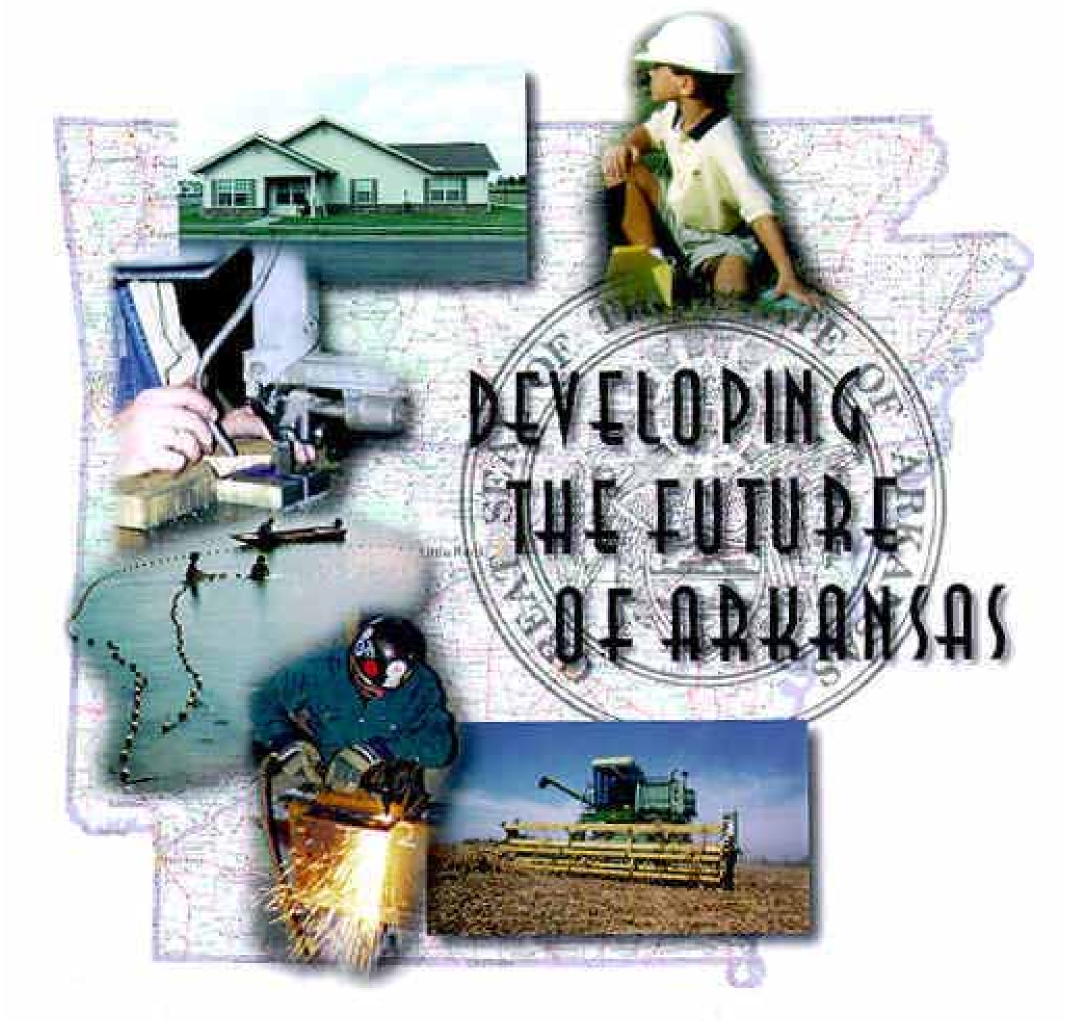
Arkansas Development Finance Authority

HOME Program
Policy and Operations Manual



July 21, 2005

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FOR
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Introduction

I. Introduction

The Arkansas Development Finance Authority ("ADFA" or the "Authority"), a public body politic and corporate, with corporate succession, was created May 1, 1985, in part to assist low-income and under-served Arkansans in the financing, development and preservation of affordable housing. ADFA receives and administers funds provided by the HOME Investment Partnerships Act (the HOME Act, Title II of the Cranston-Gonzalez National Affordable Housing Act). The HOME Investment Partnerships Program ("the HOME Program") was created to provide funds to expand the supply of affordable housing for very low-income and low-income persons.

ADFA embraces its responsibility to administer the HOME Program that has been entrusted to it. ADFA will administer the HOME Program creatively, effectively and efficiently under the housing conditions that exist in the state of Arkansas (the "state") and with all practical safeguards against waste or fraud. ADFA will practice and advocate innovation, flexibility and expansion in program design to address unmet housing needs throughout the state.

To that end, this Policy and Operations Manual is presented to provide an overview of ADFA policies and procedures as they pertain to the HOME Program. This manual is not meant to be a substitute for HOME Program regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of HOME Program funds. While careful consideration and due care has been used in developing the manual, HOME Program participants are encouraged to consult with HOME Program staff persons to ensure correct interpretation of policies and regulations. ADFA reserves the right to implement additional policies as needed.

Purpose of the HOME Program

II. Purpose of the HOME Program

The HOME Program regulations consist of 24 CFR Part 92, dated September 16, 1996. The general purposes of the HOME Program include:

- expanding the supply of decent and affordable housing for low and very low-income Americans;
- strengthening the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, safe and affordable housing;
- extending and strengthening partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

As the administrator of the state of Arkansas' HOME Program funds, ADFA has designed its programs into four main categories; the HOME Rental Housing Program, the Homeowner Housing Programs, the Homebuyer Program, and Tenant-Based Rental Assistance ("TBRA").

General Requirements of the HOME Program

III. General Requirements of the HOME Program

A. Equal Opportunity and Fair Housing

The state 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. The following federal requirements as set forth in 24 CFR 5.105(a), <u>Nondiscrimination and Equal Opportunity</u>, are applicable to HOME Program developments:

Fair Housing Act	24 CFR 100
Executive Order 11063, as amended (Equal Opportunity in Housing)	24CFR107
Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federal Programs)	24 CFR 1
Age Discrimination Act of 1975	24 CFR 146
Section 504 of the Rehabilitation Act of 1973	24 CFR 8
Executive Order 11246, as amended (Equal Employment Opportunity Programs)	41 CFR 60
Section 3 of the Housing and Urban Development Act of 1968À	24 CFR 135

Executive Order 11625, as amended (Minority Business Enterprises)Á

Executive Order 12432, as amended (Minority Business Enterprises)Á

Executive Order 12138, as amended (Women's Business Enterprise)Á

In addition to the above requirements, all HOME Program participants must ensure that their Equal Opportunity and Fair Housing policies related to activities funded by the HOME Program are consistent with the current Consolidated Plan adopted by their jurisdiction.

B. Allocation of Funds

HOME Program funds committed to the state of Arkansas will be allocated as promulgated in the State of Arkansas' Consolidated Plan. In addition, the state may spend up to ten percent (10%) of its HOME Program allocation for administrative and planning expenses. ADFA through its pilot program may now allocate HOME Program funds to developments located within local participating jurisdictions. To date, these areas include Little Rock, North Little Rock, Pine Bluff and Fort Smith.

À Section 3 requires that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing.

Á Executive Orders 11625, 12432 and 12138 require that participating jurisdictions and local programs must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the greatest extent possible, of minorities and women entities owned by minorities and women in all contracts. Local programs must also develop acceptable policies and procedures if their application is approved by ADFA.

HOME Program allocations for the Rental Housing Program and the Homeowner Program, and allocations to nonprofit entities, for-profit entities and CHDO activities, will be in the form of repayable or forgivable loans. Allocations for the Tenant-Based Rental Assistance Program (TBRA) will be in the form of grants.

Applicants must request at least one hundred thousand dollars ($100,000) in HOME Program funds to be considered for a HOME Program allocation, with the exception of TBRA projects. The maximum loan amount that can be requested for affordable housing developments is four hundred thousand dollars ($400,000). The maximum amount that can be requested for project delivery costs is ten percent (10%) of the final allocation amount.

Applicants who choose to use a consultant must include the consultant fee, if any, in an amount not to exceed ten percent (10%) of the requested HOME Program allocation in the proposed development budget. Applicants who choose not to use a consultant may apply for an amount not to exceed ten percent (10%) of the requested HOME Program allocation as reimbursement of project delivery costs. Any amounts requested for project delivery costs may be in addition to the requested HOME Program allocation amount. The HOME Program allocation may not include both a consultant fee and a project delivery cost reimbursement.

C. Layering

Layering is the combining of other federal resources on a HOME-assisted development that results in an excessive amount of subsidy for the development. Such activity is prohibited. ADFA will analyze each application to ensure that only the minimum amount of assistance is allocated to the development. In no case may the amount of HOME Program funds allocated exceed the maximum allocation limit as defined in Section IV. B (Maximum Amount of HOME Funding Per Applicant) and maximum per-unit allocation as defined in Section V.H (Maximum Per-unit HOME Assistance) of this manual.

