

AUDIT REPORT TRACKING SYSTEM (ARTS)

SECTION I: SUMMARY INFORMATION			
Audit Title:	City's Performance Under the HUD Memorandum of Agreement (April 1, 2013 – April 30, 2014)	Audit Release Date:	12/17/2014
Department:	Neighborhood and Housing Services	Last Report Date:	First ARTS Report
Department Director:	John Wood	This Report Date:	09/27/2016
Contact Person/Phone:	Lois Christian	Expected Presentation Date:	11/03/2016
SECTION II: RECORD OF IMPLEMENTED RECOMMENDATIONS			
1. Implemented – 04/2015		5. Implemented – 12/1/2014	
2. Implemented – 04/2015		6. Not Implemented – Department disagreed with recommendation	
3. Implemented – 05/2015		7. Implemented – 12/1/2014	
4. Implemented – 12/1/2014		8. Implemented – 11/2014	
SECTION III: SUMMARY OF IMPLEMENTATION EFFORTS			
Recommendation 1: The director of neighborhoods and housing services should ensure performance deadlines for building or scattered site projects identified in the MOA are met or request an extension before the deadline.			
<i>Status of Recommendation: Implemented</i>			
Annual request submitted to HUD on April 2, 2015			
Recommendation 2: The director of neighborhoods and housing services should ensure CDBG/HOME subrecipients are approved by HUD before executing a contract.			
<i>Status of Recommendation: Implemented</i>			
Annual request submitted to HUD on April 2, 2015			
Recommendation 3: The director of neighborhoods and housing services should request reimbursement of CDBG/HOME grant funds from HUD at least monthly.			
<i>Status of Recommendation: Implemented</i>			
To the extent possible, reimbursement of CDBG/HOME grant funds are requested on a quarterly basis.			
Recommendation 4: The director of neighborhoods and housing services should revise the CHDO qualification checklist to reflect the new HOME CHDO regulations.			
<i>Status of Recommendation: Implemented</i>			
The CHDO Application for Certification has been revised to include the new regulations (Attachment 2).			
Recommendation 5: The director of neighborhoods and housing services should revise the CHDO contract template to include date lines next to all signature lines.			
<i>Status of Recommendation: Implemented</i>			
The contract template has been revised to include a date line next to the signature line.			
Recommendation 6: The director of neighborhoods and housing services should develop a tracking system of CHDO set-aside projects beginning with the project's planning stages to ensure the projects will be ready for commitment before the two-year deadline.			
<i>Status of Recommendation: Not Implemented</i>			
Not Implemented – As stated in prior correspondence, we disagree with this recommendation. NHSD uses the "Guide to Requesting Funding Under the 20__ Action Plan to procure CHDO projects. Procurement is done during the Consolidated Planning process. Only projects that are ready to be implemented receive funding; consequently, a system that tracks CHDO projects beginning with the planning stages is impractical.			

Recommendation 7: The director of neighborhoods and housing services should develop written policies and procedures that incorporate the new CHDO HOME regulations.
<i>Status of Recommendation: Implemented</i>
Neighborhoods and Housing Services developed written policies and procedures that incorporate the new CHDO HOME regulations (see Attachment 1).
Recommendation 8: The director of neighborhoods and housing services should develop a written underwriting policy for the KC Dream Program that bases the amount of assistance to qualified homebuyers on financial need.
<i>Status of Recommendation: Implemented</i>
The KC Dream Program policies and procedures have been revised to ensure compliance with all federal regulations.
SECTION IV: ADDITIONAL OUTCOMES

Attachment 1

Community Housing Development Corporations Procedure for Selection and Reservation of HOME Funds

Overview:

The City of Kansas City, as a designated participating jurisdiction (PJ), is required per 24 CFR Part 92.300 for the use of HOME Investment Partnership Funds (HOME) that 15% of annual funds be set-aside and reserved for selected and eligible community housing development corporations (CHDO's) within 24-months of the award of funds. The following provides general procedures for selecting CHDO's to receive HOME funds.

