rent of the initial tenants whose income has increased may be increased to the High rent limit for the unit. This process should not increase the number of assisted units.
- If a tenant's income increases above 80% of the area median income, the unit this tenant occupies is still considered to be a HOME unit, but the tenants rent must be adjusted. In projects where the HOME units float, the next available unit in the project of comparable size or larger must be rented to a HOME eligible household. The unit occupied by the over-income tenant is no longer considered HOME assisted, and the rent of that unit can be adjusted as appropriate.

#### **THE LEASE**

##### ***Term:***

The term between the tenant and the owner must be at least one year (12 months).

##### ***Language:***

The lease may **NOT** contain the following provisions:



- **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 rights 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 owners 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 tenants right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- **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.

***Termination:***

Termination of the lease requires a 30 day notice of refusal to renew or termination of tenancy.

**HOMEBUYER/HOMEOWNER ACTIVITIES**

***Eligible Activities:***

Eligible homebuyer activities include the construction of new housing units or down payment assistance for low income households.

Eligible homeowner activities include the rehabilitation of housing units that are owned and occupied by low income households. In addition, funds may be used for costs associated with refinancing the owner's mortgage if this is necessary to reduce the families overall housing costs.

***Eligible Costs:***

In general, eligible costs under rental housing are eligible for homeowner/homebuyer activities, including the following:

- Development hard costs for both new construction and rehabilitation;
- Refinancing costs to permit the improve the affordability for the owner of a home being rehabilitated;
- Acquisition costs;

- Costs relating to loans;
- Related soft costs
- Architectural, engineering or related professional services required;
- Costs to process and settle the financing for a project;
- Costs of a project audit required by the city of Las Vegas respect to the development;
- Operating costs directly related to carrying out the project, such as work specifications preparation, and loan processing inspections;
- Costs for the payment of impact fees charged for all developments within a jurisdiction; and
- Costs of environmental review and release of funds in accordance with 24CFR part 58 directly related to the project.

In contrast to rental projects, assistance may be provided to assist a household to purchase a home that was previously assisted with city of Las Vegas funding.

***Prohibited Activities:***

Funds may NOT be used to pay for any cost that is not eligible costs under the HOME program at 92.206 and 209, including delinquent taxes, fees or charges on properties to be assisted. City of Las Vegas funding may also not be used to pay the costs of administering a homebuyer assistance or homeowner rehabilitation program.

***Forms & Amount of Assistance:*** [HUD Regulations 24 CFR 92.205(b)]

In general, assistance provided to homebuyers and homeowners will be in the form a deferred loan. Typically, the assistance will be subject to recapture provisions as outlined in the Consolidated Plan; however if the amount of assistance provided to individual homebuyers through a CHDO as a developer will be subject to resale requirements. Additional funds may be allocated to the sub-recipient to pay directly related soft costs. These funds may be provided as a grant to the sub-recipient to make the program feasible.

***Program Requirements:***

All entities funded for the development of for-sale units or to provide financial assistance for the purchase or rehabilitation of owner-occupied housing are responsible for ensuring the assisted household is eligible, the property is qualified, appropriate documents are executed, and project processing steps outlined in the funding agreement are followed. The latter including but not limited to city of Las Vegas completion of the environmental and sub-recipient staff checking the federal debarred list and reviewing required inspections.

It is important that sub-recipients administering homeownership programs make every effort to assist the homebuyer to understand the process of purchasing a home, the long-term commitment of purchasing a home, the implications of accepting a mortgage and under different terms, the recapture or resale option, and to consider the ability of the family to maintain a mortgage over time.

**Monitoring:**

Programs will be monitored annually, as long as the program is operating. Staff will review 20 percent of program files for compliance with income determination procedures and property eligibility, evaluation of affordability, written agreements, documentation that property is the principal residence enforced by lien or mortgage, title documentation, copy of deed or other ownership documentation, recapture/program income documentation, lead-based paint notification, etc.

**COMMUNITY HOUSING DEVELOPMENT ORGANIZATION**

A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. The definition of a CHDO, as well as other regulations regarding CHDOs, can be found in the Code of Federal Regulations Title 24 (Housing and Urban Development), Part 92.300. To be certified or re-certified as a CHDO, the non-profit organization must 1) submit this completed application to the City of Las Vegas HOME Consortium staff and 2) meet the additional criteria regarding proposing and constructing an affordable housing development project(s).

