

Indiana Housing and Community Development Authority (IHCDA) HOME, HTF, CDBG Program Manual 4th Edition: July 2017

INTRODUCTION

This manual is a reference guide for projects receiving funding from federal programs administered by the Indiana Housing and Community Development Authority (IHCDA), including HOME, HTF, CDBG, and CDBG-D. It is designed to answer questions regarding procedures, rules, and regulations that govern these federal programs. This manual should be a useful resource for sponsors, developers, recipients, and management agents. It provides guidance with respect to IHCDA's administration of compliance under 24 CFR Part 92 (HOME), 75 FR 66978 (HTF), and 24 CFR Part 570 (CDBG), as well as other applicable federal regulations.

Please note, however, that this manual is to be used only as a supplement to compliance with all applicable regulations. This manual should not be considered a complete guide to the HOME Investment Partnership Program (HOME), Housing Trust Fund (HTF) or Community Development Block Grant (CDBG) programs. The responsibility for compliance with federal program regulations lies with the recipient. See disclaimer below.

SCOPE OF THIS MANUAL

This manual discusses the upfront compliance requirements necessary to get an awarded project through the closeout process. This manual does not discuss the award application process. This manual only briefly discusses the ongoing compliance requirements for rental projects. Readers looking for information on rental housing compliance should refer to IHCDA's manual entitled *Federal Programs Ongoing Rental Compliance Manual*.

****DISCLAIMER****

The publication of this manual is for convenience only. Your use or reliance upon any of the provisions or forms contained herein does not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that your development will be in compliance with the requirements of 24 CFR Part 92 or 24 CFR Part 570. The Indiana Housing and Community Development Authority and contributing authors hereby disclaim any and all responsibility of liability, which may be asserted or claimed arising from reliance upon the procedures and information or utilization of the forms in this manual.

Because of the complexity of federal and state regulations and the necessity to consider their applicability to specific circumstances, recipients are strongly encouraged to seek competent, professional legal and accounting advice regarding compliance issues. **IHCDA's obligation to monitor for compliance with the requirements of these federal regulations does not make IHCDA or its subcontractors liable for a recipient's noncompliance.**

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BACKGROUND OF PROGRAMS

HOME INVESTMENT PARTNERSHIP PROGRAM

The HOME Investment Partnerships Program (HOME) provides formula grants to States and localities that communities use often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. The HOME program was authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act.

HOME funds are awarded annually as formula grants to participating jurisdictions (PJs). The program's flexibility allows States and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancements, or rental assistance or security deposits.

COMMUNITY DEVELOPMENT BLOCK GRANT

The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. CDBG is an important tool for helping local governments tackle serious challenges facing their communities. The CDBG program has made a difference in the lives of millions of people and their communities across the Nation.

In addition, each activity must meet one of the following national objectives for the program: benefit low- and moderate-income persons, prevention or elimination of slums or blight, or address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available.

IHCDA utilizes CDBG funds to complete owner occupied activities in non-entitlement communities across the state. The Office of Community and Rural Affairs (OCRA) receives a direct allocation of CDBG funds from HUD and gives IHCDA a portion to complete housing related activities. OCRA utilizes CDBG funds mainly to address concerns related to infrastructure. More information related to OCRA and CDBG activities can be found at www.in.gov/ocra

HOUSING TRUST FUND

The Housing Trust Fund (HTF) is a new affordable housing production program that will complement existing Federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families. The HTF was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131. HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. Funding is derived from Freddie Mac and Fannie Mae activities. No less than 90% of HTF funding must be used for the production, preservation, rehabilitation, or operation of affordable rental housing. The remaining 10% of funding can be used to support homeownership activities for first time homebuyers.





CHAPTER 1 – Policy Requirements

A. ELIGIBLE ACTIVITIES WITH IHCDA HOME, CDBG, AND HTF FUNDING

Permanent Rental Housing- CDBG-D, HOME, HTF

The purpose of this activity is to provide funding for affordable long-term housing that will be rented to income-eligible tenants. Eligible activities include acquisition, rehabilitation, or new construction. Permanent rental housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a permanent supportive housing unit must be income certified and must enter into a lease agreement.

Eligible permanent rental housing includes assisted living facilities that meet IHCDA's definition. IHCDA defines an assisted living facility as a living arrangement in which services are available to residents (e.g. meals, laundry, medication reminders, etc.) but the residents still live independently. Residents of such facilities pay a regular monthly rent and pay additional fees for the services that they desire. The fees for any services that are mandatory (i.e. services that are a condition of occupancy) must be included in the gross rent calculation.

Permanent Supportive Housing HOME, HTF

The purpose of this activity is to provide funding for affordable long-term housing and supportive services for persons that would otherwise be at risk of being homeless. Eligible activities include acquisition, rehabilitation, or new construction.

Permanent supportive housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a permanent supportive housing unit must be income certified and must enter into a lease agreement. This activity can only be funded by successfully completing the Permanent Supportive Housing Institute.

Owner Occupied Rehabilitation – CDBG

The purpose of this activity is to address health and safety concerns of the home, structural issues, improve energy efficiency, and make appropriate modifications to the home to make it accessible. This activity is dedicated only to persons who own the home and utilize it as their primary residence.

IHCDA utilizes a priority list as a guide on addressing primary issues within the home. More information can be found in the Construction Standards and Physical Inspection chapter.

Homebuyer Housing - HOME

The purpose of this activity is to provide funding for affordable long term housing for persons interested in purchasing a home. Eligible activities include acquisition, rehabilitation, or new construction.

Homebuyer units may not be utilized for temporary housing or be used for rental purposes. Individuals who purchase a home with Homebuyer funding must utilize the unit as their primary residence. Funding can be utilized to reduce the purchase price of the home to make it affordable for individuals.

Economic Development- Public Facilities - CDBG-D

The purpose of this activity is to provide funding to provide improvements to public spaces or facilities except for buildings where government is conducted. Eligible activities include, acquisition, construction, rehabilitation or installation. Economic projects must meet a national objective and use an eligible activity.





B. IHCDA HOME Funding

In order to receive HOME funding, you must meet the needs of the specific community and reach low and very low income levels of area-median income. Cities, Towns, and Counties that are a Non-HOME Participating Jurisdiction, Community Housing Development Organizations (CHDOs), 501(C)3 and 501(c)4 Not-For-Profit Organizations, Public Housing Authorities, Joint Venture Partnerships, and For Profit Entities organized under the State of Indiana are eligible to apply for funding. Subsidies will be in the form of grants and loans for the acquisition, rehabilitation, and/or new construction of rental or homebuyer activities for low-to-moderate income people. IHCDA requires that all low-to-moderate income individuals be at the 60% Area Median Income (AMI) for the applicable county or below. Information on how to apply for HOME funding can be found in the HOME Application Policies for Rental and Homebuyer activities.

C. IHCDA CDBG Funding

1. The **Community Development Block Grant (CDBG)** is dedicated to preserving the affordable housing stock by providing funding to selected applicants for the rehabilitation of owner occupied housing. This program targets persons at the 80% Area Median Income and below. Local Units of Government are the only eligible applicant. There is a list of CDBG entitlement communities are ineligible for IHCDA CDBG Funds. A full list of those communities are located in the CDBG Application Policy.
2. The **Community Development Block Grant- Disaster Recovery (CDBG-D)** Fund is dedicated to preserving affordable housing stock by creating or rehabilitating rental housing, owner-occupied rehabilitation. Eligible applicants include not-for-profit 501(c)3 or 501(c)4 organizations, cities, towns, or counties that are located in Indiana and are current Stellar Communities Designees. Owner Occupied Rehabilitation must have been identified as a project in the designee's Strategic Investment Plan to be eligible.

D. IHCDA NATIONAL HOUSING TRUST FUND

The Housing Trust Fund (HTF) will be utilized in conjunction with the projects going thru the Permanent Supportive Housing Institute. These funds will be utilized to help the very low income residents of Indiana who are at the 30% Area Median Income and below.

E. Developments Located in 100 Year Floodplains

IHCDA funds cannot be used for the acquisition, rehabilitation, refinancing, or new construction of a development if any part of the development or its land is located within the boundaries of a one hundred (100) year floodplain. A flood determination must be provided for each parcel associated with the project.

IHCDA may consider waivers of this policy for rehabilitation where the structure is not included in a floodplain and is not at threat of being impacted, but in which a portion of the land is included in a floodplain. A waiver request and supporting documentation must be submitted to IHCDA. Decisions will be made at IHCDA's discretion.





CHAPTER 1 – Home Specific Policy Requirements

The HOME Investment Partnership Program allows for many activities. IHCDA HOME funds can be utilized for acquisition, rehabilitation, or new construction of rental and homeownership activities.

A. PERMANENT RENTAL HOUSING REQUIREMENTS

The following is a brief summary of major compliance requirements for rental projects. For additional information on rental compliance and reporting requirements, please refer to the *Federal Programs Ongoing Rental Compliance Manual* available online at <http://in.gov/myihcda/rhtc.htm>. For additional questions on ongoing compliance, please contact an IHCDA Compliance Auditor.

1. Rent and Income Restrictions

All assisted rental units must be rent and income restricted at the appropriate set-asides (30%, 40%, 50%, and 60% of AMI) as defined in the project's Application and recorded Declaration/Lien. Projects funded by the National Housing Trust Fund must have income and rent set-asides at 30%. Rent and income limits are released annually by HUD and published on IHCDA's website for convenience. The household must be initially income qualified before occupying a unit and income must then be recertified annually.

2. Utility Allowances

When utilities are paid directly by the tenant (as opposed to being paid by the owner/recipient), a utility allowance must be used to determine maximum allowable rent. The sum of tenant-paid rent + utility allowance + tenant-based rental assistance cannot exceed the published rent limit for the unit. Utility allowances must be updated annually and rents adjusted accordingly. Additional information on approved utility allowance sources and updating utility allowances can be found online in the *Federal Programs Ongoing Rental Compliance Manual* at <http://in.gov/myihcda/rhtc.htm>.

3. Lease Language

Leases are required for awards assisting Permanent Supportive Housing, Permanent Rental Housing, and Transitional Housing projects. **Leases, at a minimum, must include** the following:

- The legal name of all parties to the agreement and all other occupants;
- A description of the unit to be rented; must include unit/bedroom size, set aside percentage, and unit address;
- The date the lease becomes effective;
- The end date of the lease (must be for at least one (1) year unless there is a mutual agreement between tenant and owner for a shorter period);
- The rental amount;
- Language or Lease Addendum acknowledging receipt of the Fair Housing and Lead-Based Paint Brochures;
- A description of utilities that the tenant pays and those that the owner pays. The utility allowance requirements and monthly allowance being provided;
- The use of the premises;
- The rights and obligations of the parties, including the obligation of the tenant to certify annually (or more frequently as required) to income as defined herein;





- Language which addresses income decreases, income increases, utility allowance increases/decreases, basic rent changes (in Rural Development or 236 Developments), household composition changes, or any other change and its impact on the tenant's rent;
- Renewal process;
- Language addressing the right of the development and/or other funding providers to enter the assisted-unit for physical inspections;
- Termination process (must give at least thirty (30) days' notice);
- Signature of tenant (s) age eighteen (18) and older or emancipated;
- Signature of recipient/property manager; and
- Date of execution.

The lease **may not contain** any of the following language:

- Agreement to be sued. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- Treatment of property. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
- Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- Waiver of legal proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury;
- Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses;
- Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

In addition the lease cannot allow a rent increase without at least 30 days written notice or termination without at least 30 days' notice.

4. Tenant Selection Criteria

There are no federal or IHCDA regulations regarding criminal or credit background checks, landlord references, or a minimum income necessary for occupancy. Implementation of these criteria is entirely up to owner/management discretion, so long as the screening criteria are applied equally to all applicants.

There are also no federal or IHCDA regulations governing minimum or maximum household size for a particular unit. However, owners must comply with all applicable local laws, regulations, and/or financing requirements (e.g. if Rural Development, use RD regulations). IHCDA advises all owners or agents to be consistent when accepting or rejecting applications. Occupancy guidelines or requirements should be incorporated into the development's





management plan. Management should be aware of occupancy standards set by federal, state, HUD, PHA, civil rights laws, tenant/landlord laws, and municipal code that may establish a maximum or minimum number of persons per unit.

Additionally, there are no current regulations governing citizenship requirements for HOME, CDBG, and/or Development Fund assisted-units. Since the Fair Housing Act does not prohibit discrimination based solely on citizenship status, recipients may ask applicants to provide documentation of citizenship or immigration status as part of the screening process. If the recipient chooses to implement such a policy, the screening criteria must be established in writing and applied in a uniform, nondiscriminatory fashion. Recipients should be aware that other housing programs (such as HUD programs) may have stricter citizenship requirements that must be followed if the project has additional funding sources.

Because many of these tenant selection criteria are left up to the discretion of the recipient, it is important for each development to have an established Tenant Selection Criteria Policy in writing. This document should be made available to all applicants and tenants.

At a minimum, a good Tenant Selection Criteria Policy should include the following:

- Occupancy standards in effect (how many tenants can live in a unit based on size of the unit);
- Program eligibility factors, including income limits;
- Any minimum income requirements imposed by management;
- Any citizenship requirements imposed by management;
- Specifics on the information that is analyzed when performing credit checks, criminal background checks, and previous landlord references. The plan should clearly spell out what findings constitute a rejection of application (e.g. do certain criminal charges or a certain credit score automatically disqualify the household?);
- Explanation of the application and waiting list process, including the process through which an applicant is notified in writing of rejection and can then choose to appeal the rejection decision;
- Explanation of the transfer policies in effect;
- Breakdown of any special preferences set aside at the project (e.g. units reserved for special needs populations or an elderly restriction on the project); and
- List of any other relevant items used in considering the household's eligibility for occupancy

When creating a development's Tenant Selection Criteria Policy, the recipient must be careful to follow all applicable eligibility regulations, Fair Housing regulations, and local occupancy standards. See Chapter 5 for more information on Fair Housing regulations.

With the exception of accessible units (see Part 5 below), all units should be leased on a first-come first-served basis with tenants selected in date order from the waiting list.

5. Marketing Accessible Units

At initial lease-up, accessible units should be marketed to persons with disabilities requiring an accessible unit. For ongoing leasing, the following order should be followed for marketing the accessible units:





1. First offer accessible units to existing occupants that require accessibility features but are currently occupying a unit that does not offer such features.
2. Next offer accessible units to qualified applicants on the waiting list that require accessibility features.
3. Market the unit to attract new disabled applicants.
4. Finally, offer the unit to a non-disabled person on the waiting list. If this is done, the tenant should understand that he or she may later be asked to transfer to another comparable but non-accessible unit if the accessible unit is needed by a disabled person. While the tenant may have to transfer if there is a vacant unit, he or she would not be evicted or otherwise terminated to make room for a disabled household. This agreement should be incorporated into the lease.

B. HOME Homebuyer Requirements

Each HOME-assisted homebuyer unit must be sold to a homebuyer household that qualifies under the income limits in effect and the housing must serve as the household's principle residency throughout the affordability period. Parts 15A and 15B of this manual outline the affordability period requirements. Part 16G outlines the ongoing requirements to verify principle residency during the affordability period.

In addition, the following requirements apply:

1. Homebuyer Counseling

The recipient must ensure that any homebuyer purchasing HOME-assisted housing receives homebuyer counseling.

2. Ineligible Fees

The recipient may not charge servicing, origination, processing, inspection, or other fees for the costs of providing homeownership program assistance.

3. Conversion of Unsold Homebuyer Units to Rental Housing

If there is no ratified sales contract with an eligible homebuyer within nine (9) months of the completion of construction or rehabilitation (meaning all necessary title transfer requirements and construction work have been performed and the housing unit complies with the property standards as evidenced by a final inspection), then the unit must be converted into a HOME-assisted rental unit subject to all compliance requirements of HOME-assisted rental housing in accordance with [24 CFR 92.252](#). Click here for regulation.

Eligibility for Homebuyer Activities / Definition of Ownership

To be eligible for homebuyer activities, the prospective purchaser beneficiary must be low-income and must occupy the property as a principal residence upon purchase.

The purchasing household must be low-income at either:

- In the case of a contract to purchase existing housing, at the time of purchase; or
- In the case of a contract to purchase housing to be constructed, at the time the contract is signed; or
- In the case of a lease-purchase agreement (for either existing housing or housing to be constructed), at the time the lease-purchase agreement is signed.

A household owns a property if that household:

- Has fee simple title to the property; or
- Maintains a 99-year leasehold interest in the property; or





- Owns a condominium; or
- Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law; or
- For manufactured housing, land must be owned by the manufactured housing owner or leased for a period at least equal to the duration of the affordability period; or
- For manufactured housing, which is on land owned by a NFP cooperative if the homeowner is a member of the cooperative, by a NFP resident corporation, or by a similar type of NFP resident control organization
- Has a permit ground lease of 50 years or more for community land trusts
- Maintains an equivalent form of ownership approved by HUD.

Ownership does **NOT** include land contracts, contracts for deeds, installment contracts.

C. Student Eligibility for ALL HOME Awards

The 2013 HOME Final Rule updated the definition of housing to exclude dormitories and all types of student housing, not just student dormitories. Therefore, the HOME program now adopts the Section 8 program restrictions on student participation found at [24 CFR 5.612](#). These restrictions do NOT apply to CDBG.

If a household contains an adult student enrolled in a higher education institution who is under age twenty-four (i.e. age 18-23), then the household must meet an exemption to qualify for HOME assistance. This is true whether the student is full or part-time.

If the student meets one of the following criteria, then the household is eligible:

1. Is the student a veteran of the U.S. military?
2. Is the student married?
3. Is the student a parent with dependent children?
4. Is the student a person with disabilities that was receiving Section 8 assistance prior to 11/30/05?
5. Is the student independent from his or her parents based on the following?
 - A. Of legal contract age under state law; AND
 - B. Has established a separate residence from parents (not counting a dormitory) for at least one year, or meets the US Department of Education definition of independent which includes an individual who was an orphan or ward of the state through age eighteen (18), is living with a legal dependent, or is a graduate or professional student; AND
 - C. Is not claimed on parents' tax returns; AND
 - D. Parents must certify whether or not they provide financial assistance (this does not affect student eligibility but could affect income eligibility).
6. Student can prove independence from his or her parents based on the following:
 - A. Of legal contract age under state law: AND
 - B. Has established a separate residence for parents (not counting a dormitory or student housing) for at least one year, or meets the US Department of Education definition of independent which includes an individual who was an orphan or ward of the state through age eighteen (18), is living with a legal dependent, or is a graduate or professional student; AND
 - C. Is not claimed on parent's tax returns; AND
 - D. Parents must certify whether or not they provide financial assistance (this does not affect student eligibility but could affect income eligibility)

If none of the above applies, the household can qualify if the student's parents are income-eligible under the HOME income limits for the county in which they live.

- A. If the parents are divorced or separated, get a declaration from both parents.





B. If the parents refuse to provide declaration of income and/or statement of whether or not they provide financial assistance, then the household is not eligible.

C. Critical Deadlines for HOME Awards

1. Four (4) Year Completion Deadline

A project that is not completed within four (4) years from the date the written agreement is executed (project commitment) is deemed terminated and all HOME funds must be repaid.

2. Homebuyer Sale Deadline

If there is no ratified sales contract with an eligible homebuyer within nine (9) months of the completion of construction or rehabilitation (meaning all necessary title transfer requirements and construction work have been performed and the housing unit complies with the property standards as evidenced by a final inspection), then the unit must be converted into a HOME-assisted rental unit subject to all compliance requirements of HOME-assisted rental housing in accordance with [24 CFR 92.252](#).

3. Rental Lease-up Deadline

HOME-assisted rental units must be occupied by eligible households within eighteen (18) months of project completion. If not, the HOME funds must be repaid for those units still vacant.

For units still vacant six (6) months after project completion, the recipient must create and submit to IHCDA an “enhanced marketing plan” to identify strategies to lease-up the units. This plan will be submitted by IHCDA to the HUD field office.





CHAPTER-1 Community Housing Development Organization

A. What is a Community Housing Development Organization (CHDO)?

A CHDO is a private, nonprofit, community based organization that has significant capacity and whose primary purpose is to develop affordable housing for the community it serves. CHDOs certified by IHCDA receive a special designation. The HOME Investment Partnerships Program definition of a CHDO may be found at [24 CFR Part 92.2](#).

B. CHDO Benefits

HOME regulations require that all Participating Jurisdictions (PJ's) such as IHCDA set aside a minimum of 15% its annual HOME allocation exclusively for qualified, eligible CHDO projects.

If an organization becomes a certified CHDO, it is eligible to take advantage of the HOME funds set-aside just for CHDOs as well as financing support for a portion of its operating expenses associated with CHDO products.

C. Requirements for CHDO Certification

IHCDA will certify organizations as CHDOs upon approval of either an application to the CHDO Pre-Development Fund, or through an open round for HOME construction funding.

CHDOs must meet the following to be certified as a CHDO:

1. All criteria as set by the U.S Department of Housing and Urban Development [24 CFR 92.2](#);
2. Meet one of the CHDO roles; and,
3. Be awarded HOME funding.

Organizations must submit IHCDA's CHDO application, and support documentation to be considered for certification.

D. Regulatory Requirements

All organizations seeking CHDO certification must meet all of the following criteria, which can be found under the CHDO definition section at [24 CFR 92.2](#). The requirements of CHDOs are broken down into three general categories: Legal Status, Capacity, and Organization Structure. There are also restrictions on the relationship with the public sector, and limitations on relationships with for-profit entities. IHCDA is required to document the capacity of CHDOs each time IHCDA commits funds to a CHDO project.

1. CHDO Legal Status:

- **Organized under State/Local Law:** A nonprofit organization must show evidence in its Articles of Incorporation and/or Charter that it is organized under state or local law.
- **No Individual Benefit:** No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's Articles of Incorporation and/or Charter.
- **Nonprofit Status:** The organization must be conditionally designated or have a tax exemption ruling from the Internal Revenue Services (IRS) under Section 501(3) or (4) of the Internal Revenue code of 1986. A 501(c) certificate from the IRS must evidence the ruling. If the organization is classified as subordinate of a central organization non-profit under section 905 of the Internal Revenue Code, the organization must provide a group





exemption letter from the IRS that includes the CHDO. The CHDO must also maintain a record of good standing with the State of Indiana Secretary of State's office.

- **Purpose of Organization:** Among its primary purposes, the organization must have the provision of decent housing that is affordable to low-and moderate-income people. This must be evidenced by a statement of the organization's Articles of Incorporation, Bylaws, Charter or Resolution.
- **Clearly Defined Service Area:** The organization must have a clearly defined geographic service area outlined in its Articles of Incorporation and/or Bylaws. CHDOs may serve individual neighborhoods or large areas. However, while the organization may include an entire community in their service ears (such as a city, town, and village, county or multicounty area), they may not include the entire state.

2. CHDO Capacity

- **Financial Accountability Standards:** The organization must meet and adhere to the financial accountability standards as outlined in [2 CFR 200.302](#) and [200.303](#) as evidenced by either a notarized statement by the President or Chief Financial Officer of the organization or a certification from a Certified Public Accountant.
- **Community Service:** The organization must demonstrate their history of serving the community within which housing to be assisted with HOME funds is to be located. This is to be evidenced by a statement that documents at least one year of experience of serving that community. For newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year of experience in serving the community is required. The statement must be signed by the chief executive of the organization.
 - The CHDO or its parent organization must be able to show one year of serving the community prior to the date the PJ provides HOME Funds to the organization. In the statement, the organization must describe its history (or its parent organization's history) of serving the community by describing activities which it provided (or tis parent organization provided), such as: developing new housing; rehabilitating existing stock, and managing housing stock; or delivering non-housing services that have had lasting benefits for the community (e.g., counseling, food relief or childcare facilities).
- **Capacity/Experience:** The key staff and Board of Directors must have significant experience and capacity to carry out CHDO-eligible, HOME-assisted projects in the community where it intends to develop affordable housing (key staff and board of directors have successfully completed HOME-funded, CHDO-eligible projects in the past. This must be evidenced by either resumes and/or statements that describe the experience of key staff members who have successfully completed project similar to those to be assisted with HOME funds.
- **Paid Employees:** The CHDO must have a minimum of one full time paid employee with housing experience. The CHDO may not share this employee with another organization. The employee must receive a W-2 from the CHDO.
 - In the organization's first year of operation only, the organization may contract with a consultant firm, or individuals who have housing experience similar to project to be assisted with HOME funds, to train appropriate key staff of the organization.
 - Key staff cannot be:
 - Non-paid board members or other volunteers
 - Officers or employees of a governmental entity
 - Consultants, unless in the first year of operation and training CHDO's key staff
 - Employees of a for-profit sponsoring entity





- Donated by, contracted through, or cost allocated from another entity.
- **Location:** The CHDO must maintain a staffed, physical office location in the proposed service area that is open for business and accessible by potential program applicants during generally-accepted customary business hours.

3. Organizational Structure

- **Low-Income Board Structure:** The nonprofit organization must maintain at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations as evidenced by the organization's Bylaws, Charter or Articles of Incorporation.

Low Income Neighborhood: The person lives in a low-income neighborhood (either by census tract or block group, where 51% or more of the residents are low-income. This person need not necessarily be low-income.

OR

Low-Income Resident: The person is a low-income (below 80% area median income) resident of the community.

OR

Elected by low-income neighborhood organization: The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations and neighborhood watch groups.

Under the HOME program, for urban areas, the term "community" is defined as one or several neighborhoods, a city, county, or metropolitan area. For rural areas, "community" is defined as one or several neighborhoods, a town, village, county, or multi-county area (but not the whole state).

- **Low-Income Advisory Process.** A formal process may be developed and implemented for low-income program beneficiaries and low-income residents or the organization's service area to advise the organization in all its decisions regarding the design, location, development and management of affordable housing projects. This can be evidenced by the Bylaws, Resolution or a written statement of operating procedures approved by the governing body.

4. Public Sector Restrictions

- **Public Employee Limitations:** No more than one-third of the governing board members are public officials (including any employees). CHDOs must certify if a board member is a public official, employee or appointee of a governmental entity with their application for CHDO designation. An individual who qualifies as both low-income (or lives in a low-income community, or is a low-income representative) and a public sector representative, their role as a public sector representative supersedes their residence or income status.
 - Governmental Entities are any of the following: any HOME participating jurisdiction, other jurisdiction (e.g. state or local government), Indian tribe, public housing agency, Indian housing authority, housing finance agency or redevelopment authority.
 - Public officials include any individual who is an elected or appointed member of any governmental entity (e.g. a city council member, a member of the local zoning board, a member of a local public housing authority board, etc.).





- A government employee is anyone who is employed by a governmental entity on a full or part time basis even if that individuals' job function is not related to housing, HUD programs, or other federal funding (e.g. a county sheriff deputy, a sanitation department worker, a secretary in the city parks department).
- A governmental employee also includes anyone appointed by a governmental entity to a position for which they are compensated for services.
- A governmental appointee is anyone who has been appointed to the board of directors by a governmental entity even if that person is not otherwise a public official or governmental employee (e.g. a member appointed to the board by the local mayor).
- **Public Sector Charter:** The CHDO, which may be chartered by a State or local government must comply with the following restrictions:
 - The State or local government may not appoint more than one-third of the membership of the organization's governing body;
 - The Board members appointed by the State or local government may not, in turn, appoint the remaining two-thirds of the board members.

5. Relationship with For-Profit Entities:

- **For-Profit Sponsorship:** If the CHDO is sponsored or created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the CHDO's governing body, and the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members, as evidenced by the CHDOs by-laws, Charter, or Articles of Incorporation.
- **For-Profit's Primary Purpose:** If the CHDO has been sponsored or created by a for-profit entity, the for-profit entity's primary purpose does not include the development or management of housing as evidenced by the for-profits organizations by-laws.
- **CHDO Employees:** The officers or employees of the sponsoring for-profit entity may not be employees of the CHDO.
- **Contracting:** The CHDO must be free to contract for goods and services from vendors of its own choosing, as evidenced in the CHDO's By-Laws, Charter or Articles of Incorporation.
- **No For-Profit Control:** The organization may not be controlled by, nor receive directions from, individuals or entities seeking profit from or that will derive direct benefit from the organization.

E. Eligible uses of CHDO set-aside funds

A minimum of 15 % of IHCDA's allocation of HOME funded must set-aside for CHDO eligible projects. The following are eligible uses of the CHDO set-aside:

- Acquisition/rehabilitation and sale of units to homebuyers
- Acquisition of standard rental housing
- Acquisition/rehabilitation of rental units
- New Construction (rental or homebuyer)
- Direct financial assistance to homebuyers only when also constructing or rehabbing the units





It is IHCDA's discretion to determine the eligible activities for HOME funding.

The following are ineligible uses of the CHDO set-aside funds:

- Non-development activities
 - CHDO loaning the HOME funds to a project they are not involved in owning, sponsoring or developing for rental, OR
 - CHDO does not meet the definition of homebuyer developer
- Tenant- based rental assistance
- Homeowner rehabilitation
- Down payment and losing cost assistance when not associated with unit construction or rehabilitation

F. CHDO Roles

CHDOs applying for construction funding for rental or homebuyer programs must identify one of four CHDOs roles: rental owner, rental developer, rental sponsor, or home. The CHDO may have different roles for different HOME projects. IHCDA must certify the CHDO role in IDIS upon close-out of the activity.