Process:

Step 1. On or near August 30th of each program year the Housing and Community Development Division of NHS Department issues the "Guide to Requesting Funding Under the 2016 Action Plan for CDBG, HOME, ESGP and HOPWA and Citizen Participation Plan." Under the Section V. The RFP Process, page 7 (See Attachment 1) explains the following:

- The requirement to set-aside a minimum of 15% of its annual HUD allocation for qualified CHDO activities;
- The process for becoming certified as a CHDO;
- The selection process; and
- That funded CHDO projects must be under a written agreement within two years of the HUD allocation to the City.

Step 2. Applications for HOME funding are due to the City at the end of October of each year. HCDD staff review all applications and make funding recommendations. If one or more potential CHDO's apply for HOME funding and are recommended for funding, they are assigned CHDO funds at or near the set-aside amount. For example, if the allocation is \$1.7 million and the set-aside for CHDO's is \$255,000, and an eligible CHDO requests \$300,000 for an eligible HOME project, then HCDD may recommend \$300,000 of HOME funds and show them as an eligible CHDO. The recommendation is then included in the Annual Plan for City Council and HUD approval.

Step 3. Upon review and approval of the Annual Plan by City Council and HUD, staff begins working with the recommended CHDO to certify them according to the review process shown in Attachment 2 – CHDO Review Procedures. This must be done prior to entering into a written agreement (contract). Upon approval, HCDD prepares the HOME CHDO contract.



The City of Kansas City, Missouri's
Guide to Requesting Funding Under the 2016 Action Plan for
CDBG, HOME, ESGP and HOPWA
And
Citizen Participation Plan

Prepared by Neighborhoods and Housing Services Department
Housing and Community Development Division
John A. Wood, Director

The evaluation criteria to be used by the various review committees can be found in the following appendices. Separate criteria will be used for CDBG non public service, CDBG public service, HOME, ESGP and HOPWA funding requests.

Community Housing Development Organizations (CHDOs)

The City is required to set aside a minimum of 15 percent of its HOME allocation for development activities in which qualified CHDOs are the owner, developer or sponsor of the housing. A Kansas City non-profit agency that can be certified as a CHDO prior to commitments of funding for a specific housing project may submit a proposal as part of the Action Plan application process. Proposals for rental activities should identify preliminary site locations, including address(es), if possible. All proposals must specify the target area, the number of units anticipated and the dollars amount requested.

The CHDO project funding will be determined after an evaluation of the CHDO's prior year's expenditure rate and the CHDO's past performance (if applicable); the amount of outside funding leveraged by the type of housing proposed (single family vs. multi-family); and by how well the CHDO's proposal addresses an unmet priority need identified in the five year Consolidated Plan.

An agency qualifying for CHDO funding must be certified immediately prior to the commitment of funds. Additionally, the CHDO must be re-certified annually throughout the term of the contract and the entire affordability period for rental projects. For more information on CHDO Certification Criteria please call (816) 513-3036.

Funded CHDO projects must be under written agreement (contract) within two-years of the funding allocations. The City will monitor and report on all CHDO projects so that this commitment period is met.

VI. APPLICATION INSTRUCTIONS

All application materials must be received at the Neighborhoods and Housing Services Department reception desk on the 4th floor of City Hall, 414 East 12th Street by **12:00 noon** on October 31, 2015 in order to be considered valid. **PROPOSALS RECEIVED AFTER THIS TIME WILL NOT BE ACCEPTED.** (Faxed or emailed applications will not be accepted.)

1. Submit the following number of applications for each funding request to the above address:
 - CDBG - one (1) Original plus four (4) copies
 - HOME - one (1) Original plus four (4) copies
 - ESGP - one (1) Original plus seven (7) copies
 - HOPWA- one (1) Original plus four (4) copies
2. Use a separate application for each project or activity for which funding is being sought.
3. Keep responses to questions as brief and concise as possible.
4. Make sure each copy has all the requested items.
5. If you do not have an Exhibit, explain why and put the explanation under the Exhibit page.
6. **ONLY BIND APPLICATIONS.** Secure each copy with an ACCO clip (or equivalent).