In order to qualify **and/or** be recertified as a city of Las Vegas CHDO, an organization must meet certain criteria **and** be certified/re-certified by the City of Las Vegas staff. **All existing city of Las Vegas CHDOs must be recertified on an annual basis.** The criteria (24 CFR 92.300 and HUD Notice CPD 97-11) include legal status, organizational structure, capacity, experience, and financial standards:

**CHDO Certification:** A CHDO seeking city of Las Vegas recertification or an organization/agency seeking certification as a CHDO must:

- Be organized under state/local laws;
- Have a provision of decent housing that is affordable to low-and moderate- income persons among the purposes of the organization and this commitment must be evidenced in the CHDO's:
  - charter,
  - articles of incorporation,
  - by-laws, or
  - a resolution of the CHDO's board of directors.
- Assure that no part of the CHDO's earnings (profits) may benefit any members, founders, contributors or individuals.
- Have a clearly defined geographic service area.
- Have proof of nonprofit status: A CHDO must have received a tax-exempt ruling from the IRS under Section 501(c) (3) or (4) of the Internal Revenue Code of 1986 in order to be designated as a CHDO, or it may be classified as a subordinate of a central organization nonprofit under Section 905 of the Internal Revenue Code. A group exemption letter from the IRS that includes the CHDO is required. The 501 (c) designation must either be a conditional or final designation; **a pending 501(c) status will not meet the requirements.**

A CHDO seeking city of Las Vegas recertification or an organization/agency seeking certification as a city of Las Vegas CHDO must have a governing board organized as follows:

**LOW INCOME REPRESENTATIVES:**

**At least 1/3** of the governing board must be: residents of low-income neighborhoods (neighborhoods where 51% or more of the residents are low-income); or other low-income residents of the community (low income defined as having an annual income of less than 80% of the area median income). If the individual does not live in a low income neighborhood, the CHDO or the resident will need to certify that they qualify as low income; or

- elected representatives of low-income neighborhood organizations whose primary purpose is to serve the interests of the neighborhood residents (i.e., block groups, town watch groups, civic associations, neighborhood church groups)
- should the CHDO not have the full complement of low-income representatives on the board, the CHDO has 45 days in which to fill that position. *The CHDO is considered out of compliance with the requirements for CHDO status when they do not have the full one-third low income members on the board and decisions of the board cannot be finalized without the minimum required 1/3 low income members.*

Input from the low-income community is not accomplished only by having low-income representation on the board. The CHDO must also provide a copy of the formal, written process for low-income program beneficiaries to advise the CHDO on design, development and management of affordable housing. The process must be described clearly and it must be included in the organization's bylaws or through a board resolution. This requirement is especially important for CHDOs serving a large geographic area where it may not be possible for a CHDO to have low-income representatives on its board from every neighborhood in which it will develop, own or sponsor housing.

City of Las Vegas CHDOs should establish systems for community involvement in parts of their service areas where housing development is planned but which are not represented on their boards, for example:

- Ad hoc or special committees of neighborhoods of a proposed development site; and/or
- Neighborhood advisory boards (NABs) or similar groups; and/or
- One or more open neighborhood or town meetings; and/or
- Temporary expansion of the CHDO board to include neighbors during the period of housing planning and development activity; and/or
- Resident advisory committees/boards.

**STATE OR LOCAL GOVERNMENT APPOINTMENTS:**

**No more than 1/3** of the governing board may be appointed by a state or local government. Those representatives who are appointed by public officials cannot select other members of the board. Other restrictions on the participation of public officials on the boards of nonprofit organizations seeking public funds apply and CHDOs must observe conflict-of-interest policies.

**PUBLIC SECTOR REPRESENTATIVES:**

**No more than 1/3** of the board may be public officials or representatives of the public sector (low income residents/representatives who work for a public agency in *any* capacity must be considered

public sector representatives.) The HOME program does not set any other limits on the composition of a CHDO's governing board and the remaining seats may be filled by a wide variety of individuals.

#### ***CAPACITY/EXPERIENCE:***

A city of Las Vegas CHDO seeking recertification or an agency seeking certification as a city of Las Vegas CHDO must **currently** demonstrate **capacity** to carry out HOME assisted activities either with:

- experienced staff who have successfully completed similar projects, which draws a distinction between development, management of rental housing and development, sale of housing for first-time homebuyers, OR
- key staff with limited or no experience who will utilize experienced consultants (if consultants are in charge of development, there must be **a written plan submitted yearly to the city of Las Vegas** indicating how the consultant will train key staff during that funded year).

Note that there are differences in required experience and capacity required to carry out the variety of housing development activities eligible under the HOME program. Also, the purpose of the CHDO capacity requirement is for the CHDO to build its own professional staff so the staff cannot be municipal, county or state employees or consultants (paid or volunteer) not planning to train for the CHDO's key staff. Should CHDOs wish to share staffs with other nonprofits, a written formal agreement outlining the work to be undertaken and the service period must be in place.

***CHDO Eligible Set-Aside Project:*** The city of Las Vegas also must invest at least fifteen (15) percent of its total HUD HOME allocation (24 CFR 92.300(a)) in projects that are owned, developed or sponsored by CHDOs and which will result in the development of homeownership or rental units, including projects that have a new construction or rehabilitation component. The CHDO can act in one of the three capacity roles as listed below:

(a) Owner: The CHDO is an "owner" when it holds valid legal title to or has a long-term (99-year minimum) leasehold interest in rental property. The CHDO may be an owner with one or more individuals, corporation, partnership or other legal entities, so long as the CHDO has effective control of the project.