D. Affirmative Marketing

Any entity applying for HOME Program funds must adopt affirmative marketing procedures and requirements for all HOME-assisted housing and submit the affirmative marketing plan with the HOME Program application. The affirmative marketing plan and requirements for HOME-assisted housing must be approved by ADFA prior to any HOME Program funds being committed to a development. Affirmative marketing requirements and procedures must include:

1. methods for informing the public, owners and potential tenants about fair housing laws and the policies of the local program;
2. a description of what owners and/or the program administrator will do to affirmatively market housing assisted with HOME Program funds;
3. a description of what owners and/or the program administrator will do to inform persons not likely to apply for housing without special outreach;
4. maintenance of records to document actions taken to affirmatively market HOME-assisted units and to assess marketing effectiveness; and
5. a description of how efforts will be assessed and what corrective actions will be taken when requirements are not met.

E. Environmental Review

In implementing the HOME Program, the environmental effects of each activity must be assessed in accordance with the provisions of the National Environment Policy Act of 1969 and the related authorities listed in HUD's regulations at 24 CFR Parts 50 and 58.

ADFA, as the HOME Participating Jurisdiction, and the units of local government funded by ADFA will be responsible for carrying out environmental reviews. ADFA will approve the release of funds for local governments and must request the release of funds from HUD for any developments of CHDOs or nonprofit organizations. HOME Program funds are approved as a conditional commitment until the environmental review process has been completed, with the option to proceed, modify or cancel the project based upon the results of the review. ADFA reserves the right to require a Phase I Environmental Study for rental projects as part of the environmental review process.

F. Lead-Based Paint Requirements

The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all developments constructed before 1978 and receiving HOME Program assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation, by appropriate lead-certified personnel. The application must also include detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with reduction of lead hazards in accordance with the regulation and guidelines. All HOME Program fund allocations will be contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. The Authority will allow up to two thousand five hundred dollars ($2,500) per unit for lead-based paint testing, assessment, and clearance report. In a development where HOME Program funds will be used on only a portion of the units, the lead-based paint requirements apply to <u>ALL</u> units and common areas in the development.

G. Contractor Requirements

All contractors and subcontractors working on all HOME-funded developments in excess of twenty thousand dollars ($20,000) must have an active license issued by the Arkansas Contractor's Licensing Board (the "State Licensing Board") as applicable and meet all requirements of contractors in the state of Arkansas, including securing Builder's Risk insurance. Contractors may not "share" a license. That is, ADFA will not allow one contractor to work from another contractor's license.

All homeowner rehabilitation projects must have a general contractor that is properly licensed by the State Contractor's Licensing Board. Projects under twenty thousand dollars ($20,000) must have a general contractor or a qualified construction supervisor. Any questions regarding licensing issues and a list of licensed contractors may be directed to the State Licensing Board at the following address:

Arkansas Contractor's Licensing Board
621 East Capitol
Little Rock, AR 72202
(501)372-4661

Any contractor who has been debarred by any entity or had a contractor license suspended by any entity within the previous twelve (12) months will be prohibited from participating in the HOME Program. All general contractors working on all HOME-funded developments must obtain one of the following: (1) a payment and performance bond; or (2) an **irrevocable** letter of credit.

H. Labor Standards

Davis-Bacon wage compliance and other federal laws and regulations pertaining to labor standards apply to all contracts for rehabilitation or construction of twelve (12) or more HOME-assisted units in a development. Davis-Bacon and related laws include:

- Davis-Bacon and Related Acts (40 USC 276a-276a-7)
- Contract Work Hours and Safety Standards Act (40 USC 327-333)
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 276c)
- Fair Labor Standards Act of 1938, as amended (29 USC 201, et seq.)

The construction contract for any HOME-assisted activity must contain the applicable wage provisions and labor standards. Davis-Bacon does not apply to projects using solely volunteer labor or to sweat equity projects. ADFA will monitor all developments subject to Davis-Bacon requirements to ensure compliance with all applicable regulations.

I. Inspections

Inspections are required with all activities that are funded through the HOME Program. ADFA currently has inspectors that will be available as needed. There are currently four (4) required inspections that are identified below:

<u>Stage 1</u>

Excavation
Metals
Termite treatment
Rough-in plumbing
Earth work
Water proofing (vapor barrier)
Footing
Slab

<u>Stage 2</u>

Plumbing top-out
Electrical rough-in
Framing
Roof
Interior wall systems
Exterior wall systems
Ventilation
Insulation

<u>Stage 3</u>

Flooring systems
Painting
Doors
Cabinets
HVAC
Electrical top-out
Special construction (elevators, etc.)
Appliances

<u>Stage 4</u>

Final Inspection

Rental housing development inspections may be scheduled more frequently, as warranted.

- Pre-construction Meetings – ADFA inspector must attend any pre-construction meetings for multi-family developments;
- Rehabilitation Projects – when a project is ready for a draw on funds, the property must be inspected to verify that the work has been completed. **<u>ADFA will only make payments on work that has been completed and inspected by an ADFA inspector.</u>**

You may fax or mail your payment request, with all of the required documentation, to ADFA using the following contact information:

Arkansas Development Finance Authority
Attn: HOME Program Department
P.O. Box 8023
Little Rock, AR 72203-8023
FAX (501)682-5859

ADFA staff will coordinate with recipients of HOME Program funds and inspectors to schedule all inspections.

J. Change Orders

ADFA recognizes that changes in a development occur from time to time. It is important that HOME Program participants submit change orders on the proper ADFA form. All change orders **must be** approved by the ADFA Staff. No payment of HOME funds will be made on change orders that have not been approved by ADFA. Any changes to the original amounts of HOME Program assistance must be reflected by an Amended and Restated Mortgage and Promissory Note. Each Single-Family HOME Program Agreement will include provisions for possible funding of change orders on a limited basis.

K. Debarment and Suspension

ADFA will require participants in lower-tier transactions covered by 24 CFR 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction. Any participant that remains on a debarred or suspended condition shall be prohibited from participation in the ADFA HOME Program as long as they are classified in this manner.

Note: ADFA reserves the right to require criminal background checks for all program participants as part of the applicaton process. Please refer to ADFA's agency policy and requirements for information regarding this item.

L. Flood Plains

HOME Program funds may generally not be invested in housing located in an area identified by the Federal Emergency Management Agency as having special flood hazards. ADFA discourages developments located in special flood hazard areas but, in some instances and with written permission from ADFA, houses located in a flood plain may be assisted. It is the responsibility of the applicant to evaluate any remedies to remove any properties from the flood plain and ensure the feasibility of the proposed plan. ADFA is willing to consider the proposed remedy and must approve the proposal in writing prior to approval of any HOME Program allocation. The community must be currently participating in the National Flood Insurance Program, and flood insurance must be obtained and maintained for the full period of affordability.

M. Procurement

All solicitation of bids for goods and services to be paid with HOME Program funds must be conducted openly and competitively.

N. Submitting a HOME Program Application

ADFA will evaluate each application to determine if the proposal meets threshold criteria. Threshold criteria includes submission of a complete application; proposal of an eligible activity; proposal of a development that, in the opinion of ADFA, is physically, financially and administratively feasible; provision of written verification in support of the proposed activity from the chief elected official of the area where the activity will be undertaken; and proposal of a development that meets the requirements of 24

CFR Part 92, as amended. See the HOME Program application for a complete list of threshold items at the ADFA website:

www.state.ar.us/adfa

Applications will be taken on a continuous basis until available funds have been allocated. ADFA will ***review HOME Program applications in accordance with the Application checklist and on the following criteria***:

- Affordable Housing Experience: Capacity must be demonstrated by including an application that identifies all necessary components to accomplish the development, e.g., effective control of sites for acquisition and construction developments, the financial capacity to repay the HOME loan and other financial arrangements, as well as comprehensive program design. ADFA's HOME Program staff will conduct reviews of:

    a. Previous performance under the HOME Program, the LIHTC Program, the Below-Market Interest Rate Program and the Financing Adjustment Factor Program (not applicable to new applicants), including disbursements, monitoring and findings;

    b. Relevant experience in administering housing programs;

    c. Relevant experience in developing and managing housing programs and;

    d. Size of staff relative to all other program responsibilities.

- Housing Need Factor: The need factor pertains to percentages of the state's lower income households, the percentage of households with housing costs greater than thirty percent (30%) of area median family income adjusted for family size, and the current census population count of areas proposed for housing development. Consideration will be given to communities experiencing substantial population changes.

- Financing: ADFA places a strong emphasis on projects that will include the use of funds from other sources. Funds leveraged on a HOME-funded activity may not be used as leverage on subsequent projects. There must be written documentation to substantiate leveraged funds in an application, and the funds must be from a verifiable source. Because an application qualifies for HOME Program funds does not mean that they will automatically receive LIHTCs. All costs will be examined for reasonableness, and applicants may be denied if costs are deemed unreasonable.

- Readiness: The purpose of the application process is to allocate funds to eligible applicants for proposed projects. Applicants applying for HOME Program funds must begin their developments within ninety (90) days of the notice to proceed. Developments that do not begin within ninety (90) days are subject to have all HOME Program funds recaptured and reallocated to other eligible activities unless otherwise approved by ADFA. ADFA realizes that there may be extenuating circumstances that may delay the beginning of a project. Such circumstances will be reviewed on a case-by-case basis.