Attachment 2



Standard Operating Procedures – Housing Division

TITLE: CHDO Certification		
Original Issue: 12-1-14	Revision Date:	Page 1 of 1

Number: 1.1	Approved By: 
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PURPOSE: To insure CHDO set-aside funds are only awarded to eligible private nonprofit organizations in accordance with 24 Code of Federal Regulations (CFR), Part 92 - Home Investment Partnerships Program (HOME), Subpart G - Community Housing Development Organizations (CHDO), Subsection 92.2.

POLICY: In accordance with 24 CFR, Part 92, Subsection 92.300, prior to the commitment of CHDO set-aside funds, the City shall certify the organization as meeting the criteria of “community housing development organization” and document that the organization has capacity to own, develop or sponsor housing each time it commits funds to the organization.

PROCEDURE: Before committing CHDO set-aside funding to an organization, the City will:

1. Request in writing that the organization complete the “Community Housing Development Organization (CHDO) Application for Certification” (Attachment A).
2. Upon receipt of completed application, review the application and attachments for compliance with 24 CFR, Part 92, Subsection 92.2(B)(1) (Attachment B).
3. Sign the application on the “Reviewed by” line.
4. If the organization meets the provisions at with 24 CFR, Part 92, Subsection 92.2(B)(1), recertify the organization as a CHDO by checking the “Approved” box on the application and inserting the date on the “Date” line.
5. Send written notification to the organization regarding the outcome. If unable to recertify the organization, state the reason(s) for denial and indicate necessary steps for resolution.
6. Upon receipt of additional information, repeat steps 2 – 5.

Attachment A



**City of Kansas City, Missouri
Neighborhoods & Housing
Services Department
Housing Division**

**Community Housing Development Organization (CHDO)
Application for Certification**

Organization: _____

Executive Director: _____

Board President: _____

Mailing Address: _____

City/State/Zip Code: _____

Contact Name: _____ Title: _____

Phone Number: _____ E-mail: _____

Tax ID Number: _____ Submission Date: _____

Any not-for-profit organization receiving U.S. Department of Housing and Urban Development (HUD) Home Investment Partnerships Program (HOME) funding through the City of Kansas City, Missouri under the CHDO Set-Aside must be certified by the Neighborhoods and Housing Services Department (NHSD) as a CHDO pursuant to Subpart A Section 92.2 of the HOME Final Rule (24 CFR Part 92). Organizations receiving CHDO Set-Aside funds must be certified prior to any commitment of funding. Information obtained from this certification request package will be used to determine your organization's eligibility to become a CHDO.

HUD made numerous changes to the HOME Program in 2013. Most significantly, to qualify as a CHDO, an organization must have paid staff demonstrating capacity and experience that applies to the specific project for which it is applying (i.e. owner, developer, or sponsor). Prior to completing an application to be certified as a CHDO, organizations are strongly encouraged to review 24 CFR 92.2 and 24 CFR 92.300. For further information and guidance, visit www.onecpd.info/home/home-final-rule/.

Return completed Application for Certification with all requested documents to:

Lois Christian, Administrative Officer
Neighborhoods & Housing Services Department
Housing Division
414 E. 12th Street
City Hall, 4th Floor
Kansas City, Missouri 64106

For KCMO Use Only

Reviewed by: _____

[] Approved

Date: _____

December 2014

A. The nonprofit organization is organized under the State or local laws as evidenced by:

- Charter
- Articles of Incorporation

B. No part of its net earnings inure to the benefit of any member, founder, contributor, or individual, as evidenced by:

- Charter
- Articles of Incorporation

C. The CHDO is not controlled, nor receives directions from individuals or entities seeking profit from the organization, as evidenced by:

- By-laws
- A Memorandum of Understanding (MOU)
- CHDO is sponsored or created from a for-profit entity

The CHDO may be sponsored or created by a for-profit entity, if the following applies:

- i. The for-profit entity's primary purpose does not include the development or management of housing, as evidenced by:
 - By-laws
 - The for-profit organization's By-laws
- ii. The following restrictions apply: (1) the for-profit entity may not appoint more than one-third of the membership of the CHDO's governing body; (2) the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members. This is evidenced in at least one of the following documents:
 - Charter
 - Articles of Incorporation
 - By-laws
- iii. The CHDO is free to contract for goods and services from vendor(s) of its own choosing as evidenced in the CHDO's:
 - Charter
 - Articles of Incorporation
 - By-laws
- iv. The officers and employees of the for profit may not be officers or employees of the CHDO as evidenced in the CHDO's:
 - By-laws
 - Articles of Incorporation

D. It has a tax exemption ruling from the Internal Revenue Service (IRS), as evidenced by:

- A 501(c)(3) or 501(c)(4) Certificate from the IRS

- Classified as a subordinate of a central organization nonprofit under section 905
- Is a private nonprofit organization wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g. a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), and the owner organization has a tax exemption ruling from the IRS under section 501©(3) or 501©(4) and meets the definition of CHDO

E. Is entity a governmental entity:

- Yes
- No

i. If "No" to Item E:

Entity is not a governmental entity and is not controlled by a governmental entity as evidenced by:

- Charter
- Articles of Incorporation
- By-laws

ii. If "Yes" to Item E:

An organization that is created by a governmental entity may qualify as a CHDO if the following principles apply:

If the CHDO is chartered by a government, the following restrictions apply: (1) The government may not appoint more than one-third of the membership of the organization's governing body; (2) the board members appointed by the government may not, in turn, appoint the remaining two-thirds of the board members; and (3) no more than one-third of the governing board's members are public officials. This is evidenced in at least one of the following documents:

- Charter
- Articles of Incorporation
- By-laws

F. The organization has standards of accountability that conform to 24 CFR 84.21, "Standards of Financial Management System," as evidenced by:

- A HUD-approved summary, OR
- A certification from a Certified Public Accountant (CPA)

G. The organization has among its purposes the provision of decent housing that is affordable to low and moderate-income people, as evidenced by a statement in the organization's:

- Charter
- By-laws
- Articles of Incorporation
- Resolutions

H. The organization maintains at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community* residents, or elected representative(s) of low-income neighborhood organizations, as evidenced by the organization's:

- Charter
- Articles of Incorporation
- By-laws

**The "term" community" is defined as one or several neighborhoods, a city, county, or metropolitan area.*

I. The organization provides a formal process for low-income program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing, as evidenced by:

- By-laws
- Resolutions
- A written statement of operating procedures approved by the governing body

J. The organization provides current information on the governing board's membership, as evidenced by:

- A completed Governing Board List OR
- Governing Body Self-Certification forms for all members

The organization has demonstrated capacity for carrying out housing projects assisted with HOME funds by demonstrating the following: (Subpart A-Section by Section Summary of the 2013 HOME Final Rule: Subpart A-General-OneCPD. Scroll to "CHDO Capacity and Staffing" section.)

K. If organization will be acting as Developer or Sponsor, the organization has paid staff with demonstrated capacity and experience with projects of a similar size, scope, and level of complexity, relevant to its proposed role, as evidenced by:

- Narrative description of organizational and staff capacity and experience, AND
- Resumes and job descriptions for key staff, AND
- Organizational Chart
- Payroll report, W-2 or W-4, OR
- A contract for employment and a W-9 and 1099 (at the end of the year) for contract staff
- For first year of funding as a CHDO only, contract with consultant experienced in housing development to train appropriate key staff

L. If organization is the owner of the project, the property will be owned in fee simple absolute and will be utilized as rental property, the organization has paid staff with

demonstrated capacity to act as owner and meet the requirements of 92.300(a)(2) as evidenced by:

- Narrative description of organizational and staff capacity and experience, **AND**
- Payroll report, W-2 or W-4
- Resumes and job descriptions for key staff, which confirms paid staff has experience in hiring and overseeing a developer or project manager whose experience and services consist of all aspects of development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs.

M. The organization has a history of serving the community where housing to be assisted with HOME funds will be used, as evidenced by:

- A statement that documents at least one year of experience in serving the community, **OR (Resumes)**
- For newly created organizations formed by local churches, service organizations or neighborhood organizations, documentation that the parent organization has at least one year of experience in serving the community

N. Geographic Area

List the geographic area and neighborhoods to be served. The organization's by-laws should also state the area to be served. Provide a map with the geographic area highlighted for which the CHDO will be responsible.