(b) Developer: A CHDO is a "developer" when it either owns a property and develops a project, or has a contractual obligation to a property owner to develop a project.

(c) Sponsor: A CHDO is a sponsor if it develops a project that it solely or partially owns and agrees to convey ownership to a second non-profit organization at a predetermined time or it is a sponsor for HOME-assisted homebuyer's program when it owns the property, then shifts responsibility for the project to another nonprofit at some specified time in the development process and the second non-profit in turn transfers title, along with the HOME loan/grant obligations and resale requirements, to a HOME-qualified homebuyer within a specified timeframe.

**Monitoring:** city of Las Vegas staff will review annually information to ensure the CHDOs continued compliance with Board composition requirements, status as a non-profit entity that the CHDO is operating free from control of any individual or organization seeking to profit from CHDO activities, eligibility of set-aside projects, and eligibility of expenses paid for CHDO projects.

## **APPLICATIONS**

All HOME Program Funds are allocated based on the review and recommendations pertaining to applications submitted to the City of Las Vegas through a yearly funding process. However, no contracts/agreements for funding can be executed until the city of Las Vegas has executed funding agreements with HUD, which may be as late as October of the program year.

This is a competitive application process for limited funding; therefore, applications that meet all criteria are not guaranteed an award of funds and successful applications may be funded for less than the amount requested. Funding requests may be adjusted based on underwriting, subsidy layering reviews, the Consortium's determination of the financial gap, proven market-based demand and economic growth.

### ***Application Process:***

Applications may only be submitted through the ZoomGrants link on the City of Las Vegas website. No hard copies will be accepted.

### **Information related to all applications:**

- This is a competitive application process for limited funding. Applicants that meet criteria are not guaranteed an award.
- Successful applications may be funded for less than the amount requested.
- No contracts/agreements can be executed until city of Las Vegas staff has executed funding agreements with HUD. The funding agreement from HUD is usually received in September of each year.
- Agencies that are currently receiving City CDBG funds, who are also applying for HOME funds, must be in compliance with all terms of their current agreement(s) and must not have any outstanding audit findings, monitoring findings or concerns as determined by the city of Las Vegas.
- The applicant must submit an applicant certification form (included in the application) signed by the Chair or President of the Board of Directors.
- The city of Las Vegas may adjust funding requests based on underwriting, subsidy layering review, revised determination of the financial gap, revised evaluation of the city of Las Vegas proportionate, share proven market-based demands and economic growth.
- No work on the project may begin nor can HOME Program funds be released until the environmental review process has been completed in accordance with the provisions of the National Environmental Policy Act of 1969 and the related authorities listed in HUD's Regulations at 24 CFR Parts 50 and 58.
- If a development site is purchased or under a purchase agreement prior to or during the funding round the purchase must not be subject to the receipt of city of Las Vegas funding.

- The applicant may be ineligible to be considered for funding if, in city of Las Vegas's discretion, the applicant has demonstrated an untimely use of previously awarded HOME funds.
- The applicant shall not exclude any organization or individual from participation under any program funded in whole or in part by HOME Program funds on the grounds of age, disability, race, creed, color, national origin, familial status, religion or sex.
- No applicant, clients or contractors that have been suspended or debarred under HOME (debarred list at <http://epls.arnet.gov>) or any other federal program may receive HOME funds.

#### ***Programs Applications:***

Annually approximately 90% of the available funds will be set-aside to fund programs, which may include CHDO, homebuyer assistance, rehabilitation, rental production/acquisition/rehabilitation and tenant-based rental assistance, as necessary through a subsequent RFP process. Annually the City's Consolidated Plan needs and goals will be established and the RFPs will be issued for the identified programs. The programs shall be funded to operate July 1 through June 30, with uncommitted funds de-obligated at the end of each contract year and made available during the project funding cycle.

#### ***Post Award Requirements:***

Projects and programs awarded funding must:

- Enter into a funding agreement within 24 months, beginning July 1 of the funding year;
- Begin to expend funds within 12 months of executing a funding agreement;
- Expend all funds within 60 months of the allocation, beginning July 1 of the funding year;
- Complete relocation surveys, if applicable, within 90 days of obtaining site control, if the previous owner denies access to complete this activity, then the surveys must be completed within 90 days of assuming management control; and
- Must not conduct any activity at the project site until the HUD required environmental review has been completed.

#### ***CHDO Certification/Recertification Application:***

Certified CHDOs or organizations that wish to be certified as a city of Las Vegas CHDO use this application to apply for certification. Certified CHDOs must be **re-certified** for each project, providing all documentation required for initial certification. Agencies meeting the CHDO certification requirements as indicated in the CHDO section of these operating procedures will be recommended by the city of Las Vegas staff certification.