- ***Matching:* Applicants must list at least one (1) of the eligible forms of match they will provide as part of their project. A list of eligible forms of match include: cash or cash equivalents from a non-federal source; value of waived taxes; fees or charges assoicated with HOME projects; value of donated land or real property; cost of infrastructure improvements associated with HOME projects; value of donated materials, equipment, labor and professional services; direct costs of supportive services to residents of HOME projects; and direct costs of homebuyer counseling to families purchasing homes with HOME assistance.**

O. Performance Standards

Successful applicants must disburse twenty-five percent (25%) of the total HOME Program funds within ninety (90) days of the notice to proceed. Seventy-five percent (75%) of total HOME Program funds allocated must be disbursed on the development within one year from the date of the notice to proceed. If these performance standards are not met, any unspent HOME Program funds may be recaptured and reallocated to fund other affordable housing developments. Applicants approved for funding that do not complete the required number of units will be considered in default of their HOME Agreement and jeopardize future funding through the HOME Program.

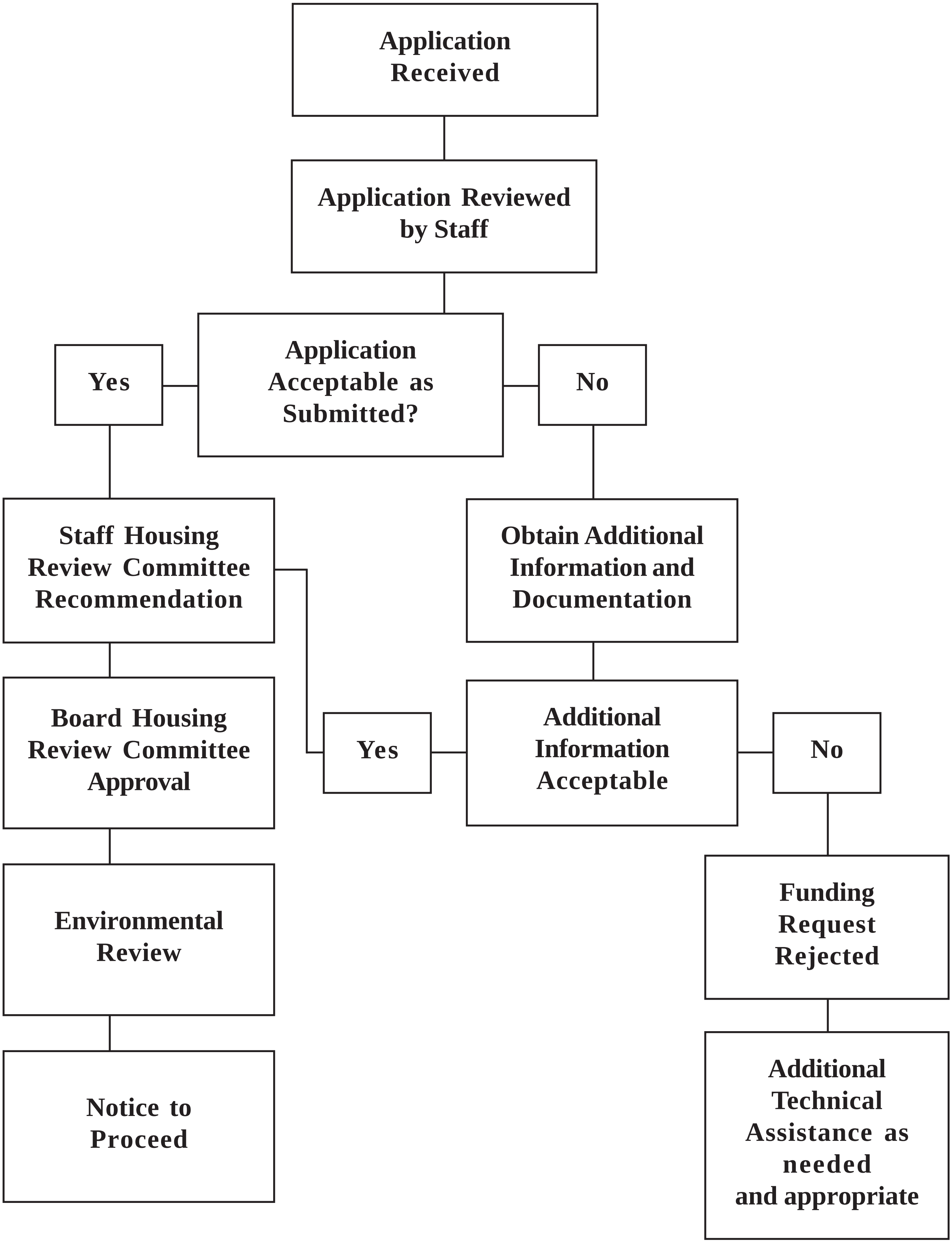
For applicants also applying for Low Income Housing Tax Credits (LIHTC), the ninety (90) day performance standard will begin upon the LIHTC reservation. For developments applying for both HOME Program funds and LIHTC, any allocation of HOME Program funds is contingent upon the successful reservation of LIHTC.

Multiple HOME applications may be submitted by HOME participants for funding. A participant may not have more than five (5) HOME projects underway at any given time period. ***If a participant has five (5) projects currently underway, additional applications may not be submitted until 100% of HOME funds on any previously approved application(s) has been expended. A project is considered complete once ADFA has received all completion documentation. It is within ADFA's discretion to evaluate a participant's capacity in regards to undertaking multiple projects. A HOME program participant is defined as either an owner (i.e., rental projects), developer, consultant or public official/employee.***

P. Amendments to Applications

Any changes to any material aspect of the development must be presented as an amendment to the initial application for HOME Program funds. The request for amendment will go through the normal review and approval process as outlined in Section R, "HOME Program Application Process Path", of this manual.

R. HOME Program Application Process Path



S. HOME Program Allocation/Disbursement

Following ADFA Board approval of the HOME Program application, the following processes will apply:

1. Disbursement of HOME Program funds will occur only when all of the following conditions have been met:

   a. Required environmental review process must be satisfactorily completed.

   b. Project closing documents shall reflect a project completion date acceptable to ADFA and the recipient of the HOME Program funds. The HOME Program Agreement will outline the payment of the HOME Program funds, (e.g., how the funds will be disbursed, by escrow or pro-rata share, etc.) The HOME Program Agreement must contain provisions for the timing of HOME Program fund disbursements.

   c. ADFA Staff must complete all IDIS set up procedures.

   d. ADFA must issue a notice to proceed. To ensure that all HOME Program requirements have been met, no work shall begin until all documentation has been executed and ADFA issues a notice to proceed. **NO APPLICATIONS WILL BE ACCEPTED ON A PROJECT WHERE CONSTRUCTION HAS ALREADY BEGUN.**

   e. A pre-construction conference is held. For rental activities the pre-construction conference must be conducted with the development team and an ADFA representative. For homeowner activities the pre-construction conference must be conducted with the applicant/consultant, the homeowner and the contractor and ADFA Inspector.

2. Cost incurred prior to HOME Program fund allocation shall not be reimbursed (except in the case of an eligible soft cost or an interim construction loan approved by ADFA).

3. Retainage will be released thirty (30) days after the final inspection is approved and upon ADFA's receipt of all completion documentation.

   For rental activities, the following completion documentation will be required prior to ADFA's release of retainage:

   a. Placed in Service form.

   b. Certification of release of liens.

   c. Completion form – (HUD form 40097).

   d. Hazard insurance.

   e. Date of occupancy.

   f. Certification of final inspection.

   For homeowner activities, the following completion documentation will be required prior to ADFA's release of retainage:

   a. Project completion report

   b. HUD form 40096.

   c. Certification in release of liens.

   d. Certification of final inspection.

   e. Plumbing certification.

   f. Electrical certification.

If any HOME Program funded project has an available balance after development completion and release of retainage, ADFA will reallocate such balance of HOME Program funds to other eligible activities according to ADFA's adopted HOME Program allocation process.

T. USDA Rural Development and Low Income Housing Tax Credit Funding

One of the purposes of the HOME Program is to encourage governments to use HOME Program funds efficiently and to encourage partnerships between public and private entities. In keeping with this mission, ADFA requires that recipients leverage their HOME Program allocation to the greatest extent possible with funds from other sources. Two such sources include Rural Development and Low Income Housing Tax Credits.

To obtain information about the programs offered by Rural Development, please contact USDA Rural Development, Attention: Multi-Family Department, 700 West Capitol, Little Rock, AR 72201.

To obtain more information about ADFA's Low Income Housing Tax Credit Program, please contact ADFA, Attention: Multi-Family Department, 423 Main Street, Suite 500, Little Rock, AR 72201.

U. Gap Financing

A variety of financing is often available to and used by developers of affordable housing. In fact, affordable housing developments are almost always funded by multiple sources. This is particularly true for HOME Program funded developments in light of the fact that the HOME Program is a "gap financing" source that assists in making the housing units affordable to low-income persons. HOME funds are not intended to be used to finance an entire development.

While the maximum HOME Program funding is four hundred thousand dollars ($400,000), ADFA will calculate the "gap financing" amount and fund only that amount. For mortgage subsidy projects, the maximum subsidy is the lesser of $25,000 or 20% of the purchase price. **Note:** Applicants must provide a copy of the final appraisal prior to disbursement of funds.

SOURCES AND USES

SOURCES		USES	
Loan(s)		Acquisition	$200,000
1st Mortgage	$1,000,000	Construction	$1,100,000
Cash	$100,000	Site Improvements	$100,000
Other		Soft Costs	$50,000
Total Sources	**$1,100,000**	**Total Uses**	**$1,450,000**

Gap Between Sources and Uses: $350,000
Maximum HOME Program Funding: $300,000

V. Recapture of Funds

It is imperative that funds allocated to participants be used as quickly as possible and in the most efficient manner. ADFA will recapture allocated funds that have not been used in accordance with applicable performance standards. Applicable performance standards include performance standards adopted by ADFA (see section O. – PERFORMANCE STANDARDS) and HOME Program regulatory commitment and disbursement requirements. These funds will then be placed back into the pool of funds that are available to fund other developments.