- Description and map attached

CERTIFICATION

The applicant understands that the City of Kansas City, Missouri (City) will not be responsible for any costs incurred by the applicant for developing and submitting this application and that all applications submitted become the property of the City.

I declare under penalty of perjury, under the laws of the State of Missouri, that all statements contained in this application and any accompanying documents are true and correct, and made with full knowledge that all statements given are subject to investigation and that any false or dishonest answers to any questions may be grounds for denial or subsequent revocation of CHDO certification.

Prepared by: _____

Date: _____

APPROVED BY: _____
Organization's Board President or Executive Director

Date: _____

Attachment B

ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR Data is current as of September 27, 2013**

Title 24: Housing and Urban Development
PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM
Subpart A—General

§ 92.2 Definitions.

The terms *1937 Act*, *ALJ*, *Fair Housing Act*, *HUD*, *Indian Housing Authority (IHA)*, *Public housing*, *Public Housing Agency (PHA)*, and *Secretary* are defined in 24 CFR 5.100.

Act means the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 *et seq.*

ADDI funds means funds made available under subpart M through allocations and reallocations.

Adjusted income. See § 92.203.

Annual income. See § 92.203.

CDBG program means the Community Development Block Grant program under 24 CFR part 570.

Certification shall have the meaning provided in section 104(21) of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12704.

Commitment means:

(1) The participating jurisdiction has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with a State recipient, a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance; or has met the requirements to commit to a specific local project, as defined in paragraph (2) of this definition. (See § 92.504(c) for minimum requirements for a written agreement.) An agreement between the participating jurisdiction and a subrecipient that is controlled by the participating jurisdiction (e.g., an agency whose officials or employees are official or employees of the participating jurisdiction) does not constitute a commitment. An agreement between the representative unit and a member unit of general local government of a consortium does not constitute a commitment.

(2) *Commit to a specific local project* means:

(i) If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project has been set up in the disbursement and information system established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.

(ii)(A) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is acquiring the property with HOME funds, the participating jurisdiction (or State recipient or subrecipient) and the property owner have executed a legally binding contract for sale of an identifiable property and the property title will be transferred to the participating jurisdiction (or State recipient or subrecipient) within six months of the date of the contract.

(B) If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or subrecipient) is providing HOME funds to a family to acquire single family housing for homeownership or to a purchaser to acquire rental housing, the participating jurisdiction (or State recipient or subrecipient) and the family or purchaser have executed a written agreement under which HOME assistance will be provided for the purchase of the single family housing or rental housing and the property title will be transferred to the family or purchaser within six months of the agreement date.

(iii) If the project consists of tenant-based rental assistance, the participating jurisdiction (or State recipient, or subrecipient) has entered into a rental assistance contract with the owner or the tenant in accordance with the provisions of § 92.209.

Community housing development organization means a private nonprofit organization that:

(1) Is organized under State or local laws;

(2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:

(i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.

(ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;

(iii) The community housing development organization must be free to contract for goods and services from vendors of its own choosing; and

(iv) The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization.

(4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1), is classified as a subordinate of a central organization non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is an wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of "community housing development organization;"

(5) Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;

(6) Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems;"

(7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;

(8) Maintains accountability to low-income community residents by:

(i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and

(ii) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

(9) Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of § 92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and

(10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

Consolidated plan means the plan submitted and approved in accordance with 24 CFR part 91.

Displaced homemaker means an individual who:

(1) Is an adult;

(2) Has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Family has the same meaning given that term in 24 CFR 5.403.

First-time homebuyer means 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 assistance under the American Dream Downpayment Initiative (ADDI) described in subpart M of this part. The term first-time homebuyer also includes an individual who is a displaced homemaker or single parent, as those terms are defined in this section. An individual shall not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during the three-year period, a dwelling unit whose structure is not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or is not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with the codes for less than the cost of constructing a permanent structure.

HOME funds means funds made available under this part through allocations and reallocations, plus program income.

Homeownership means ownership in fee simple title in a 1- to 4-unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

(1) The land may be owned in fee simple or the homeowner may have a 99-year ground lease.