## APPENDIX A - CHDO CAPACITY SELF-ASSESSMENT TOOL

The information contained in this checklist refers to the definition of Community Housing Development Organizations (CHDOs) in Subpart A, 92.2 of the HOME Rule. The checklist is a tool for participating jurisdictions concerning the documents they must receive from a nonprofit before it may be certified or recertified as a CHDO. For monitoring purposes, PJs should be asked to maintain the completed checklist on file to document compliance with the regulations

CHDO Requirements	Rule Citation	Requirement satisfied & documented
<b>ORGANIZATIONAL REQUIREMENTS</b>		
<b>1. Legal structure</b>		
1.1. The organization is organized under state or local law.	§92.2 CHDO Definition ¶ (1)	<input type="checkbox"/>
1.2. The organization has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons.	§92.2 CHDO Definition ¶ (7)	<input type="checkbox"/>
1.3. The organization has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.	§92.2 CHDO Definition ¶ (2)	<input type="checkbox"/>
1.4. The organization is not under the control or direction by any individual or entity seeking to derive profit or gain.	§92.2 CHDO Definition ¶ (3)	<input type="checkbox"/>
1.5. The organization has one of the following IRS tax exempt statuses:  1.5.1. Exemption under 501(c)(3) or 501(c)(4); 1.5.2. Subordinate of a central nonprofit under IRC Section 905; or 1.5.3. A private nonprofit that is a wholly owned subsidiary of an organization that has 501(c)(3) or (c)(4) status and meets the CHDO definition.	§92.2 CHDO Definition ¶ (4)	<input type="checkbox"/>
1.6. The organization is not a governmental entity (any of the following: participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, or redevelopment authority).	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/>
<b>2. Independence</b>		
2.1. Public officials & employees of a governmental entity may comprise no more than 1/3 of the board.	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/>
2.2. Officers and employees of a governmental entity cannot be officers (e.g. CEO, CFO, or COO) or employees of a CHDO.	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/>



<b>CHDO Requirements</b>	<b>Rule Citation</b>	<b>Requirement satisfied &amp; documented</b>
2.3. If the organization was created by a governmental entity, then the governmental entity that created the organization may not appoint more than 1/3 of the board members and board members appointed by the governmental entity may not appoint remaining 2/3.	§92.2 CHDO Definition ¶ (5)	<input type="checkbox"/> Applicable
2.4. If the organization was created by a for-profit entity, then 2.4.1 through 2.4.4 apply:		<input type="checkbox"/> Applicable
2.4.1. The for-profit entity that sponsored or created the organization may not have as its primary purpose the development or management of housing, such as a builder, developer, or real estate management firm.	§92.2 CHDO Definition ¶ (3)(i)	<input type="checkbox"/>
2.4.2. The for-profit entity that created the organization may not appoint more than 1/3 board members, and for-profit-appointed members may not appoint remaining 2/3 of board.	§92.2 CHDO Definition ¶ (3)(ii)	<input type="checkbox"/>
2.4.3. Officers and employees of the for-profit entity that created the organization cannot be officers or employees of the CHDO.	§92.2 CHDO Definition ¶ (3)(iv)	<input type="checkbox"/>
2.4.4. The organization must be free to contract for goods & services with others.	§92.2 CHDO Definition ¶ (3)(iii)	<input type="checkbox"/>
<b>3. Accountability to the Low Income Community</b>		
3.1. The organization must have a designated service area (i.e. the “community” in which it produces housing). A community can be a neighborhood or neighborhoods, city, county, metropolitan area, or multi-county area (but not the entire State).	§92.2 CHDO Definition ¶ (8)(i)	<input type="checkbox"/>
3.2. At least 1/3 of the board members are: 1) low-income; 2) residents of a low-income neighborhood; or 3) elected representatives of a low-income neighborhood organization.	§92.2 CHDO Definition ¶ (8)(i)	<input type="checkbox"/>
3.3. The organization has a formally adopted process for low-income beneficiaries to advise it on decisions regarding design, siting, development, and management of housing.	§92.2 CHDO Definition ¶ (8)(ii)	<input type="checkbox"/>
3.4. The organization has at least 1 year of serving the community, or, if it is formed by local churches, service organizations, or neighborhood organizations, its parent organization meets this requirement.	§92.2 CHDO Definition ¶ (10)	<input type="checkbox"/>
<b>4. Capacity</b>		
4.1. The organization has financial management systems that conform to 2 CFR 200.302 and 200.303	§92.2 CHDO Definition ¶ (6)	<input type="checkbox"/>