W. Monitoring

During the period of affordability, ADFA must perform on-site compliance and monitoring inspections of all rehabilitation of single-family and multi-family developments utilizing HOME Program funds to determine compliance with the Final Rule and current ADFA HOME Program Policy and Procedures Manual. **Note: Please refer to ADFA's Compliance and Monitoring Manual for more guidance on monitoring requirements.**

X. Closing of Transactions

ADFA will select and/or approve a closing entity to provide closing services for **all** HOME Program transactions using ADFA-approved documents. The services will be available and required in the county where the development is located. HOME Program staff will provide closing instructions for all HOME Program funded transactions to the closing entity. ADFA will be responsible for payment of costs associated with closing the HOME Program portion of the transaction on both homeowner and rental activities.

Y. Audit

ADFA requires that recipients have an audit conducted of federal funds received in accordance with Generally Accepted Accounting Principals (GAAP) and the ***Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"*** as required in 24 CFR Part 84 and 85 respectively.

Z. Conclusion

ADFA seeks to partner with individuals and organizations that will carry out the express goals of increasing and improving decent, safe and affordable housing for all Arkansans.

The HOME Rental Housing Program

IV. The HOME Rental Housing Program

Recipients utilizing funds in the HOME Rental Housing Program must closely adhere to all HOME regulations as well as to ADFA's program-specific guidelines and adopted policies. Notwithstanding these requirements, program participants may structure their development and application for HOME Program funds to meet the specific rental needs of their community.

ADFA will accept applications in the HOME Rental Housing Program in the categories of new construction developments and rental rehabilitation projects.

A. Eligible Applicants

Multiple HOME applications may be submitted for funding. A participant may not have more than five (5) HOME projects underway at any given time period. An additional application may be submitted once 75% of HOME funds on any previously approved application(s) have been expended. ***Note: This policy excludes projects which HOME funds are combined with Low-Income Housing Tax Credits.*** ADFA will accept applications for rentals at a minimum of five (5) units, from local governments, public housing authorities, Community Housing Development Organizations ("CHDOs") and other nonprofits and for-profit entities.

Eligible applicants may receive technical assistance by attending an information/training session prior to submitting an application. Sessions will address HOME Program and ADFA guidelines as well as application procedures. Applicant eligibility will be based on the designated responsible entity submitting the application. An eligible designated responsible entity is the entity responsible for project development, but may include all of its related affiliated entities.

B. Amount of HOME Funding per Applicant

Each applicant must request at least one hundred thousand dollars ($100,000) and no more than four hundred thousand dollars ($400,000) per application for affordable housing development. The maximum amount that can be requested for project delivery costs is ten percent (10%) of the final allocation amount. The allocation is generally meant to be used as gap financing, and is not intended to fund an entire development. The maximum contribution of HOME funds is forty thousand dollars ($40,000) per unit. ***ADFA limits the overall per unit cost for rental projects to $110,000 per unit***. ***The maximum per unit cost on assisted living projects is $132,000.***

Rental Housing Activity	Minimum Period of Affordability in Years
Rehabilitation or acquisition of existing housing per unit of amount of HOME Program funds: Under $15,000	5 years
$15,000 to $40,000	10 years
Over $40,000 or Rehabilitation involving refinancing:	15 years
New construction or acquisition of newly constructed housing	20 years

C. Eligible Activities

HOME Program funds can be used to fund the following rental activities:

- Rehabilitation of existing structure – Rehabilitation of multi-family and single-family structures is eligible.
- Reconstruction – Reconstruction of both multi-family and single-family structures is eligible. Any ***single-family structure*** not economically feasible to rehabilitate or has projected per unit rehabilitation costs equal to or greater than twenty-five thousand dollars ($25,000) will be considered for reconstruction.
- New Construction – New developments must contain five (5) or more units. Units may be on scattered sites. Developers may not fund an entire development using HOME Program funds.

D. Leveraging Requirements for Rental Development

For-profit property owners are required to provide a one-to-one (1:1) matching contribution of funds (e.g., one hundred thousand dollars ($100,000) in HOME Program funds must be matched by one hundred thousand dollars ($100,000) in funds provided by the for-profit owner).

Nonprofit property owners are required to provide point five-to-one (0.5:1) matching contribution of funds (e.g., one hundred thousand dollars ($100,000) in HOME Program funds must be matched by fifty thousand dollars ($50,000) in funds provided by the nonprofit owner).

Community Housing Development Organizations (CHDOs) are exempt from the this requirement requirement.

E. Eligible Projects

Eligible projects include:

- Multiple buildings on a single site; or
- single or multiple units on scattered sites.

These developments may be privately or publicly owned. To qualify as a “development” the property must consist of one (1) or more buildings on a single site, under common ownership, management, and financing.

HOME Program funds may be used for a mixed-income development as long as HOME Program funds are used <u>solely</u> for affordable housing units occupied by low-income tenants. Common area costs must be prorated based upon the number of HOME-assisted units and non-HOME-assisted units.

A building that is designed, in part, for other than residential housing may qualify as affordable housing under the HOME Program as long as HOME Program funds are used for the residential portion and those units meet the rent and income limitations of the HOME Program. The rent and income limits are established and published annually by HUD. Rental units must be occupied as follows:

- A minimum of twenty percent (20%) of the total HOME-assisted units must be occupied by persons or families whose **<u>income does not exceed fifty percent (50%) of the area median family income</u>**; and

- Up to eighty percent (80%) of the total HOME-assisted units must be occupied by persons or families whose **adjusted income does not exceed sixty percent (60%) of the area median family income**.

Where HOME Program funds are used in conjunction with Low Income Housing Tax Credits ("LIHTC") or United States Department of Agriculture ("USDA") Rural Development funds, the more stringent occupancy regulations will apply.

F. Eligible Costs

HOME Program funds may be used for certain development costs as dictated by 24 CFR Part 92 and are outlined below:

1. Project delivery costs. Any nonprofit entity or local government receiving a HOME Program allocation may include project delivery costs (in an amount not to exceed 10% of the final HOME Program allocation) in the development budget. Project delivery costs are eligible only for costs directly associated with the HOME Program funded development. A certification of costs must be submitted with all requests for project delivery costs. **Participants must submit an itemized budget for project delivery costs as part of the initial application.** Project delivery costs must be allocated on a prorated basis among HOME Program assisted units.

   Project delivery costs must be supported by source documentation **maintained on file by the recipient** of HOME Program funds. Requests for payment must be verified by the Certification of Costs and signed by the recipient.

   - A copy of a detailed bill for closing document fees, telephone bills, etc., highlighting the amounts to be paid directly to the vendor or reimbursed to the HOME Program participant and substantiated by a canceled check, a copy of the bank statement or other proof of payment. The detailed bill should, at a minimum, include vendor identification, a description of the services received, the quantity (hours, units, etc.) and the price for services received.
   - No handwritten invoices will be accepted.
   - All invoices must have an authorized signature of the company's executive director, or his or her designee, approving the payment, the month it is being paid, dated and canceled so that the invoice cannot be paid again.
   - ADFA will reimburse salaries for support personnel (e.g., clerical, temporary employee, etc.) at their documented regular rate of pay.
   - A copy of any contracts for professional services, (e.g., consultants, architects, contractors, etc.), if applicable, must be provided in the initial application and should include a proposed payment schedule.
   - Satisfactory documentation of fringe benefits being paid. Examples of fringe benefits include:
—Vacation/Sick/Holiday/Compensatory Time;
—Pensions;
—Veteran's Benefits;
—Group Insurance;
—Life Insurance/Long-term Disability;
—Accidental Death and Dismemberment Insurance;
—Profit Sharing Plan; and
—Association/Union Dues.

The use of prorated payment percentages is acceptable and must be outlined in the initial application or invoice as well as each billing statement submitted for reimbursement. The applicant must provide the sources of other funds used to pay project delivery costs, if any.

2. Hard Costs. The actual cost of constructing or rehabilitating housing. These costs include the following:
   - construction, rehabilitation or reconstruction of affordable housing units;
   - site improvements (including utility connection costs, but not the costs to provide utilities to the site);
   - demolition (must be done in conjunction with a specific affordable housing project); and
   - acquisition.
3. Soft Costs. HOME Program funds may be used to pay project soft costs. Soft costs must be "usual, customary, reasonable, and necessary" and may include:
   - finance related costs, i.e., credit reports, title reports and updates, appraisal fees, ***surveys***, origination fees and discount points, and construction interest;
   - current market study (not more than six (6) months old);
   - project audit costs;
   - professional services (architectural and engineering services provided for a specific project);
   - consultation fees (not associated with organizational startup). ***DEVELOPERS CANNOT HIRE THEMSELVES AS CONSULTANTS ON ANY HOME-FUNDED PROJECT OTHER THAN ON A THIRD-PARTY BASIS.***
4. Relocation Costs. The cost of permanent or temporary relocation of tenants.
5. Bridge Loans. Interim construction loans used to finance the HOME assisted development with prior notification to ADFA.