(i) For housing located in the insular areas, the ground lease must be 40 years or more.

(ii) For housing located on Indian trust or restricted Indian lands or a Community Land Trust, the ground lease must be 50 years or more.

(iii) For manufactured housing, the ground lease must be for a period at least equal to the applicable period of affordability in § 92.254.

(2) Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership.

(3) The ownership interest may be subject only to the restrictions on resale required under § 92.254(a); mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the participating jurisdiction; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

(4) The participating jurisdiction must determine whether or not ownership or membership in a cooperative or mutual housing project constitutes homeownership under State law; however, if the cooperative or mutual housing project receives Low Income Housing Tax Credits, the ownership or membership does not constitute homeownership.

Household means one or more persons occupying a housing unit.

Housing includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

Insular areas means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.

Jurisdiction means a State or unit of general local government.

Low-income families means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

Metropolitan city has the meaning given the term in 24 CFR 570.3.

Neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

Participating jurisdiction means a jurisdiction (as defined in this section) that has been so designated by HUD in accordance with § 92.105.

Person with disabilities means a household composed of one or more persons, at least one of whom is an adult, who has a disability.

(1) A person is considered to have a disability if the person has a physical, mental, or emotional impairment that:

- (i) Is expected to be of long-continued and indefinite duration;
- (ii) Substantially impedes his or her ability to live independently; and
- (iii) Is of such a nature that such ability could be improved by more suitable housing conditions.

(2) A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Is manifested before the person attains age 22;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated. Notwithstanding the preceding provisions of this definition, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted with HOME funds, with the deceased member of the household at the time of his or her death.

Program income means gross income received by the participating jurisdiction, State recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions. When program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

(1) Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;

(2) Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income (*Program income* does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the participating jurisdiction, subrecipient or State recipient);

(3) Payments of principal and interest on loans made using HOME funds or matching contributions;

(4) Proceeds from the sale of loans made with HOME funds or matching contributions;

(5) Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;

(6) Interest earned on program income pending its disposition; and

(7) Any other interest or return on the investment permitted under § 92.205(b) of HOME funds or matching contributions.

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

Project completion means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards under § 92.251); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion occurs upon completion of construction and before occupancy. For tenant-based rental assistance, project completion means the final drawdown has been disbursed for the project.

Reconstruction means the rebuilding, on the same lot, of housing standing on a site at the time of project commitment, except that housing that was destroyed may be rebuilt on the same lot if HOME funds are committed within 12 months of the date of destruction. The number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. Reconstruction is rehabilitation for purposes of this part.

Single family housing means a one-to four-family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

Single parent means an individual who:

(1) Is unmarried or legally separated from a spouse; and

(2) Has one or more minor children of whom the individual has custody or joint custody, or is pregnant.

Single room occupancy (SRO) housing means housing (consisting of single- room dwelling units) that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of nonresidential space, or reconstruction. For acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification.

State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the state with regard to the provisions of this part; however, for purposes of the American Dream Downpayment Initiative (ADDI) described in subpart M of this part, the term "state" does not include the Commonwealth of Puerto Rico (except for FY2003 ADDI funds).

State recipient. See § 92.201(b)(2).

Subrecipient means a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME programs to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of a housing project is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

Tenant-based rental assistance is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance under this part also includes security deposits for rental of dwelling units.

Transitional housing means housing that:

(1) Is designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and

(2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the participating jurisdiction or project owner before occupancy.

Uniform Physical Condition Standards (UPCS) means uniform national standards established by HUD pursuant to 24 CFR 5.703 for housing that is decent, safe, sanitary, and in good repair. Standards are established for inspectable items for each of the following areas: site, building exterior, building systems, dwelling units, and common areas.

Unit of general local government means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; a consortium of such political subdivisions recognized by HUD in accordance with § 92.101; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this part. When a county is an urban county, the urban county is the unit of general local government for purposes of the HOME Investment Partnerships Program.

Urban county has the meaning given the term in 24 CFR 570.3.

Very low-income families means low-income families whose annual incomes do not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

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