1. CHDO as Rental Owner:

The CHDO "owns" the activity when the CHDO holds valid legal title in fee simple or has a long-term (99-year minimum) leasehold interest in a rental property. The CHDO may hire and oversee a project manager or contract with a developer to perform the rehabilitation or new construction. The CHDO must solely own property during the development and for a period at least equal to the affordability period.

While the CHDO may not be responsible for the development activity itself, CHDO staff must have relevant experience in the ownership and ongoing management of similar rental projects. CHDO staffs should have experience managing the work of contracted professionals to provide effective oversight to the contracted project manager/developer.

2. CHDO as Rental Developer:

The CHDO "develops" the activity when the CHDO is the owner in fee simple or through a long term ground lease during both the development and the affordability period. As developer, the CHDO must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME funds, selecting contractors (including architects, engineers, general contractors, and other members of the development team), overseeing the progress of work, and determining reasonableness of costs. The CHDO must solely own the property during the development and for a period of at least equal to the affordability period.

If the CHDO itself will not own the property during development and affordability period, but will own the property through a subsidiary partnership, or limited liability company, the project is not a CHDO "developed" project. See the description of CHDO sponsored to determine if the project may still qualify for set-aside funding.

3. CHDO as Rental Sponsor:

The CHDO "sponsors" rental projects through one of three processes: CHDO Sponsored/Affiliate Developed, CHDO Sponsored/ Affiliate Owned, or CHDO Sponsored/Turnkey.

CHDO Sponsored/Affiliate Developed:

Rental housing is developed by a CHDO affiliate, defined as a CHDO's wholly owned subsidiary (non-profit or for-profit); a limited partnership, of which the CHDO or its wholly owned subsidiary is the sole general partner; or a limited liability company, of which the CHDO or its wholly-owned subsidiary must be the sole managing member.





If the limited partnership or limited liability company agreement permits the CHDO to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another CHDO.

The Affiliate must solely own the property in fee simple (or via long term ground lease) during the developed period. The Affiliate must solely own the property for the required affordability period. The Affiliate must be in sole charge of the development process, including obtaining zoning and other approvals; secure other non-HOME financing needed for the project: selecting architect, engineers, general contractors and other members of the development team; and overseeing progress of work and determining cost reasonableness.

IHCDA must enter into a written agreement with the entity that actually owns the property and determine the form of assistance.

For complex ownership/financing structures, CHDO staff should have relevant experience with projects that had similar ownership financing.

CHDO Sponsored/Affiliate Owned:

Rental housing is owned by a CHDO affiliate, defined as a CHDO's wholly owned subsidiary (non-profit or for-profit); a limited partnership, of which the CHDO or its wholly owned subsidiary is the sole general partner; or a limited liability company, of which the CHDO or its wholly-owned subsidiary must be the sole managing member.

The Affiliate must solely own the property in fee simple (or via long term ground lease). The affiliate must solely own the property for the required period of affordability.

The CHDO will hire a project manager/developer to oversee the development of new or rehabilitated housing. The project manager will obtain zoning and other approvals; secure other non-HOME financing needed for the project: manage the selection of a general contractor/builder; and oversee progress of work and determining cost reasonableness.

IHCDA must enter into a written agreement with the entity that actually owns the property and determine the form of assistance.

CHDO Sponsor/Turnkey:

The CHDO develops housing on behalf of another non-profit. The rental housing is transferred by the CHDO to the other nonprofit upon completion. The nonprofit receiving the property upon completion must be identified by the CHDO, not be created by a governmental entity, and assume ownership and all HOME obligations, including any loan repayment. The CHDO must own the property during the development period and be in sole charge of the development process.

If the identified nonprofit does not assume ownership as planned, the CHDO must maintain ownership for the affordability period.

While the subsequent nonprofit owner will ultimately assume HOME agreements and financing, IHCDA must enter in to a written agreement with the CHDO, and HOME funds must be investment while the CHDO holds title to the project.

4. CHDO as Homebuyer Developer: The CHDO must own and develop the property (either new construction or rehabilitation). The CHDO must arrange financing, be in sole charge of construction and determine unit pricing covered by the agreement. The CHDO may provide down payment assistance to low-income homebuyers.

HOME funds may be provided as a homebuyer deferred payment or forgivable loan and must carry a 0% interest rate and the term must not exceed the affordability period. Applicants should refer to the Homebuyer application and proforma for





information on the affordable payment, front-end, and back end ratios. Down payment assistance may be no greater than 10 percent of the HOME funding to the project.

5. Sub recipients

Organizations which have been certified as CHDOs may also be considered a sub recipient for IHCDA's HOME program. A sub recipient administers programs; a CHDO owns, develops or sponsors rental projects or develops homebuyer projects. An organization may not be considered a CHDO for solely acting as a sub recipient; CHDOs must additionally meet the owner, developer, or sponsor role for a HOME Project to qualify.

If a CHDO has been classified as a sub recipient, they may not receive HOME funds for a project through the same activity.

G. CHDO Predevelopment Loans

IHCDA may use 10 percent of the CHDO set-aside in a given program year for CHDO Pre-Development loans. Organizations which meet the CHDO requirements are eligible to apply for IHCDA's Pre-Development loans. Specific information on eligibility and underwriting criteria may be found in IHCDA CHDO Pre-Development allocation policy.

IHCDA offers two types of pre-development loans: Site Control Loan and Seed Money Loan. Funds must be provided as a loan; the CHDO must repay from construction loan proceeds or other income. IHCDA will certify the request for the loan is for allowable costs set aside in the HOME regulations and that the organization meets the definition of a CHDO.

IHCDA may waive repayment at their discretion if there are impediments to the project development beyond the CHDOs control and the project is deemed infeasible.

H. CHDO Operating

A maximum of 5 percent of IHCDA HOME allocation may be set aside for CHDO Operating assistance. To be eligible for CHDO Operating Supplemental Funding, the CHDO must be funded from the CHDO set-aside for a project requesting HOME construction funding.

The operating expenses must be used for eligible operating costs. A listing of those eligible costs may be found in the HOME Rental or Homebuyer Allocation Policies.

I. CHDO Proceeds

- **Rental:** Proceeds generated from a CHDO development activity may be retained by the CHDO but must be used for housing activities that benefit low-income families as provided at 24 CFR 92.300(a)(2). Such proceeds are not considered program income and are not subject to HOME program requirements. However, funds recaptured because housing no longer meets affordability requirements are not considered CHDO proceeds, and are subject to the requirements of 24 CFR 92.503(b) and must be returned to IHCDA.
- **Homebuyer:** CHDOs receiving loan repayments back from homebuyers during the affordability period may retain these funds. The funds must be utilized for housing activities that benefit low-income families as provided in 24 CFR 92.300(a) (2). However, if at any time during the affordability period, the CHDO becomes decertified or no longer has a mission of providing affordable housing then all CHDO proceeds must immediately be remitted to IHCDA. Additionally, funds recaptured because housing no longer meets affordability requirements are not considered CHDO proceeds and are subject to the requirements of 24 CFR 92.503(b) and must be returned to IHCDA.





CHAPTER 1 – CDBG Specific Policy Requirements

A. NATIONAL OBJECTIVE

Every Project that receives CDBG funds thru IHCDA must meet a national objective. Below is a full list of national objectives.

LOW –To-Moderate (L/M)

1. Area Benefit (L/M) – the project will benefit all residents in a particular area that is primarily residential, and at least 51% of those residents are low-to-moderate income persons.
2. Income Limited Clientele- The project will benefit a specific group of people where at least 51% of the residents are low-to-moderate income persons. The following clientele are generally presumed to be a principally low-to-moderate income person and therefore meet the criteria:
 - Abused Children
 - Battered Spouses
 - Elderly Persons (62+)
 - Severely Disabled Adults
 - Homeless Persons
 - Persons Living with AIDS
 - Migrant Farm Workers
3. Income Housing – The project will be used for housing to be occupied by low-to-moderate income persons.
4. Income Jobs- the project will help create or retain permanent jobs of which at least 51% will be for L/M income persons.
5. Slum or Blighted Area – The area is designated by the Local Unit of Government as a slum or blighted area and the project will address one or more of the conditions contributing to the deterioration of the area.
6. Spot Blight – The project is located outside of a designated slum/blight area and will eliminate specific conditions of blight or physical decay on a spot basis.
7. Urban Renewal - This project must be located within an Urban Renewal project area or Neighborhood Development Program action area that is necessary to complete an Urban Renewal Plan.
8. Urgent Need – The Local Unit of Government certifies that existing conditions of a property are a serious and immediate threat to the health or welfare of the community, they are of recent origin or recently become urgent, the LUG is unable to finance the repairs on their own, and other sources are unavailable.

B. ELIGIBILITY ACTIVITIES WITH IHCDA FUNDING

Every project that receives CDBG Funds thru IHCDA must meet an eligible activity. While there are more activities eligible under the CDBG program, IHCDA focuses specifically on the following activities:

1. Owner Occupied Rehabilitation (OOR)
2. Public Facilities Improvements
3. Infrastructure Improvements
4. Economic Development Activities





C. ELIGIBILITY WITH OWNER OCCUPIED REHABILITATION

Definition of Ownership

To be eligible for owner occupied rehabilitation (OOR), the homeowner beneficiary must be low-income and must occupy the property as a principal residence.

A household owns a property if that household:

- Has fee simple title to the property; or
- Maintains a 99-year leasehold interest in the property; or
- Owns a condominium; or
- Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law; or
- For manufactured housing, land must be owned by the community land trust must have a leasehold interest for at least 50 years or leased for a period at least equal to the duration of the affordability period; or
- Inherited property with multiple owners where title has been passed by inheritance to several heirs, not all of whom reside in the housing. Assistance can be provided to the owner-occupant when he/she (1) is low-income, (2) occupies the housing as his/her principal residence, and (3) pays all the costs associated with ownership and maintenance of housing (e.g. mortgage, taxes, insurance, and utilities); or
- Has a life estate under which the occupant has the right to live in the housing for the remainder of his or her life and does not pay rent. Assistance can be provided to the person holding the life estate, provided the person (1) is low-income and (2) occupies the housing as his/her principal residence; or
- A living trust where the owner of a property has conveyed his or her property to a trust for his or her own benefit or the benefit of a third party beneficiary. In this scenario, the trust holds legal title and the beneficiary holds equitable title. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. Assistance can be provided to the property if all beneficiaries of the trust qualify as a low-income household and occupy the property as their principal residence. The contingent beneficiaries who receive no benefit from the trust and have no control over the assets until the beneficiary is deceased, need not be low-income. The trust must be valid and enforceable and must ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life; or
- A beneficiary deed conveying interest in real property, including any debt secured by a lien on real property, to a grantee beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon death of the owner, the grantee beneficiary receives ownership in the property, subject to all conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner's lifetime. Assistance can be provided to the owner if he or she (1) qualifies as low-income and (2) occupies the housing as his/her principal residence; or
- Maintains an equivalent form of ownership approved by HUD.

Ownership does **NOT** include land contracts/contracts for deeds.

D. CDBG Public Hearings (Citizens' Participation Requirement)

According to [24 CFR § 570.486](#), the CDBG applicant must:

1. Provide a minimum of two (2) public hearings, each at a different stage of the process, for the purpose of obtaining citizens' input and responding to proposals and questions.





- a. Together, the hearings must cover community development and housing needs, development of proposed activities, and a review of program performance.
 - b. The first public hearing must be held before submission of an application to IHCDA and must provide citizens an opportunity to comment on the activities proposed in the application. The legal notice and hearing must address the current CDBG request. For example, if an applicant applies during a funding round but receives no funding, they must republish and hold a new hearing for any subsequent application submittal.
 - c. The hearings must be held at times and locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities.
 - d. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate.
 - e. The second public hearing to review program performance must be completed prior to close-out of the CDBG award.
2. Provide citizens with the address, phone number, and times for submitting complaints and grievances. Provide timely written answers to complaints and grievances, within fifteen (15) working days where practical.
3. Under Indiana Code ([I.C. 5-3-1-2 \(B\)](#)), there must be a minimum of one legal notice in a newspaper of general local circulation at least ten (10) calendar days prior to each scheduled public hearing. To count the ten (10) days, do not count date of publication, but do count the day the hearing is held.
- a. For example: Date of Notice Publication: 1/1/17 (Begin counting on 1/2/17)
Date of Public Hearing: 1/11/17 (or later)
 - b. The notice must at a minimum:
 - Encourage citizen participation by listing the date, time, and location of the public hearing.
 - Describe the purpose of the meeting and the proposed housing activity.
 - Indicate who the applicant is, where the applicant is applying for funding and the source of the funding (i.e. Community Development Block Grants).
 - Provide contact information for additional questions or concerns.
 - c. A sample legal notice is provided in Chapter 1. Applicants are strongly encouraged to use this language.

E. Fair Housing Activity

Recipients of CDBG funding must promote and educate the public about Fair Housing laws. There are many ways to accomplish this goal. Recipients must designate at the time of application the type of fair housing activity that will be completed for each project. At closeout monitoring, documentation must be provided to the regional Compliance Auditor of the fair housing activity that was completed. A full list of eligible fair housing activities can be found within the chapter exhibits.

F. Manufactured Housing Policy

Eligible manufactured housing: A single dwelling unit designed and built in a factory and installed as a permanent residence, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law and which also complies with the following specifications:

Manufactured Housing Checklist	Standard Requirements
Shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space per I.C. 36-7-4-1106 (d);	X





Is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code	X
Has wheels, axles and towing chassis removed	X
Has a pitched roof	X
Consists of two (2) or more sections which, when joined, have a minimum dimension of 20' by 47.5' enclosing occupied space	X
Is located on land held by the beneficiary in fee-simple title, recorded land sale contract, or 99-year leasehold and is the principal residence of the beneficiary	X

All other manufactured or mobile homes that do not meet the aforementioned criteria are ineligible to receive rehabilitation assistance on projects funded by the Indiana Housing and Community Development Authority.

Manufactured housing (double-wide) is a very common form of housing for low to moderate-income families. A significant percentage of the housing stock in small rural communities consists of doublewide manufactured homes. Local discretion is allowed if the manufactured housing meets the criteria set forth in the above definition.

Code of Federal Regulations

[24 CFR Part 92.251\(E\)](#) - *Property Standards (HOME): Manufactured Housing*

Construction of all manufactured housing including manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR Part 3280. These standards preempt State and local codes which are not identical to the federal standards for new construction of manufactured housing. Participating jurisdictions providing HOME funds to assist manufactured housing units must comply with applicable State and local codes. In the absence of such laws or codes, the installation must comply with the manufacturer's written instructions for installation of manufactured housing units. All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must be on a permanent foundation that meets the requirements for foundation systems as set forth in 24 CFR 203.43f(c)(i)...must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

In HOME-funded rehabilitation of existing manufactured housing all foundation and anchoring must meet all applicable State and local codes, ordinances, and requirements or in the absence of local or state codes, the Model Manufactured Home Installation Standards at 24 CFR Part 3285. Manufactured housing that is rehabilitated using HOME funds must meet the property standards requirements in paragraph (b) of this section, as applicable.

[24 CFR Part 570.202](#) *Eligible Rehabilitation and Preservation Activities (CDBG)*

(a) Types of buildings and improvements eligible for rehabilitation assistance. CDBG funds may be used to finance the rehabilitation of:

(5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

G. CDBG-D Duplication of Benefits Certification





The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source.

A Duplication of Benefits situation would occur if a household received funds from FEMA, insurance, SBA, or another source to fix damage caused by the disaster, and then also applied for and received funding under the CDBG-D program for the same purpose, to make repairs or replace the damaged home.

Therefore, applicants are required to verify the amount received from other sources, and also how those funds were used to ensure that a duplication of benefits will not occur. If other assistance has been received, then the amount of assistance provided to the applicant through the CDBG-D program must be reduced by the amount of assistance already received from other sources (FEMA, SBA, insurance, etc.) for the same need, repair, or loss.

Each recipient must perform a duplication of benefits calculation for each beneficiary assisted with CDBG-D funds (as directed by IHCDA). Each recipient must ensure that each beneficiary assisted with CDBG-D funds executes a Duplication of Benefits Certification (available online as Chapter 1 Exhibits. This certification must be maintained in the recipient's client files. This certification must also be executed by owners of single family or multifamily rental housing units that receive CDBG-D funds for rehabilitation, acquisition, or new construction. In this case the owner would be the beneficiary. This certification does not need to be executed by tenants residing in multifamily rental units acquired, constructed, or rehabilitated with CDBG-D funds.

H. RENTAL REQUIREMENTS WITH CDBG-D

The following is a brief summary of major compliance requirements for rental projects. For additional information on rental compliance and reporting requirements, please refer to the *Federal Programs Ongoing Rental Compliance Manual* available online at <http://in.gov/myihcda/rhtc.htm> . For additional questions on ongoing compliance, please contact an IHCDA Compliance Auditor.

1. Rent and Income Restrictions

All assisted rental units must be rent and income restricted at the appropriate set-asides (30%, 40%, 50%, and 60% and 80% of AMI) as defined in the project's Application and recorded Declaration/Lien. Rent and income limits are released annually by HUD and published on IHCDA's website for convenience. The household must be initially income qualified before occupying a unit. Income is not required to be verified every year after the initial verification.

2. Utility Allowances

When utilities are paid directly by the tenant (as opposed to being paid by the owner/recipient), a utility allowance must be used to determine maximum allowable rent. The sum of tenant-paid rent + utility allowance + tenant-based rental assistance cannot exceed the published rent limit for the unit. Utility allowances must be updated annually and rents adjusted accordingly. Additional information on approved utility allowance sources and updating utility allowances can be found online in the *Federal Programs Ongoing Rental Compliance Manual* at <http://in.gov/myihcda/rhtc.htm> .

I. Program Agreements

Emergency shelters are considered public facilities under CDBG regulations; therefore, no rent is intended to be charged. In lieu of a lease, recipients are required to implement a program agreement. Program agreements also apply to seasonal migrant farm worker housing projects. This agreement is to provide residents with program guidelines and must include, at a minimum, the following:





- Effective date;
- Signature of both resident and staff member;
- Summary of supportive services available;
- Program guidelines / resident rules such as curfews, laundry, and recreation rules;
- Program expectations for resident;
- Maximum length of stay; and
- List of items regarded as contraband.





CHAPTER 2 – ENVIRONMENTAL REVIEW

Overview

Federal Regulation: [24 CFR 58](#)

It should be noted that these are two distinct and separate processes with different guiding regulations. Because both processes are federally required for the Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) funding sources, IHCDA has combined the two processes into this User's Guide and the Environmental Review Record (ERR) Workbook. The National Housing Trust Fund (NHTF) requirements are also noted in the guide; some of the requirements may differ from CDBG and HOME.

This chapter provides background information about the federally required processes including why the review is necessary, how to perform the review, and other resource information to help you complete the ERR Workbook. The ERR Workbook is the document where you will answer questions and submit supporting documentation regarding your project to satisfy the federal requirements for both the Environmental Review and the Section 106 Historic Review. Applicants filling out the ERR Workbook will need to follow this guide and all Appendices in order to fill out the ERR Workbook. Specifically, this guide and Appendix 3, Resources Document, will provide the information necessary to fill out the ERR Workbook.

While all of the following points will be covered in more detail later, here are some key points to consider prior to beginning the ERR and Section 106 processes at IHCDA:

- The applicant should always view the ERR and Section 106 processes as feasibility tools during a project's due diligence phase.
- The completion of the ERR process is mandatory before taking a physical action on a site or making a commitment or expenditure of HUD or non-HUD funds. You must have a Release of Funds from IHCDA before making any project commitments. Using any portion of Federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before completing the ERR process requires the denial of any Federal funds for that project (24 CFR 58.22).
- IHCDA is required to have original signatures on the ERR Workbook. Therefore, no email submissions of the ERR Workbook will be accepted.
- The ERR Workbook must be completed and turned in with the funding application. A threshold review of the ERR Workbook will occur during the application review process. A full IHCDA review of the ERR Workbook will occur if the project is approved for funding.
- Scattered site projects (usually Owner-Occupied Repair) will be treated as a Tiered Review. Phase 1, which consists of the ERR Workbook (Exhibits A-F, Findings and Signature Page) and supporting documentation, are submitted with the IHCDA application. Phase 2, which consists of an Exhibit G for each site address, is submitted when each site is identified.
- Applicants will not be able to publish their public notice to request Release of Funds until they receive a letter from IHCDA authorizing them to do so.
- Timing from award approval to full Release of Funds will vary depending on the funding source requirements, the funding recipient, project complexity and staff workload. Please plan your project timeline accordingly.





ENVIRONMENTAL REVIEW GUIDING REGULATIONS

The National Environmental Policy Act of 1969 (NEPA) and “other Federal laws and authorities” require that environmental consequences are reviewed and alternatives considered for all federally assisted actions (except those specifically exempted under 24 CFR Part 58.34, as described in this User’s Guide) before decisions are made and before actions are taken. Therefore, an environmental review is required as part of the due diligence process. The Indiana Housing and Community Development Authority (IHCDA) programs that are subject to this part include Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME).

The environmental review is concerned with two complementary findings:

1. Whether the proposed undertaking will have an impact on the environment.
2. Whether the environment will have an impact on the proposed undertaking. For example, is there anything about the environment that would make it an unwise investment of Federal funds? In the case of housing, is the environment suitable for human habitation?

Further, applicants should note that the regulation implementing this requirement, 24 CFR Part 50: Protection and Enhancement of Environmental Quality, states as its purpose “protecting, restoring and enhancing environmental quality.” Thus, ideally a proposed undertaking will not just “not harm” the environment, but would actually protect it (by incorporating energy conservation measures, for example) or enhance it (perhaps by physical restoration/rehabilitation).

The applicant should view the environmental review as part of the development’s feasibility analysis and planning process to:

1. Identify the existence of negative impacts on a project.
2. Consider means to mitigate negative impacts.
3. Consider alternatives to the project if needed.
4. When all other options fail, to realize that rejection of the proposed undertaking may be the most prudent action to take.

RESPONSIBILITIES OF THE RECIPIENT REGARDING ENVIRONMENTAL REVIEW

The chief executive officer of the recipient is responsible for ensuring that the environmental review process has been carried out according to the requirements of Section 102 of NEPA and the related provisions in 40 CFR Parts 1500 through 1508, and 24 CFR Part 58, including the related Federal authorities listed in 24 CFR 58.5. IHCDA will review the recipient’s environmental review record (ERR) to ensure that the review was carried out according to the environmental review regulations as provided in 24 CFR Part 58.

RELEASE OF FUNDS

The completion of the ERR process is mandatory before taking a physical action on a site or making a commitment or expenditure of HUD or non-HUD funds.

Using any portion of Federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before completing the ERR process requires the denial of any Federal funds for that project (24 CFR 58.22). Therefore, before committing or expending funds on a project (i.e. closing on a piece of property, signing a construction contract, etc.) it is imperative for the applicant to receive either a Release of Funds (ROF) or Pre-agreement Release of Funds letter from IHCDA. If this does not happen, IHCDA will be unable to provide funding for the project.

The recipient/sub-recipient may execute contracts and begin construction once IHCDA has notified the recipient in writing that IHCDA has authorized a “Release of Funds” for each budget line item.





For the use of NHTF without another federal source which would trigger Part 50/58, please see the section on NHTF below.

CONDITIONAL COMMITMENT OF HOME OR CDBG FUNDS

A recipient may enter into an agreement for the conditional commitment of HOME or CDBG funds for a specific project prior to the completion of the ERR process. The responsible entity must ensure that any such agreement does not provide the state recipient, sub-recipient or contractor any legal claim to any amount of HOME or CDBG funds to be used for the specific project or site unless and until the site has received environmental clearance. The following language is acceptable in an otherwise appropriately drafted agreement:

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by [not for profit, for profit or state recipient] of a release of funds from HUD or IHCDA under 24 CFR Part § 58. The parties further agree that the provision of any funds to the project is conditioned on the [not for profit, for profit or local unit of government] determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

TIMING OF THE ERR PROCESS

The ERR process is intended to be a project planning tool and should be started early alongside project planning. ERRs will be submitted during the appropriate application funding round with the application. Once an application is approved for funding the ERR documentation will undergo full IHCDA review. Applicants will not be able to publish their public notice to request release of funds until they receive a letter from IHCDA authorizing them to do so. Timing from award approval to full Release of Funds will vary depending on the funding source requirements, the funding recipient, project complexity and staff workload. Please plan your project timeline accordingly.

PRE-AWARD RELEASE OF FUNDS

In some very specific instances and with written approval by IHCDA, a project may receive a Pre-Award Release of Funds. The Pre-Award Release of Funds is a waiver to begin some work prior to completion of the full ERR process and the Release of Funds. Some or all of the costs associated with the Pre-Award Release of Funds may not be eligible for reimbursement with the IHCDA funding source.

Requests that are eligible are repairs for emergency and/or imminent threat to the occupant and for some “soft” project costs including design and acquisition costs. When the unit to be rehabilitated presents a serious threat to the occupant’s health or safety, it may be necessary to repair or replace the specific items causing the threat prior to completing the entire ERR process. The recipient must submit a request written request to their IHCDA regional Real Estate Production Analyst for a waiver of the ERR requirements for the specific property only. The request may be submitted in PDF format via email and must contain the following information to be considered:

- Must be in writing on letterhead and received from the chief executive officer of the recipient.
- Must also submit documentation from both the engineer and the building commissioner or similar type of position to demonstrate it’s a “local determination” stating that the current status of the building is a health/safety threat and detailing how it is a threat.
- Submit a statement from the architect/builder/engineer certifying that the work will not significantly alter or impeded the preservation of the building.
- For emergency situations the recipient must submit clear, color and detailed photos of the emergency to be addressed with the request.





Although IHCDA may allow for eligible emergency repair or soft project costs to occur prior to the completion of the Release of Funds process, the recipient must still complete and submit the ERR as described in this chapter. For further questions the recipient should contact their regional Real Estate Production Analyst for assistance.

National Housing Trust Fund

The Environmental Review process for the National Housing Trust Fund differs from the process used for HOME and CDBG. The HTF Environmental Provisions for new construction and rehabilitation under the Property Standards at 24 CFR 93.301(f)(2) and (2) are similar to HUD's Environmental Regulations at 24 CFR Parts 50 and 58. HTF projects are subject to the same environmental concerns that HUD-assisted projects are subject to. The main difference is that the HTF Environmental Provisions are outcome-based, and exclude consultation procedures that would be applicable if HTF selection was a federal action. Parts 50 and 58 are process based, and include consultation procedures for several laws and authorities where there may be environmental impacts. Due to the outcome-based nature of the HTF Environmental Provisions and lack of a federal action, compliance with some environmental property standard is streamlined because consultation is not required.

If the project is **only** utilizing NHTF and not CDBG, HOME or another HUD funding source which would require full compliance with Parts 50 and 58, the NHTF process should be used. If the project is utilizing other HUD funding (either from IHCDA or another entity), a full Part 50 or Part 58 environmental review **must** be done.

When a project is only using HTF funds, there are three primary differences in the review process. First, no level of review is required (CEST/EA). IHCDA will document compliance and will maintain documentation demonstrating that the HTF project meets the HTF Environmental Provisions. Second, the public comment period is not required by either the recipient or HUD. Lastly, there is no request for Release of Funds and Certification, and thus, no authority to use grant funds. When the Environmental Review Record is completed, and the project has Section 106 concurrence, IHCDA will notify the recipient that the project meets the requirements under Part 93, and may move forward.