CHDO Requirements	Rule Citation	Requirement satisfied & documented
4.2. The organization has paid employees with demonstrated experience relevant to the CHDO's role in undertaking the HOME activity to be funded. (Note: this does not include volunteers, board members, donated or shared staff, or consultants – except as described in 4.1.1. below.)	§92.2 CHDO Definition ¶ (9)	<input type="checkbox"/>
4.1.1. During the first year of an organization's funding as a CHDO only, capacity can be demonstrated through a contract with a consultant who has housing development experience to train appropriate key staff of the organization.	§92.2 CHDO Definition ¶ (9)	<input type="checkbox"/>
<b>CHDO ROLE</b>		
<b>5. CHDO set-aside project</b> CHDOs can undertake either homebuyer or rental projects, as described below, with CHDO set-aside funds:		<input type="checkbox"/> Applicable
5.1. Homebuyer projects in accordance with §92.254 To qualify under CHDO set-aside, must meet 5.1.1 and 5.1.2:		<input type="checkbox"/> Applicable
5.1.1. Developer: The organization is or will be the owner in fee simple and the developer of new or rehabilitated units for sale to low-income buyers	§92.300(a)(6)	<input type="checkbox"/>
5.1.2. The organization will control the development process including, at a minimum, arranging financing for the project and being in sole charge of construction.	§92.300(a)(6)(i)	<input type="checkbox"/>
5.2. Rental projects in accordance with §92.252 To qualify under CHDO set-aside, must meet one of the following:		<input type="checkbox"/> Applicable
5.2.1. Own: The organization is or will be owner in fee simple absolute (or will hold a long term ground lease) for at least the period of affordability. If project involves rehabilitation or construction, organization will <u>oversee</u> all aspects of development.	§92.300(a)(2)	<input type="checkbox"/>
5.2.2. Develop: The organization is or will be owner in fee simple absolute (or will hold a long term ground lease) for at least the period of affordability, and will <u>be in sole charge</u> of all aspects of the development process.	§92.300(a)(3)	<input type="checkbox"/>
5.2.3. Sponsor: Must meet one of the following:		<input type="checkbox"/> Applicable
5.2.3.1. The organization will own and develop project that it will convey at a predetermined time after completion to a designated private nonprofit (that was not created by a governmental entity).	§92.300(a)(5)	<input type="checkbox"/>

<b>CHDO Requirements</b>	<b>Rule Citation</b>	<b>Requirement satisfied &amp; documented</b>
<p>5.2.3.2. The project will be owned and/or developed by an eligible CHDO affiliate, including:</p> <ul style="list-style-type: none"> <li>• A wholly owned subsidiary of the CHDO; or</li> <li>• A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or</li> <li>• A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member.</li> </ul>	§92.300(a)(4)	<input type="checkbox"/>
<b>CHDO PREDEVELOPMENT</b>		
<p><b>6. CHDO pre-development loan</b> If a project specific pre-development loan is being provided, in addition to meeting CHDO qualification listed in Items 1 – 4 above and having a set-aside eligible project under Item 5, the predevelopment loan must designated as one of following two loan types:</p>		<input type="checkbox"/> Applicable
6.1. TA/site control loan: The loan is for allowable costs specified in §92.301(a)(2) for planning an eligible set-aside project.	§92.301(a)	<input type="checkbox"/>
6.1.1. Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b).	§92.352	<input type="checkbox"/>
6.2 Seed money loan: The loan is for allowable preconstruction costs specified in §92.301(b)(1) for planning an eligible set-aside project.	§92.301(b)	<input type="checkbox"/>
6.2.1 Document the environmental exemption under 24 CFR 58.34(a) and/or 58.35(b).	§92.352	<input type="checkbox"/>
<b>CHDO OPERATING</b>		
<p><b>7. CHDO operating expenses</b> If CHDO operating expenses are being provided, the organization must meet the CHDO qualification requirements listed in Items 1 – 4 above, or the organization must meet requirements in 1-3 and item 4.1 above and be receiving the operating funds specifically to hire staff to meet the requirements in 4.2 above.</p> <p>In addition, the CHDO must meet the following requirements</p>	§92.208(c)	<input type="checkbox"/> Applicable
7.1. The organization is funded from the set-aside for a project under development, or is reasonably expected to be funded from the CHDO set-aside within 24 months	§92.300(e)	<input type="checkbox"/>
7.2. The operating expense funds will be used for eligible operating costs that are reasonable and necessary	§92.208(a)	<input type="checkbox"/>
7.3. Operating expense funding (including from other PJs and any Pass-Through funding) in the fiscal year will not exceed the greater of \$50,000 or 50% of the organization's total operating expenses in that year	§92.300(f)	<input type="checkbox"/>

**City of Las Vegas**  
**COMMUNITY HOUSING DEVELOPMENT ORGANIZATION**  
**(CHDO) RECERTIFICATION – APPENDIX B**

**Organization Name:** \_\_\_\_\_

To recertify CHDO's annually the following questions must be answered (additional information may be requested):

**LEGAL STATUS**

1. Is the purpose of the organization to continue providing decent housing that is affordable to low- and moderate-income persons as evidenced by the articles of incorporation, by-laws, or a resolution by the Board of Directors? \_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

2. The CHDO's clearly defined service area includes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Does the organization have current tax-exempt ruling from the IRS under Section 501(c)?  
\_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

**ORGANIZATIONAL STRUCTURE**

4. Does the organization's board of directors have representation of the low-income community?  
\_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

5. List all board members:

Member	Representation

NOTE: Please indicate which board members represent the low-income community and in what capacity (residents of low-income neighborhoods in the community, low-income residents of the community, or elected representative of low-income neighborhood organizations.)