NOTE: While ADFA does not have a predetermined, specific limit on cost per square foot, the developer should be aware that the per unit cost per square foot will be closely scrutinized for reasonableness, and an application for funding will be denied if costs are deemed unreasonable.

G. Ineligible Projects

Ineligible rental projects include:

- public housing units;
- developments assisted under Title VI of NAHA (prepayment of mortgages insured by HUD);
- properties used for commercial purposes;
- emergency shelters with limited occupancy requirements;
- developments where developers/contractors do not have a valid Arkansas contractor's license, and
- developments that do not have a written verification in support of the proposed development from the chief elected official of the area where the development will be located.

H. Relocation

ADFA discourages developments involving displacement or relocation. Prior to application, contact ADFA if you are planning any development that may involve displacement or relocation. In the event relocation is unavoidable, applicants must adhere to the Uniform Relocation Act.

I. Application Review Process

Applications for HOME Program funds will be accepted on a continuous basis. Applications will be taken at any time during the year as long as funds are available. Applicants for HOME Program funds will be allocated funding according to the criteria found in the application for funding. The steps in approving an application include:

1. Review of the application by HOME Program staff for completeness using the criteria outlined in the HOME Program applications and program guides. A deficient application will result in written notification outlining the deficiencies. The applicant will then have an opportunity to correct any deficiencies within a designated time frame of thirty (30) business days. The applicant is reminded that HOME Program funds are awarded for funding on a first-come, first-served basis, and only completed applications will be considered for funding allocation.

2. Any application receiving recommendation for approval by the HOME Program Staff Housing Review Committee will be presented to ADFA's Board Housing Review Committee for further review, evaluation and ultimate approval or rejection.

3. Applications will be underwritten with a minimum Debt Coverage Ratio (DCR) of 1.10, including debt service on the HOME loan.

J. Methods of Repayment

ADFA has developed three (3) forms of standard loan terms and conditions for repayment of Rental Housing Program loans to be evidenced by fully executed promissory notes.

1. Promissory notes will be payable at a ***one percent (1%)*** interest rate for a term ***coinciding with the HOME affordability period.*** Monthly ***or annual*** payments will become due and payable not later than ***three (3) years*** from the anticipated placed in service date shown on Schedule of Activities, included as Attachment B of the HOME Agreement.

2. On developments utilizing both HOME Program funds and Low Income Housing Tax Credits (LIHTC) the terms of the HOME Program Loan will be at the applicable federal interest rate for projects to qualify for the 9 percent credit and be eligible for the 130 percent basis if it is located in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA). If HOME funds are provided at an interest rate below the applicable federal rate, they may still be counted in the eligible basis and the project may receive a 9 percent credit if the project meets stricter occupancy requirements (40% of units for persons at or below 50% AMI). However, such projects are not eligible for the 130 percent basis for projects located in a QCT or DDA. These projects will have terms at ***one percent (1%) interest*** with annual ***or monthly payments due and payable not later than three (3) years from the placed in service date***.

3. On developments utilizing HOME Program funds and USDA Rural Development funds, the terms of the HOME Loan will be a one percent (1%) interest rate for a term of twenty (20) years, amortized over fifty (50) years, with a balloon payment becoming due and payable to ADFA at loan maturity.

The Homeowner Housing Program

V. The Homeowner Housing Program

The Homeowner Housing Program was designed to address one of the most prevalent affordable housing needs experienced by medium- and small-sized communities in the state of Arkansas—the need for the rehabilitation of existing single-family, owner-occupied properties and single-family new construction to promote home ownership.

A. Eligible Applicants

ADFA will accept applications for owner-occupied rehabilitation and new construction projects from units of local governments or other nonprofit organizations (collectively, the "Eligible Applicant"), on a first come, first served basis until all funds are committed. For-profit entities may not apply for HOME Program funds to perform homeowner rehabilitation, but may apply for HOME Program funds for new construction projects. Applicants may receive technical assistance by attending an information/training session prior to submitting an application. Sessions will address HOME and ADFA guidelines as well as application procedures.

The Eligible Applicant is the entity responsible for the HOME application, project development, project implementation and accountability for uses of all HOME funds. The Eligible Applicant will also be responsible for performing required compliance and monitoring of all HOME activities for the full applicable affordability period.

ADFA will grant HOME Program funds to the approved Eligible Applicant as outlined in the HOME Program Agreement. The Eligible Applicant will then loan funds to homeowners, as approved by ADFA, for eligible HOME activities. The homeowner will be required to execute a Promissory Note, Mortgage, and Deed Restriction through an ADFA-approved closing entity.

B. Amount of HOME Program Funding per Applicant

Each Eligible Applicant must request at least one hundred thousand dollars ($100,000) and no more than four hundred thousand dollars ($400,000). Additional applications may be submitted if currently funded project expenditures of HOME Program funds comply with established performance standards.

C. Eligible Activities

Eligible Applicants may apply to perform single-family housing rehabilitation (including reconstruction), new construction, and/or provide mortgage subsidies. A minimum of five (5) units must be submitted with each application, and all five units must be approved before HOME funds will be allocated.

D. Eligible Owner

An eligible owner must be low-income. A low-income owner is defined as an owner whose annual gross household income does not exceed eighty percent (80%) of the median income for the area, adjusted for family size. (Reference HUD's "Technical Guide for Income Determination.")

- While HOME uses the Section 8 definition for low-income, there are no HUD prescribed methods for verifying income eligibility. Applicable Income Verification forms will be provided by ADFA. Participants will use these forms for calculating and verifying incomes. For homeowner applicants applying for repayable HOME Program Loans, ADFA will perform a credit inquiry to determine the homeowner's ability to repay the repayable portion of the HOME Program Loan.
- Without exception, HOME Program funds cannot be used on projects where the income of the owners is greater than eighty percent (80%) of the median income for the area adjusted for family size.

The homeowner must provide proof of fee simple title and owner occupancy for a period of at least three (3) years. A family or individual owns the property if they have fee simple title to the property, and there are no restrictions or encumbrances that would unduly restrict the good and marketable nature of the ownership interest. An executed and recorded warranty deed in the name of the owner is required as proof of ownership. **To ensure proper ownership, a title search must be performed prior to funding the activity**. Existing mortgages may be acceptable, but will be reviewed for acceptability on a case-by-case basis.

E. Death of Owner

In cases where an owner-occupant dies before the affordability period expires and/or a HOME Program promissory note is paid in full, the following remedies will be exercised by ADFA:

1. <u>HOME Program Loan With No Heirs</u>. If ADFA has the first positionÂ on the property, it will seek to sell the property to an income eligible borrower.

2. <u>HOME Program Loan With Heirs</u>. If ADFA has the first position on the property, and an heir qualifies to become an owner-occupant, with ADFA's prior written approval, the heir may purchase or have title transferred to the them. If an heir does not qualify as eligible to receive HOME Program assistance, the heir will have the opportunity to sell the property to an income eligible borrower or in the case of sale of the property to a nonincome eligible borrower, the heirs will be required pay off any remaining balance of HOME Program funds. If an heir does not sell the property, ADFA will foreclose and seek to sell the property to an income eligible borrower.

3. <u>Loan Repayment Conditions With Heirs</u>. If ADFA has the first position on the property, the heirs will have the option of paying off the loan. If the heirs are unable to pay off the total loan and qualify as an eligible owner-occupant, the heir may assume the loan upon verification of eligibility and ability to repay the loan according to terms negotiated between ADFA and the heir(s).

Note: In the situations previously described, heirs should consult an attorny and adhere to legal processes regarding estates to properly obtain a deed to the property.

F. Eligible Properties

The geographic location of properties included in the application will be reviewed to ensure the applying entity has the necessary capacity to perform the proposed activities within the designated geographic location.

Eligible properties must be modest in value. The estimated value of the HOME assisted property — AFTER REHABILITATION — must not exceed the HUD 203(b) mortgage limit for the area for the type of property being assisted (e.g., single family, condominium). In addition, the cost of repairs must be reasonable compared to the value of the house (i.e., the level of rehabilitation is intended to allow continued owner occupation for at least the affordability period as regulated by the HOME Program). The rehabilitation must be financially and structurally feasible.

A formal appraisal is <u>**not**</u> required to establish value. Use of an alternative valuation method or market analysis must be documented in the application.

Â If ADFA is in a subordinate position on the property, ADFA will coordinate its efforts with the first mortgage lien holder.

G. Eligible Costs

HOME Program funds may be used only for eligible costs as defined under the federal HOME Program. HOME Program funds may be used to cover soft and hard costs associated with a project. These costs include the following:

1. Eligible hard costs. Eligible hard costs are the actual costs associated with the rehabilitation of the owner-occupied housing units and include the following:

   - demolition costs, and
   - construction, rehabilitation, or reconstruction costs.

2. Eligible soft costs. Soft costs must be "usual, reasonable and necessary" and may include the following:

   - finance related costs;
   - credit reports;
   - title reports and updates;
   - appraisal fees;
   - origination fees and discount points;
   - project audit costs;
   - affirmative marketing and fair housing costs;
   - temporary relocation costs;
   - professional services (architectural, engineering, and other services provided for a specific project. Otherwise, the professional service costs may be considered to be administrative costs.);
   - surveys; and
   - hazard insurance.