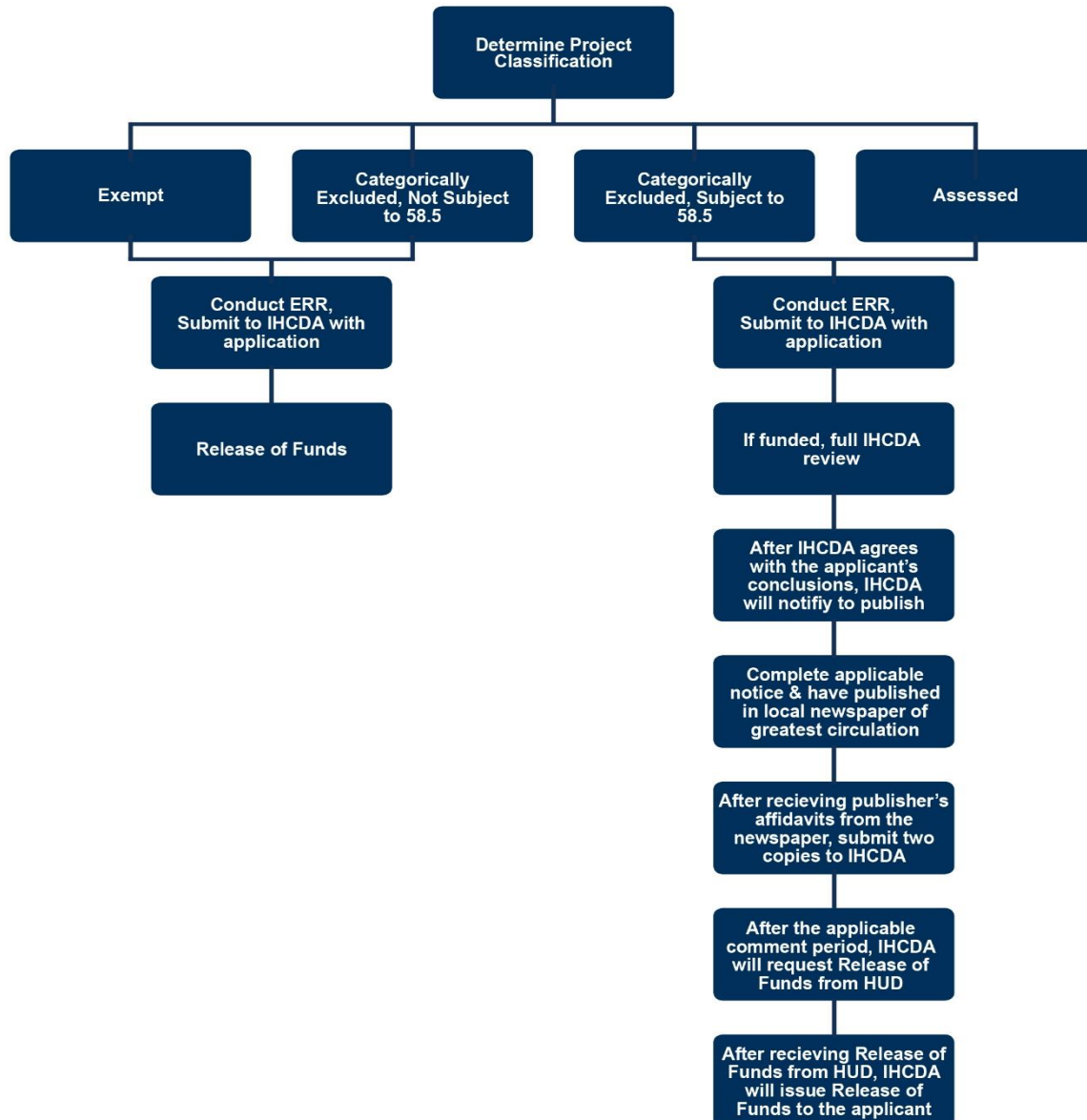
This guide will identify differences and similarities through the review if only using NHTF. Recipients of NHTF should contact the Director of Real Estate Production for guidance.





Figure 1. Overview of IHCDA ERR Review Process

Overview of IHCDA Review Process Based on Project Classification





ENVIRONMENTAL REVIEW PROCESS

A. DEFINE THE PROJECT: IDENTIFY THE SCOPE OF THE PROJECT OR UNDERTAKING (AGGREGATION)

Before the recipient can make a finding regarding the proposal in question, the recipient must first group together and evaluate as a single undertaking all individual activities that are related either geographically or functionally, or are logical parts of a composite of contemplated actions. This grouping of activities is known as aggregation and is more fully defined in the definitions section and at 24 CFR §58.32.

When grouping activities, keep in mind that several sites, each requiring some degree of environmental review, may actually be one HOME or CDBG undertaking (for example, 40 owner-occupied units being rehabilitated could be one HOME or CDBG undertaking). For the environmental review, the recipient must group activities for the entire undertaking. In the case of scattered-site developments, some environmental factors will be considered on a project-wide basis while others will require site-by-site environmental analysis.

If at any time during the period of the HOME or CDBG undertaking it becomes necessary to substantially revise or amend the scope of work, it may be necessary to repeat the environmental review process to assess the impact of proposed changes. In these cases, contact your IHCDA regional Real Estate Production Analyst for guidance.

B. DETERMINING THE CLASSIFICATION OF ENVIRONMENTAL REVIEW

The recipient must determine whether the various activities of the undertaking fit the classification of: Exempt, Categorically Excluded - Not Subject to 58.5, Categorically Excluded - Subject to 58.5, or Assessed. The required process in order to obtain the Release of Funds will vary depending upon the classification of the undertaking.

To determine the classification of the undertaking, refer to Figure 2, Classification of Activities for Environmental Review. Also see Figure 3, Examples of Various Undertakings and Their Classifications.

Based on your classification determination, you will sign one of the Certification Exhibits C, D, or E in the ERR Workbook. Only one exhibit will need to be signed. The signature must be original.





Figure 2. Classification of Activities for Environmental Review

<p>EXEMPT (24 CFR 58.34)</p> <p>Activities that have no physical impact on the environment. This includes the following:</p> <ol style="list-style-type: none"> 1. Environmental and other studies 2. Information and financial services 3. Administrative and management activities 4. Public services that will not have a physical impact or result in any physical changes 5. Inspections and testing of properties for hazards and defects 6. Purchase of insurance 7. Engineering and design costs 8. Technical Assistance and training 9. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration. 10. Payment of principal and interest on loans made or obligations guaranteed by HUD 11. Public services that will not have a physical impact or result in any physical changes 12. Any of the categorical exclusions listed in Sec. 58.35(a) provided that there are no circumstances that require compliance with any other Federal laws and authorities cited in Sec. 58.5. 	<p>CATEGORICALLY EXCLUDED, SUBJECT TO 58.5 [24 CFR 58.35 (a)]</p> <p><i>A category of actions that do not individually or cumulatively have a significant effect on the human environment. Categorically excluded activities include, but are not limited to:</i></p> <ul style="list-style-type: none"> • typically replace or improve existing facilities or structures, i.e., they retain the original usage of a structure or facility; • do not increase the size or unit density of the structure or facility being improved by more than 20 percent; • do not change land uses (commercial to residential); and • in the case of rehabilitation, the cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation. • Acquisition or disposition of a property where the property will be retained for the same use. <p>Examples of categorically excluded activities are as follows:</p> <ol style="list-style-type: none"> 1. Minor rehabilitation of an existing property (multifamily or single family); 2. An individual action, such as new construction, major rehabilitation, moving or demolition, on a one to four family dwelling. <p>[Development of five or more units located within 2,000 feet of each other undertaken as a single action (e.g., a subdivision), is not categorically excluded.]</p>
<p>CATEGORICALLY EXCLUDED, NOT SUBJECT TO 58.5 [24 CFR 58.35 (b)]</p> <p>HUD has determined that certain activities would not alter any conditions that would require an environmental review or compliance determination under Federal laws and authorities cited in §58.5. Examples include:</p> <ol style="list-style-type: none"> 1. Tenant-based rental assistance. 2. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy downs, and similar activities that result in the transfer of title. Warning: homebuyer assistance for units not already under construction must be treated as a categorical exclusion requiring compliance with the authorities cited in §58.5. 3. Housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities that do not have a physical impact. 	<p>ASSESSED [24 CFR 58.36]</p> <p><i>Activities which cannot be determined to be exempt under §58.34 or categorically excluded from NEPA under §58.35, or which involve a categorical exclusion with “extraordinary circumstances” under §58.2(a)(3), require that a full Environmental Assessment be conducted.</i></p> <p><i>An EA, using an Environmental Review Worksheet, is normally required for five or more units only if the sites are 2,000 feet apart or less and/or there are more than four units on a site. This includes:</i></p> <ol style="list-style-type: none"> 1. New construction of five or more residential units; 2. Major rehabilitation and reconstruction of five or more residential units; 3. Conversion of non-residential land use to residential land use; and 4. Acquisition of vacant land for development when five or more units are involved.





Figure 3: Examples of Various Undertakings and Their Classifications

Example 1:

An architectural firm it hired to design HOME-assisted new construction town homes.

Classification:

The use of HOME funds is exempt under 58.34(a)(8).

Example 2:

A not for profit has been awarded HOME funds to provide down payment assistance and closing costs to homebuyers.

Classification:

Such use of funds is categorically excluded from the requirements of NEPA [58.35(b)(5)] as long as the unit is existing or currently under construction, as this activity is not subject to any of the statutes cited under this section.

Example 3:

A multifamily building rehabilitated under the HOME program at a cost of \$450,000. The rehabilitation conducted did not involve a change of land use or a change in unit density by more than 20 percent. The replacement cost of the structure as determined by the insurance company providing coverage is \$1,500,000.

Classification:

The project is categorically excluded - subject to 58.5. The project includes physical action and is therefore subject to additional related Federal laws and authorities. However, as the amount of the rehabilitation work is only 30% of the replacement cost [\$450,000/\$1,500,000]. The level of rehabilitation work allowed before the 75% maximum level is reached is \$1,125,000 [\$1,500,000*75%] without reaching the level of Assessed activities.

Example 4:

A housing developer borrows \$2,000,000 in HOME funds to acquire a single parcel of 10 acres of land and construct 30 units of rental housing.

Classification:

Such a project is neither exempt nor categorically excluded from NEPA. The size of the project exceeds the thresholds of categorically excluded activities under 58.35(a)(4). Additionally, the proposed use of HOME funds for the project is not composed entirely of "soft costs" associated with exempt activities listed in 58.34. Consequently, the responsible entity must perform an Environmental Assessment in accordance with 58.36, as detailed at 58.40, before committing funds.

C. ENVIRONMENTAL REVIEW RECORD (ERR) WORKBOOK

The recipient must compile a written record of the environmental review completed under 24 CFR Part 58 for each undertaking. This written record is known as the Environmental Review Record (ERR) and is submitted as the ERR Workbook and the accompanying supporting documents. The ERR Workbook can be completed using this User's Guide as well as the Resources document. It must be submitted to IHCDA in accordance with the process in this User's Guide. Submissions to IHCDA must be hardcopies submitted at time of funding application. No email submissions will be accepted unless previously authorized.





In addition, the ERR must be made available for public review as a part of the Release of Funds process. Therefore, it is important that a recipient be diligent about meeting all procedural requirements. Private citizens and organizations can object to the Release of Funds for HOME and CDBG undertakings on certain procedural grounds relating to the environmental review ([24 CFR 58.75](#)).

The ERR Workbook must include a thorough project description, including all activities that the recipient has determined to be part of the undertaking, as defined in 24 CFR § 58.2(a)(3) and 58.32. The project description is important because it determines the level of review, it is the basis for informing the public about the action and it is the basis for monitoring compliance. If funds are used for something not included in the project description, it could be in violation of § 58.22.

The ERR must include:

1. **Required Forms.** The ERR Workbook forms required to be submitted to IHCDA will vary depending on the classification of the proposed undertaking. To determine the required forms by classification, refer to Figure 4, Required Forms by Classification.
2. **Source Documentation.** Required source documentation is described in each section of the ERR Workbook and will include:
 - a. Maps;
 - b. Written determinations from government entities as required by [24 CFR Part 58](#);
 - c. Photographs;
 - d. Other source documentation as required by each section of the ERR Workbook.
3. **Original Signatures.** You must include original three original signatures in order for your submission to be considered complete.
 - a. Summary Page of the ERR Workbook;
 - b. Exhibit C, D, or E of the ERR Workbook. Only one of these will be filled out and signed depending on the classification of the project;
 - c. Findings and Signatures page of the ERR Workbook.

It is the recipient's responsibility to complete the ERR Workbook and to compile the ERR documentation for submittal to IHCDA. According to the authority granted by HUD [§58.4 & 58.18], IHCDA, or its appointed delegate, is responsible to review and approve each step of the ERR process completed by the recipient.

If only utilizing NHTF, the following Environmental Provisions are the same as the Part 50/58 process:

- Coastal Barrier Resources Sources System
- Coastal Zone Management
- Explosive and Hazards
- Endangered Species
- Wild and Scenic Rivers
- Sole Source Aquifers

Recipients should follow the workbook to fill out the above sections.

The following Environmental Provisions are not the same as the Part 50/58 process:

- Historic Preservation
- Farmlands





- Airport Zones
- Floodplains
- Wetlands Contamination Noise
- Safe Drinking Water

Recipients will be required to fill out the NHTF workbook for these sections.

Figure 4. Required ERR Workbook Forms by Classification

Exempt	Categorically Excluded, Not Subject to 58.5	Categorically Excluded Subject to 58.5	Assessed
<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Exhibit C, Certificate of Exemption for HUD Funded Projects ➤ Signature Page (original signature required) ➤ Exhibit G, Environmental Review Workbook ➤ Part 1, Requirement for ALL HUD-Assisted Activities 	<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Exhibit D, Certificate of Categorical Exclusion, Not Subject to 58.5 ➤ Signature Page ➤ Exhibit G, Environmental Review Workbook ➤ Part 1, Requirement for ALL HUD-Assisted Activities 	<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Exhibit E, Certificate of Categorical Exclusion, Subject to 58.5 ➤ Exhibit F, Contact Sheet ➤ Findings ➤ Signature Page ➤ Exhibit G, Environmental Review Workbook* ➤ Part 1, Requirement for ALL HUD-Assisted Activities ➤ Part 2, Compliance Factors, General ➤ Part 3, Compliance Factors, Site Specific <p>*OOR Projects: Submit the OOR specific Exhibit G for each address and the OOR priority list for each address, see next section.</p>	<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Exhibit F, Contact Sheet ➤ Findings Page ➤ Signature Page ➤ Exhibit ➤ Exhibit G, Environmental Review Workbook* ➤ Part 1, Requirement for ALL HUD-Assisted Activities ➤ Part 2, Compliance Factors, General ➤ Part 3, Compliance Factors, Site Specific ➤ Part 4, Environmental Assessment



D.SPECIAL INSTRUCTIONS FOR SCATTERED SITE PROJECTS

[Categorically Excluded Subject to 58.5 and Assessed]

When the project involves scattered sites, the recipient does not need to wait until all sites are identified to complete and submit the ERR Workbook and receive ROF. In this case, the ERR will be considered a Tiered Review and will be completed in two phases, as described in Figure 5, ERR Process for Scattered Site Projects. Phase 1 is the area-wide review. The recipient will complete all of the forms that can be completed once the undertaking is identified. This is the ERR Workbook that will be submitted with the funding application. In Phase 2 the recipient will complete and submit the ERR Workbook pages that are specific to an individual site as those sites are identified and ready.

Publication should take place following Phase 1 of this process but will only occur once you have received a letter from IHEDA allowing you to publish. It is not necessary to republish after completing the Exhibit G of the ERR Workbook for each individual site. Republication is only necessary if you've been notified by IHEDA that the original publication was incorrect for any reason.

Recipients are encouraged to submit complete ERRs as soon as individual sites have been identified. No contracts or commitment of funds may be made to a specific site until after the individual site worksheets are approved.

Figure 5: ERR Process for Scattered Site Projects

Categorically Excluded Subject to 58.5	Categorically Excluded Subject to 58.5 - Owner Occupied Repair	Assessed
<i>For Phase 1* submit:</i>	<i>For Phase 1* submit:</i>	<i>For Phase 1* submit:</i>
<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Exhibit E, Certificate of Categorical Exclusion, Not Subject to 58.5 ➤ Signature Page <p>*Submit during application phase.</p>	<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Exhibit E, Certificate of Categorical Exclusion, Not Subject to 58.5 ➤ Signature Page <p>*Submit during application phase.</p>	<ul style="list-style-type: none"> ➤ Exhibit A, Environmental Review Record Summary Page ➤ Exhibit B, Environmental Review Record Checklist ➤ Signature Page ➤ Findings Page <p>*Submit during application phase.</p>
<i>For Phase 2* submit:</i>	<i>For Phase 2* submit:</i>	<i>For Phase 2* submit:</i>
<ul style="list-style-type: none"> ➤ Exhibit G, Environmental Review Workbook ➤ Parts 1-3 Compliance Factors, Site-Specific <p>*Submit as each site is identified.</p>	<ul style="list-style-type: none"> ➤ OOR Exhibit G, Environmental Review Workbook for each address ➤ OOR priority list for each address <p>*Submit as each site is identified.</p>	<ul style="list-style-type: none"> ➤ Exhibit G, Environmental Review Workbook ➤ Parts 1-3, Compliance Factors, Site-Specific ➤ Part 4, Environmental Assessment <p>*Submit as each site is identified.</p>



E. CONTACTING OTHER ENTITIES

In some cases, the ERR Workbook directs the recipient to request comment on the proposal from other entities, such as local, state, or federal agencies.

To help these entities respond effectively to your request for comment, we suggest that your letter include a thorough description of the undertaking and a map to show the undertaking's location. Also include the source of all funds. This includes private financing, State and Federal funds (including CDGB or HOME), funding agencies (IHCDA, et.al.), and how best to contact you.

If there is more than one State or Federal funding program or agency involved in an undertaking, a single review may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies.

A Contact Sheet is provided in Exhibit F of the ERR Workbook to assist you in tracking your correspondence with the appropriate agencies. This Contact sheet should be submitted to IHCDA along with the all other ERR Workbook documentation. If you have contacted the applicable agencies as directed by the ERR Workbook and/or Resource Document instructions, and you have not heard from them within 30 days, you may submit the ERR Workbook without their comments. You must include a copy of your correspondence to show your effort to solicit their comment.

For single site projects, only one letter of determination will be necessary. For scattered site projects, letters for each site will be sent or received.

F. OWNER OCCUPIED REPAIR PROJECTS

Owner Occupied Repair (OOR) projects have fewer applicable environmental concerns and consequently they have a separate Exhibit G of the ERR Workbook that contains site specific information. ERR Workbook preparers should read the guidance carefully that accompanies the OOR Exhibit G to be certain that the abbreviated form is applicable. There will be a Section 106 Historic Review process for each site and the questions are contained within Exhibit G of the ERR Workbook.

OOR projects are also subject to the IHCDA OOR Priority List when developing the scope of work. Each home address must have its own Exhibit G and its own OOR Priority List. This priority checklist and photographs for each priority item in the scope of work must be included for each site with the Exhibit G documentation. Each priority list item must have its own photo. All photos will be in color, large, labeled and legible. Please refer to the Resource Document for further instructions.





G. FINDINGS [Categorically Excluded Subject to 58.5 and Assessed]

Both Assessed activities and activities which are Categorically Excluded, Subject to 58.5, are required to complete the Findings page. The Findings are intended to be a thoughtful consideration of the information gathered in completing the ERR.

For projects which are Categorically Excluded, Subject to 58.5, the focus of the Findings is on compliance.

For Assessed projects, the Findings also include an assessment of:

1. Feasible ways to eliminate or minimize adverse environmental impacts;
2. Alternatives to the project, if necessary;
3. An Assessment of one of the following:
 - a. Finding of No Significant Impact (FONSI)
 - b. Finding of Significant Impact, thereby requiring the execution of an Environmental Impact Statement (EIS).

Environmental Impact StatementS (EIS)

An environmental impact statement is a complex analysis required for proposed activities that would have a significant impact on the human environment in accordance with section 102(2)(C) of the National Environmental Policy Act. EIS thresholds stated at §58.37(a) and (b)(2) include:

1. *Projects determined by a previously written environmental assessment, to have a potentially significant impact on the human environment; and*
2. *Projects involving 2,500 or more units being: removed, demolished, converted, rehabilitated, or constructed.*

If you determine that an EIS is required, please contact your IHCDA Regional Real Estate Production Analyst for the procedures.

H. OVERVIEW OF ERR REVIEW PROCESS BY CLASSIFICATION

EXEMPT AND CATEGORICALLY EXCLUDED, NOT SUBJECT TO 58.5

1. Complete the ERR Workbook, including:
 - a. All forms required by Figure 4, Required Forms by Classification.
 - b. Source documentation as required by the ERR Workbook forms.
 - c. Original signatures as required by the ERR Workbook forms.
2. Submit a copy of the ERR Workbook upon funding application.
3. If application is awarded IHCDA funds, IHCDA will begin review of submitted ERR materials.
4. Receive correspondence for additional information, if applicable.
5. It is not necessary to publish a public notice. Once all information is acceptable to IHCDA or its assignee, then a Release of Funds letter will be sent by IHCDA or its assignee.



**CATEGORICALLY EXCLUDED, SUBJECT TO 58.5 AND ASSESSED****SINGLE SITE PROJECTS**

1. Complete the ERR Workbook, including:
 - a. All forms required by Figure 4, Required Forms by Classification.
 - b. Source documentation as required by the ERR Workbook forms.
 - c. Original signatures as required by the ERR Workbook forms.
2. Submit a copy of the ERR Workbook and all supporting documentation with funding application.
3. If application is awarded IHCDA funds, IHCDA or its assignee will conduct full review of submitted ERR materials.
4. Receive correspondence for additional information, if applicable.
5. Receive letter authorizing to publish appropriate Notice of Intent to Request Release of Funds.
6. Complete applicable notice and publish in the local newspaper of greatest circulation. See Section IV of this User's Guide for more information on notices. Sample notices are provided in Appendix 5 of this User's Guide.
7. Forward two original copies of the public notice and a copy of the publisher's affidavit to IHCDA.
8. IHCDA will send HUD Request of Release of Funds, if applicable.
9. Once recipient receives the Release of Funds letter and a fully executed copy of their award agreement, the recipient may begin the HOME or CDBG undertaking.

SCATTERED SITE PROJECTS

1. Complete the ERR Workbook, including:
 - a. Forms as described in Figure 5: ERR Process for Scattered Site Projects, under *Phase 1*.
 - b. Source documentation as required by the forms.
 - c. Original signatures as required by the forms.
2. Complete Steps 2-7 as shown above as for Single Site Projects.
3. As individual sites are identified, complete and submit the ERR Workbook for the sites, including:
 - a. Forms as described in Figure 5: ERR Process for Scattered Site Projects, under *Phase 2*.
 - b. Source documentation as required by the ERR Workbook.
 - c. Original signatures as required by the ERR Workbook.
 - d. If an OOR award, the OOR Priority List and all required photos.
4. After IHCDA agrees with the applicant's conclusions, IHCDA will issue the applicant a Phase 2 Concurrence Letter allowing the award recipient to move forward for the specific site.
5. Once the recipient receives notification from IHCDA for Phase 2 Concurrence for each specific site, the recipient may begin the HOME or CDBG undertaking for that site.





A. SECTION 106 HISTORIC PRESERVATION REVIEW

The National Historic Preservation Act of 1966 requires agencies to consider the impact of their federally funded projects on historic properties. This process is commonly known as “the Section 106 review”. The Section 106 review has its own guiding regulations and is distinct and separate from the environmental review process. The Section 106 implementing regulations are at 36 CFR Part 800 but are incorporated by reference into the environmental review process at 24 CFR Parts 58 and 50. Therefore, IHCDA combines the Section 106 review into the environmental review process.

The Section 106 process is federally required for the Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and National Housing Trust Fund (NHTF) funding sources, therefore all projects receiving those funds from IHCDA must complete the Section 106 review as part of the ERR Workbook and must receive Section 106 clearance before signing contracts or spending IHCDA dollars. The Section 106 review process is explained here in this section of this User’s Guide and the historic preservation review questions can be found as part of the ERR Workbook. Also refer to the Resource Document in order to complete the Section 106 review.

B. SECTION 106 REVIEW PROCESS (FEDERAL FUNDS)

At IHCDA the federal Section 106 review process for projects funded with federal funds is initiated with the submission of the ERR Workbook. (Refer to the State Historic Review Process section for projects funded with state funds). The general steps are: identify the property, submit the scope of work, determine the Area of Potential Effect (APE), research the history and possible significance of buildings, structures, and objects within the APE, and determine possible effects. Not all required steps and documentation are referred to below, so it is imperative that you refer to the Resources document for step-by-step guidance in completing the Section 106 review.

For tiered projects (usually scattered site and/or OOR projects), the Section 106 process will occur as each site is identified, during Phase 2 part of the ERR Review.

It should be noted that the Section 106 process is not the same process used for the Federal Historic Preservation Tax Incentives program (commonly known as “historic tax credits”). Projects utilizing the historic tax credits and federal HUD funding will undergo separate and sometimes similar reviews. The timing of Section 106 concurrence may be impacted by the use of historic tax credits so adjust your project timeline accordingly. For more information about the historic tax credits visit <https://www.nps.gov/tps/tax-incentives.htm> or contact the Indiana Department of Natural Resources, Historic Preservation and Archaeology division. <http://www.in.gov/dnr/historic/3680.htm>

Area of Potential Effects

How to determine and make a map of the APE is described in the Resources document, however, generally: “The area of potential effects is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” [36 C.F.R. § 800.16(d)]

The APE is the area around the undertaking/project that could contain historic properties effected by your undertaking/project. This is different and usually larger than the project site. Typically the APE will be the area viewed when standing at the highest point of your project site. There is always an APE, on every project.

Determination of Effect

The culmination of the Section 106 review process is the determination, or finding, of possible effects your project will have on historic structures, either because your site is a historic or potentially historic structure or there are historic or potentially historic structures within the APE. The Responsible Entity makes the determination of effect. A letter of finding/determination of effect must come from the Responsible Entity.





For NFP/FP applicants the Responsible Entity is IHCDA. Once all appropriate documentation is received NFP/FP applicants will receive a letter of determination of effect from the Environmental Officer or assignee.

LUG applicants are considered the Responsible Entity and a letter of determination of effect must come from an official for the local government applying for funds. Once the determination of effect along with the appropriate documentation is received the LUG will receive a letter of concurrence from the Environmental Officer. Possible findings are one of the following: No Historic Properties Affected, No Adverse Effect, or Adverse Effect.

- *No Historic Properties Affected/No effect* - No resources can be found within the area of potential effect therefore the project will have no effect.
- *No Adverse Effect*- used if there are historic properties within the APE boundaries that will not be altered in such a manner that it will diminish the integrity of the properties' characteristics qualifying it for inclusion in the National Register
- *Adverse Effect*- used if there are historic properties in the APE that will be altered in such a manner that it will diminish the integrity of the properties' characteristics qualifying it for inclusion in the National Register. Adverse effects may include: physical destruction of, or damage to a property, alterations that are not consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, removal of the property from its historic location, change in the use or character of physical features or setting, introduction of visual, atmospheric or audible elements, neglect which causes deterioration.

Completion of the Section 106 Process

The Section 106 process is considered complete when there is concurrence with the determination of effect. A letter of concurrence means that the Section 106 process for your project has been reviewed and IHCDA agrees with your determination. All applicants must receive a letter from IHCDA signifying either the determination of effect or a concurrence to a determination for the process to be complete.

For non-profit and for-profit applicants, IHCDA, or its assignee, will send a letter of concurrence for the determination of effects for each project address. The Section 106 process is then considered complete.

For Local Units of Government (LUGs), the LUG will provide a letter of determination of effect from the Chief Executive Officer in the ERR Workbook submission. Once the LUG applicant receives a letter of concurrence from IHCDA or its assignee for that address, then the Section 106 process will be complete for that address.

Completed and concurred reviews will be recognized by IHCDA for a period of up to three years, provided that the project and scope remains the same. If you are submitting a ERR Workbook for a site that as already undergone review and concurrence, please submit the original forms and any letters from IHCDA or its assignee. If any factors of the project changed (scope of work, source of funds, etc.) a new review may be necessary.

Section 106 Concurrence and ROF

Concurrence with the Section 106 review does not necessarily indicate that a project has obtained ROF. For single site projects, Section 106 concurrence is necessary before request for ROF occurs. For scattered site projects, a project may have ROF already however, no work may occur for that address before there is a Section 106 concurrence letter. Always make sure you have ROF for the project and/or address before starting work or signing contracts for the project.

C. STATE HISTORIC REVIEW PROCESS (DEVELOPMENT FUND)

For all projects funded in whole or in part by State funds (e.g. Affordable Housing and Community Development Fund) a similar review (or parallel review; if jointly funded with Federal funds) is triggered by Indiana Code [IC 14-21-1-18] which requires that any historic site or historic structure owned by the state; or historic site or historic structure listed on the





state or national register; may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a Certificate of Approval (CofA).

Projects Funded with Only State Funds

Consultation occurs between the Indiana State Historic Preservation Office, the funding agency and the applicants to determine if listed properties will be altered, demolished or removed by the proposed project. If it is determined that historic resources listed on the state or national registers will be adversely impacted, the applicant will need a CofA from the State Historic Review Board.

Projects Funded with State and Federal Funds

Consultation occurs between the State Historic Preservation Office, the funding agency and the applicants, to understand the impact of developments on historic resources. If it is determined that any sites or structures listed on the state or national registers will be adversely impacted and the project will require a CofA from the State Historic Review Board, the application for a CofA may not be submitted until the Federal review process is completed.

Certificate of Approval Process

The first step in the State Historic Review Process for State funds is to determine if the project site or the project structure is listed or eligible for listing in the National Register of Historic Places or if it is listed on the State register, then the applicant will need to obtain a Certificate of Approval (CofA) by the State Historic Review Board. Refer to the Resources document for more information.

The State Historic Review Board meets quarterly (January, April, July and October) to hear and approve Certificates of Approval. All applications for a CofAs must be received by the SHPO no later than forty (40) days prior to the review board meeting. IHCDA will submit the application on the applicant's behalf, however, be aware of the time line in order to plan your project accordingly.

It is imperative that there the State Historic Review Process is completed and a CofA obtained, if necessary, before executing contracts or entering into any other commitments of the Development Fund, or other funds and before initiating demolition, rehabilitation, or construction activities; this includes all site preparations and ground disturbing activities; infrastructure, grading, etc. Failure to follow the procedures may result in no State or Federal funding from IHCDA.

D. FORMS & TIMING OF NOTICE

The form and timing of notice differs by:

- The classification of the project (Categorically Excluded Subject to 58.5 or Assessed); and
- The source of funds (CDBG or HOME).