**I hereby certify that to the best of my knowledge and belief, that the information provided is factual and accurate.**

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Title:** \_\_\_\_\_

## **APPENDIX C - city of Las Vegas HOME Program AFFIRMATIVE FAIR HOUSING MARKETING PLAN**

### **STATEMENT OF POLICY**

The City of Las Vegas, in accordance with the regulations of the HOME Investment Partnership (HOME) Program (24 CFR 92.3510), has established this “Affirmative Fair Housing Marketing Plan” to ensure that the city and all entities to whom they have allocated HOME Funds employ a marketing plan that promotes fair housing and ensures outreach to all potentially eligible households, especially those least likely to apply for assistance.

The City’s policy is to provide information and attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. The procedures followed are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and Executive Order 11063, which prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

### **PROCEDURES**

The HOME Final Rule regarding affirmative marketing procedures and requirements apply to rental and homebuyer projects containing five or more HOME-assisted units. Procedures are not required for tenant-based rental assistance (TBRA) recipients.

The city of Las Vegas is committed to the goals of affirmative marketing that will be implemented through the following procedures:

- A. Providing equal service without regard to race, color, religion, sex, handicap, familial status, or national origin of any client, customer, or resident of any community;
- B. Keeping informed about fair housing laws and practices;
- C. Informing clients and customers about their rights and responsibilities under the fair housing laws by providing verbal and written information;
- D. Evaluating the effectiveness and compliance of all marketing as it relates to fair housing;
- E. Including the *Equal Opportunity* logo or slogan, and where applicable the accessibility logotype, in all ads, brochures, and written communications to owners and potential tenants;



- F. Displaying the HUD's fair housing posters (at a minimum, English and Spanish versions) in rental offices or other appropriate locations;
- G. Soliciting applications for vacant units from persons in the housing market who are least likely to apply for assistance without the benefit of special out-reach efforts; working with the local public housing authority and other service and housing agencies to distribute information to a wide and diversified population;
- H. Maintaining documentation of all marketing efforts (such as copies of newspaper ads, memos of phone calls, copies of letters).
- I. Maintaining a record of applicants for vacant units with a general profile of the applicant, how the applicant learned of the vacancy, the outcome of the application, and if rejected, why; maintaining this record for two years or through one compliance audit, whichever is the shorter period of time.

## ASSESSMENT

In conjunction with the annual on-site compliance reviews, the city of Las Vegas will:

- A. Review and evaluate records of affirmative marketing efforts (advertisements, flyers, and electronic media spots, etc.);
- B. Evaluate outcomes and effectiveness of marketing efforts and make changes where needed.
- C. Evaluate whether good faith efforts have attracted a diversified cross-section of the eligible population.

## CORRECTIVE ACTIONS

Failure to meet affirmative marketing requirements will result in the following corrective actions:

- A. **For failure to comply**, city of Las Vegas will set a probationary period for compliance, not to exceed six months, during which time the city of Las Vegas will provide more specific guidelines for compliance.
- B. **Further failure** to comply with the affirmative marketing requirements may result in the withdrawal of HOME support.
- C. **Further failure** to take appropriate actions to correct discrepancies in affirmative marketing programs may result in steps to recover all invested HOME funds.

## **APPENDIX D - MONITORING PLAN**

### **Objectives**

The objective of the City of Las Vegas HOME Monitoring Plan is to establish standards for evaluating and reporting compliance with program requirements. City of Las Vegas will conduct on-site reviews to verify accuracy of programmatic and financial records/documents, review program policies and procedures, conduct housing inspections, and evaluate overall administrative compliance to HOME Regulations.

### **Monitoring Format**

A written Report will be prepared and provided to the subrecipient following the completion of each monitoring review. The report will include the following information:

- An explanation of the purpose and scope of the review;
- A list of findings, comments, recommendations, and corrective actions to be taken;
- A list of the client files reviewed;
- A list of the houses/units inspected;
- A summary of project funds expended to date;
- An evaluation of project performance to date; and
- A time frame for taking corrective action.

### **Monitoring Compliance**

HOME activities (TBRA, CHDO, and Homeowner Rehabilitation) will be evaluated on the basis of the following program areas:

- Adherence to HOME guidelines, procedures, and regulations;
- Administrative plan, Scope of Work, and program policies and procedures;
- Overall administration and management;
- Financial management;
- Fair Housing;
- Housing Quality Standard Inspections;
- Davis-Bacon and Lead Based Paint, if applicable; and
- Environmental Review

### **Pre-Monitoring Preparation**

Prior to an on-site monitoring visit, the City of Las Vegas will provide written notification of the visit to the subrecipient. The notice will provide the following information:

- The date(s) and time of the visit;

- A copy of the monitoring checklist;
- A list of the properties to be inspected and client files to be reviewed;
- The subrecipient will be asked to provide the City with the following:
  - Disbursement and expenditure reports;
  - Agreements/contracts;
  - Policy guidelines and procedures, administrative plans, and
  - operation manuals;
  - Beneficiary and HMIS data
  - Chart of Accounts
  - Job Descriptions/Organizational Chart
  - Most recent audit
  - Bank Statements
  - General Ledger Account Statements
  - Payroll Journal

### **Monitoring and Inspection Schedule**

The city of Las Vegas staff will provide program monitoring over three phases:

#### **1. Contract Development Phase**

- Ensuring that projects are consistent with the Consolidated Plan
- Ensuring that all Environmental Review requirements have been met
- Ensuring clients are income-eligible
- 

#### **2. Development Phase**

- Ensuring that project costs, budgets, and timelines are adhered to
- Ensuring conformance to HOME standards through periodic property inspections

#### **3. Post-Development Phase (Long-Term)**

- The duration and frequency of on-sight project monitoring and inspections is based on the length of the affordability period.