3. Temporary Relocation Costs.

4. Project Delivery Costs. Project delivery costs include staff time, overhead, fringe benefits, consultant fees, etc., which can be directly attributed to a specific project. Any entity receiving a HOME fund allocation may include in its application an amount for project delivery costs (in an amount not to exceed 10% of the final HOME Program allocation) in the development budget. For instance, if a recipient receives a three hundred thousand dollar ($300,000) HOME Program allocation, it may request an additional thirty thousand dollars ($30,000) for project delivery costs. Project delivery costs are eligible only for costs directly associated with the HOME funded development or activity. **Applicants must submit a budget for project delivery costs within the application for funding.** The approved applicant must submit a certification of the project delivery costs incurred that is signed by the appropriate approving official of the participating entity with each request for project delivery funds. Project delivery costs must be allocated on a pro rata basis among the HOME-assisted units. On single-family projects (i.e., new construction or rehabilitation), ADFA will withhold a ten percent (10%) administrative retainage throughout the project. Single-family projects exceeding eighteen months (18) for completion will be paid no more than 90% of administrative fees.

Proper documentation is essential for the payment of project delivery cost fund requests and must be kept on file with the approved HOME Program participant. Project delivery costs must be supported by source documentation **maintained on file by the recipient** of HOME funds. Requests for payment of project delivery costs must be verified by the cost certification (signed by the recipient) and not by the supporting documentation maintained by the recipient. Supporting documentation will be reviewed and verified by ADFA staff performing compliance and monitoring reviews.

Acceptable supportive documentation includes:

- A copy of a detailed bill highlighting the costs to be reimbursed to the HOME Program participant. (The detailed bill must be substantiated by a cancelled check, a copy of the bank statement or other proof of payment.) The detailed bill should, at a minimum, include vendor identification, a description of the services received, the quantity (hours, units, etc.), and the price for services received. No handwritten invoices will be accepted.
- All invoices must have an authorized signature of the HOME Program participant's Executive Director, or his or her designee, approving the payment and verifying that the services were received or satisfactorily performed, the month the cost is being paid, dated, and cancelled to prevent the invoice from being paid twice.
- ADFA will reimburse salaries which are "reasonable and customary" for support personnel of the HOME Program participant directly providing project delivery costs to the affordable housing being assisted at a rate commensurate with their regular hourly wages.
- A copy of any contracts for professional services (i.e., consultants, architects, contractors, etc.), if applicable, must be provided in the initial application outlining the services to be rendered, the cost of the proposed services, and the proposed payment schedule or terms.
- The use of prorated payment percentages is acceptable and must be outlined in the initial application as well as each billing statement submitted for reimbursement. The applicant must provide the sources of other funds used to pay project delivery costs, if any.

H. Maximum Per-unit Home Assistance

ADFA will not allocate HOME funds to projects that have total development costs (including HOME funds and any other resources) which exceed the 203(b) mortgage limits for that respective county. Mortgage subsidies may be provided at a maximum of $25,000 or 20% of purchase price, whichever is lower in the purchase of single family houses. Total development costs include profit, overhead and developers' fees and must be in compliance with 24 CFR Section 92.254.

Type of HOME Activity	Total Allowable HOME Assistance
Homeowner Rehabilitation	$25,000
Homeowner Reconstruction	$80,000
New Construction (For Sale)	$80,000

- **Rehabilitation.** Rehabilitation projects with projected costs in excess of twenty-five thousand dollars ($25,000) will be required to perform reconstruction instead of rehabilitation.
- **Reconstruction.** In reconstruction projects, the total amount of HOME funds per structure may not exceed Eighty thousand dollars ($80,000). If the proposed reconstruction costs exceed eighty thousand dollars ($80,000), the homeowner will be responsible for providing the amount over Eighty thousand dollars ($80,000).
- **New Construction.** Eighty thousand dollars ($80,000) is the maximum amount of HOME funds ADFA will provide for new construction financing. The funds will be in the form of a direct repayable loan to the applicant for construction of a single housing unit. In essence, this loan provides funding allowing the applicant to complete the construction process. The terms of the direct repayable loan at a ***one percent (1%)*** interest rate from ADFA will be set according to the payment terms as outlined in Section "K" entitled "Types of Financial Assistance." A financial feasibility and marketing plan must be submitted in addition to all normal requirements of HOME applications for new construction. If HOME funds are requested for use in providing mortgage subsidies, the marketing plan must include a plan for the use of those HOME-funded mortgage subsidies.

I. Minimum Property Standards

Minimum property standards **must** be met at project completion when HOME Program funds are used for a project. ADFA has developed "rehabilitation standards" which will be provided to approved applicants.

At a minimum, the requirements set forth in the Section 8 Housing Quality Standards must be met for all moderate rehabilitation projects.

Substantial rehabilitation projects funded with HOME Program funds must also meet all local codes, rehabilitation standards, zoning ordinances, the cost effective energy conservation and effectiveness standards (24 CFR Part 39) and the Arkansas Energy Code.

The objective of the HOME Program is to build quality homes that have aesthetic appeal in construction and design. To that end, ADFA maintains a book of plans that is available for use by participants to assist in the planning process. Single-family units constructed with HOME funds as part of the homebuyer program must be a minimum of 1,200 sf heated and cooled with a minimum of three bedrooms and two bathrooms. ***Single-family units reconstructed with HOME funds as part of the homeowner rehabilitation program must be a minimum of 1,000 sf heated and cooled for two bedroom houses and a minimum of 1,200 sf heated and cooled for three bedroom structures.***

J. Ineligible Projects

Ineligible projects include (1) properties that are not owner occupied, (2) rental properties, and (3) projects where contractors do not have a state contractor's license or cannot obtain a builder's risk insurance policy, and payment and performance bond for the full amount of the construction contract.

K. Types of Financial Assistance

Homeowners may be eligible for one or both of the following forms of assistance, providing their monthly housing expense does not exceed forth percent (40%) of their adjusted monthly gross income (housing expenses include principal, interest, taxes, insurance and utilities):

1. A forgivable loan.
2. A repayable loan.

In conjunction with a forgivable and/or repayable loan and with ADFA's prior approval, HOME Program funds may be used to refinance an existing mortgage loan with a current balance less than five thousand dollars ($5,000).

Homeowner new construction assistance is funded under the following terms:

1. The loan will be in the form of a direct repayable loan to the applicant at ***one percent (1%)*** per annum. The loan will be repayable upon the sale and closing of each unit minus any approved subsidy.

Homeowner rehabilitation/reconstruction assistance is funded under the following terms:

1. A maximum of $25,000 in HOME Program funds may be provided as a zero percent (0%) forgivable loan with a prorated amount forgiven each month over the term of the forgivable loan, which coincides with the applicable affordability period. Although the HOME Program Final Rule does not impose an affordability period for owner-occupied rehabilitation, ADFA does require an affordability period for owner-occupied rehabilitation projects. The forgivable loan requires no monthly repayment, but must be repaid if the homeowner fails to maintain compliance with all terms and conditions outlined in the agreement;
2. An amortized direct loan, which requires monthly repayment of principal and interest, may be approved. The interest rate will be one percent (1%) per annum. Loan terms will coincide with the ADFA imposed affordability period for homeowner rehabilitation determined by the total amount of HOME Program funds invested in the unit. Repayment of reconstructed units will be 50%

repayable and 50% forgivable loan. With ADFA's prior approval, HOME-assisted properties may be refinanced in order to allow the owner to obtain a lower interest rate, provided that the owner receives no cash proceeds from the transaction and the total indebtedness does not exceed the value of the property.

With ADFA's prior approval, the HOME Program loan may be assumed by a new owner if the new owner ***satisfies the requirements to properly obtain title*** and :

a. is low-income (i.e., income is equal to or less than eighty percent (80%) of area median income, adjusted for family size);

b. will occupy the property as the principal residence; and

c. is certified by ADFA as eligible to receive HOME Program assistance.

The minimum applicable affordability periods for single-family loans shall be as follows:

Total Loan Amount	Number of Years
$1,000 - $15,000	5
$15,000 - $40,000	10
Over $40,000 +	15

In all cases where HOME Program assistance is provided, a note and mortgage will be recorded in favor of ADFA. ***ONLY ADFA-APPROVED LIEN DOCUMENTS WILL BE USED.*** HOME Program assistance may be in a junior position to private lender financing as long as the combined loan-to-value does not exceed one hundred percent (100%). Recipients and subrecipients must apply all rules consistently and fairly, regardless of the form of assistance. All mortgage payments shall be paid by the homeowner on a monthly basis to ADFA at the following address:

Arkansas Development Finance Authority
c/o Accounting Department
P. O. Box 8023
Little Rock, AR 72201

L. Resale and Recapture Provisions

RECAPTURE:

ADFA will recapture that portion of HOME Program investment unforgiven by the elasped affordability period or recapture the maximum net proceeds from sale of property (whether recapture is effected through foreclosure or no foreclosure action). Net proceeds recovered will be used to: (1) Reimburse the HOME Program (approved activity) for the outstanding balance of HOME funds not repaid or forgiven during the applicable affordability period at the the time of recapture. (2) Reimburse the HOME Program (administration) for "holding costs" or other costs associated with the recapture action (legal fees, insurance, taxes, realtor fees, appraisal/BPO costs, etc.) If net proceeds recaptured are less than the outstanding balance of HOME funds invested in the property (for all approved activities and holding costs incurred), the loss wil be absorbed by the HOME Program and all HOME Program requirements would be considered to have been satisfied. If net proceeds recaptured are greater than the outstanding balance of HOME funds invested in the property (for all approved activities and holding costs incurred), the balance of net proceeds would be distributed to the homeowner (or his/her estate). If the recapture of proceeds is effectuated through a completed foreclosure action, and the property is legally owned by ADFA, the balance of net proceeds recaptured will inure to ADFA.