DO NOT publish your public notice until you receive a letter notifying you to do so from IHCDA. If all project information in the notice is not correct, the recipient may be required to republish.

Be sure to use the correct public notice found in this User's Guide. Failure to use a notice with up-to-date and correct information will require republication. Be sure to be specific in your project information and that the amount of funds is correct.

CATEGORICALLY EXCLUDED, SUBJECT TO 58.5

Projects which are Categorically Excluded Subject to 58.5 need only publish a Notice of Intent to Request Release of Funds (NOI/RROF). The NOI/RROF indicates the recipient's intention to submit a Request for Release of Funds no sooner





than 7 days following the publication of the notice. This gives the public or any interested entities at least 7 days to submit comments locally before any other action is taken.

The notice further establishes a minimum of 15 days during which the public may comment to IHCDA, after IHCDA has received the request. IHCDA must then wait a minimum of 15 calendar days after receipt of the Request for Release of Funds (RROF) for public comment prior to requesting release of funds from HUD.

ASSESSED

Assessed projects must publish a NOI/RROF but also a Finding of No Significant Impact (FONSI). For Assessed projects, IHCDA provides a Combined Notice: Notice of Intent to Request a Release of Funds and Finding of No Significant Impact (NOI/RROF/FONSI) as provided for under 24 CFR 58.44.

The *NOI/RROF/FONSI* states the "Finding of No Significant Impact" and indicates the recipient's intention to submit to IHCDA a Request for Release of Funds no sooner than 15 days following the publication date. This gives the public or any interested entities at least 15 days to submit comments locally before any other action is taken.

The notice further establishes a minimum of 15 days during which the public may comment to IHCDA, after the request has been received. IHCDA must then wait a minimum of 15 calendar days after receipt of the Request for Release of Funds (RROF) for public comment prior to requesting release of funds from HUD.

SAMPLE NOTICES PROVIDED

Sample notices are provided for the award recipient's use. The sample notices are available in Chapter Exhibits.

For Categorically Excluded Subject to 58.5:

- 1) Notice of Intent to Request Release of Funds (NOI/RROF) for CDBG Projects
 - a. Local Unit of Government (LUG)
- 2) Notice of Intent to Request Release of Funds (NOI/RROF) for HOME Projects
 - a. Local Unit of Government (LUG)
 - b. Not-For-Profit or For-Profit

For Assessed Projects:

- 3) Combined Notice: Notice of Intent to Request a Release of Funds and Finding of No Significant Impact (NOI/RROF/FONSI) for CDBG Projects
 - a. Local Unit of Government (LUG)
- 4) Combined Notice: Notice of Intent to Request a Release of Funds and Finding of No Significant Impact (NOI/RROF/FONSI) for HOME Projects
 - a. Local Unit of Government (LUG)
 - b. Not-For-Profit or For-Profit

If you are a Not-For-Profit or For-Profit awarded CDBG funds under a limited-time program such as Disaster Recovery Grants, use the CDBG-D notice for NFPs-FPs, if necessary.

If you think there is a possibility that during the course of your project you may use both CDBG and HOME as a funding source use a combined CDBG & HOME notice, if necessary.

OTHER FORMS OF NOTICE

The recipient may wish to utilize additional efforts to inform the public, announcing the availability of the ERR for review. Such extra efforts could include holding public meetings or hearings locally, or maintaining mailing lists of





persons interested in a particular action and notifying them of the availability of the environmental review record for local review and comment.

PUBLIC NOTICE TIMELINES

All required minimum time periods are counted as calendar days. The first day of a time period begins on the day following the publication date of any notice ([24 CFR 58.21](#)).

Example Timeline – Categorically Excluded Subject to 58.5 (NOI/RROF only):

March 15th	Publication date of <i>NOI/RROF</i>
March 16th - 22nd	Minimum 7-day local comment period
On or about March 23rd	Recipient forwards two original tear sheets and a publisher’s affidavit as proof of publication to IHCDA
March 24th - April 7th	IHCDA 15-day comment period
On or about April 8th	IHCDA requests Release of Funds from HUD. (If LUG recipient, IHCDA may issue Release of Funds without an additional HUD review period.)
April 9 th -22 nd	HUD comment period
On or about April 23	IHCDA receives Release of Funds from HUD

Example Timeline – Assessed Project (Combined NOI/RROF/FONSI):

March 15th	Publication date of <i>NOI/RROF/FONSI</i>
March 16th - 30th	Minimum 15-day local comment period
On or about March 31st	Recipient forwards two original tear sheets and a publisher’s affidavit as proof of publication to IHCDA
April 1st - April 15th	IHCDA 15-day comment period
On or about April 16th	IHCDA requests Release of Funds from HUD (If LUG recipient, IHCDA may issue Release of Funds without an additional HUD review period.)
April 17 th -30 th	HUD comment period
On or about May 1	IHCDA receives Release of Funds from HUD





E. Definitions

Aggregation – (also called Project Aggregation) The concept of evaluating as a single project all individual activities that are related either on a geographical or functional basis, or are logical parts of a composite or contemplated actions. Project aggregation must include both HUD/IHCDA and non-HUD/IHCDA funds. Ex: Acquisition dollars + Demolition dollars + Construction dollars = Aggregate project dollars/costs

Area of Potential Effect (APE) – In the Section 106 process, “The area of potential effects is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” [36 C.F.R. § 800.16(d)]

The APE is the area around the undertaking/project that could contain historic properties effected by your undertaking/project. This is different than the project site. Typically the APE will be the area viewed when standing at the highest point of your project site. There is always an APE, on every project.

Certificate of Approval (CofA) - Approval by the state historic review board for state funds to be used to alter, demolish, or remove an historic site or historic structure that is owned by the state or is listed in either the Indiana Register of Historic Sites and Structures or the National Register of Historic Places.

Certifying Officer - The official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of §58.13. For all programs this is the Executive Director of IHCDA.

Consulting Party – In the Section 106 process, “Individuals and organizations with a demonstrated interest in the project due to the nature of their legal and economic relation to the undertaking or affected properties, or their concern with the undertaking’s effect on historic properties” [36 CFR § 800.2] Consulting parties generally include: applicants, professional consultants, and government agencies with jurisdiction over the project.

County Interim Reports - Published surveys of potential historic resources within the counties. Interims include maps, site information, identification of possible historic districts and cataloging of potentially eligible properties and ratings of their qualities that may make them eligible: Non-Contributing, Contributing, Notable and Outstanding.

Development Site(s) – The location(s) where work will occur. The street address, city or town, township and county of the project area.

Environmental Impact - Any alteration of existing environmental conditions, or creation of a new set of environmental conditions, caused or induced in whole or in part, directly or indirectly, by a proposed undertaking.

ERR – Environmental Review Record; also short for the Environmental Review Record Workbook.

Findings/Determination of Effect in the Section 106 process – the outcome of proposed project; what effect the project will have on historic properties:

- *No Historic Properties Affected/No effect* - No resources can be found within the area of potential effect therefore the project will have no effect.
- *No Adverse Effect*- used if there are historic properties within the APE boundaries that will not be altered in such a manner that it will diminish the integrity of the properties’ characteristics qualifying it for inclusion in the National Register
- *Adverse Effect*- used if there are historic properties in the APE that will be altered in such a manner that it will diminish the integrity of the properties’ characteristics qualifying it for inclusion in the National Register. Adverse effects may include: physical destruction of, or





damage to a property, alterations that are not consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, removal of the property from its historic location, change in the use or character of physical features or setting, introduction of visual, atmospheric or audible elements, neglect which causes deterioration.

Finding of No Significant Impact (FONSI) – A document briefly presenting the reasons why an action, not otherwise categorically excluded or exempt, will not have a significant effect on the human environment and for which an Environmental Impact Statement, therefore, will not be prepared. The FONSI must include the environmental assessment (or summary of it) and note any other environmental documents related to it. If the assessment is included, the FONSI need not repeat any of the discussion in the assessment but may incorporate it by reference.

Floodplain - "Floodplain" means the Special Flood Hazard Area (SFHA) identified on the flood maps published by the National Flood Insurance Program (NFIP) by the Federal Emergency Management Agency (FEMA).

Historic Property – Any prehistoric, or historic, district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties. The National Register criteria should be applied to determine the eligibility of a property. For purposes of the State review historic property also refers to those resources that are listed on the Indiana Register of Historic Sites and Structures. Typically aged 50 years or older, with some exceptions.

HUD – The Office of Housing and Urban Development

Human Environment - Interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. This means that economic or social effects are not intended by themselves to require preparation of an EIS. When an EIS is prepared and economic or social and natural or physical environment effects are interrelated, then the EIS will discuss all of these effects on the human environment.

LUG – Local Unit of Government

Memorandum of Agreement (MoA) - In the Section 106 process, the legal contract outlining mitigation measures to be carried out. On the occasion where the project will result in an Adverse Effect, a Memorandum of Agreement will be drawn to minimize or mitigate those adverse effects.

NOI/RROF - Notice of Intent to Request Release of Funds.

Project - An activity or group of integrally related activities designed by the recipient to accomplish, in whole or in part, a specific objective [24 CFR 58.2(a)(4)]. Used interchangeably with "undertaking" in this User's Guide.

Project Classification – In the ERR Review Process, this is the result of defining the level of environmental review that must be completed prior to receiving federal funding. Based on the proposed activities in the project, the project will be classified as either Exempt, Categorically Excluded Not Subject to 58.5, Categorically Excluded Subject to 58.5, or Assessed. If projects are Assessed, then a finding of either No Significant Impact or a Finding of Significant Impact must be made.

Responsible Entity – The local unit of government when it is the recipient under the program. For not-for-profit or other entities the State (IHCDA) is the Responsible Entity. [58.2(a)(7)]

ROF - Release of Funds.

RROF - Request for Release of Funds.





Section 106 Historic Preservation Review – Also referred to as Section 106. The process to review effects on historic resources by undertakings with federal funds. Enabled with the National Historic Preservation Act of 1966. Any project receiving federal funding, licensing, permits, or approval must consider the impact on historic properties. While it is its own review process, at IHCDA the Section 106 process is incorporated into the environmental review process.

SHPO - State Historic Preservation Office. In Indiana the State Historic Preservation Office is the Department of Natural Resources (DNR), Division of Historic Preservation and Archaeology (DHPA).

Tiered Review – The ERR process is conducted in a two-step phased process. The first phase is the area-wide review and, at IHCDA, is submitted with the funding application. The second phase is the site specific portion of the ERR Workbook (and the IHCDA OOR Priority List) and is submitted for review once each site is identified.

Undertaking - A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval. Used interchangeably with “project” in the environmental chapter.





CHAPTER 3 –FUNDS MANAGEMENT

This portion of funds management applies to both HOME and CDBG awards.

Banked Match/Leverage

If the applicant is proposing to utilize banked match/leverage for this activity:

- And it is the applicant’s own banked match, the match liability on the previous award for which the match was generated must already be met and documented with IHCDA for the match to be eligible as of the application due date. Only HOME, CDBG, and CDBG-D--eligible match generated on IHCDA awards made in 1999 or later are eligible to be banked.
- Or, if it is another recipient’s match, the applicant must provide an executed agreement with the application verifying that the recipient is willing to donate the match.
 - Only banked match from awards made in 1999 or later that have fully met their match liability is eligible to donate to another applicant. The award must be closed before the agreement to donate match is executed.
- Match cannot be sold or purchased and is provided purely at the discretion of the recipient that generated it.
 - Banked leverage generated on a CDBG or CDBG-D award can be used on a future CDBG or CDBG-D award.
 - Banked leverage generated on a CDBG or CDBG-D award cannot be used as match on a future HOME award.
 - Banked match generated on a HOME award may be used as leverage on a future CDBG or CDBG-D award.

County Code: Enter county code for the county in which the development is located.

County	Code	County	Code	County	Code
Adams	001	Hendricks	063	Pike	125
Allen	003	Henry	065	Porter	127
Bartholomew	005	Howard	067	Posey	129
Benton	007	Huntington	069	Pulaski	131
Blackford	009	Jackson	071	Putnam	133
Boone	011	Jasper	073	Randolph	135
Brown	013	Jay	075	Ripley	137
Carroll	015	Jefferson	077	Rush	139
Cass	017	Jennings	079	St. Joseph	141
Clark	019	Johnson	081	Scott	143
Clay	021	Knox	083	Shelby	145
Clinton	023	Kosciusko	085	Spencer	147
Crawford	025	Lagrange	087	Starke	149
Daviess	027	Lake	089	Steuben	151
Dearborn	029	LaPorte	091	Sullivan	153
Decatur	031	Lawrence	093	Switzerland	155
DeKalb	033	Madison	095	Tippecanoe	157
Delaware	035	Marion	097	Tipton	159
Dubois	037	Marshall	099	Union	161
Elkhart	039	Martin	101	Vanderburgh	163





Fayette	041	Miami	103	Vermillion	165
Floyd	043	Monroe	105	Vigo	167
Fountain	045	Montgomery	107	Wabash	169
Franklin	047	Morgan	109	Warren	171
Fulton	049	Newton	111	Warrick	173
Gibson	051	Noble	113	Washington	175
Grant	053	Ohio	115	Wayne	177
Greene	055	Orange	117	Wells	179
Hamilton	057	Owen	119	White	181
Hancock	059	Parke	121	Whitley	183
Harrison	061	Perry	123		





CHAPTER 3 – HOME FUNDS MANAGEMENT

A. HOME Matching Funds

The HOME Program requires a twenty-five percent (25%) match. As such, applicants must demonstrate eligible matching funds equal to twenty-five percent (25%) of the total amount of HOME funds drawn minus administration and/or CHDO operating costs.

The types of match for HOME projects/programs that may be accepted are as follows:

- Cash contributions permanently dedicated to the HOME program from non-federal funds and not donated by the applicant or the designated property owner;
- Program income from a federal grant earned after the end of the award period if no federal requirements govern its disposition (i.e., program income generated from the Rental Rehab Program);
- Grant equivalent of the present discounted value of the yield foregone in a below-interest rate loan;
- The present discounted, cash value, based on customary and reasonable means for establishing value, of State or local taxes, fees, or other charges that are normally and customarily imposed or charged;
- The appraised value of donated land or buildings, except those already owned by the applicant or a principal in the development, less any debt that remains as a lien against the property. Property may also be eligible as a partial donation if it is offered to the applicant at below market value and if the offer or submits a written declaration that the difference between market value and the sale price is intended as a contribution to affordable housing;
- The cost, not paid with federal resources, of on-site or off-site infrastructure improvements that are directly required for the HOME-assisted development. The infrastructure must have been completed no earlier than 12 months before HOME funds are committed to the project;
- Donated site-preparation or construction materials not acquired with federal funds, or the reasonable rental value of the donated use of site preparation or construction equipment;
- Volunteer skilled or unskilled labor and donated professional services. Unskilled labor is currently calculated at the rate of \$10 per hour;
- The direct cost of supportive services provided to families residing in HOME-assisted units during the affordability period. The supportive services must be necessary to facilitate independent living or be required as part of a self-sufficiency program;
- Contributions to non-HOME-assisted but HOME-eligible developments, if certain federal requirements are met (income eligibility of occupants, property standards, rent limits, project occupancy requirements, affordability period, and tenant protections); and
- Neighborhood Assistance Program (NAP) credits and Build Indiana Funds.

Ineligible forms of match:

- Contributions made with or derived from federal resources or funds (including CDBG funds and Rural Development grants or loans) regardless of when the funds were received or expended;
- The interest rate subsidy attributable to the federal tax exemption on financing (such as bonds issued by the state) or the value attributable to federal tax credits (such as the Low Income Housing Tax Credit Program);
- Owner equity or investment in a project (except for sweat equity);
- Cash or other forms of contributions from applicants for or recipients of HOME assistance or contracts, or investors who own, are working on, or are proposing to apply for assistance for a HOME-assisted project (except for sweat equity or professional services donated by contractors who do not own any HOME projects);
- Funds used to pay for administrative, environmental review, or CHDO operating costs; and
- Contributions counted as match toward any other federally-funded program.





D. HOME Program Income

HOME Program Income is gross income received by the participating jurisdiction (IHCDA), state recipient (local unit of government) or an IHCDA HOME sub recipient directly generated from the use of HOME funds or matching contributions.

Program Income does not include funds recaptured from a homebuyer who does not meet his affordability period or who is foreclosed upon. These funds are recaptured funds and must be returned to IHCDA.

Income generated by CHDOs, not-for-profits, or for-profits acting as owners, sponsors or developers of HOME units are not considered program income.

When housing that generates program income 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:

- I. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or match contributions;
- J. Gross income from the use of rental of real property, owned by the participating jurisdiction, State recipient, or a sub recipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income;
- K. Payments of principal and interest on loans made using HOME funds or matching contributions;
- L. Proceeds from the sale of loans made with HOME funds or matching contributions;
- M. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
- N. Interest earned on program income pending its disposition; and
- O. Any other interest or return on the investment permitted under § 92.205(b) of the HOME funds or matching contribution.

The following outlines the four methods in which HOME program income should be treated.

1. *Treatment by Local Unit of Government*

Local units of government that receive HOME repayments during the affordability period must return the funds to the IHCDA. However, if you have an open HOME award with the IHCDA, you must use these funds prior to drawing additional funds from the IHCDA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

2. *Treatment by Not for Profit or For Profit Not Acting as an Owner, Sponsor or Developer (e.g. owner occupied)*

Not-for-profit entities or for-profit entities that receive HOME repayments during the affordability period must return the funds to the IHCDA. However, if you have an open award with IHCDA, you must use these funds prior to drawing down additional funds from IHCDA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

3. *Treatment by Not for Profit or For Profit Acting as an Owner Sponsor or Developer*

Not for profit entities or for profit entities receiving payment back from homebuyers or rental tenants during the affordability period may keep these funds and the funds must be utilized for housing activities that benefit low-income families as provided in the IHCDA HOME Investment Partnerships Program Application.





4. Treatment by a CHDO

CHDOs receiving payment back during the affordability period may retain these funds. The funds must be utilized for housing activities that benefit low-income families as provided in 24 CFR 92.300(a)(2).

However, if at any time during the affordability period, the CHDO becomes decertified or no longer has a mission of providing affordable housing then all CHDO proceeds must immediately be remitted to IHCDA. Please contact your Compliance Monitor for further assistance in this area.

E. HOME Claim Submissions

BUDGET LINE ITEMS

The following lists each of the budget line items and explains what is eligible within each of the line items.

ACQUISITION – Limited to the purchase price and related costs associated with the acquisition of real property. Recipients must use a title company when purchasing or selling assisted properties. All donated property must have a title search demonstrating that the property is free and clear of any encumbrances and must be submitted to IHCDA.

ADMINISTRATION – Administration costs can only be claimed on applications submitted prior to Program Year 2017. The administration line item includes the costs directly related to administering an IHCDA HOME award and complying with the regulations associated with these funds. This line item cannot exceed 5% of a HOME request and generally is between \$5,000 and \$10,000. This line item along with developer’s fee, soft costs, and environmental review cannot exceed 20% of the HOME request. Recipients are allowed to draw down this line item as costs are incurred. The costs associated with preparing the application are not eligible for reimbursement through a HOME award. This line item does not incur a match liability for HOME awards.

Eligible costs include:

Staff costs and professional services associated with reporting, compliance, monitoring, or financial management

- Affirmative marketing
- Lead-based paint training
- Postage
- Communication costs
- Photo copying
- Fair housing education
- Office materials and supplies
- Office rent and utilities
- Photocopying

DEMOLITION – Costs associated with the demolition and clearance of existing structures.

DEVELOPER’S FEE – Developer’s fees are only available with HOME funded activities and cannot exceed 15% of the HOME award. Additionally, this line item along with administration or CHDO operating, program delivery, and environmental review cannot exceed 20% of the HOME request. For homebuyer





activities, the developer’s fee cannot exceed 20% of the total development cost, regardless of the source used to pay the developer’s fee.

ENVIRONMENTAL AND HISTORIC REVIEW – This line item includes expenses associated with the Section 106 Historic Review and environmental review release of funds process. This does not refer to a Phase I Environmental Assessment. This line item along with developer’s fee, program delivery, and administration or CHDO operating cannot exceed 20% of the HOME request. Eligible costs for this line item are generally between \$2,000 and \$5,000 and include professional services, publication costs, photocopying, and postage. For further information, refer to the Environmental and Historic Review User guides or contact your IHCDA Real Estate Coordinator.

NEW CONSTRUCTION – Eligible costs include:

- Hard costs associated with new construction activities.
- Utility connections including off-site connections from the property line to the adjacent street.
- Site work related to driveways, sidewalks, landscaping, etc.
- Related infrastructure costs – improvements to the development site that are in keeping with improvements of surrounding, standard developments. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multifamily rental housing, costs to construct an on-site management office, the apartment of a resident manager, or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
- Contingency funds used for unanticipated hard cost overruns or change orders.

SOFT COSTS – Soft costs are those costs that can be directly tracked by address. They include soft costs and client related costs that are reasonable and necessary for the implementation and completion of the proposed housing activity. This line item along with the developer’s fee, and environmental review cannot exceed 20% of the HOME request. Recipients are allowed to draw down this line item as costs are incurred. Additionally, program delivery may pay off a HOME CHDO Predevelopment or CHDO Seed Money loan or a LIHTF Predevelopment or Seed Money loan but may not exceed the 20% line item cap.

Eligible costs include:

Engineering/Architectural Plans	Credit reports	Client intake/income verification
Plans, specifications, work write-ups	Title searches	Impact fees
Inspections	Recording fees	Lead hazard testing
Cost estimates	Private lender origination fees	Realtor fees
Building permits	Appraisals	Legal and accounting fees
Demolition permits	Travel to and from site	Utilities of assisted units
	Builders risk insurance	Phase I Environmental Assessments
Closing costs paid on behalf of homebuyer	Consultant fees	Other professional services



**REHABILITATION** – Eligible costs include:

- Hard costs associated with rehabilitation activities.
- Lead-based paint interim controls and abatement costs.
- Mold remediation.
- Utility connections including off-site connections from the property line to the adjacent street.
- Related infrastructure costs – improvements to the development site that are in keeping with improvements of surrounding, standard developments. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multifamily rental housing, costs to rehabilitate an on-site management office, the apartment of a resident manager, or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
- Contingency funds used for unanticipated hard cost overruns or change orders.
- Site work related to driveways, sidewalks, landscaping, etc.

REHABILITATION – Eligible costs include:

- Hard costs associated with rehabilitation activities.
- Lead-based paint interim controls and abatement costs.
- Mold remediation.
- Utility connections including off-site connections from the property line to the adjacent street.
- Related infrastructure costs – improvements to the development site that are in keeping with improvements of surrounding, standard developments. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multifamily rental housing, costs to rehabilitate an on-site management office, the apartment of a resident manager, or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
- Contingency funds used for unanticipated hard cost overruns or change orders.
- Site work related to driveways, sidewalks, landscaping, etc.

RENT-UP RESERVE – HOME funds may be used to cover the cost of funding an initial rent-up reserve for new construction and rehabilitation transitional, permanent supportive, and rental housing developments.

- This reserve is meant to meet any shortfall in development income during the rent-up period and may be drawn down at construction completion.
- These funds can be used for only development operating expenses, scheduled payments to replacement reserves and/or debt service payments.

RELOCATION – This includes relocation payments and other relocation assistance for permanently and/or temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where assistance is required and appropriate. Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket expenses for





temporary relocation purposes. For additional information on relocation and displacement, please refer to the information provided in the URA Chapter.

INELIGIBLE COSTS – The following costs are ineligible for reimbursement from HOME funds, unless specifically listed as eligible in an individual Eligible Activity description:

- Commercial development costs – All costs associated with the construction or rehabilitation of space within a development that will be used for non-residential purposes such as offices or other commercial uses. This does not include the common area used by tenants of rental property or the leasing office of the apartment manager. HOME awards cannot be used to underwrite any portion of the commercial costs. The expenses incurred and income to be generated from commercial space must be reported in a separate “Annual Expense Information” sheet and 15-year proforma (see Application Forms).
- Replacement reserves – Funds used to initially capitalize a reserve fund used for major capital repairs to a rental or permanent supportive housing facility. These funds cannot be applied to a HOME award. These funds can be capitalized either through operating cash flow or through the development budget on the Uses of Funds exhibit.
- Operating reserves – Funds used to initially capitalize a reserve fund that covers operating expenses when there are income shortfalls over the life of a rental or permanent supportive housing development. This line item must be included on the Uses of these Funds exhibit cannot be applied to a HOME award.
- Cost associated with any IHCDA application preparation.
- Purchase or installation of luxury items, such as swimming pools or hot tubs.
- Purchase or installation of equipment, furnishings, tools, or other personal property that is not an integral structural feature, such as window air conditioner units or washers and dryers. Allowable exceptions to this prohibition, however, include stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
- Cost of supportive services.
- General operating expenses or operating subsidies.
- Tenant-based rental assistance.
- Mortgage default/delinquency correction or avoidance.
- Loan guarantees.
- Annual contributions for operation of public housing.

HOME SUBSIDY LIMITATIONS:

- All subsidies must be secured throughout the affordability period by a written, legally binding, recorded restrictive covenant.
- For all housing activities award funds for administration or CHDO Operating costs, environmental review, program delivery, and developer’s fee combined cannot exceed 20% of the HOME award.
- Award funds for administration and CHDO operating costs cannot exceed 5% of the HOME award.
- Award funds for developer’s fee cannot exceed 15% of the HOME award.
- Homebuyer Activity – developer’s fee cannot exceed 20% of the Total Development Cost; regardless of the source used to pay the developer’s fee.
- Minimum amount of HOME funds to be used for rehabilitation or new construction is \$1,000 per unit.





- Homebuyer Activity – the homebuyer cannot apply for funding under any other HOME-funded program for the same unit (e.g., down payment assistance that can be obtained with a First HOME mortgage).
- Homebuyer and Rental Activities – HOME funds used for acquisition, rehabilitation, new construction, program delivery, relocation, rent-up reserve (rental only), and developer’s fee combined cannot exceed the annually published 221(d)3 limits set by HUD.

THE SET-UP PROCESS

Before a recipient may request HOME funds on specific properties, the recipient must first request that IHCDA “set-up” the property addresses.

The recipient is responsible for expending on each site address **exactly** the amount of HOME funds that have been “set-up.” If the HOME subsidy amount changes (either increases or decreases) during the course of award implementation, the recipient must submit a revised set-up report for the specific property address affected.

Submit the following for property address set-up:

- a. Set-up Form – Homebuyer, Owner Occupied Rehabilitation or Rental;
- a. Summary of Assisted Sites;
- b. Lead Form;
- c. Single Family Proforma
- e. After Rehabilitation or New Construction Appraisals – Homebuyer and Owner Occupied Rehabilitation

SUMMARY OF ASSISTED SITES

This form is to be used as a cumulative listing of each property receiving assistance. The total amount shown per address must be the amount listed on the Set-up Form.

SET-UP FORM - PAGE 1– HOMEBUYER ACTIVITY

The upper left hand corner of the form is for IHCDA use only.

In the upper right hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the contact information for the person completing the form, the date the Section 106 concurrence was received, and the date the households income was verified.

Mark the Appropriate Box: Original Submission or Revision.





Mark all that apply: 1-4 Single Family, Condominium, Cooperative, or Manufactured Home.

100-year floodplain– Mark the appropriate box. If you marked yes, your development is not eligible to receive IHCDA-assistance.

Type of Project: Check one box to indicate the type of set-up based upon the following definitions:

Rehabilitation Only: A HOME assisted rehabilitation property that does not include acquisition of real property. Such projects may have involved (a) HOME funds for repairs or improvement of residential unit(s) to bring the unit(s) up to the property standards required by 24 CFR 92.251; (b) the reconfiguration of a structure to reduce the total units in order to increase the number of large family units; (c) the addition of a room or rooms (e.g., bedroom or bathroom) outside the existing walls for purposes of meeting occupancy or code standards; and (d) the adding of a unit or units within the existing structure.

New Construction Only: Any project that involves (a) the addition of units outside the existing walls of the structure and (b) the construction of a new residential unit(s). Note: When developments have combined new construction in one building(s) with rehabilitation activities in another building(s) on one parcel of land, the developments must be administratively set up as separate developments in the IDIS System.

Acquisition Only: Acquisition of a structure that requires no rehabilitation with any funding source.

Acquisition & Rehabilitation: A HOME-assisted rehabilitation project which includes the acquisition of real property regardless if HOME funds pays for the acquisition or not.

Acquisition & New Construction: A HOME-assisted new construction project which includes the acquisition of real property regardless if HOME funds paid for the acquisition or not. This includes acquisition of a structure that has received an initial certificate of occupancy within one-year period prior to acquisition.

Is the Project located in:

CDBG Strategy Area: A HUD-approved Neighborhood or Community Revitalization Strategy Area (NRSA or CRSA), identified in the CDBG grantee's Consolidated Plan/ Annual Action Plan under 24 CFR 91.215(e) (2) or 91.315(e) (2).

Local Target Area: A locally designated non-CDBG strategy area targeted for assistance.

Presidentially Declared Major Disaster Area: An area declared a major disaster under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Historic Preservation Area: An area designated for historic preservation by local, state, or Federal officials.

Brownfield Redevelopment Area: An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination.

Residential Conversion: Conversion from a non-residential to residential use. For example, converting an old non-residential warehouse in to rental units or condominiums.