### **Primary Monitoring Forms and Checklists (Appendix D.1)**

- HUD Checklist Exhibit 7-3: Guide for Review of Homeowner Rehabilitation Projects
- HUD Checklist Exhibit 7-5: Guide for Review of Homebuyer Projects
- HUD Checklist Exhibit 7-7: Guide for Review of Rental Projects
- HUD Checklist Exhibit 7-9: Guide for Review of TBRA Projects

### **Primary Financial Monitoring Forms and Checklists (Appendix D.2)**

- HUD HOME Program Guide for Review of Financial Management (all programs)



**Appendix F**  
**Process Checklist for HOME Program Projects** (Revised 5-2018)

Name of Project\_\_\_\_\_ Project Number\_\_\_\_\_

**Underwriting Phase**

- \_\_\_ Receipt of Application
- \_\_\_ HUD Layering Review
- \_\_\_ Neighborhood & Site Standards review (*applies to new construction only*)
- \_\_\_ Lead Paint compliance review
- \_\_\_ Project is designed to meet HOME rehab/new construction standards
- \_\_\_ Entire project will meet State Building Code
- \_\_\_ Independent Cost Estimate
- \_\_\_ Proper 3<sup>rd</sup> party construction oversight
- \_\_\_ Assessment of developer capacity and fiscal soundness
- \_\_\_ Assessment of market demand
- \_\_\_ Compliance with HOME minimum and maximum subsidy per unit, minimum # HOME units,  
HOME affordability period (*cost allocation worksheet*)
- \_\_\_ Developer/applicant debarment check, search result on file
- \_\_\_ Evaluation of owner/developer profit

**Site Information**

- \_\_\_ Site Control (e.g. Deed, Option, P&S)
- \_\_\_ Appraisal (to support acquisition price)
- \_\_\_ Documentation of existing tenant income (*for occupied units*)

***Uniform Relocation Act:***

\_\_\_ Written Relocation Plan and Budget

\_\_\_ URA Tracking Spreadsheet (including existing tenants and incomes, dates and types of notices sent, pre rehab rents & utility allowances, proposed post-rehab rents & utilities).

\_\_\_ Section 104(d): One-for-One Replacement  
review Required URA notices, with evidence of receipt:

\_\_\_ Voluntary Acquisition Letter (between seller & buyer, before acquisition)

\_\_\_ General Information Notice

\_\_\_ Notice of Non-Displacement or Displacement

\_\_\_ Notice of Temporary Relocation –or- Notice of Eligibility of Relocation Benefits

***Environmental Review:***

\_\_\_ Environmental Review Request Form (in application)

\_\_\_ Environmental Review (Cat Ex or EA) – complete Environmental Review Record w/ copy of published notice and release of funds letter from HUD

\_\_\_ Initial Review by Historic Consultant for compliance with Sec. 106

\_\_\_ Historic Preservation Final Sign off

**Project Financial**

\_\_\_ Development Budget including Sources and Uses

\_\_\_ Operating Budget (Rents meet HOME and URA Requirements)

\_\_\_ 20 year Budget Proforma

\_\_\_ Commitment Letters from all Funding Sources

\_\_\_ Plans and Specs

\_\_\_ Project Development Schedule

## Closing Phase

\_\_\_ Fully Executed HOME Grant/Loan Agreement

\_\_\_ All Special and Standard Conditions Met

## Construction Phase

\_\_\_ Compliance w/ Procurement Policy:

\_\_\_ HOME Program Bid Selection and Contract Award Summary

\_\_\_ Minority Business Enterprises (MBE) and Women Business Enterprises (WBE)

\_\_\_ Bid process contains all federal conditions and HOME rules

\_\_\_ Section 3 Clause Attachment to Contract (*only required for contracts over \$100,000*)

\_\_\_ Contractor's Certification re: Debarment

\_\_\_ Contractor debarment/eligibility check **before contract execution**:

\_\_\_ Check City of Las Vegas Prohibited Contractor's list

\_\_\_ Copy of NV Sec. of State corp. (should be in the application)

\_\_\_ Copy of SAM search: <https://www.sam.gov/> (closing requirement)

\_\_\_ Contractor's Disclosure of Lobbying Activities

\_\_\_ Contractor's Certification for Contracts, Grants, Loans, Cooperative Agreements

\_\_\_ Certificate of Insurance

\_\_\_ Performance and Payment Bonds or Letters of Credit (*only contracts over \$100,000*)