RESALE:

For those cases where the affordability requirements are violated as a result of the death of the HOME beneficiary and there is an eligible person who qualified and is desirous of assuming the HOME assistance invested in the property, ADFA will permit sale of the HOME-assisted unit to the qualifying, eligible person, contingent upon ADFA's prior review and approval. The subsequent owner will be required to adhere to all applicable affordability requirements for the unexpired term of the original affordability period.

M. Relocation

ADFA discourages projects involving displacement or relocation. Prior to application, contact ADFA if you are planning any project that may involve displacement or relocation. ***In the event relocation is unavoidable, the applicant must adhere to the Uniform Relocation Act.***

N. American Dream Downpayment Initiative (ADDI) Funds

The American Dream Downpayment Initiative (ADDI) was signed into law by President Bush on December 16, 2003, under the American Dream Downpayment Act (Public law 18-186) (ADDI statute). Funds made available under the ADDI statute will be allocated to eligible HOME Investment Partnerships Program Participating Jurisdictions (PJ) to assist low-income families become first-time homebuyers. The PJs in Arkansas administering the ADDI funds include the Arkansas Development Finance Authority and the City of Little Rock.

The goals of the ADDI funds are as follows:

- Increase the overall homeownership rate
- Create greater opportunity for homeownership among lower income and minorities
- Revitalize and stabilize communities

ADFA will make available ADDI funds for downpayment and closing cost assistance toward the purchase of single-family housing (i.e., 1-4 family residence, condiminium unit, or combination of manufactured housing and lot) by low-income families (80% of area median income or less) who are first-time homebuyers. Under ADDI, a first-time homebuyer is an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home. In addition, the unit must meet all applicable State and local building codes or minimum housing quality standards in the absence of local codes. The purchase price cannot exceed the HUD 203(b) Mortgage Limits.

ADFA will provide the ADDI funds in the form of a forgivable loan (soft second mortgage) in an amount up to ***six percent (6%) of the purchase price*** for downpayment and closing costs, ***not exceeding $10,000*** in conjunction with ADFA's HomeToOwn (Mortgage Revenue Bond) Program through ADFA-approved participating lenders located throughout Arkansas. The minimum amount of ADDI assistance is $1,000. In the event the unit purchases (per-1978 units) has lead-based paint hazards, additional HOME funds may be used in conjunction with the downpayment assistance for rehabilitation to eliminate identified lead hazards.

The assistance will be forgiven in equal annual installments over the period of affordability. The homebuyer must maintain the house as their principal residence for the full affordability period. The homebuyer will be required to complete a homebuyer education course through an ADFA approved homebuyer counselor. If the property is sold during the affordability period, ADFA will recapture the amount of ADDI/HOME funds that have not been forgiven. The homebuyer will also be required to execute a Promissory Note and Second Mortgage for the amount of assistance provided in accordance with established HOME Program affordability periods (see Table below).

AFFORDABILITY PERIOD

HOME Subsidy	**Affordability Period**
Less than $15,000	5 years
$15,000 - $40,000	10 years
Over $40,000	15 years

Community Housing Development Organizations

VI. Community Housing Development Organizations

ADFA will make reasonable efforts to identify Community Housing Development Organizations ("CHDOs") that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community based organizations to do so. Requirements for qualifying as a CHDO are found at 24 CFR 92.300.

ADFA will reserve not less than fifteen percent (15%) of the HOME allocation for investment only in housing to be developed, sponsored, or owned by CHDOs. The funds must be provided to a CHDO, its subsidiary or a partnership of which it or its subsidiary is the managing general partner. If a CHDO owns the project in partnership, it or its wholly-owned for-profit or nonprofit subsidiary must be the managing general partner. In acting in any of the capacities specified, the CHDO must have effective project control.

All forms of assistance provided to the CHDO will be in the form of a loan and must be repaid to ADFA, excluding any mortgage subsidy assistance provided to the home buyer. The HOME Program Agreement between ADFA and the CHDO must state specifically the proposed HOME-eligible activities to be performed to benefit low-income persons and families. CHDOs are not required to provide matching funds for rental rehabilitation and rental new construction activities.

Certification or recertification of CHDO status is performed on a continuous basis. The certifications are approved for a period of one (1) year. An application for certification or recertification must include a "CHDO Checklist" contained in CPD 97-09. Nonprofit applicants may not submit an application for CHDO status until they have received their 501(c)(3) designation from the Internal Revenue Service and can provide verification of such designation with their CHDO application.

It is the CHDO's responsibility to submit an application for recertification at the end of the original certification period of one (1) year. The CHDO will not be notified by ADFA of the lapsed certification. An expired certification will be voided at the end of a thirty (30) day period after the date of expiration. This grace period will not be extended under any circumstances.

If a CHDO is located within a local participating jurisdiction (PJ), ADFA will direct those organizations to their respective local PJ for technical assistance and operating fund requests. If the local PJ does not have funding available for a CHDO-eligible housing project within their jurisdiction, the CHDO may apply to ADFA for CHDO set-aside with an accompanying support letter from the local PJ.

ADFA may provide CHDO Operating funds in conjunction with the approval of a CHDO set-aside funded project. CHDO Operating funds may not exceed 50% of the CHDO's annual operating expenses with a maximum amount of assistance of $50,000. The nonprofit must submit an application for funding along with its annual budget and the proposed use(s) of the CHDO Operating funds as part of its request for assistance.

Tenant-Based Rental Assistance

VII. Tenant-Based Rental Assistance

HOME Tenant-Based Rental Assistance (“TBRA”) Program is a rental subsidy program designed to help an eligible tenant with rent and utility costs, as well as to pay security and utility deposits. The TBRA Program directly assists individual households (rather than providing subsidies to owners or projects) to make housing affordable. The Section 8 Rental Voucher Program is a form of TBRA. HOME funded TBRA programs work in a similar manner. TBRA payments make up the difference between the amount the family can afford to pay for housing costs (rent and utilities) and the actual rent of the housing selected by the family.

TBRA funds may be used to pay rent and utilities, security deposits and utility deposits for those eligible and selected for rental assistance. The assistance must be tenant-based, NOT based on the project. Tenants must be free to use their assistance in any eligible unit in the geographical area of the public housing authority. Even tenants who receive TBRA assistance in order to avoid economic displacement in a HOME project can move immediately. Public housing authorities may use the Rental Voucher Program as a model for the HOME TBRA Program.

ADFA shall contract with the public housing authority to administer the HOME TBRA Program.

A. Eligible Applicants

All HOME Program funds used for rental housing activities and tenant-based rental assistance must be used to assist families at or below sixty percent (60%) of the median income, adjusted for family size. An applicant awarded HOME Program funds for the purpose of providing TBRA must select households in accordance with locally established preferences.

B. Eligible Units

Tenants receiving HOME TBRA must use the assistance in units that:

- meet Section 8 Housing Quality Standards (Inspections are made at initial occupancy and annually during the length of the contract.);
- have affordable rents as defined and adjusted annually by HUD;
- may be publicly or privately owned; however, TBRA may not be used in units that receive other forms of rent subsidy, i.e. public housing or Section 8 Substantial Rehabilitation as defined annually by HUD; and
- must meet lead-based paint requirements.

Unlike Section 8, cooperatives are considered owner-occupied housing under the HOME Program. Therefore, HOME TBRA may not be used to assist resident owners of cooperatives. It is the responsibility of the HOME Program recipient to determine whether or not these housing standards are met by implementing their own inspection process. However, ADFA reserves the right to inspect units and monitor for compliance with HOME Program requirements.

C. Project Delivery Costs

Recipients may submit a written request for project delivery costs directly associated with provision of tenant-based rental assistance not to exceed one hundred twenty dollars ($120) per tenant assisted during the fiscal year. The total amount of the request for project delivery costs will be based on an estimate of the number of tenants (new and continuing) to be assisted during the year. TBRA project delivery costs are not “unlimited” and are based on the number of tenants indicated in the HOME Program Agreement. Additionally, the participant is eligible to receive $10 per month for continued project delivery processing.

D. Amount Of Subsidy

The amount of subsidy is set by ADFA pursuant to the federal HOME Program regulations.

- Maximum Subsidy. ADFA may pay up to the difference between a "rent and payment standard" preapproved by ADFA and thirty percent (30%) of the family's monthly adjusted income..
- Minimum Tenant Contribution to Rent. The minimum tenant contribution to housing cost (rent and utilities) is the greatest of thirty percent (30%) of the family's monthly adjusted income or fifty dollars ($50). The Rental Voucher Program meets the HOME regulation requirements regarding maximum subsidy and minimum tenant contribution.

E. Protection for Tenants

When HOME Program assistance expires, tenants who were selected from the public housing authority's waiting list may return to the waiting list and qualify for the same tenant selection preferences as when they were selected for the HOME assistance. Public housing authorities must plan ahead for expiring contracts.

Prohibited Lease Provisions. The owner's lease may not include certain provisions, which in general have the effect of waiving a tenant's rights in advance. All owner's leases must be in compliance with 24 CFR Part 92.253. A sample lease addendum is available to successful applicants.