Faith Based Organization?: Will this activity be carried out by a faith-based organization?

Does this activity primarily assist persons with disabilities? Please place a checkmark in Yes or No.

Deed Restriction Type: Mark the appropriate box for either recapture or resell.





Part A: Recipient Information

- Item 1 Name of Recipient: Enter the award recipient’s name.
- Item 2 Recipient DUNS Number: Enter the Employer DUNS Number of the recipient.
- Item 3 HOME Funds for Address: Enter the total amount of HOME Funds requested for this address. This amount should be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

- Item 1 Name of Owner: Enter the Last and First name of the owner (purchaser) of the property.
- Item 2 Street Address: Enter the street address of the property.
- Item 3 City & Zip Code: Enter the City and Zip code of the property.

Total Units/Beds Upon Completion: This cell is pre-filled for homebuyer activities.

Total HOME Assisted Units/Beds Upon Completion: This cell is pre-filled for homebuyer activities.

Total non-assisted but eligible units Upon Completion: This cell is pre-filled for homebuyer activities.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located. Click [here](#) for county code.

Type of Ownership: For homebuyer activities, the ownership type is Individual.

Community Housing Development Organization Projects: (CHDO awards only) Mark one box only.

Enter the following District Numbers: State Representative District, State Senate District, and U.S. Congressional District for the specific address.

SET-UP FORM – PAGE 1– RENTAL ACTIVITY

The upper left hand corner of the form is for IHCDA use only.

In the upper right hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the contact information for the person completing the form, and the date the Section 106 concurrence was received.

Mark the Appropriate Box: Original Submission or Revision.





Mark all that apply: Shelter, Transitional Housing, SRO, Group Home, Apartment, or None of the above.

Type of Project: Check one box to indicate the type of set-up based upon the following definitions:

Rehabilitation Only: A HOME assisted rehabilitation property that does not include acquisition of real property. Such projects may have involved (a) HOME funds for repairs or improvement of residential unit(s) to bring the unit(s) up to the property standards required by 24 CFR 92.251; (b) the reconfiguration of a structure to reduce the total units in order to increase the number of large family units; (c) the addition of a room or rooms (e.g., bedroom or bathroom) outside the existing walls for purposes of meeting occupancy or code standards; and (d) the adding of a unit or units within the existing structure.

New Construction Only: Any project that involves (a) the addition of units outside the existing walls of the structure and (b) the construction of a new residential unit(s). Note: When developments have combined new construction in one building(s) with rehabilitation activities in another building(s) on one parcel of land, the developments must be administratively set up as separate developments in the IDIS System.

Acquisition Only: Acquisition of a structure that requires no rehabilitation with any funding source.

Acquisition & Rehabilitation: A HOME-assisted rehabilitation project which includes the acquisition of real property regardless if HOME funds pays for the acquisition or not.

Acquisition & New Construction: A HOME-assisted new construction project which includes the acquisition of real property regardless if HOME funds paid for the acquisition or not. This includes acquisition of a structure that has received an initial certificate of occupancy within one-year period prior to acquisition.

Is the Project located in:

CDBG Strategy Area: A HUD-approved Neighborhood or Community Revitalization Strategy Area (NRSA or CRSA), identified in the CDBG grantee’s Consolidated Plan/ Annual Action Plan under 24 CFR 91.215(e)(2) or 91.315(e)(2).

Local Target Area: A locally designated non-CDBG strategy area targeted for assistance.

Presidentially Declared Major Disaster Area: An area declared a major disaster under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Historic Preservation Area: An area designated for historic preservation by local, state, or Federal officials.

Brownfield Redevelopment Area: An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination.

Residential Conversion: Conversion from a non-residential to residential use. For example, converting an old non-residential warehouse in to rental units or condominiums.

Does this activity primarily assist persons with disabilities? Please place a checkmark in Yes or No.

Faith Based Organization?: Will this activity be carried out by a faith-based organization?

Part A: Recipient Information

Item 1 Name of Recipient: Enter the award recipient’s name.





- Item 2 Recipient DUNS Number: Enter the Employer DUNS Number of the recipient.
- Item 3 HOME Funds for Address: Enter the total amount of HOME Funds requested for this address. This amount should be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

- Item 1 Street Address: Enter the street address of the property.
- Item 2 City & Zip Code: Enter the City and Zip code of the property.

Part C: Rental Information Only

- Item 1 Name of Owner or Organization: Enter the name of the property owner/organization
- Item 2 Street Address: Enter the street address of the owner/organization.
- Item 3 City, Zip Code, & Phone Number: Enter the City, Zip Code, and Phone Number of the owner/organization.

Total Units/Beds Upon Completion: Enter the number.

Total HOME Assisted Units/Beds Upon Completion: Enter the number.

Total non-assisted but eligible units Upon Completion: Enter the number.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located. Click [here](#) for the county code.

Type of Ownership: Mark the appropriate box.

Community Housing Development Organization Projects: (CHDO awards only) Mark one box only.

Enter the following District Numbers: State Representative District, State Senate District, and U.S. Congressional District for the specific address.

SET-UP FORM AND CLOSE OUT FORM – PREDEVELOPMENT

The upper left hand corner of the form is for IHCDA use only.

In the upper right hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the contact information for the person completing the form, and the date the Section 106 concurrence was received.





Mark the Appropriate Box: Original Submission or Revision.

Part A: Recipient Information

- Item 1 Name of Recipient: Enter the award recipient’s name.
- Item 2 Recipient DUNS Number: Enter the Employer DUNS Number of the recipient.
- Item 3 HOME Funds for Address: Enter the total amount of HOME Funds requested for this address. This amount should be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

- Item 1 Street Address: Enter the street address of the property.
- Item 2 City & Zip Code: Enter the City and Zip code of the property.

Tenure Type: Check the type.

Total Units/Beds Upon Completion: Enter the number.

Total HOME Assisted Units/Beds Upon Completion: Enter the number.

Total non-assisted but eligible units Upon Completion: Enter the number.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located. Click [here](#) for the county code.

Community Housing Development Organization Projects: Mark one box only.

CLOSE OUT DOCUMENTS- PREDEVELOPMENT

Financial Settlement/Expenditure Summary

Complete a line for each budget line item.

For each line item, complete the following:

Original budget amount per award agreement: List the amounts from your original award agreement.





Budget Modifications: If you reduced a line item, list a negative number in amount of the reduction. If you increased a line item, list the positive amount of the increase. The total for this column must equal \$0.00. Do not include de-obligations in this column.

Prior De-obligations: If you de-obligated any funds during your award, list the amount of de-obligation in positive numbers in this column.

Amount Drawn: List the amount of funds drawn under each line item.

Amount remaining to be de-obligated: This field will pre-fill.

Set-up Form – Page 2- Part D: Household Characteristics (Homebuyer Activity, Owner Occupied Rehabilitation or Rental Activity)

Provide information on the characteristics of each household occupying a unit or the household that will be occupying a unit to be assisted with HOME funds. If a unit is unoccupied, enter unit number, number of bedrooms, and “9”.

Unit Number: For rental units, list unit number.

Number of Bedrooms: Enter 0 for single room occupancy unit or for efficiency unit, 1 for 1 bedroom, 2 for 2 bedrooms, etc.

Occupancy: Enter 1 if the unit is occupied by a tenant, 2 if it is occupied by a homeowner, and 9 if it is vacant.

Reason: Enter the reason the household is moving into the unit. Enter 1 for the housing itself – i.e. better quality, more affordable, etc. Enter 2 for a change in family situation – i.e. divorce, marriage, children, etc. Enter 3 for Economic Opportunity – i.e. closer to current job, closer to job opportunities, etc. Enter 4 for Schools – i.e. closer to current school, in desired school district, etc. Enter 5 for Community Amenities – i.e. closer to needed services, shopping, etc.

Monthly Rent (Including Utilities) – for renters only:

Tenant Contribution: For homebuyer, leave blank. For renters enter the actual rent to the nearest dollar, including utilities, paid by the tenant at the time HOME funds were committed to the development. If the tenant’s rent does not include utilities or if the tenant’s rent includes only partial utilities, these costs must be added to the rent. Use actual utility costs or the utility allowance schedule.

Subsidy Amount: For homebuyer, leave blank. For renters enter the amount the tenant receives as a rent subsidy payment (including any utility allowances paid directly to the tenant) to the nearest dollar. If the tenant does not receive a tenant subsidy payment, enter 0.

Total Rent: For homebuyer, leave blank. For renters, enter the total monthly rent (Tenant contribution plus subsidy amount).

Housing Costs:

Previous Housing Cost: Enter the cost of the household’s previous housing cost. This would be rent or mortgage payment plus utilities.





Current Housing Cost: Enter the cost of the household's housing cost. This would be rent or mortgage payment plus utilities. For rental activities, this will pre-fill from the total rent column.

Income Data:

Monthly Gross Income: Using the Section 8 definition of income as described in HUD guidebook "Technical Guide for Determining Income and Allowances for the HOME Program," calculate the homebuyer's Gross Annual Income. Divide the Gross Annual Income by 12 and enter the **monthly** gross household income.

Enter 80% of the area median income for the household size (visit our website at <http://www.in.gov/ihcda/> to obtain this information)

Percent of Area Median: For each occupied residential unit, this number automatically calculates based on the monthly income and low-income amount entered for the household size.

Household Data:

Hispanic Household: Place an "x" in the column if the head of household is Hispanic. If a person is Hispanic, you must also complete the Race/Ethnicity column.

Race/Ethnicity – Head of Household: For each occupied residential unit, enter one code only based on the following:

- 11-White
- 12-Black/African American
- 13-Asian
- 14-American Indian/Alaskan Native
- 15-Native Hawaiian/Other Pacific Islander
- 16-American Indian/Alaskan Native & White
- 17-Asian & White
- 18-Black/African American & White
- 19-American Indian/Alaskan Native & Black/African American
- 20-Other Multi-Racial

Size of Household: Enter the code based on the following:

- 1- 1 Person
- 2- 2 Persons
- 3- 3 Persons
- 4- 4 Persons
- 5- 5 Persons
- 6- 6 Persons
- 7- 7 Persons
- 8- 8 or more Persons
- 9- Vacant

Type of Household: For each residential unit, enter one code based on the following definitions:

- 1-Single/Non-Elderly: One-person household in which the person is non-elderly.
- 2-Elderly: One or two person household with a person at least 62 years of age.





- 3-Related/Single Parent: A single parent household with a dependent child or children (18 years old or younger).
- 4-Related/Two Parent: A two-parent household with a dependent child or children (18 years old or younger).
- 5-Other: Any household that is not included in the above categories, including two or more unrelated individuals.
- 9-Vacant Unit

Rental Assistance: For rental units, enter one code only to indicate the type of assistance being provided to the tenant, or that no assistance is being provided, or that the unit is vacant at the time of set-up. For homeownership awards, enter 4.

- 1-Section 8: Tenants receiving assistance through the Section 8 Certificate Program under 24 CFR part 882 or Section 8 Housing Voucher Program under 24 CFR part 887.
- 2-HOME Tenant-Based Rental Assistance: Tenants receiving rental assistance through the HOME program.
- 3-Other Assistance: Tenants receiving rental assistance through other Federal, State, or local rental assistance programs, including rental assistance payments administered by the U.S. Department of Health and Human Services or through the State's Department of Social Services.
- 4-No Assistance
- 9-Vacant Unit

Note if you have a rent subsidy, you must use code 1 or 3.

Minor & Non Minor/Dependents: Enter the number of minor children that will be occupying the unit in the 1st column. Enter the number of non-minor children or dependents in the 2nd column.

Female Head of Household: Place an "x" in the column if a female is the head of the household. To be a Female Head of Household, there must be a minor living in the unit.

Elderly Head of Household: Mark an X in the 1st column if the head of household is elderly. Enter the number of persons over 62 in the household in the 2nd column.

Disabled Head of Household: Place an "X" in the 1st column if the head of household is disabled. Enter the number of disabled persons in the household in the 2nd column.

The upper left hand corner of the form is for IHCDA use only.

In the upper right hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the contact information for the person completing the form, and the date the Section 106 concurrence was received.

SUMMARY OF ASSISTED SITES

This form is to be used as a cumulative listing of each property receiving assistance through the HOME award. Every property that has been submitted to IHCDA to be set-up in IDIS must appear on this form in the order set up. The recipient must include the property address, a budget line item breakdown, and





total set-up amount. The total amount shown per address must be the amount listed on the Set-up Form.

Lead-Based Paint Form

The general information at the top will pre-fill.

Step 1: Age of Structure Enter the year the structure was built.

Step 2: Assess the Situation Determine if your rehabilitation qualifies under any of the Lead Based Paint Exemptions. If so, check the appropriate box and submit the documentation listed in red on the form. If your project qualifies as exempt, do not complete the remainder of the form.

If you do not qualify as exempt enter the following:

Rehabilitation Activities:

Rehabilitation Cost: List the amount of rehabilitation costs as listed on the summary of assisted sites.

Amount of Lead Reduction Assistance: Enter the amount of lead reduction assistance. Please attach the work write up, if applicable.

Adjusted Rehabilitation Cost: This is the difference between the amount of federal assistance and amount of lead reduction assistance.

Buy/Rehab/Resale Activities:

Federal Assistance: Enter the amount of Federal assistance as listed on the summary of assisted sites.

Acquisition Cost: Enter the acquisition cost of the property.

Rehabilitation Cost: Enter the total amount of rehabilitation that will be completed on the property.

Amount of Lead Reduction Assistance: Enter the amount of lead reduction assistance. Please attach the work write up, if applicable.

Adjusted Rehabilitation Cost: This is the difference between the amount of federal assistance and amount of lead reduction assistance.

Step 3: Address the Lead Based Paint

Acquisition Only:

Person Completing Visual Assessment: Enter the name of person.

Name of Organization: Enter the organization’s name for the person completing the assessment.





Visual Assessment Certificate Date: Enter the date of the certificate for the person completing the assessment.

Date of Visual Assessment: Enter the date the visual assessment was completed.

Result of Visual Assessment: Select either Pass or Fail.

Result of Paint Test: If the visual assessment failed, enter the result of the paint test as either Pass or Fail, or Assume Lead-Based Paint.

Rehabilitation & Buy/Rehab/Resell:

Rehabilitation less than \$5,000: enter either Paint Test or Assume

Rehabilitation greater than \$5,000: A risk assessment is required. Also, enter either Paint Test or Assume. Enter the Date of the Risk Assessment; the Name of the Risk Assessor; the License Number of the Risk Assessor; and whether the paint test passed or failed. If the paint test passed, submit the results with the lead form.

Step 4: Clearance Testing at Unit Completion

Upon Completion of the unit & clearance testing, submit the date of the clearance test and the results.

SINGLE FAMILY PROFORMA – HOMEBUYER ACTIVITY

The format of the “Single-Family Proforma” has been designed to walk you through the four ways in which IHCDA intends for HOME funds to be utilized to make single-family home purchases affordable for the low and moderate income citizens of Indiana:

- a. HOME funds may serve as a development subsidy in instances where total development costs exceed the fair market value of the home at completion of construction or rehabilitation.
- b. HOME funds may be built into the homebuyer’s permanent financing of the home purchase as a 0% loan with payments to the CHDO that do not exceed 20% of the homebuyer’s monthly affordable mortgage payment and a term not to exceed 15 years. ***This is only eligible if you are awarded out of the CHDO set-aside.***
- c. HOME funds may serve as a homebuyer subsidy when the homebuyer’s affordable mortgage payment cannot support enough financing to cover the purchase price of the home.
- d. HOME funds may serve as a homebuyer subsidy when the homebuyer does not have resources to cover standard and reasonable closing costs associated with the home purchase.
- e. Donations towards a home must be counted at 100% of the value; however, in the proforma 75% of this value must be counted toward either the development and/or homebuyer subsidy. But if including a developer’s fee this is not eligible and 100% of the value must be included in the development and/or homebuyer subsidy.





STEP ONE: PROJECT SUBMISSION INFORMATION

The general information will pre-fill from the set-up form.

Submission Type: Enter whether this is a proforma for the Set-up or Completion. Also enter whether this is the Initial or Revised submission.

STEP TWO: CALCULATE DEVELOPMENT SUBSIDY

Acquisition: Enter the amount paid for acquisition of the property (if applicable). You should include the closing costs on the property that you expended to purchase the property.

New Construction: Enter the total amount of new construction cost.

Rehabilitation: Enter the total amount of rehabilitation cost.

Program Delivery Cost: Enter the total amount of program delivery cost.

Value of Donations: Enter the value of donations to the property.

Developer's Fee: Enter the amount of developer's fee for this property. The developer's fee cannot exceed 20% of total development costs.

Total Development Costs: This field will pre-fill from the previous fields. *The purchase price must be less than or equal to the property's Fair Market Value.*

Fair Market Value: Indicate the estimated or actual appraised value of the home. Since this value will be used to calculate the amount of Development Subsidy required to make the development feasible, IHCDA strongly encourages recipients to obtain an appraisal as early in the process as possible.

Total Development Subsidy Needed: The amount by which Total Development Costs exceed Actual Fair Market Value at completion is the Development Subsidy. This is the amount of subsidy required to make it economically feasible for the recipient to rehabilitate/construct the home. HOME funds may be used to fund all or part of the Development Subsidy. If the only use of HOME funds in a development is toward a Development Subsidy, the recipient should utilize IHCDA's resale provisions. HOME funds used as Development Subsidy are *never* subject to recapture from the homebuyer.

Sources of Development Subsidy: Identify the amount of funding and each funding source being used to cover the Development Subsidy. The total of all donations must be listed under development subsidy and/or homebuyer subsidy.





STEP THREE: HOMEBUYER'S INCOME

Income: Enter whether the income is estimated or actual, the date income was verified, the effective date of the income limited used, the date of the purchase agreement, and the family size. The remaining fields will pre-fill from the set-up form.

Utility Allowance: Enter whether the utility allowance is within the IHCDA utility allowance or is a locally assessed utility allowance.

STEP FOUR: CALCULATE HOMEBUYER'S AFFORDABLE MORTGAGE PAYMENT

The Front End Ratio and the Back End Ratio will calculate based on the information submitted in the expenses categories.

Front End Ratio: This ratio includes Principal, Interest, Taxes, Insurance, and Utilities and must be between 10% and 29% of gross income. The specific range should be spelled out in your written program guidelines.

Back End Ratio: This ratio includes all the elements from the front end ratio and monthly expenses for childcare, child support, and all regular debt payments. The recipient must determine an appropriate Back End Ratio (*which is recommended not to exceed 41%*). You are allowed to provide assistance to a homeowner with a back end ratio that exceeds 41%; however, recipients must carefully consider the consequences of a mortgage payment that exceeds the back-end affordable payment calculated at 41% of gross monthly income.

Taxes: Enter the actual monthly cost for property taxes required for the property. If new construction, a minimum of \$50 per month must be included.

Insurance: Enter the actual monthly cost for property insurance.

Utilities: Enter the utility allowance for the property. This amount must be between \$125 and \$200 unless previously identified in your application.

PMI: Enter the monthly cost for PMI if required.

Child Care Expense: Enter the monthly cost for childcare expenses if applicable to the household.

Child Support Paid/Owed: Enter the monthly cost of child support that is paid/owed from the household to another household.

All Regular Debt: Enter the monthly amount of all regular debt of the household. Include credit card payments, car loans, etc.

CHDO Loan: This field calculates the maximum CHDO loan by multiply the Front End Mortgage Payment by 20%. This is the maximum amount of the buyer's Mortgage Payment that may be used as the monthly





payment toward an amortized loan made with HOME funds. *Please note that all HOME funds used as amortized loans on non-CHDO awards (i.e., developments that are not owned, developed, or sponsored by a state-certified Community Housing Development Organization) are considered HOME Program Income and retain their HOME identity in perpetuity.*

STEP FIVE: STRUCTURE HOMEBUYER'S FINANCING

The total amount the homebuyer pays toward principal and interest on a monthly basis must equal the amount calculated in Step Four as the homebuyer's Front End Affordable Mortgage Payment.

By using the Front End Affordable Mortgage Payment as calculated above, and term and rate information from the local lending institution, calculate the loan amount of the buyer's First Mortgage. In order to reduce the amount of HOME subsidy required to make home purchases affordable, subsidy analysis will be based on a borrower's payment for a minimum 20-year mortgage.

HOME funds may be built into the homebuyer's permanent financing of the home purchase as a 0% loan with payments that do not exceed 20% of the homebuyer's monthly affordable mortgage payment and a term not to exceed 15 years. If the recipient has chosen to structure a part of the financing as a HOME Amortized Loan, calculate the loan amount.

STEP SIX: DETERMINE AMOUNT OF HOMEBUYER SUBSIDY REQUIRED TO MAKE PURCHASE AFFORDABLE FOR HOMEBUYER

The recipient must sell the home for an amount equal to or less than the Actual Fair Market Value as identified in Step One. The gap between the Total Purchase Price and the sum of the permanent financing (*minus any financed closing costs*) and the homebuyer's down payment is the amount of homebuyer subsidy required to make the purchase affordable.

List the Total Purchase Price, the value of permanent mortgages (*subtract the value of any closing costs that were financed along with the permanent mortgages*), the amount of homebuyer down payment, and the amount of homebuyer subsidy from various sources.

HOME funds may also serve as a homebuyer subsidy when the homebuyer does not have resources to cover standard and reasonable closing costs associated with the home purchase. List the amount of closing costs being paid by HOME funds, the homebuyer, or any other source. List the total amount of closing costs paid.

STEP SEVEN: AMOUNT OF HOME FUNDS BEING UTILIZED FOR CLIENT RELATED SERVICES.

Enter the amount of HOME funds that will be utilized for the client intake process line item.





STEP EIGHT: CALCULATE TOTAL HOME FUNDS REQUIRED FOR PROJECT

This field will pre-fill by adding the amount HOME funds identified in (a) Development Subsidy, (b) Amortized Loan, (c) Homebuyer Subsidy, (d) HOME-funded closing costs, (e) Client Intake Costs

F. APPRAISAL REQUIREMENTS – HOMEBUYER AND OWNER OCCUPIED REHABILITATION ACTIVITY

The appraisal can be submitted with the Set-up but is required to be submitted with the first draw for hard costs. Homebuyer activity recipients will be required to provide an “after rehab” or “construction value” appraisal; whichever is appropriate. Owner Occupied Rehabilitation activity recipients are required to submit an after rehabilitation appraisal.

Appraisals must be completed by a licensed appraiser.

a. Pre Agreement Costs

The following costs may be incurred by the applicant, sub recipient of the applicant or a professional administrator procured by the applicant; however these entities need to understand the level of risk that is involved by completing these actions. If an organization chooses to expend funds prior to receiving HOME award approval, IHCDA is in no way obligated to provide funding for the development. The organization is assuming all of the risk associated with costs incurred prior to receiving a HOME award.

If an organization anticipates conducting either acquisition or construction/rehabilitation prior to receiving an award, they may request in writing to the Production Analyst for your region of the state a “Pre-Award Release of Funds Letter”. This letter would indicate the date that the entire Environmental and Historic Review process was completed (this should be completed during the application process).

Costs associated with the preparation of an application are not eligible for reimbursement.

The following costs may be incurred by the applicant, sub recipient or administrator procured by the applicant:

Cost (Budget Line Item)	Cost May Be Incurred	Period of Time Valid	Other Requirements
CHDO Operating/Administration	As of the Board Award Date	N/A	Must have received an IHCDA award
Environmental and Historic Review	Up to six months prior to the initial application date	One year from the date of initial application	N/A
Program Delivery ***Architectural, Engineering, and Other Professional Service Costs	Up to six months prior to the initial application date ***Up to 24 months prior to the	One year from the date of initial application	N/A





	commitment of funds		
Acquisition	Up to six months prior to the initial application date	One year from the date of initial application	Must have completed the entire Environmental and Historic Review Process (including approval from IHCDA)
Construction or Rehabilitation	Up to six months prior to the initial application date	One year from the date of initial application	Must have completed the entire Environmental and Historic Review Process (including approval from IHCDA)

Recipients of HOME funds for an activity previously receiving a CHDO predevelopment or seed money loan will be allowed to request a drawdown to repay their loan regardless of the timing of the predevelopment activities.

1. Adhered to related to the costs incurred and any procurement of an award administrator.
2. Program delivery costs or acquisition costs donated or paid from local funds may count towards the local match requirement under the HOME program.

All other costs not listed above, must be incurred after award execution and must receive a release of funds from IHCDA to incur costs. Any costs incurred prior to this and not listed above will be disallowed by IHCDA.

Claim Voucher

Claims are submitted online. Register on our website <http://www.in.gov/ihcda/> to begin claiming funds.

Administration costs can be claimed without a set up. Set ups are required for claiming funds for addresses.

Submit the claim online. Print the receipt and summary. Sign the receipt. Scan the claim receipt, summary and documentation. Email the scanned documents to claims@ihcda.in.gov

The turnaround for payment of claims is 10 business days from the day IHCDA receives a claim that includes all documentation necessary to support the claimed amount. If additional documentation is required, it may take longer than 10 business days.

All payments will be made by ACH. The banking information must be submitted prior to submitting the first claim. An automatic email will be sent to the email address of the person who submits the claim when the ACH payment is sent.

Contract execution forms must be submitted prior to submitting the claim for any contract.





CLAIM VOUCHER NARRATIVE

Narratives are entered online.

1. Update on the accomplishments made during the award.
2. Update on any problems or delays encountered or anticipated in accomplishing the award during its award timeframe.
3. Update on how the match/leverage requirement will be met.
4. Local Units of Government Only – answer questions 4(a) and 4(b) updating on the actions being taken to affirmatively further fair housing.

Supporting Documentation Requirements

The following outline the supporting documentation requirements for the claims process.

1. Include a detailed summary listing expenditures being requested for reimbursement by line item.
2. Include a copy of all invoices. Construction invoices must contain a detailed description of the work performed along with the address of the property. Hand written invoices and invoices with hand written alterations will not be accepted.
3. Include a copy of the HUD1 with claims for acquisition. Claims requesting funds for acquisition prior to closing must include a copy of an executed good faith estimate (must be signed) with a breakdown of the total selling cost, HOME amount, and balance of funds.
4. Supporting documentation for claims for the Administration, Environmental Review, Program Delivery, CHDO Operating Costs, budget line items requesting reimbursement for time spent on the undertaking by staff of a local unit of government, sub recipient, or not-for-profit organization must include: name of the employee, dates worked, number of hours worked, the chargeable rate, and the total wage computation.

DO NOT include actual time sheets with the drawdown submission; however, the recipient must keep this documentation on file for IHCDA monitoring purposes. Additionally, at monitoring, IHCDA staff will be documenting that the proper hourly rate and fringe benefits is being billed to the IHCDA program
5. Developer's fees line item can be drawn by requesting this line item on letterhead of your organization.
6. Initial Drawn Down of Rent-up Reserve – in order to draw this line item, you must submit a request with your claim voucher and the appropriate support documentation in the amount of the request on





your agency's letterhead. This allows the drawing of the funds to be held by the organization until needed, however, when the rent-up reserve is needed, a request must be made to your Compliance Monitor.

7. Use of the rent-up reserve – in order to draw these funds you must request permission from IHCDA. These funds can be drawn as often as needed. The request should be in writing and must include support for the draw. You should include with your request a current income and expense report for the previous three months and the documentation of where the rent-up reserve payment is being made. We may request additional documentation during our review. You will receive a formal approval/denial letter allowing you to utilize these funds.
8. Fringe benefits must also be listed on the support documentation summary.
9. Indirect costs are chargeable to the program in one of two ways and can only be used for the administration and CHDO Operating Costs line items:
 - Costs may be maintained directly, such as accurate counts of telephone calls, copies made, and postage spent.
 - Costs may be allocated through an indirect cost allocation plan. The indirect cost allocation plan must be approved by a federal or state agency for IHCDA to recognize this plan. The following documentation must be included with the first drawdown only:
 - A copy of the agency's indirect cost allocation plan;
 - A summary of costs included in the indirect cost allocation plan; and
 - Approval letter from federal or state agency that approved the indirect cost allocation plan.
10. The mileage rate per mile is \$.50.

Inspection Certification Form

This form is signed when the rehabilitation or new construction work has been completed and is then placed in the file for monitoring purposes.

Contractor Statement: Documents that the contractor has satisfactorily completed the work according to the construction contract.

Inspector Statement: Documents that a physical inspection of the property has been completed and that the work items corrected at a minimum meet the stricter of the local rehabilitation standards or the Indiana Building Code.

Property Owner Statement: Documents that all work items have been completed in accordance with the contract and that the homeowner understands the final payment will be disbursed to the contractor.

For HOME Final Payment Only: The inspector certifies that the entire property meets the stricter of the local rehabilitation standards or the Indiana State Building Code.





Receipt & Disbursement of Funds

The following outlines the time frame in which the receipt of your federal funds must be expended.

Establish account for HOME funds.

HOME recipients may choose to either establish a separate fund within the general fund or establish a separate bank account for the HOME program. The bank account must be non-interest bearing.

Disburse HOME funds in a timely manner.

HOME recipients have fifteen calendar days to disburse drawn funds from their local HOME account to a \$0 balance. The HOME recipient must begin counting the fifteen days from the date it receives the HOME reimbursement check from IHCDA. Additionally, if the recipient disburses the HOME funds to a sub recipient or award administrator, they, in turn, must achieve a \$0 balance within fifteen calendar days of receiving the funds.