\_\_\_ Davis Bacon Compliance (*required if there are 12 or more HOME units*)

\_\_\_ Pre-Construction Meeting

\_\_\_ Weekly Payroll sheets

\_\_\_ Random interview

\_\_\_ Wage Poster

\_\_\_ Change Orders

\_\_\_Lien Waivers

\_\_\_Architect's certification with each disbursement request

\_\_\_Construction inspection report from OCS inspection staff

\_\_\_Certificate of Occupancy (*required before final HOME disbursement*) \_\_\_Energy Star Certification (*all new construction and most substantial rehab*)

## **Tenant Selection**

\_\_\_Tenant Selection Policy

\_\_\_Affirmative Marketing Plan

\_\_\_Tenant Lease (check for prohibited language)

\_\_\_"Protect Your Family from Lead in Your Home" letter for tenants with children under 6 years

## **Project Completion**

\_\_\_Tenant Income Verifications (w/ 3<sup>rd</sup> party back-up) for HOME units

\_\_\_Initial occupancy applicable HOME Income and Rent Limit Charts

\_\_\_Rent Schedule w/ HOME units

\_\_\_# of accessible units: \_\_\_, # Energy Star units: \_\_\_

\_\_\_Final Sources & Uses Budget

\_\_\_Confirm that the MBE/WBE form contains information on Subcontractors.

\_\_\_Final URA report

\_\_\_Section 3 report – HUD form 60002

\_\_\_Digital photos of completed project

Attachment G  
Resale Recapture Policy

Recapture Guidelines

The City of Las Vegas homebuyer program activity uses only the recapture provisions of 24 CFR 92.254 (a)(4)(ii). It is believed this approach is the closest to normal market approaches to financing, the easiest for borrowers to understand, enables the deed restriction requirements of the alternative option to be avoided (which we believe constitutes a barrier to private financing participation), and better enables HOME funds to be marketed in coordination with other private lending. The recapture approach essentially results in an ongoing commitment to maintain a homeownership program because of regulatory requirement concerning the reuse of recaptured HOME funds for homebuyer assistance, while the alternative option for resale restrictions does not require the same level of ongoing assistance beyond the expiration of the affordability period tied to each property. An ongoing homebuyer assistance activity has been the City's goal and is in keeping with the basic HOME Program Descriptions.

A purchaser of a property may apply for and be provided HOME assistance subject to the property and said buyer meeting HOME Program eligibility criteria, a written agreement to comply with program terms and conditions, and the availability of funds. Mortgages include the "principal residence" requirement of the program during the affordability period, failure of which will constitute a default of a second mortgage.

The recapture option is a mechanism to recapture all or a portion of the direct HOME subsidy if the HOME recipient decides to sell the house within the affordability period at whatever price the market will bear. Forgiveness will be tied to the length of time the homebuyer has occupied the home in relation to the period of affordability and the net proceeds of the sale. The affordability period is based on the amount of HOME funds provided for the property and is forgiven at the rate noted below.

Total Homeowner	<\$15,000	\$15,000 - \$40,000	>\$40,000
Affordability Period	5 years	10 years	15 years
Percent Forgiven Per Year	20%	10%	6.67%

Calculations for the recapture include the HOME Investment, the homebuyer investment, and the net proceeds. These are defined as:

**HOME Investment** - All HOME funds contributed to the unit and any direct subsidies consisting of any financial assistance that reduces the purchase price from fair market value to an affordable price, or otherwise subsidizes the purchase.

**Homebuyer Investment** - The homebuyer's investment consists of the portion of initial down payment paid by the homebuyer combined with the value of any capital improvements made with the homebuyer's funds. Any improvement must be verified with back-up documentation on specific costs and /or value of the improvement. (See: Appendix HOME Capital Improvement for definition improvement.)

**Net Proceeds** - The net proceeds of a sale are the sales price minus closing costs and any non-HOME loan repayments.

To allow low-income homebuyers to retain some equity in their property should they need to sell, the City of Las Vegas recaptures HOME funds using the following steps:

1. **Reduction During Affordability Period.** The HOME investment amount to be recaptured will be reduced on a prorated basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.

2. **Owner Investment Returned First.** From the net proceeds of the sale, the homebuyer may recover their entire investment (down payment and capital improvements made since purchase) before the HOME investment is recaptured.

3. **Shared Net Proceeds.** If the net proceeds are not sufficient to recapture the full HOME investment (or a reduced amount according to the time the homeowner occupied the home) plus enable the homeowner to recover the amount of their down payment and any capital improvement investment made since purchase, the net proceeds will be divided proportionally as follows:

$$\frac{\text{HOME Investment}}{\text{HOME Investment} + \text{Homeowner Investment}} \times \text{Net Proceeds} = \text{HOME Recapture}$$

Any repayments received upon sale will be placed into the City's HOME account for future production or as direct homebuyer assistance. Loans are fully forgiven if the homebuyer is still occupying the property at the end of the Affordability Period.