F. Recertification

The incomes of tenants receiving rental assistance must be recertified at least annually. Rent and assistance is adjusted accordingly based on the circumstances in effect at the time of recertification. If a participating tenant's income goes above the Section 8 Low Income Limit at recertification, assistance must be terminated.

G. Project Revisions

Recipients should provide a copy of any project revisions to ADFA, including revisions of tenancy, income, rental assistance, vacancy, etc.

H. Portability

Tenants must use the tenant-based rental assistance within the public housing authority's jurisdiction unless the tenant relocates to accept employment or training that leads to employment. In this case, inspection and recertification requirements still apply.

I. Match Requirements

TBRA typically requires a twenty-five percent (25%) matching requirement; however, the match requirement for Arkansas is waived.

J. Length of Assistance

HOME TBRA rental assistance contracts with individual households may not exceed two (2) years. ADFA requires that TBRA subsidy contracts not exceed one (1) year. Contracts can be renewed, subject to availability of HOME funds. The one-year period begins on the first day of the lease and will end upon termination of the lease (if the TBRA payment is made directly to the landlord).

Glossary

Adjusted Income

Adjusted income is annual (gross income) reduced by deductions for dependents, elderly households, medical expenses, disabled assistance expenses and child care (these are the same adjustment factors used by the Section 8 Program). Adjusted income is used in the HOME Program to compute the actual tenant payment in tenant-based rental assistance programs.

Affordability

As used in this guide, affordability refers to 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 on the nature of the HOME-assisted activity (i.e., homeownership or rental housing).

Annual (Gross) Income

The HOME Program allows the use of one of the three definitions of income: Section 8 annual income (as defined under 24 CFR Part 5); annual income as reported on the U.S. Census Long Form; and adjusted gross income as defined for the purposes of reporting on IRS Form 1040.

Commitment

The written, legally binding agreement between the participating jurisdiction (or other entity) and the project owner providing the HOME Program funds to a project. For tenant-based rental assistance, the commitment is the rental assistance contract between the participating jurisdiction (or other entity) and the tenant or owner. Once a commitment occurs, HUD expects construction to start or a purchase to occur within twelve (12) months. HUD recognizes the commitment when the project is set up in the Integrated Disbursement and Information System.

Community Housing Development Organization ("CHDO")

A private, nonprofit organization that meets a series of qualifications prescribed in the HOME Program regulations. CHDOs must receive at least fifteen percent (15%) of a participating jurisdiction's annual allocation of HOME Program funds. CHDO's may own, develop or sponsor HOME Program-financed housing.

Consolidated Plan

A plan prepared in accordance with the requirements set forth in 24 CFR Part 91, which describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including the HOME Program.

Development

A site or an entire building or two (2) or more buildings, together with the site or sites on which the building are located, that are under common ownership, management and financing and are to be assisted with HOME Program funds-under commitment by the owner-as a single undertaking.

Development Fees

Compensation to the developer for developing the property, includes overhead and profit, consult/processing agent fees, project administration, the value of personal guarantees and a portion of any reserves determined by the housing credit agency to be in excess of industry norms.

Eligibility Criteria

Property characteristics, tenant income limits and maximum rent levels, which qualify a project as eligible for the LIHTC.

Equity

The value of a property less the amount of outstanding debt on it.

Financing Plan

The proposed financing for a project.

General Partner

A partner who is liable and responsible for completing a project as proposed, managing the partnership and guaranteeing funding required to complete the project. A general partner oversees construction, leasing and property management; maintains the books and records of the partnership; and submits periodic reports to the limited partners on the project's financial status.

General Partnership

A form of ownership in which all partners participate materially in the partnership's operations and share liability.

HOME Program-Assisted Units

Units within a HOME Program project where HOME Program funds are used and rent, occupancy and/or resale restrictions apply.

HOME Program funds

All appropriations for the HOME Program, plus all repayments and interest or other return on the investment of these funds.

Housing Investment Partnerships Act ("HOME Program")

The act that created a formula-based allocation program intended to support state and local affordable housing programs. The goal of the program is to increase the supply of affordable rental and ownership housing through acquisition, construction, reconstruction, and moderate or rehabilitation activities (Title I, National Affordable Housing Act of 1990).

HUD

U.S. Department of Housing and Urban Development.

Interest Subsidy

The amount of subsidy required to reduce the interest rate on a loan to a below-market rate over the term of the loan.

Limited Partner

A passive investor in a limited partnership who, in exchange for contributing equity to the project, receives a pro rata share of cash flow and tax benefits and the right to approve the sale or refinancing of the property and removal of the general partner in the event of gross negligence or breach of contract.

Limited Partnership

An ownership vehicle comprising limited and general partners that allows for central management but has no tax liability, instead passing tax benefits through to its limited and general partners.

Low-Income Family/Person

Family or person whose annual (gross) income does not exceed eighty percent (80%) of the median income for the area (adjusted for family size). HUD may establish, on an exception basis, income ceilings higher or lower than eighty percent (80%) of the median income for an area.

Managing General Partner

The general partner responsible for the day-to-day management of a limited or general partnership.

Moderate Rehabilitation

The cost of a rehabilitation project that costs $25,000 or less.

National Affordable Housing Act of 1990 ("NAHA")

Enacted by Congress to authorize the HOME Investment Partnership Act program, the National Homeownership Trust program, and programs to amend and extend certain laws relating to housing, community and neighborhood preservation and related programs.

Net Operating Income/(Surplus Cash)

The operating income derived by the project owner from development cash flow (excluding interest income earned on tenant security deposits and reserve accounts) which exceeds operating expenses. Operating expenses include: salaries of on-site property managers, management fees, accounting services, loan repayments, amounts deposited into a replacement reserve account, travel expenses, legal services, insurance expenses, utility expenses, office supplies, rental and maintenance (but not purchase) of office space, and developers' fees, each specifically related to the development (See ADFA Form to calculate NOI and surplus cash payments included in the Forms section of this manual).

New Construction

For purposes of the HOME Program, new construction is any project with commitment of HOME Program funds made within one (1) year of the date of initial certification of occupancy. Any project that includes the creation of additional dwelling units outside the existing walls of a structure is also considered new construction.

Participating Jurisdiction ("PJ")

The term given to any state, local government or consortium that HUD has designated to administer a HOME Program. HUD designation as a PJ occurs if a state or local government meets the funding thresholds, notifies HUD that it intends to participate in the program and obtains approval by HUD of its Consolidated Plan.

Partnership Agreement

A legal document that specifies the rights and responsibilities of the general and limited partners and governs the ongoing relationship between these parties.

Project

A site or an entire building or two (2) or more buildings, together with the site or sites on which the building are located, that are under common ownership management and financing and are to be assisted with HOME Program funds – under a commitment by the owner – as a single undertaking.

Recapture

Losses of HOME Program funds due to lack of performance with applicable performance standards as defined under General Requirements in Section O of this manual.

Reconstruction

The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. The number of housing units on the lot may not be decreased or increased as part of the reconstruction project, but the number of rooms per unit may be increased or decreased. Reconstruction is considered to be rehabilitation for the purposes of ADFA's Homeownership Housing Program.

Restrictive Covenant

A limitation placed on a property, which is recorded and attached to the deed, thereby passing to subsequent owners.

Section 8 Tenant-Based Rental Assistance Program

A federal program that provides rental assistance to low-income families who are unable to afford market rents. Assistance is provided in the form of vouchers.

Soft Costs

Development costs exclusive of the cost of acquisition, site improvements, construction and contingencies.

Soft Second Mortgage

A loan provided by public and nonprofit lenders at below-market interest rates and with flexible repayment terms, using as collateral a second mortgage on the project property, to fill a financial gap for a project serving a public purpose (for instance, affordable housing).

SRO Housing

A type of congregate housing in which each resident has a private room by shares common areas (such as dining and living rooms) with other residents.

State Recipient

Any unit of local government designated by a state to receive HOME Program funds. The state is responsible for ensuring that HOME Program funds allocated to state recipients are used in accordance with the HOME Program regulations and other applicable laws.

Subrecipient

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

Substantial Rehabilitation

The cost of a rehabilitation project that costs more than $25,000.

Surplus Cash (Net Operating Income-NOI)

The operating income derived by the project owner from development cash flow (excluding interest income earned on tenant security deposits and reserve accounts) which exceeds operating expenses. Operating expenses include: salaries of on-site property managers, management fees, accounting services, loan repayments, amounts deposited into a replacement reserve account, travel expenses, legal services, insurance expenses, utility expenses, office supplies, rental and maintenance (but not purchase) of office space and developers' fees, each specifically related to the development.

Syndicates

Individuals or firms who arrange for the sale of ownership shares in a project to raise equity from investors.

Targeting

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

Tenant-Based Rental Assistance ("TBRA")

A form of direct rental assistance in which the recipient tenant may move from a dwelling unit with a right to continued assistance. Includes security and utility deposits associated with the rental of dwelling units.

Total Development Cost ("TDC")

The sum of all costs for site acquisition, relocation, demolition, construction and equipment, interest and carrying charges.

Very Low-Income Family

Family whose annual (gross) income does not exceed fifty percent (50%) of the median income for the area (adjusted for family size). HUD may establish income ceilings higher or lower than fifty percent (50%) of median income for an area on an exception basis.

Forms