If the recipient is unable to disburse the federal funds in a timely manner, the recipient must immediately return the funds to IHCDA.

Retainage Policy

For all awards, IHCDA will hold the final \$5,000 of an award until all completion reports, leverage documentation, and closeout documentation is received and approved. Additionally, IHCDA will hold the final \$5,000 of an award until the final monitoring has been completed and all findings and concerns associated with it have been resolved.

Return of Funds

Complete and submit the Return of Funds form along with the funds to the IHCDA Staff Accountant.

Financial Management Forms

The following ledgers help to control receipts and disbursements of federal funds as well as ensuring that you do not over expend your budget line items.

Federal Cash Control Register

The Federal Cash Control Register must be used to record requests for payments submitted, checks or ACH's received, and disbursements. The balance of federal cash on hand on both a daily and cumulative basis is calculated. The register documents the timely disbursement of the HOME funds. It also serves as a crosscheck to total receipts, disbursements, and the cash balance shown in the accounting records. It is imperative to record each transaction as it occurs.





If you employ the services of an award administrator or sub recipient who makes payments with the HOME funds, this entity is also responsible for keeping a federal cash control register and responsible for disbursing funds in the manner prescribed for the funding source.

When a draw request has been sent to the IHCDA, the request for funds must be recorded in the Federal Cash Control Register section under Request for Payment Submitted column. The columns to complete include the document number, date of request, amount requested. The document number to use is the claim on the Claim Receipt. By maintaining the Request for Payment Submitted section of the Federal Cash Control Register, in-process claims become easier to track.

When funds are received by the recipient, the date the IHCDA check or ACH is received and the ACH number, and the amount are entered into the Funds Received section. When funds are disbursed, the date of disbursement, check number, payee, and check amount are recorded in the appropriate boxes of the Disbursements section of the Federal Cash Control Register

Ledger of Expenditure by Site Address

Acquisition Section - Complete the information and do not leave any fields blank. There must be a date listed for closing.

Contract Section -List all contracts executed using New Construction, Rehabilitation, or Program Delivery funds.

List any changes that occur to the contract including all any change orders

Completion Documents

Each property requires a completion report be submitted IHCDA. It is a regulatory requirement that the completion information be updated in the IDIS system within 120-days of the final draw on a property. Therefore, the completion report should be submitted so the property can be updated in the IDIS system within the required 120-day timeframe of final draw on the award. IHCDA highly recommends recipients take this into account when planning their developments. This section outlines the process required for completing the required forms for each property address and the entire award.

Note: Predevelopment awards do not have a completion report. To complete a predevelopment award the Financial Expenditure Summary tab must be submitted with the check for repayment of the loan.

Project Completion Reports

There are three different types of completion reports:

1. Homebuyer Activity
2. Owner Occupied Rehabilitation
3. Rental Activity





The completion report is a tab in the set up and completion excel workbook. Most of the information will populate from the set up form.

Completion Report – Homebuyer Activity

You must submit a Completion Proforma with the Completion Report. The Proforma must balance to the HUD-1. Actual figures for Taxes and Insurance should be taken from page 2 of the HUD-1.

The upper left hand corner of the form should be left blank as it is for IHCDA use only.

In the upper right hand corner of the form enter the date the form is being completed, the date rehabilitation/new construction was completed, and the after rehabilitation/new construction appraised value.

Mark the applicable box: Original Submission or Revision

Will or did the Homebuyer receive? Mark the applicable box or boxes.

of Energy Star Units: Enter the number of units that meets the energy star performance standards. An energy star home/building is defined as one which has been certified through inspection and testing as meeting the Energy Star Qualified New Homes Standard. To achieve this rating the building must score less than or equal to 80 on the Mortgage Industry Home Energy Rating Scale.

of Units 504 Accessible: Enter the number of units that meet the 504 Accessibility standards.

Previously in Subsidized Housing: Mark whether the household is coming from subsidized housing.

The remainder of this section is populated by the set-up form.

Project Costs

Project Costs: Include all HOME-funds used for the project and all other funds (public and private) with one exception. Do not double count. If private funds are used for construction financing and those funds are later replaced by permanent financing, do not report both. Report all HOME funds expended on the project. (Note: Federal regulations specifically prohibit paying back HOME funds with HOME funds.)

For funds other than HOME, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on line 5 should be the total cost of the project. The total amount of HOME funds reported in the block titled “Total HOME Funds” (this means the total amount of HOME funds invested into the project).

Item 1 HOME Funds. Do not include HOME program income in any of the following three (3) categories.
(1) Direct Loan. Enter the amount of HOME funds provided for this project in the form of a direct loan. Enter the loan’s interest rate and amortization (affordability) period.





(2) Program Delivery & Development Subsidy. Enter the amount of HOME-funds provided without any repayment requirements. The program delivery, client intake, and development subsidy should be listed on this line.

(3) Deferred Payment Loan (DPL). Enter the amount of HOME funds provided through loans where payment of principal and interest is deferred until a future time. Also enter the interest rate and amortization (affordability) period if applicable. A DPL is sometimes called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years or repayment of principal and interest starts after the bank loan is repaid).

Total HOME Funds. Enter the total of items (1) through (3) as the amount of HOME Funds expended on this project.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this HOME-assisted project.

(1) Other Federal Funds. Exclude any HOME funds expended on this project.

(2) State/Local Appropriated Funds.

(3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. Enter the total of items (1) through (3) as the amount of Public Funds expended on this project.

Item 3 Private Funds

(1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).

(2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the project owner.

(3) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc.

Total Private Funds. Enter the total of items (1) through (3) as the amount of Private Funds expended on this project.

Item 4 HOME Program Income. Enter the total amount of funds provided from HOME repayment income.

Item 5 Total Project Cost. Enter the sum of totals for HOME funds, Public funds, and Private funds.

Page two of the completion report will entirely pre-fill from the set-up report.

Completion Report – Rental Activity

The upper left hand corner of the form should be left blank as it is for IHCDA use only.





In the upper right hand corner of the form enter the date the form is being completed and the date rehabilitation/new construction was completed.

Mark the applicable box: Original Submission or Revision

of Energy Star Units: Enter the number of units that meets the energy star performance standards. An energy star home/building is defined as one which has been certified through inspection and testing as meeting the Energy Star Qualified New Homes Standard. To achieve this rating the building must score less than or equal to 80 on the Mortgage Industry Home Energy Rating Scale.

of Units 504 Accessible: Enter the number of units that meet the 504 Accessibility standards.

Previously in Subsidized Housing?: Mark whether the household is coming from subsidized housing.

Rent Exception? Mark one box to indicate whether or not the project has a rent exception. The “No” box should always be checked unless otherwise notified by the IHCDA or HUD.

Mixed-Use Project? Mark “Yes” for a project that is designated in part for uses other than residential but where residential living space must constitute at least 51% of the project space. Mark “No” if the project is not a mixed-use project.

Mixed-Income Project? Mark “Yes” where less than 100% of the project’s housing units qualify as affordable housing as defined in section 92.252 of the HOME regulations. Mark “No” if the project is not a mixed income project.

The name of the recipient and project information is populated by the set up report.

PROJECT COSTS

Project Costs: Include all HOME-funds used for the project and all other funds (public and private) with one exception. Do not double count. If private funds are used for construction financing and those funds are later replaced by permanent financing, do not report both. Report all HOME funds expended on the project. (Note: Federal regulations specifically prohibit paying back HOME funds with HOME funds.)

For funds other than HOME, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on line 5 should be the total cost of the project. The total amount of HOME funds reported in the block titled “Total HOME Funds” (this means the total amount of HOME funds invested into the project).

- Item 1 HOME Funds. Do not include HOME program income in any of the following three (3) categories.
- (1) Direct Loan. Enter the amount of HOME funds provided for this project in the form of a direct loan. Enter the loan’s interest rate and amortization (affordability) period.
 - (4) Program Delivery & Development Subsidy. Enter the amount of HOME-funds provided without any repayment requirements. The program delivery, client intake, and development subsidy should be listed on this line.





(5) Deferred Payment Loan (DPL). Enter the amount of HOME funds provided through loans where payment of principal and interest is deferred until a future time. Also enter the interest rate and amortization (affordability) period if applicable. A DPL is sometimes called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years or repayment of principal and interest starts after the bank loan is repaid).

Total HOME Funds. Enter the total of items (1) through (3) as the amount of HOME Funds expended on this project.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this HOME-assisted project.

- (1) Other Federal Funds. Exclude any HOME funds expended on this project.
- (2) State/Local Appropriated Funds.
- (3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. Enter the total of items (1) through (3) as the amount of Public Funds expended on this project.

Item 3 Private Funds

- (1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).
- (2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the project owner.
- (3) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc. If your project received Rental Housing Tax Credits, put the net amount of syndication proceeds excluding low-income tax credits in this box.

Total Private Funds. Enter the total of items (1) through (3) as the amount of Private Funds expended on this project.

Item 4: Low Income Housing Tax Credit Syndication: Enter the net amount of the tax credits.

Item 5 HOME Program Income. Enter the amount of funds provided from HOME repayment income.

Item 6 Total Project Cost. Enter the sum of totals for HOME funds, Public funds, and Private funds.

The beneficiaries entered must be the initial occupants of the HOME-assisted or non-HOME assisted HOME-eligible unit at the time of completion.





Final Lead Clearance

10% of the construction contract will be held until a property address receives a final “passed” clearance test. When submitting the final lead clearance, please complete the remainder of the Lead Form. The following must be submitted: (1) lead form, (2) letter from inspector noting license number, (3) results of the lead test, and (4) I-LEAD certificate of completion (see Lead Chapter).

Individual Site – Match Summary Form

This form is used to document the match by category that was invested into each CDBG-assisted or Non CDBG-assisted but CDBG-eligible unit.

Most of the information at the top of the form will pre-fill. Enter the date the final project draw request was submitted to IHCDA

Potential Sources of Match/Leverage: For each applicable category, enter the amount of match that has been expended on the project. IHCDA will determine whether or not the reported funds are eligible to be counted toward the Recipient’s HOME match liability. For each entry on the log, attach supporting documentation.

10. Donated Cash (non-federal): List the value of any non-federal cash contributions made by the State, other non-federal governmental units, private entities, or individuals except a project owner or contractor. A cash contribution may be made from program income from a federal grant earned after the end of the award period if no federal requirements govern the disposition of the program income. Included in this category are repayments from closed out grants under the Urban Development Action Grant Program, the Rental Rehabilitation Grant Program, and certain State Small Cities Community Development Block Grant awards. Contributions that support administrative or project delivery costs do not count as match for HOME Awards. Nonprofit recipients or sub recipients who are reporting match contributions may not count contributions that result from ongoing annual fund drives. Contributions or grants to affordable housing that are not a part of an ongoing annual fund drive may be counted.

Required Documentation: Attach a listing of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported. Please keep a copy of the check of the match/leverage coming in as well as the checks that paid for the services.

11. FHLB - AHP Grant: Grant awards through the Federal Home Loan Bank Affordable Housing Program should be reported here.

Required Documentation: Documentation should include a specific statement (e.g., award letter) or other evidence that the contribution is for the general or specific project being reported.

12. Private Grant: List the amount of any other non-federal grant funds awarded to the project address.





Required Documentation: Attach a listing of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported.

13. **Volunteer Labor:** List the value of all donated or voluntary labor that was provided in connection with site-preparation, construction, or rehabilitation of the housing. Donated or voluntary labor is valued at a fixed rate by HUD. Currently, that rate is \$10 per hour for any type of unskilled labor. The rate of pay for a skilled labor is their normal hourly rate of pay.

Required Documentation: Attach a log showing the name, date, and hours of labor donated to the specific project.

14. **Donated Professional Services:** List the value of all donated or voluntary legal, architectural, or engineering services that were provided in connection with the project. The value of services contributed by a professional who has been contracted for other work on the HOME project cannot be counted as HOME match. Donated services are valued at the professional's actual hourly charges.

Required Documentation: The Recipient must document that the professional's hourly charges are reasonable and customary for the type of work performed. Attach a log showing the name, date, hourly rate, and number of hours donated to the specific project.

15. **Waived Fees & Permits:** List the value, based on customary and reasonable means for establishing value, of state or local taxes, fees, or other charges that are normally and customarily imposed or charged by a state or local government on all transactions or projects in the conduct of state or local government operations that are waived, forgone, or deferred in a manner that achieves affordability of housing that is assisted with HOME funds. Fees or charges that are associated with the HOME Program only (rather than normally and customarily imposed or charged on all transactions or projects) are not eligible forms of contributions. The amount of any real estate taxes may be based on post-improvement property value, using customary and reasonable means of establishing value. For taxes, fees, or charges that are given for future years, the value is the present discounted cash value, based on a rate equal to the rate for the Treasury security with maturity closest to the number of years for which the taxes, fees, or charges are waived, forgone, or deferred.

Required Documentation: The Recipient must document that the waived fees and permits are reasonable and customary governmental charges. Attach a list of waived fees, date of waiver, and value of waiver.

16. **Value of Donated Land/Building:** List the value, before HOME assistance is provided and minus any debt burden, lien, or other encumbrance, of donated or other real property. Property must be appraised in conformance with established and generally recognized appraisal practice, and value must be based on the best available data properly analyzed and interpreted. An independent, certified appraiser must perform the appraisal of land and structures. Partial donations are also acceptable (e.g., a sale below market price); however, the acquisition cost must be "demonstrably below the appraised value" and the seller must acknowledge in writing that the price differential is intended as a contribution to affordable housing.





Required Documentation: Attach a copy of the sales agreement or other documentation showing the sale price, the appraisal, and the seller's statement.

17. Value of Donated Material: List the value of all site-preparation and construction materials donated to the project.

Required Documentation: Attach a list of materials, donors, date of donation, and valuation.

18. Private Mortgage Financing: List the value of any below market financing as defined by HUD. The grant equivalent of a below market interest rate loan to the project that is not repayable to the State's HOME Investment Trust Fund may be counted as match. If the loan is made from funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the difference between payments to be made on the borrowed funds and payments to be received from the loan to the project, based on a discount rate equal to the interest rate on the borrowed funds. If the loan is made from funds other than funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the yield forgone, using one of the following measures of market rate yield, as appropriate: (1) with respect to 1-4 unit housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points; (2) with respect to 1-4 unit housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points; or (3) with respect to a multifamily project, a rate equal to the 10-year Treasury note rate plus 300 basis points. The week ending Treasury note rate for the week of the loan closing is the one used for comparison.

Required Documentation: Attach documentation showing the nature of the contribution and how the valuation was calculated. You can contact your IHCDA Compliance Monitor for a copy of the below market interest rate spreadsheet.

19. Trust Fund Loan: List the amount of IHCDA Trust Fund loan funds used on the property address.
20. Required Infrastructure: List the cost of any investment, not made with federal resources, in on-site and off-site infrastructure that was directly required for the housing and made within twelve months of the time HOME funds are committed to the project (set up in IDIS). These infrastructure investments must be prorated to reflect only that portion of the costs directly attributable to the HOME-assisted housing. The costs must be reasonable and customary and may be contributed by a municipality or public or private utility. Infrastructure improvements cannot be counted as match in projects that are not HOME-assisted, regardless of whether the project will be used to meet some or all of the Recipient's match requirement.

Required Documentation: Attach documentation of the contribution (and, if applicable, any calculations showing how a proration was achieved).

21. Other: Enter the amount of any other funds utilized on the project. IHCDA will determine whether or not these funds can count toward the Recipient's match/leverage liability.

Required Documentation: Attach documentation of each expenditure.





22. Total Match/Leverage: Enter the total estimated value of the match contribution. Please note that IHCDA will review the information you have submitted and determine the value and eligibility of the match/leverage.

Close out Documents

Financial Settlement/Expenditure Summary

This form must be completed and submitted with the final claim on the award.

Complete a line for each budget line item.

For each line item, complete the following:

Original budget amount per award agreement: List the amounts from your original award agreement.

Budget Modifications: If you reduced a line item, list a negative number in amount of the reduction. If you increased a line item, list the positive amount of the increase. The total for this column must equal \$0.00. Do not include de-obligations in this column.

Prior De-obligations: If you de-obligated any funds during your award, list the amount of de-obligation in positive numbers in this column.

Amount Drawn: List the amount of funds drawn under each line item.

Amount remaining to be de-obligated: This field will pre-fill.

b. Applicants & Beneficiary Summary

This form must be completed and submitted with the final claim on the award.

At the top of the form, indicate with an “X” the appropriate award activity. If a project involves more than one activity, submit a separate sheet for each activity as well as total sheet. The total sheet must reflect the number of persons for the entire award, non-double counted [if the same person is involved in more than one housing activity only count the person once on the total sheet].

Total Applicants: Enter the total number of households that applied for assistance and the total persons within the households. Enter the total number of Hispanic households that applied and the number of Hispanic persons.

Total Beneficiaries: Enter the total number of households that benefited from the HOME award and the total persons within the households. Enter the total number of Hispanic households that applied and the number of Hispanic persons.





Cumulative Applicants: Report information on all persons that have completed an application for the program from the beginning of the award period.

Cumulative Beneficiaries: Report information on all persons benefiting from the program from the beginning of the award period.

Cumulative Beneficiaries: Report information on all persons benefiting from the program from the beginning of the award period.

Line 1-10: List the number of persons that applied and received assistance based on their ethnicity.

Line 11: List the total number of persons that applied and/or received assistance.

Line 12: List the number of low and moderate-income persons. Low and moderate-income persons have incomes less than 80% of area median income (adjusted for household size) as established by HUD.

Line 13: List the number of disabled persons (persons with a physical or mental impairment).

Line 14: List the number of elderly persons (persons aged 62 and over).

Line 15: List the number and percentage of persons living in Female Headed Households. A female head of household cannot be a single female it must be a female with a dependent.

c. Rental Development Package

Recipients completing rental developments will be required to submit a final proforma on the development. For scattered site, the recipient must complete a separate Rental Development Package for each mortgage held on the units. For example, if the award consisted of six scattered site units, but three of the units are on one mortgage, then the total number of Rental Development Packages that needs submitted is four.

Exceptions to the above requirement:

Recipients completing rental developments that were funded as part of a Low Income Housing Tax Credit (LIHTC) project in conjunction with HOME funds will not have to submit this documentation. These developments will be reviewed as part of the LIHTC Final Application.

If none of the information contained in the original rental development package has changed, then this document will not have to be submitted. However, the original rental development package must be resubmitted with your closeout documents.

IHCDA review of the proforma may result in an award reduction or other corrective action should the development no longer meet IHCDA's published underwriting criteria.





CHAPTER 3 - CDBG Funds Management

A. CDBG and CDBG-D Leveraging Funds

The leverage requirement for both the CDBG and CDBG-D programs is ten percent (10%) of the total amount of CDBG or CDBG-D funds drawn minus administration costs.

The types of leverage for CDBG and CDBG-D projects/programs that may be accepted are as follows:

- Cash contributions including those from beneficiaries of CDBG assistance;
- Cash or other forms of contributions from recipients of CDBG contracts;
- CDBG Program Income;
- Grant equivalent of the present discounted cash value of the yield foregone in a below-market interest rate loan;
- The non-federal cost of infrastructure improvements directly required for CDBG-assisted projects.
- AHP funds from the Federal Home Loan Bank;
- The appraised value of donated land (less any debt that remains as a lien against the property).
- Forbearance of state and/or local taxes, charges, or fees;
- The value of waived fees or charges associated with the transfer or development of real estate;
- Donated or voluntary labor (unskilled labor is currently valued at the rate of \$10/hour) or professional services (the value of skilled labor or professional services is valued at the contributors customary rate);
- Donated construction materials, not acquired with federal funds. Such contributions must be valued at published standardized costs and documentation of the value must be maintained;
- Governmental grants, from HUD or USDA Rural Development, under certain circumstances; and
- Neighborhood Assistance Program (NAP) Credits and Build Indiana Funds.

Ineligible Forms of Leverage:

- Contributions made from certain federal/state resources including CDBG and HOME funds, and Emergency Shelter Grants; and
- Overhead costs such as office space or utilities and costs that cannot be directly attributed to the grant.

This chapter outlines the process for setting up your specific development with IHCDA, how to draw funds from IHCDA, and what must be submitted to complete your development.

B. CDBG and CDBG-D Program Income

CDBG regulation, 24 CFR 570.489, defines program income as the gross income received by a state, unit of local government, or a sub recipient that was generated from the use of CDBG funds. Program income includes, but is not limited to the following:

- Proceeds from the sale of CDBG or CDBG-D assisted housing;
- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG or CDBG-D funds;
- Proceeds from the disposition of equipment purchased with CDBG or CDBG-D funds;
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a sub recipient of a unit of a local unit of government with CDBG or CDBG-D funds, less the costs incidental to the generation of income;





- Gross income from the use or rental of real property owned by the unit of general local government or a sub recipient of a unit of general local government, that was constructed or improved with CDBG or CDBG-D funds, less the costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG or CDBG-D funds;
- Proceeds from the sale of loans made with CDBG or CDBG-D funds;
- Proceeds from the sale of obligations secured by loans made with CDBG or CDBG-D funds;
- Interest earned on funds held in a revolving fund account; and
- Interest earned on program income pending disposition of the income.

If Program Income is generated by an activity that was only partially assisted with CDBG or CDBG-D, the income shall be prorated to reflect the percentage of CDBG or CDBG-D funds used.

The following outlines the three methods in which CDBG or CDBG-D program income should be treated.

F. Program income that is generated when an entity has another open CDBG or CDBG-D award - the program income should be spent on the current award prior to drawing down additional funds from IHCDA. Additionally, the maximum amount of CDBG or CDBG-D program income that may be expended on program delivery, administration, and environmental review is limited to twenty percent (20%) of the total receipt.

G. If an entity does not have an open award - program income amounting to less than \$25,000 received during the local unit of government's fiscal year may be kept by the local unit of government and is not subject to the program income requirements.

H. If an entity does not have an open award - program income amounting to greater than or equal to \$25,000 received during the local unit of government's fiscal year may not be kept by the local unit of government and must be returned to IHCDA. However, under certain circumstances, IHCDA may permit the LUG to establish a revolving loan fund for additional CDBG or CDBG-D-eligible activities. For further information on this issue, please contact your IHCDA Real Estate Production Analyst.

C. CDBG Claim Submission

BUDGET LINE ITEMS

ACQUISITION – Limited to the purchase price (at or below appraised value) and related costs associated with the acquisition of real property. The Recipient of a CDBG award is required to use a title company when purchasing or selling assisted properties. All donated property must have a title search demonstrating that the property is free and clear of any encumbrances, which must be submitted to IHCDA.

ADMINISTRATION – The administration line item includes the costs directly related to administering an IHCDA award and complying with the regulations associated with these funds. This line item, along with program delivery, and environmental review, cannot exceed 20% of the CDBG request and generally is between \$5,000 and \$10,000. Recipients are allowed to draw down this line item as costs are incurred. The costs associated with preparing the application are not eligible for reimbursement through a CDBG award.

Eligible costs include:





- Office materials and supplies
- Office rent and utilities
- Staff time and professional services associated with reporting, compliance, monitoring, or financial management
- Lead-based paint training
- Affirmative Marketing Housing activity related travel
- Fair Housing Education Postage
- Communication costs
- Photocopying

DEMOLITION – Costs associated with the demolition and clearance of existing structures.

ENVIRONMENTAL AND HISTORIC REVIEW – This line item includes expenses associated with the Section 106 Historic Review and Environmental Review Release of Funds process. This does not refer to a Phase I Environmental Assessment. Those expenses should be included in the Program Delivery line item. This line item, along with - program delivery and administration, - cannot exceed 20% of the CDBG request. Eligible costs for this line item are generally between \$2,000 and \$5,000 and include professional services, publication costs, photocopying, and postage. For further information, please read the *Environmental and Historic Review User Guides* (available for download at Environmental Review Chapter Exhibits) or contact your Real Estate Analyst.

LEAD HAZARD TESTING – Costs associated with lead hazard testing includes Risk Assessment, Paint Tests, Dust Wipes, etc. The maximum amount for this line item is \$1,000 per unit.

NEW CONSTRUCTION

Eligible costs include:

- Hard costs associated with new construction activities.
- Utility connections including off-site connections from the property line to the adjacent street.
- Site work related to driveways, sidewalks, landscaping, etc.
- Related infrastructure costs - improvements to the development site that are in keeping with improvements made to surrounding, standard housing activities. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- Costs to construct an on-site management office, the apartment of a resident manager, or laundry or community facilities which are located within the same building as the housing, and which are for the use of the tenants and their guests.
- Stoves, refrigerators, built in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
- Contingency costs used for unanticipated hard cost overruns or change orders.
- Costs associated with lead hazard testing includes risk assessments, paint tests, dust wipes, etc.

The limits for this line item are \$800 - \$1,000 per unit.

PROGRAM DELIVERY – Program delivery costs are those costs that can be directly tracked by address. They include soft costs and client related costs that are reasonable and necessary for the implementation and completion of the proposed housing activity. This line item, along with administration and





environmental review, cannot exceed 20% of the CDBG request. Recipients are allowed to draw down this line item as costs are incurred.

Eligible costs include:

- *Engineering/Architectural Plans*
- *Plans, specifications, work write-ups*
- *Inspections*
- *Cost estimates*
- *Building permits*
- *Demolition permits*
- *Credit reports*
- *Title searches*
- *Recording fees*
- *Travel to and from site*
- *Builders risk insurance*
- *Consultant fees*
- *Client intake/income verification*
- *Impact fees*
- *Legal and accounting fees*
- *Utilities of assisted units (not eligible for Owner Occupied Rehabilitation)*
- *Phase I Environmental Assessments*

REHABILITATION

Eligible costs include:

- Hard costs associated with rehabilitation activities.
- Lead-based paint interim controls and abatement costs.
- Mold remediation.
- Utility connections including off-site connections from the property line to the adjacent street.
- Related infrastructure costs – improvements to the development site that are in keeping with improvements made to surrounding, standard housing developments. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multifamily rental housing, costs to rehabilitate an on-site management office, the apartment of a resident manager, or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
- Contingency funds used for unanticipated hard cost overruns or change orders.

RELOCATION – This includes relocation payments and other relocation assistance for permanently and/or temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where assistance is required and appropriate. Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket expenses for temporary relocation purposes. For additional information on relocation and displacement, please refer to Chapter 4 of this manual: *Uniform Relocation Act (URA) and Section 104(d) Requirements*.

INELIGIBLE COSTS





The following costs are ineligible for reimbursement from CDBG funds, unless specifically listed as eligible in an individual Eligible Activity description:

- Commercial development costs – All costs associated with the construction or rehabilitation of space within a development that will be used for non-residential purposes such as offices or other commercial uses. This does not include the common area used by tenants of rental property or the leasing office of the apartment manager. CDBG awards cannot be used to underwrite any portion of the commercial development costs. The expenses incurred, and income to be generated from, commercial space must be reported in a separate “Annual Expense Information” sheet and 15-year proforma (see Application Forms).
- Cost associated with any IHCDA application preparation.
- Purchase or installation of luxury items, such as swimming pools or hot tubs.
- Purchase or installation of equipment, furnishings, tools, or other personal property that is not an integral structural feature, such as window air conditioner units
- Developer’s Fee - CDBG funds cannot be used to pay developer’s fees.
- Mortgage default/delinquency correction or avoidance.
- Loan guarantees.
- Annual contributions for operation of public housing.
- Costs associated with any financial audit of the recipient.

THE SET-UP PROCESS

Before a recipient may request CDBG funds on specific properties, the recipient must first request that IHCDA “set-up” the property addresses.

The recipient is responsible for expending on each site address **exactly** the amount of CDBG funds that have been “set-up.” If the CDBG subsidy amount changes (either increases or decreases) during the course of award implementation, the recipient must submit a revised set-up report for the specific property address affected.

Submit the following for each property address:

- b. Summary of Assisted Sites;
- D. Owner Occupied Rehabilitation set up or Rental set up form
- E. Lead Form

Summary of Assisted Sites

The Summary of Assisted Sites (SOAS) is used as a cumulative listing of each property receiving assistance through the CDBG award. Every property that appears on this form must be submitted to IHCDA in the order listed on the form. The SOAS and the Set-up must be sent to IHCDA before the Claim is submitted.

Fill out the Recipient Name and the Award Number.





Enter the dollar amounts as shown on your Release of Funds Letter in the box above each Budget Line Item. In the case of Program Income, enter the dollar amount you are allocating to each eligible activity. For each property, enter the Name of the project, the Property Address, City, Zip and the dollar amount you want to Set-up for that property under each applicable Budget Line Item.

The total amount shown per address must be the amount listed on the Set-up Form for that address. If Program Income is being used, a SOAS for both CDBG funds and Program Income (PI) will need to be submitted. The total of both SOAS forms will be the total on the set up form.

The form totals all Set-ups listed.

The form also lists the Balance of Funds you have left to Set-up.

OWNER OCCUPIED REHABILITATION SET-UP FORM – PAGE 1

At the time of project completion the recorded lien for each property must be submitted to IHCDA

The upper left-hand corner of the form is for IHCDA use only.

In the upper right-hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the e-mail address, phone and fax number of the person completing the form, the date the Section 106 concurrence was received, and the date the household’s income was verified.

Check the Appropriate Box: Original Submission or Revision.

Check all that apply: 1-4 Single Family, Condominium, Cooperative, or Manufactured Home.

100-year floodplain: Check the appropriate box. If you marked yes, your development is not eligible to receive IHCDA-assistance.

Type of Project: Check the Rehabilitation Only box. See the following definition:

Rehabilitation Only: A CDBG assisted rehabilitation property that does not include acquisition of real property. Such projects may have involved (a) CDBG funds for repairs or improvement of residential unit(s); (b) the reconfiguration of a structure to reduce the total units in order to increase the number of large family units; (c) the addition of a room or rooms (e.g., bedroom or bathroom) outside the existing walls for purposes of meeting occupancy or code standards; and (d) the adding of a unit or units within the existing structure.

Is the Project located in?

CDBG Strategy Area: A HUD-approved Neighborhood or Community Revitalization Strategy Area (NRSA or CRSA), identified in the CDBG grantee’s Consolidated Plan/ Annual Action Plan under 24 CFR 91.215(e) (2) or 91.315(e) (2).





Local Target Area: A locally designated non-CDBG strategy area targeted for assistance.

Presidentially Declared Major Disaster Area: An area declared a major disaster under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Historic Preservation Area: An area designated for historic preservation by local, state, or Federal officials.

Brownfield Redevelopment Area: An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination.

Residential Conversion: Conversion from a non-residential to residential use. For example, converting an old non-residential warehouse into rental units or condominiums.

Does this activity primarily assist persons with disabilities? Place a checkmark in Yes or No.

Deed Restriction Type: Mark the appropriate box for either recapture or resale.

Name of Award Administrator: Enter the name of the Procured Award Administrator (if applicable).

Faith Based Organization?: Is the Award Administrator a faith-based organization? Check Yes or No.

Institution of Higher Education?: Is the Award Administrator an Institution of Higher Education? Check Yes or No.

Name of Award Sub recipient: Enter the name of the Award Sub recipient (if applicable).

Faith Based Organization?: Is the Award Sub recipient a faith-based organization? Check Yes or No.

Institution of Higher Education?: Is the Award Sub recipient an Institution of Higher Education? Check Yes or No.

Part A: Recipient Information

Item 1 Name of Recipient: Enter the award recipient’s name.

Item 2 Recipient Tax ID Number: Enter the Employer Tax ID Number of the recipient.

Item 3 Amount of CDBG Funds for Address: Enter the total amount of CDBG Funds requested for this address. This amount should be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

Item 1 Name of Owner: Enter the Last and First name of the owner of the property to be rehabilitated.

Item 2 Street Address: Enter the street address of the property to be rehabilitated.





Item 3 City & Zip Code: Enter the City and Zip code of the property to be rehabilitated.

Tenure Type: Check the Homeownership Rehabilitation box.

Total Units Upon Completion: This cell is pre-filled at 1 for Owner Occupied Rehabilitation Awards.

Total CDBG Assisted Units: If the unit is CDBG assisted enter a 1.

Total non-assisted but eligible units: If the unit is **not** CDBG-Assisted but **is** CDBG-Eligible enter a 1. If you enter a 1 this unit has **no** CDBG Funds in it; however, it will be considered match /leverage eligible.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located. Click [here](#) for the county code.

Type of Ownership: For Owner Occupied Rehabilitation check the individual box.

Complete for CHDO (Community Housing Development Organization) Projects: Do not check a box.

Enter the following District Numbers: State Representative District, State Senate District, and U.S. Congressional District for the specific address. You can only enter one number on each line.

IHCDA CDBG RENTAL SET-UP FORM (FARM WORKER HOUSING) – PAGE 1

The upper left-hand corner of the form is for IHCDA use only.

In the upper right-hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the e-mail address, phone and fax number of the person completing the form, the date the Section 106 concurrence was received, and the date the household’s income was verified.

Check the Appropriate Box: Original Submission or Revision.

Check all that apply: Shelter, Transitional Housing, SRO, Group Home, Apartment, or None of the above.

Type of Project: Check one box to indicate the type of set-up based upon the following definitions:

Rehabilitation Only: A CDBG assisted rehabilitation property that does not include acquisition of real property. Such projects may have involved (a) CDBG funds for repairs or improvement of residential unit(s) to bring the unit(s) up to the property standards required by 24 CFR 92.251; (b) the reconfiguration of a structure to reduce the total units in order to increase the number of large family units; (c) the addition of a room or rooms (e.g., bedroom or bathroom) outside the existing walls for purposes of meeting occupancy or code standards; and (d) the adding of a unit or units within the existing structure.





New Construction Only: Any project that involves (a) the addition of units outside the existing walls of the structure and (b) the construction of a new residential unit(s). Note: When developments have combined new construction in one building(s) with rehabilitation activities in another building(s) on one parcel of land, the developments must be administratively set up as separate developments in the IDIS System.

Acquisition Only: Acquisition of a structure that requires no rehabilitation with any funding source.

Acquisition & Rehab: See above.

Acquisition & New Construction: See above.

Acquisition & Demolition: Do not check this box.

100-year floodplain: Check the appropriate box. If you marked yes, your development is not eligible to receive IHCDA-assistance.

Is the Project located in?:

CDBG Strategy Area: A HUD-approved Neighborhood or Community Revitalization Strategy Area (NRSA or CRSA), identified in the CDBG grantee's Consolidated Plan/ Annual Action Plan under 24 CFR 91.215(e)(2) or 91.315(e)(2).

Local Target Area: A locally designated non-CDBG strategy area targeted for assistance.

Presidentially Declared Major Disaster Area: An area declared a major disaster under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Historic Preservation Area: An area designated for historic preservation by local, state, or Federal officials.

Brownfield Redevelopment Area: An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination.

Residential Conversion: Conversion from a non-residential to residential use. For example, converting an old non-residential warehouse into rental units or condominiums.

Does this activity primarily assist persons with disabilities? Please place a checkmark in Yes or No.

Name of Award Administrator: Enter the name of the Procured Award Administrator (if applicable).

Faith Based Organization?: Is the Award Administrator a faith-based organization? Please place a checkmark in Yes or No.





Institution of Higher Education?: Is the Award Administrator an Institution of Higher Education? Please place a checkmark in Yes or No.

Name of Award Sub recipient: Enter the name of the Award Sub recipient (if applicable).

Faith Based Organization?: Is the Award Sub recipient a faith-based organization? Please place a checkmark in Yes or No.

Institution of Higher Education?: Is the Award Sub recipient an Institution of Higher Education? Please place a checkmark in Yes or No.

Part A: Recipient Information

Item 1 Name of Recipient: Enter the award recipient’s name.

Item 2 Recipient Tax ID Number: Enter the Employer Tax ID Number of the recipient.

Item 3 CDBG Funds for Address: Enter the total amount of CDBG Funds requested for this address. This amount should be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

Item 1 Street Address: Enter the street address of the property.

Item 2 City & Zip Code: Enter the City and Zip code of the property.

Part C: Rental Information Only

Item 1 Name of Owner or Organization: Enter the name of the property owner/organization.

Item 2 Street Address: Enter the street address of the owner/organization.

Item 3 City, Zip Code, & Phone Number: Enter the information for the owner/organization.

Tenure Type: The tenure type for rental activities is Rental.

Total Units or Beds Upon Completion: Enter the total number of Units, regardless if they are assisted or not. Do not list the number of bedrooms within the Unit. You will only enter the number of Beds if the award was made based on beds.





Total CDBG Assisted Units/Beds Upon Completion: Enter the total number of CDBG Units. Do not list the number of bedrooms within the Unit. You will only enter the number of Beds if the award was made based on beds.

Total non-assisted but eligible units Upon Completion: Enter the total number of Units that are **not** CDBG-Assisted but **are** CDBG-Eligible. If you enter a number, this unit has **no** CDBG Funds in it; however, it will be considered match/leverage eligible. You will only enter the number of Beds if the award was made based on beds.

Total Market Rate Units: Enter the Number of Units that have NO CDBG Funds and also do not qualify as Non CDBG-Assisted but CDBG-Eligible. You will only enter the number of Beds if the award was made based on beds.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located. Click [here](#) for the county code.

Type of Ownership: Check the appropriate box.

Complete for CHDO (Community Housing Development Organization) Projects: Do not check a box.

Enter the following District Numbers: State Representative District, State Senate District, and U.S. Congressional District for the specific address. You can only enter one number on each line.

Set-up Form – Page 2 - Part D: Household Characteristics (Owner Occupied Rehab or Rental Activity)

Provide information on the characteristics of each household occupying a unit, or the household that will be occupying a unit, to be assisted with CDBG funds. If a rental unit is unoccupied, enter unit number, number of bedrooms, and “9”.

Unit Number: Owner Occupied Rehabilitation leave blank.

Number of Bedrooms: Owner Occupied Rehabilitation activities enter a 1.

Occupancy & Reason: Owner Occupied Rehabilitation activities enter a 2 for owner and the reason is pre-filled with a N/A.

Reason: Enter the reason the household is moving into the unit.

- Enter 1 for the housing itself – i.e. better quality, more affordable, etc.
- Enter 2 for a change in family situation – i.e. divorce, marriage, children, etc.





- Enter 3 for Economic Opportunity – i.e. closer to current job, closer to job opportunities, etc.
- Enter 4 for Schools – i.e. closer to current school, in desired school district, etc.
- Enter 5 for Community Amenities – i.e. closer to needed services, shopping, etc.

Income Data:

Monthly Gross Income: Use the Section 8 definition of income as described in the HUD guidebook “Technical Guide for Determining Income and Allowances for the HOME Program,” to calculate the homebuyer’s Gross Annual Income. Divide the Gross Annual Income by 12 and enter the **monthly** gross household income.

Enter 80% of the area median income for the household size: You will find the 80% AMI number listed on the Income Limits chart on the IHCDA website.

Percent of Area Median Income: For each occupied residential unit, this number automatically calculates based on the household’s monthly income amount entered for the household size.

Household Data:

Hispanic Household: Place an “x” in the column if the head of household is Hispanic. If a person is Hispanic you must also complete the Race/Ethnicity column. Hispanic is not considered a Race/Ethnicity Type.

Race/Ethnicity – Head of Household: For each occupied residential unit, enter one code only based on the following:

- 11-White
- 12-Black/African American
- 13-Asian
- 14-American Indian/Alaskan Native
- 15-Native Hawaiian/Other Pacific Islander
- 16-American Indian/Alaskan Native & White
- 17-Asian & White
- 18-Black/African American & White
- 19-American Indian/Alaskan Native & Black/African American
- 20-Other Multi-Racial

Size of Household: Enter the code based on the following:

- 10- 1 Person
- 11- 2 Persons
- 12- 3 Persons
- 13- 4 Persons
- 14- 5 Persons
- 15- 6 Persons





- 16- 7 Persons
- 17- 8 or more Persons
- 18- Vacant

Type of Household: For each residential unit, enter one code based on the following definitions:

- 1-Single/Non-Elderly: One-person household in which the person is non-elderly.
- 2-Elderly: One or two person household with a person at least 62 years of age.
- 3-Related/Single Parent: A single parent household with a dependent child or children (18 years old or *younger*).
- 4-Related/Two Parent: A two-parent household with a dependent child or children (18 years old or *younger*).
- 5-Other: Any household that is not included in the above categories, including two or more unrelated individuals.
- 9-Vacant Unit

Minor & Non Minor/Dependents: Enter the number of minor children that will be occupying the unit in the 1st column. Enter the number of non-minor children or dependents in the 2nd column.

Female Head of Household: Place an “X” in the column if a female is the head of the household. To be a Female Head of Household, there must be a minor or a dependent living in the unit. Therefore, a Single Female cannot be a Female Head of Household.

Elderly Head of Household: Mark an X in the 1st column if the head of household is elderly. Enter the number of persons over 62 in the household in the 2nd column.

Disabled Head of Household: Place an “X” in the 1st column if the head of household is disabled. Enter the number of disabled persons in the household in the 2nd column.

Lead-Based Paint Form

Step 1: Age of Structure Enter the year the structure was built.

Step 2: Assess the Situation Determine if your rehabilitation qualifies under any of the Lead Based Paint Exemptions. If so, check the appropriate box and submit the documentation listed in red on the form. If your project qualifies as exempt, do not complete the remainder of the form.

Does Not Disturb De Minimis Level:





This is no longer an Exempt Activity. Please see the Lead Chapter of the Manual to determine if you can check this box. You must submit a copy of the work write-up.

Rehabilitation Activities:

Rehabilitation Cost: Enter the amount of rehabilitation dollars listed on the summary of assisted sites.

Amount of Lead Reduction Assistance: Enter the amount of lead reduction assistance. Please attach the work write up, if applicable. Lead reduction assistance is the dollar amount that you are spending to correct the lead issues found in the Risk Assessment.

Adjusted Rehabilitation Cost: This is the difference between the amount of CDBG funds for Rehab and the amount of lead reduction assistance. The dollar amount must be below at or below \$25,000. If not, you are required to use an abatement contractor to abate the lead in the home. Please call IHCDA before you continue.

Buy & Rehab Activities:

Federal Assistance: Enter the total amount of CDBG assistance listed on the summary of assisted sites.

Acquisition Cost: Enter the acquisition cost of the property.

Rehabilitation Cost: Enter the total amount of rehabilitation that will be completed on the property.

Amount of Lead Reduction Assistance: Enter the amount of lead reduction assistance.

Adjusted Rehabilitation Cost: This is the difference between the amount of CDBG Funds and amount of lead reduction assistance. The dollar amount must be below at or below \$25,000. If not, you are required to use an abatement contractor to abate the lead in the home. Please call IHCDA before you continue.

Step 3: Address the Lead-Based Paint

Acquisition Only:

Under Acquisition Only awards, recipient must perform a visual assessment for Lead Based Paint. A paint test only needs to be done if the visual assessment fails.

Person Completing Visual Assessment: Enter the person's name.

Name of Organization: Enter the name of the organization the employs the person doing the assessment.

Visual Assessment Certificate Date: Enter the date on which the person completing the assessment received their Visual Assessment Certification.

Date of Visual Assessment: Enter the date the visual assessment was completed.

Result of Visual Assessment: Select either Pass or Fail.





Result of Paint Test: If the visual assessment failed, you must do a paint test or assume lead-based paint. Enter the result of the paint test as either Pass or Fail, or Assume Lead-Based Paint. Remember that you must pass Clearance.

Rehabilitation And Buy & Rehab:

Rehabilitation less than \$5,000: A risk assessment is **not** required. Enter either Paint Test or Assume.

Rehabilitation greater than \$5,000: A risk assessment is required. Check Risk Assessment and Paint Test, Dust Wipes and Soil Sample, if applicable OR check Risk Assessment and Assume Lead-Based Paint.

*If the box “Does Not Disturb De Minimus Level” is checked you must do a Risk Assessment and a Paint Test. However, you are **not** required to use safe work practices or pass lead clearance. Check Risk Assessment and Paint Test*

Risk Assessment Information: Enter the Date, Name and License Number of the Risk Assessor.

Enter the test results:

- Pass means No Lead-Based Paint Hazards Were Found.
- Fail means Lead-Based Paint Hazards Were Found.

If the Rehab dollars are less than or equal to \$5,000 and the Paint Test Passed submit the following:

- Lead Form
- Paint Test Results
- Summary Inspection – Lead chapter forms

If the Rehab dollars are greater than \$5,000 and the Paint Test Passed submit the following:

- Lead Form
- All Test Results
- Summary of Lead-Based Paint Risk Assessment Form

If Does Not Disturb De Minimus Level (regardless if pass or fail) submit the following:

- Lead Form
- Paint Test Results
- Summary of Lead-Based Paint Risk Assessment Form

Step 4: Clearance Testing at Unit Completion

Until a property address receives a final “passed” clearance test, 10% of the funds Set-up under the Rehabilitation Budget Line Item will not be paid.

Upon Completion of the unit, enter the Date of Clearance Test & Clearance Date. Submit the following:

- Lead Form – Step 4 Completed
- Lab Results (Dust Wipes)
- Hazard Reduction Completion Notice Form

The Lead Form, Lab Results, and the Hazard Reduction Completion Notice can be submitted with the final rehab draw on the address. However, IHCDA recommends these items be submitted to the IDIS Associate before the claim is submitted, as this will speed up the draw process.





Pre Agreement Costs

The following costs may be incurred by the applicant, subrecipient of the applicant or a professional administrator procured by the applicant; however these entities need to understand the level of risk that is involved by completing these actions. If an organization chooses to expend funds prior to receiving CDBG award approval, IHCDA is in no way obligated to provide funding for the development. The organization is assuming all of the risk associated with costs incurred prior to receiving a CDBG award.

If an organization anticipates conducting either acquisition or construction/rehabilitation prior to receiving an award, they may request in writing to their Community Development Representative(s) a “Pre-Award Release Of Funds Letter”. This letter would indicate the date that the entire Environmental and Historic Review process was completed (this should be completed during the application process).

Costs associated with the preparation of an application are not eligible for reimbursement.

The following costs may be incurred by the applicant, subrecipient or administrator procured by the applicant:

Cost (Budget Line Item)	When Eligible Costs May Be Incurred	How Long You Have to Claim Costs	Other Requirements That Must be Met in Order to be Reimbursed
Administration	As of the Board Award Date	N/A	Must have received an IHCDA award
Environmental and Historic Review	Up to six months prior to the initial application date	One year from the date of initial application	N/A
Program Delivery ***Architectural, Engineering, and Other Professional Service Costs	Up to six months prior to the initial application date ***Up to 24 months prior to the commitment of funds	One year from the date of initial application	N/A
Acquisition	Up to six months prior to the initial application date	One year from the date of initial application	Must have completed the entire Environmental and Historic Review Process (including approval from IHCDA)
Construction or Rehabilitation	Up to six months prior to the initial application date	One year from the date of initial application	Must have completed the entire Environmental and Historic Review Process (including approval from IHCDA)

1. The costs may be reimbursed from the CDBG award assuming that all federal requirements were adhered to incurring the costs and procuring an award administrator.
2. Program delivery costs or acquisition costs donated or paid for from local funds may count towards the local match/leverage requirement under the CDBG program.





All costs not listed above must be incurred after award execution and receipt of a Release Of Funds letter from IHCDA. Any costs incurred prior to this and not listed above will be disallowed by IHCDA.

Claim Voucher

Claims are submitted online. Register on our website <http://www.in.gov/ihcda/> to begin claiming funds.

Administration costs can be claimed with out a set up. Set ups are required for claiming funds for addresses.

Submit the claim online. Print the receipt and summary. Sign the receipt. Scan the claim receipt, summary and documentation. Email the scanned documents to claims@ihcda.in.gov

The turnaround for payment of claims is 10 business days from the day IHCDA receives a claim that includes all documentation necessary to support the claimed amount. If additional documentation is required, it may take longer than 10 business days.

All payments will be made by ACH. The banking information must be submitted prior to submitting the first claim. An automatic email will be sent to the email address of the person who submits the claim when the ACH payment is sent.

Contract execution forms must be submitted prior to submitting the claim for any contract.

CLAIM VOUCHER NARRATIVE

Narratives are entered online.

4. Update on the accomplishments made during the award.
5. Update on any problems or delays encountered or anticipated in accomplishing the award during its award timeframe.
6. Update on how the match/leverage requirement will be met.
4. Local Units of Government Only – answer questions 4(a) and 4(b) updating on the actions being taken to affirmatively further fair housing.

Supporting Documentation Requirements

The following outline the supporting documentation requirements for the claims process.

1. Include a detailed summary listing expenditures being requested for reimbursement by line item.





2. Include a copy of all invoices. Construction invoices must contain a detailed description of the work performed along with the address of the property. Hand written invoices and invoices with hand written alterations will not be accepted.
4. Include a copy of the HUD1 with claims for acquisition. Claims requesting funds for acquisition prior to closing must include a copy of an executed good faith estimate (must be signed) with a breakdown of the total selling cost, HOME amount, and balance of funds.
5. Supporting documentation for claims for the Administration, Environmental Review, Program Delivery, CHDO Operating Costs, budget line items requesting reimbursement for time spent on the undertaking by staff of a local unit of government, subrecipient, or not-for-profit organization must include: name of the employee, dates worked, number of hours worked, the chargeable rate, and the total wage computation.

DO NOT include actual time sheets with the drawdown submission; however, the recipient must keep this documentation on file for IHCDA monitoring purposes. Additionally, at monitoring, IHCDA staff will be documenting that the proper hourly rate and fringe benefits is being billed to the IHCDA program

6. Developer's fees line item can be drawn by requesting this line item on letterhead of your organization.
7. Initial Drawn Down of Rent-up Reserve – in order to draw this line item, you must submit a request with your claim voucher and the appropriate support documentation in the amount of the request on your agency's letterhead. This allows the drawing of the funds to be held by the organization until needed, however, when the rent-up reserve is needed, a request must be made to your Compliance Monitor.
8. Use of the rent-up reserve – in order to draw these funds you must request permission from IHCDA. These funds can be drawn as often as needed. The request should be in writing and must include support for the draw. You should include with your request a current income and expense report for the previous three months and the documentation of where the rent-up reserve payment is being made. We may request additional documentation during our review. You will receive a formal approval/denial letter allowing you to utilize these funds.
9. Fringe benefits must also be listed on the support documentation summary.
10. Indirect costs are chargeable to the program in one of two ways and can only be used for the administration and CHDO Operating Costs line items:
 - Costs may be maintained directly, such as accurate counts of telephone calls, copies made, and postage spent.
 - Costs may be allocated through an indirect cost allocation plan. The indirect cost allocation plan must be approved by a federal or state agency for IHCDA to recognize this plan. The following documentation must be included with the first drawdown only:
 - A copy of the agency's indirect cost allocation plan;
 - A summary of costs included in the indirect cost allocation plan; and





Approval letter from federal or state agency that approved the indirect cost allocation plan.

11. The mileage rate per mile is \$.50.

Inspection Certification Form

This form is signed when the rehabilitation or new construction work has been completed and is then placed in the file for monitoring purposes.

Fill out the top of the Form

Contractor Statement: Documents that the contractor has satisfactorily completed the work according to the construction contract.

Inspector Statement: Documents that a physical inspection of the property has been completed and that the work items corrected at a minimum meet the stricter of the local rehabilitation standards or the Indiana Building Code.

Property Owner Statement: Documents that all work items have been completed in accordance with the contract and that the homeowner understands the final payment will be disbursed to the contractor.

Receipt & Disbursement of Funds

The following outlines the time frame in which the receipt of your federal funds must be expended.

Establish account for CDBG funds.

CDBG recipients may choose to either establish a separate fund within the general fund or establish a separate bank account for the CDBG program. The bank account must be non-interest bearing.

Disburse CDBG funds in a timely manner.

CDBG recipients have five business days to disburse drawdown from their local CDBG account to a \$5,000 balance or less. The CDBG recipient must begin counting the three days from the date it receives the ACH from IHCDA. Additionally, if the recipient disburses the CDBG funds to a subrecipient or award administrator, they, in turn, must achieve a \$5,000 balance or less within five business days of receiving the funds.

If the recipient is unable to disburse the federal funds in a timely manner, the recipient must immediately return the funds to IHCDA.

Retainage Policy





For all awards, IHCD A will hold the final \$5,000 of an award until all completion reports, match/leverage documentation, and all other supporting documentation is received and approved. **Additionally, IHCD A will hold the final \$5,000 of an award until the final monitoring has been completed and all findings and concerns associated with it have been resolved.**

Return of Funds

Complete and submit the Return of Funds form along with the funds to the IHCD A Staff Accountant.

Financial Management Forms

The following ledgers help to control receipts and disbursements of federal funds as well as ensuring that you do not over expend your budget line items.

Federal Cash Control Register

The Federal Cash Control Register must be used to record requests for payments submitted, checks or ACH's received, and disbursements. The balance of federal cash on hand on both a daily and cumulative basis is calculated. The register documents the timely disbursement of the CDBG funds. It also serves as a crosscheck to total receipts, disbursements, and the cash balance shown in the accounting records. It is imperative to record each transaction as it occurs.

If you employ the services of an award administrator or subrecipient who makes payments with the CDBG funds, this entity is also responsible for keeping a federal cash control register and responsible for disbursing funds in the manner prescribed for the funding source.

When a draw request has been sent to the IHCD A, the request for funds must be recorded in the Federal Cash Control Register section under Request for Payment Submitted column. The columns to complete include the document number, date of request, amount requested. The document number to use is the claim on the Claim Receipt. By maintaining the Request for Payment Submitted section of the Federal Cash Control Register, in-process claims become easier to track.

When funds are received by the recipient, the date the IHCD A ACH is received and the ACH number, and the amount are entered into the Funds Received section. When funds are disbursed, the date of disbursement, check number, payee, and check amount are recorded in the appropriate boxes of the Disbursements section of the Federal Cash Control Register

Ledger of Expenditure by Site Address





D. Acquisition Section

Complete the information and do not leave any fields blank. There must be a date listed for closing.

E. Contract Section

List all contracts executed using New Construction, Rehabilitation, or Program Delivery funds.

List any changes that occur to the contract including all any change orders.

Project Completion Reports

Owner Occupied Rehabilitation

The upper left-hand corner of the form should be left blank as it is for IHCDA use only.

In the upper right-hand corner of the form enter the date the form is being completed and the Date Rehab/New Construction was completed.

Check the applicable box: Original Submission or Revision.

PROJECT COSTS

Project Costs: Include all CDBG funds used for the project and all other funds (public and private) with one exception: do not double count. If private funds are used for construction financing and those funds are later replaced by permanent financing, do not report both. Report all CDBG funds expended on the project. (Note: Federal regulations specifically prohibit paying back CDBG funds with CDBG funds.)

For funds other than CDBG, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on number 5 should be the total cost of the project. The total amount of CDBG funds reported in the block titled "Total CDBG Funds" (this means the total amount of CDBG funds invested into the project).

Item 1 CDBG Funds. Do not include CDBG program income in any of the following three (3) categories.

- (1) Direct Loan. Enter the amount of CDBG funds drawn for this project in the form of a direct loan. Enter the loan's interest rate, if any. List the affordability period as listed in your award agreement. Enter information here if the homeowner is making payments to the Local Unit of Government.
- (6) Program Delivery, Lead & Relocation. Enter the amount of CDBG funds drawn without any repayment requirements. This is the amount drawn for program delivery and relocation.





- (7) Deferred Payment Loan (DPL). Enter the amount of CDBG funds drawn that are being provided through a loan where payment of principal and interest is deferred until a future time. Also enter the affordability period as listed in your award agreement.

A Deferred Payment Loan (DPL) is also called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years, or repayment of principal and interest starts after the bank loan is repaid).

Total CDBG Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this CDBG-assisted project.

- (1) Other Federal Funds. Exclude any CDBG funds expended on this project.
- (2) State/Local Appropriated Funds.
- (3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 3 Private Funds.

- (1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).
- (2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the owner.
- (3) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc.

Total Private Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 4 SWEEP Funds. Enter the net amount of SWEEP funds.

Item 5 DOE Funds. Enter the amount of DOE funds.

Item 6 LIHEAP Funds. Enter the amount of LIHEAP funds.

Item 7 ARRA Funds. Enter the amount of ARRA funds.

Item 8 CDBG Program Income. Enter the amount of funds provided from CDBG repayment income.

Item 9 Total Project Cost. This is the total for CDBG funds, Public funds, and Private funds.





IHCDA Rental Completion

The upper left-hand corner of the form should be left blank as it is for IHCDA use only.

In the upper right-hand corner of the form enter the date the form is being completed and the Date Rehab/New Construction was completed. The rest of the information will pre-fill from the Set-up Report.

Check the applicable box: Original Submission or Revision.

Type of Loan: Check all applicable boxes.

Check the applicable box: Condominium, Cooperative, SRO, Apartment or None of the Above.

Is the Loan Insured?: Check Yes or No.

Rent Exception?: Mark one box to indicate whether or not the project has a rent exception. The “No” box should always be checked unless otherwise notified by the IHCDA or HUD.

Mixed-Use Project?: Mark “Yes” for a project that is designated in part for uses other than residential but where residential living space must constitute at least 51% of the project space. Mark “No” if the project is not a mixed-use project.

Mixed-Income Project?: Mark “Yes” where less than 100% of the project’s housing units qualify as affordable housing as defined in section 92.252 of the HOME regulations. Mark “No” if the project is not a mixed income project.

Number of CDBG-Assisted Families that were Previously in Subsidized Housing?: Enter the number.

of CDBG-Assisted Units that are 504 Accessible?: Mark the appropriate box. If yes, list the number of units that are 504 Accessible.

of CDBG-Assisted Units Meeting Energy Star?: An energy star unit is defined as one which has been certified through inspection and testing as meeting the Energy Star Qualified New Home Standard. To achieve this rating the home must achieve a minimum score of 86 on the Mortgage Industry Home Energy Rating Scale and be at least 15% more energy efficient than a home built according to the 2004 International Residential Code. Enter the number of CDBG-Assisted Energy Star units.

of CDBG-Assisted Units Moved from Non-Residential to Residential?: Enter the number of CDBG-Assisted Units that are a conversion from Non-Residential to Residential use. Example: Converting an old non-residential warehouse into rental units or condominiums.

of CDBG-Assisted Units Subsidized with Project Based Rental Assistance?: Enter the number of CDBG-Assisted Units that are Subsidized with Project Based Rental Assistance through a Federal, state or local program. Note that this only applies to rental assistance that is project based, if rental assistance is





portable (goes with the person and is not for a specific unit) then the assistance should not be reported here.

of CDBG-Assisted Units Designated for HIV/AIDS?: Enter the number of CDBG-Assisted Units that are specifically set aside for persons living with HIV/AIDS.

Designated for Chronically Homeless?: Enter the number of CDBG-Assisted Units that are specifically set aside for persons living with HIV/AIDS **that are also** specifically set aside for the Chronically Homeless.

- HUD defines a homeless person as someone who is sleeping in an emergency shelter or a place not meant for human habitation (on the streets, in a car, in an abandoned building). HUD's definition of homeless does not include doubled-up or overcrowded situations.
- HUD defines a chronically homeless person as an unaccompanied homeless individual with a disabling condition who has either (1) been continuously homeless for a year or more; or (2) has had at least four episodes of homelessness in the past three years.
- A disabling condition is defined as a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions.

of CDBG-Assisted Units Designated for the Homeless?: Enter the number of CDBG-Assisted Units that are specifically set-aside for the Homeless.

of CDBG-Assisted Units Designated for the Chronically Homeless?: Enter the number of CDBG-Assisted Units that are specifically set aside for the Homeless **that are also** specifically set aside for the Chronically Homeless.

- HUD defines a homeless person as someone who is sleeping in an emergency shelter or a place not meant for human habitation (on the streets, in a car, in an abandoned building). HUD's definition of homeless does not include doubled-up or overcrowded situations.
- HUD defines a chronically homeless person as an unaccompanied homeless individual with a disabling condition who has either (1) been continuously homeless for a year or more; or (2) has had at least four episodes of homelessness in the past three years.
- A disabling condition is defined as a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions.

d. Project Costs

Project Costs: Include all CDBG funds used for the project and all other funds (public and private) with one exception: do not double count. If private funds are used for construction financing and those funds





are later replaced by permanent financing, do not report both. Report all CDBG funds expended on the project. (Note: Federal regulations specifically prohibit paying back CDBG funds with CDBG funds.)

For funds other than CDBG, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on number 6 should be the total cost of the project. The total amount of CDBG funds reported in the block titled "Total CDBG Funds" means the total amount of CDBG funds invested into the project.

Item 1 CDBG Funds. Do not include CDBG program income in any of the following three (3) categories.

- (1) Direct Loan. Enter the amount of CDBG drawn for this project in the form of a direct loan. Enter the loan's interest rate, if any. Enter the affordability period as listed in the award agreement. This line should be filled out if payments are being made to IHCDA.
- (2) Program Delivery & Development Subsidy. Enter the amount of CDBG funds drawn for Program delivery and Relocation.
- (3) Deferred Payment Loan (DPL). Enter the amount of CDBG funds drawn for this project in the form of a loan where payment of principal and interest is deferred until a future time. Enter the interest rate, if any. Enter the affordability period as listed in the award agreement.

A Deferred Payment Loan (DPL) is sometimes called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years, or repayment of principal and interest starts after the bank loan is repaid).

Total CDBG Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this CDBG-assisted project.

- (1) Other Federal Funds. Exclude any CDBG funds expended on this project.
- (2) State/Local Appropriated Funds.
- (3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 3 Private Funds.

- (1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate





and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).

- (2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the project owner.
- (3) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc. *(Please note that Low Income Housing Tax Credits should NOT be included under Private Grants).*

Total Private Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 4 Low Income Housing Tax Credit Syndication. Enter the net amount of the tax credits.

Item 5 CDBG Program Income. Enter the amount of funds provided from CDBG repayment income.

Item 6 Total Project Cost. Enter the sum of totals for CDBG funds, Public funds, and Private funds.

Final Lead Clearance

10% of the construction contract will be held until a property address receives a final “passed” clearance test. When submitting the final lead clearance, please complete the remainder of the Lead Form. The following must be submitted: (1) lead form, (2) letter from inspector noting license number, (3) results of the lead test, and (4) I-LEAD certificate of completion (see Lead Chapter).

Individual Site – Match Summary Form

This form is used to document the match by category that was invested into each CDBG-assisted or Non CDBG-assisted but CDBG-eligible unit.

Most of the information at the top of the form will pre-fill. Enter the date the final project draw request was submitted to IHCDA

Potential Sources of Match/Leverage: For each applicable category, enter the amount of match that has been expended on the project. IHCDA will determine whether or not the reported funds are eligible to be counted toward the Recipient’s CDBG match/leverage liability. For each entry on the log, attach supporting documentation.

Below are the instructions for completing Line 10-21:

- 10. Donated Cash: List the value of any cash contributions made by the State, other governmental units, private entities, or individuals. HOME Funds cannot be used to match/leverage CDBG Awards.





A cash contribution may be made from program income from a federal grant earned after the end of the award period if no federal requirements govern the disposition of the program income. Included in this category are repayments from closed out grants under the Urban Development Action Grant Program, the Rental Rehabilitation Grant Program, and certain State Small Cities Community Development Block Grant awards.

Cash paid for time spent on administrative, environmental review or project delivery costs that were not reimbursed or paid for, do count as match/leverage for CDBG Awards. Example: A Local Unit of Government could pay a subrecipient cash for Admin time spent on the award. However, the Local Unit of Government must spend their own funds and could not request those funds from IHCDA through their CDBG Award.

Nonprofit recipients or subrecipients who are reporting match/leverage contributions may not count contributions that result from ongoing annual fund drives. Contributions or grants to affordable housing that are not a part of an ongoing annual fund drive may be counted.

Required Documentation: Attach a listing of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported. Submit a copy of the check for the match/leverage money that was received as well as copies of the checks that the recipient wrote to pay for services rendered using the match/leverage dollars.

11. FHLB - AHP Grant: Grant awards through the Federal Home Loan Bank Affordable Housing Program should be reported here. *However, if the funds were a loan do not report here, the loan would be reported on Line 18, as only the Below Market Interest Rate (BMIR) would count as match/leverage.*

Required Documentation: Documentation should include a specific statement (e.g., award letter) or other evidence that the contribution is for the general or specific project being reported.

12. Private Grant: List the amount of any other grant funds awarded to the project address.

Required Documentation: Attach a listing of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported.

13. Volunteer Labor: List the value of all donated or voluntary labor that was provided in connection with site-preparation, construction, or rehabilitation of the housing. Donated or voluntary labor is valued at a fixed rate by HUD. Currently, that rate is \$10 per hour for any type of unskilled labor. The rate of pay for a skilled labor is their normal hourly rate of pay.

Required Documentation: Attach a log showing the name, date, and hours of labor donated to the specific project.

14. Donated Professional Services: List the value of all donated or voluntary legal, architectural, or engineering services that were provided in connection with the project.





The value of services contributed by a professional who has been contracted for other work on the CDBG project can be counted as CDBG match/leverage as long as you can document that the time was not reimbursed. Donated services are valued at the professional's actual hourly charges.

Required Documentation: The Recipient must document that the professional's hourly charges are reasonable and customary for the type of work performed. Attach a log showing the name, date, hourly rate, and number of hours donated to the specific project.

15. Waived Fees & Permits: List the value, based on customary and reasonable means for establishing value, of state or local taxes, fees, or other charges that are normally and customarily imposed or charged by a state or local government on all transactions or projects in the conduct of state or local government operations that are waived, forgone, or deferred in a manner that achieves affordability of housing that is assisted with CDBG funds.

Fees or charges that are associated with the CDBG Program only (rather than normally and customarily imposed or charged on all transactions or projects) are not eligible forms of contributions.

The amount of any real estate taxes may be based on post-improvement property value, using customary and reasonable means of establishing value. For taxes, fees, or charges that are given for future years, the value is the present discounted cash value, based on a rate equal to the rate for the Treasury security with maturity closest to the number of years for which the taxes, fees, or charges are waived, forgone, or deferred.

Required Documentation: The Recipient must document that the waived fees and permits are reasonable and customary governmental charges. Attach a list of waived fees, date of waiver, and value of waiver.

For Tax Exemption or Tax Abatement attach a copy of the spreadsheet provided by IHCDA that shows the calculations along with all supporting documentation for the figures used.

16. Value of Donated Land/Building: List the value, before CDBG assistance is provided and minus any debt burden, lien, or other encumbrance, of donated or other real property. Property must be appraised in conformance with established and generally recognized appraisal practice, and value must be based on the best available data properly analyzed and interpreted. An independent, certified appraiser must perform the appraisal of land and structures. Partial donations are also acceptable (e.g., a sale below market price); however, the acquisition cost must be "demonstrably below the appraised value" and the seller must acknowledge in writing that the price differential is intended as a contribution to affordable housing.

Required Documentation: Attach a copy of the sales agreement or other documentation showing the sale price, the appraisal, and the seller's statement.

17. Value of Donated Material: List the value of all site-preparation and construction materials donated to the project.





Required Documentation: Attach a list of materials, donors, date of donation, and valuation.

18. Private Mortgage Financing: List the value of any below market financing as defined by HUD. The grant equivalent of a below market interest rate loan to the project that is not repayable to the State's CDBG Investment Trust Fund may be counted as match. If the loan is made from funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the difference between payments to be made on the borrowed funds and payments to be received from the loan to the project, based on a discount rate equal to the interest rate on the borrowed funds.

If the loan is made from funds other than funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the yield forgone, using one of the following measures of market rate yield, as appropriate: (1) with respect to 1-4 unit housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points; (2) with respect to 1-4 unit housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points; or (3) with respect to a multifamily project, a rate equal to the 10-year Treasury note rate plus 300 basis points. The week ending Treasury note rate for the week of the loan closing is the one used for comparison.

Required Documentation: Attach a copy of the Below Market Interest Rate (BMIR) spreadsheet provided by IHCDA that shows the calculations along with all supporting documentation for the figures used.

19. Trust Fund Loan: List the amount of IHCDA Trust Fund loan funds used on the property address.
20. Required Infrastructure: List the cost of any investment, not made with federal resources, in on-site and off-site infrastructure that was directly required for the housing and made within twelve months of the time CDBG funds are committed to the project (set up in IDIS). These infrastructure investments must be prorated to reflect only that portion of the costs directly attributable to the CDBG-assisted housing. The costs must be reasonable and customary and may be contributed by a municipality or public or private utility. Infrastructure improvements cannot be counted as match in projects that are not CDBG-assisted, regardless of whether the project will be used to meet some or all of the Recipient's match requirement.

Required Documentation: Attach documentation of the contribution (and, if applicable, any calculations showing how a pro-ration was achieved).

21. Other: Enter the amount of any other funds utilized on the project. IHCDA will determine whether or not these funds can count toward the Recipient's match/leverage liability.

Required Documentation: Attach documentation of each expenditure.

22. Total Match/Leverage: Enter the total estimated value of the match/leverage contribution. Please note that IHCDA will review the information you have submitted and determine the value and





eligibility of the match/leverage. You will be contacted by IHCDA if we cut any match/leverage listed on the form.

Close Out Documents

Financial Settlement/Expenditure Summary

This form must be completed and submitted with the final claim on the award.

Complete a line for each budget line item.

For each line item, complete the following:

Original budget amount per award agreement: List the amounts from your original award agreement.

Budget Modifications: If you reduced a line item, list a negative number in amount of the reduction. If you increased a line item, list the positive amount of the increase. The total for this column must equal \$0.00. Do not include de-obligations in this column.

Prior De-obligations: If you de-obligated any funds during your award, list the amount of de-obligation in positive numbers in this column.

Amount Drawn: List the amount of funds drawn under each line item.

Amount remaining to be de-obligated: This field will pre-fill.

Applicants & Beneficiary Summary

This form must be completed and submitted with the final claim on the award.

At the top of the form, indicate with an “X” the appropriate award activity. If a project involves more than one activity, submit a separate sheet for each activity as well as a total sheet. The total sheet must reflect the number of persons for the entire award, non-double counted [if the same person is involved in more than one housing activity - only count the person once on the total sheet].

Cumulative Applicants: Report information on all persons that have completed an application for the program from the beginning of the award period.

Cumulative Beneficiaries: Report information on all persons benefiting from the program from the beginning of the award period.

Below are the instructions for completing the form. Keep in mind, the left side of the form is for Applicants and the right side of the form is for Beneficiaries.

Total Households – Enter the total number of households that applied for and received assistance.

Total Persons – This will pre-fill once you enter line 1-10.





Line 1-10: List the number of persons that applied for and received assistance based on their ethnicity.

Line 11: This will prefill.

Line 12: List the number of low and moderate-income persons. Low and moderate-income persons have incomes less than 80% of area median income (adjusted for household size) as established by HUD. This will pre-fill on the Beneficiary side of the form.

Line 13: List the number of disabled persons (persons with a physical or mental impairment).

Line 14: List the number of elderly persons (persons aged 62 and over).

Line 15: List the number of persons living in Female Headed Households. A female head of household cannot be a single female it must be a female with a dependent.





CHAPTER 3 - CDBG-D Funds Management

a. CDBG-D Leveraging Funds

The leverage requirement for both the CDBG and CDBG-D programs is ten percent (10%) of the total amount of CDBG or CDBG-D funds drawn minus administration costs.

The types of leverage for CDBG and CDBG-D projects/programs that may be accepted are as follows:

- Cash contributions including those from beneficiaries of CDBG assistance;
- Cash or other forms of contributions from recipients of CDBG contracts;
- CDBG Program Income;
- Grant equivalent of the present discounted cash value of the yield foregone in a below-market interest rate loan;
- The non-federal cost of infrastructure improvements directly required for CDBG-assisted projects.
- AHP funds from the Federal Home Loan Bank;
- The appraised value of donated land (less any debt that remains as a lien against the property).
- Forbearance of state and/or local taxes, charges, or fees;
- The value of waived fees or charges associated with the transfer or development of real estate;
- Donated or voluntary labor (unskilled labor is currently valued at the rate of \$10/hour) or professional services (the value of skilled labor or professional services is valued at the contributors customary rate);
- Donated construction materials, not acquired with federal funds. Such contributions must be valued at published standardized costs and documentation of the value must be maintained;
- Governmental grants, from HUD or USDA Rural Development, under certain circumstances; and
- Neighborhood Assistance Program (NAP) Credits and Build Indiana Funds.

Ineligible Forms of Leverage:

- Contributions made from certain federal/state resources including CDBG and HOME funds, and Emergency Shelter Grants; and
- Overhead costs such as office space or utilities and costs that cannot be directly attributed to the grant.

This chapter outlines the process for setting up your specific development with IHCDA, how to draw funds from IHCDA, and what must be submitted to complete your development.

This chapter outlines the process for setting up your specific development with IHCDA, how to draw funds from IHCDA, and what must be submitted to complete your development. The Funds Management files are available on our website for download at: <http://www.in.gov/ihcda/>.

b. CDBG-D Leveraging Funds

BUDGET LINE ITEMS

ADMINISTRATION – The administration line item includes the costs directly related to administering an IHCDA award and complying with the regulations associated with these funds. Recipients are allowed to draw down this line item as costs are incurred.

Eligible costs include:





- Staff salaries, and related costs of the recipient's staff associated with reporting, compliance, monitoring, or financial management
- Travel costs incurred for official business in carrying out the program
- Other costs for goods and services required for administration of the program. Including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental of office space.

ACQUISITION – Limited to the purchase price (at or below appraised value) and related costs associated with the acquisition of real property. The Recipient of a CDBG award is required to use a title company when purchasing or selling assisted properties. All donated property must have a title search demonstrating that the property is free and clear of any encumbrances, which must be submitted to IHCDA.

NEW CONSTRUCTION

Eligible costs include:

- Hard costs associated with new construction activities.
 - Utility connections including off-site connections from the property line to the adjacent street.
 - Site work related to driveways, sidewalks, landscaping, etc.
 - Related infrastructure costs - improvements to the development site that are in keeping with improvements made to surrounding, standard housing activities. Site improvements may include on-site roads and water and sewer lines necessary to the development.
 - Costs to construct an on-site management office, the apartment of a resident manager, or laundry or community facilities which are located within the same building as the housing, and which are for the use of the tenants and their guests.
 - Stoves, refrigerators, built in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.
 - Contingency costs used for unanticipated hard cost overruns or change orders.
 - Costs associated with lead hazard testing includes risk assessments, paint tests, dust wipes, etc.
- The limits for this line item are \$800 - \$1,000 per unit.**

REHABILITATION

Eligible costs include:

- Hard costs associated with rehabilitation activities.
- Lead-based paint interim controls and abatement costs.
- Mold remediation.
- Utility connections including off-site connections from the property line to the adjacent street.
- Related infrastructure costs – improvements to the development site that are in keeping with improvements made to surrounding, standard housing developments. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multifamily rental housing, costs to rehabilitate an on-site management office, the apartment of a resident manager, or laundry or community facilities that are located within the same building as the housing and are for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.





- Contingency funds used for unanticipated hard cost overruns or change orders.
- Costs associated with lead hazard testing includes risk assessments, paint tests, dust wipes, etc.
The limits for this line item are \$800 - \$1,000 per unit.

RELOCATION – This includes relocation payments and other relocation assistance for permanently and/or temporarily relocated individuals and families where assistance is required and appropriate. Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket expenses for temporary relocation purposes. For additional information on relocation and displacement, please refer to the information provided in the URA chapter.

DEMOLITION – Costs associated with the demolition and clearance of existing structures.

**ENVIRONMENTAL AND HISTORIC REVIEW, PROGRAM DELIVERY, DEVELOPER FEE,
RELOCATION and DEMOLITION:**

Costs are drawn along with the associated activity.

Environmental and Historic Review – This line item includes expenses associated with the Section 106 Historic Review and Environmental Review Release Of Funds process. For further information, please read the *Environmental and Historic Review User Guides* (available for download within the Environmental chapter) or contact your IHCDA Real Estate Production Analyst.

Eligible costs include:

- Professional services
- Publication costs
- Photocopying
- Postage

Program Delivery costs – Program delivery costs are those costs that can be directly tracked by address. They include soft costs and client related costs that are reasonable and necessary for the implementation and completion of the proposed housing activity. Recipients are allowed to draw down as costs are incurred by eligible activity.

Eligible costs include:

- *Engineering/Architectural Plans*
- *Plans, specifications, work write-ups*
- *Inspections and lead testing*
- *Cost estimates*
- *Building permits*
- *Demolition permits*
- *Credit reports*
- *Title searches*
- *Recording fees*
- *Travel to and from site*
- *Builders risk insurance*





- *Consultant fees*
- *Client intake/income verification*
- *Impact fees*
- *Legal and accounting fees*
- *Phase I Environmental Assessments*

Developer Fee – Reasonable developer’s fees are available. The developer fee along with administration, program delivery and environmental review cannot exceed 20%.

INELIGIBLE COSTS

The following costs are ineligible for reimbursement from CDBG funds, unless specifically listed as eligible in an individual Eligible Activity description:

- Commercial development costs – All costs associated with the construction or rehabilitation of space within a development that will be used for non-residential purposes such as offices or other commercial uses. This does not include the common area used by tenants of rental property or the leasing office of the apartment manager. CDBG awards cannot be used to underwrite any portion of the commercial development costs. The expenses incurred, and income to be generated from, commercial space must be reported in a separate “Annual Expense Information” sheet and 15-year proforma (see Application Forms).
- Replacement Reserves – Funds used to initially capitalize a reserve fund used for major capital repairs to a permanent supportive or rental housing facility. These funds cannot be applied to a CDBG award. These funds can be capitalized either through operating cash flow or through the development budget on the Uses of Funds exhibit.
- Operating Reserves – Funds used to initially capitalize a reserve fund that covers operating expenses when there are rental income shortfalls over the life of a permanent supportive or rental development. This line item must be included on the Uses of Funds exhibit. These funds cannot be applied to a CDBG award.
- Cost associated with any IHCDA application preparation.
- Purchase or installation of luxury items, such as swimming pools or hot tubs.
- Purchase or installation of equipment, furnishings, tools, or other personal property that is not an integral structural feature, such as window air conditioner units
- Mortgage default/delinquency correction or avoidance.
- Loan guarantees.
- Annual contributions for operation of public housing.
- Tenant based rental assistance.
- Costs associated with any financial audit of the recipient.

Quarterly Reporting

A quarterly report narrative for each eligible activity is required. The report must be submitted electronically to the Funds Management Specialist by the 15th of the month following the end of the quarter. The quarterly report form is included in the Funds Management chapter.

Submit to brichardson@ihcda.in.gov or drwilliams@ihcda.in.gov

Content of QPR Narratives:

- When no action has been taken in the quarter and none was planned, no narrative statement is needed.
- When no action was taken in the quarter but action was planned, explain the reason for the lack of progress
- When action was taken in the quarter and action was planned, describe the status of the project, e.g. under contract, work started, awaiting billing





THE SET-UP PROCESS

Before a recipient can submit a Claim/Draw to IHCDA for a specific address, the recipient must first submit a “set-up” for the address.

The recipient is responsible for expending on each site address **exactly** the amount of CDBG funds that have been “set-up.” If the CDBG subsidy amount changes (either increases or decreases) during the course of award implementation, the recipient must submit a revised set-up report for the specific address affected.

Submit the following for each property address:

- c. Summary of Assisted Sites ;
- d. Rental set-up form or Owner Occupied Rehabilitation set up form or Demolition;
- e. Lead Form

Summary of Assisted Sites

The Summary of Assisted Sites (SOAS) is used as a cumulative listing of each property receiving assistance through the CDBG award. Every property that appears on this form must be submitted to IHCDA in the order listed on the form. The SOAS and the Set-up must be sent to IHCDA before the Claim is submitted.

Fill out the Recipient Name and the Award Number.

Enter the dollar amounts as shown on your Release of Funds Letter in the box above each Budget Line Item. In the case of Program Income, enter the dollar amount you are allocating to each eligible activity.

For each property, enter the Name of the project, the Property Address, City, Zip and the dollar amount you want to Set-up for that property under each applicable Budget Line Item.

The total amount shown per address must be the amount listed on the Set-up Form for that address. If Program Income is being used, a SOAS for both CDBG funds and Program Income (PI) will need to be submitted. The total of both SOAS forms will be the total on the set up form.

The form totals all Set-ups listed.

The form also lists the Balance of Funds you have left to Set-up.

RENTAL SET-UP FORM

The upper left-hand corner of the form is for IHCDA use only.

In the upper right-hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the e-mail address, phone and fax number of the person completing the form, the date the Section 106 concurrence was received, and the date the household’s income was verified.

Check the Appropriate Box: Original Submission or Revision.





Name of Award Administrator: Enter the name of the Procured Award Administrator (if applicable).

Faith Based Organization?: Is the Award Administrator a faith-based organization? Please place a checkmark in Yes or No.

Institution of Higher Education?: Is the Award Administrator an Institution of Higher Education? Please place a checkmark in Yes or No.

Name of Award Subrecipient: Enter the name of the Award Subrecipient (if applicable).

Faith Based Organization?: Is the Award Subrecipient a faith-based organization? Please place a checkmark in Yes or No.

Institution of Higher Education?: Is the Award Subrecipient an Institution of Higher Education? Please place a checkmark in Yes or No.

Part A: Recipient Information

Item 1 Name of Recipient: Enter the award recipient’s name.

Item 2 Recipient Tax ID and DUNS Number: Enter the Employer Tax ID and DUNS Number of the recipient.

Item 3 Funds for Address: Enter the total amount of CDBG Funds requested and PI being used for this address. This amount should be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

Item 1 Street Address: Enter the street address of the property.

Item 2 City & Zip Code: Enter the City and Zip code of the property.

Part C: Rental Information Only

Item 1 Name of Owner or Organization: Enter the name of the property owner/organization.

Item 2 Street Address: Enter the street address of the owner/organization.

Item 3 City, Zip Code, & Phone Number: Enter the information for the owner/organization.

Tenure Type: The tenure type for rental activities is Rental.

Total Units or Beds Upon Completion: Enter the total number of Units, regardless if they are assisted or not. Do not list the number of bedrooms within the Unit. You will only enter the number of Beds if the award was made based on beds.

Total CDBG Assisted Units/Beds Upon Completion: Enter the total number of CDBG Units. Do not list the number of bedrooms within the Unit. You will only enter the number of Beds if the award was made based on beds.

Total non-assisted but eligible units Upon Completion: Enter the total number of Units that are **not** CDBG-Assisted but **are** CDBG-Eligible. If you enter a number, this unit has **no** CDBG Funds in it; however, it will be considered match/leverage eligible. You will only enter the number of Beds if the award was made based on beds.





Total Market Rate Units: Enter the Number of Units that have NO CDBG Funds and also do not qualify as Non CDBG-Assisted but CDBG-Eligible. You will only enter the number of Beds if the award was made based on beds.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located.

County	Code	County	Code	County	Code
Adams	001	Hendricks	063	Pike	125
Allen	003	Henry	065	Porter	127
Bartholomew	005	Howard	067	Posey	129
Benton	007	Huntington	069	Pulaski	131
Blackford	009	Jackson	071	Putnam	133
Boone	011	Jasper	073	Randolph	135
Brown	013	Jay	075	Ripley	137
Carroll	015	Jefferson	077	Rush	139
Cass	017	Jennings	079	St. Joseph	141
Clark	019	Johnson	081	Scott	143
Clay	021	Knox	083	Shelby	145
Clinton	023	Kosciusko	085	Spencer	147
Crawford	025	Lagrange	087	Starke	149
Daviess	027	Lake	089	Steuben	151
Dearborn	029	LaPorte	091	Sullivan	153
Decatur	031	Lawrence	093	Switzerland	155
DeKalb	033	Madison	095	Tippecanoe	157
Delaware	035	Marion	097	Tipton	159
Dubois	037	Marshall	099	Union	161
Elkhart	039	Martin	101	Vanderburgh	163
Fayette	041	Miami	103	Vermillion	165
Floyd	043	Monroe	105	Vigo	167
Fountain	045	Montgomery	107	Wabash	169
Franklin	047	Morgan	109	Warren	171
Fulton	049	Newton	111	Warrick	173
Gibson	051	Noble	113	Washington	175
Grant	053	Ohio	115	Wayne	177
Greene	055	Orange	117	Wells	179
Hamilton	057	Owen	119	White	181
Hancock	059	Parke	121	Whitley	183
Harrison	061	Perry	123		

Type of Ownership: Check the appropriate box.

Complete for CHDO (Community Housing Development Organization) Projects: Do not check a box.

Enter the following District Numbers: State Representative District, State Senate District, and U.S. Congressional District for the specific address. You can only enter one number on each line.

Set-up Form – Page 2 - Part D: Household Characteristics





Provide information on the characteristics of each household occupying a unit, or the household that will be occupying a unit, to be assisted with CDBG funds. If a rental unit is unoccupied, enter unit number, number of bedrooms, and "9".

Last Name: Enter the Last Name of the Person Occupying the Unit

Unit Number: List unit number.

Number of Bedrooms: Enter 0 for single room occupancy unit or for efficiency unit, 1 for 1 bedroom, 2 for 2 bedrooms, etc.

Occupancy & Reason: Enter a 1 if the unit is occupied by a tenant or 9 if it is vacant. Also, enter a Reason that the household is moving into the unit. See Below:

Reason: Enter the reason the household is moving into the unit.

- Enter 1 for the housing itself – i.e. better quality, more affordable, etc.
- Enter 2 for a change in family situation – i.e. divorce, marriage, children, etc.
- Enter 3 for Economic Opportunity – i.e. closer to current job, closer to job opportunities, etc.
- Enter 4 for Schools – i.e. closer to current school, in desired school district, etc.
- Enter 5 for Community Amenities – i.e. closer to needed services, shopping, etc.

Monthly Rent (Including Utilities):

Tenant Contribution: Enter the actual rent to the nearest dollar, including utilities, paid by the tenant at the time CDBG funds were committed to the development. If the tenant's rent does not include utilities or if the tenant's rent includes only partial utilities, these costs must be added to the rent. Use actual utility costs or the utility allowance schedule.

Subsidy Amount: Enter the amount the tenant receives as a rent subsidy payment (including any utility allowances paid directly to the tenant) to the nearest dollar. If the tenant does not receive a tenant subsidy payment, enter 0. Examples of tenant subsidies might include Section 8 or HAP vouchers.

Total Rent: This box will pre-fill.

Housing Costs:

Previous Housing Cost: Enter the household's previous housing cost. This would be their previous rent or mortgage payment plus utilities.

Current Housing Cost: This will pre-fill from the total rent column.

Income Data:

Monthly Gross Income: Use the Section 8 definition of income as described in the HUD guidebook "Technical Guide for Determining Income and Allowances for the HOME Program," to calculate the Gross Annual Income. Divide the Gross Annual Income by 12 and enter the **monthly** gross household income.

Percent of Area Median Income: Enter the percentage.





Household Data:

Hispanic Household: Place an “x” in the column if the head of household is Hispanic. If a person is Hispanic you must also complete the Race/Ethnicity column. Hispanic is not considered a Race/Ethnicity Type.

Your application should ask if the household is Hispanic and list the following Race/Ethnicity Types for them to choose from.

Race/Ethnicity – Head of Household: For each occupied residential unit, enter one code only based on the following:

- 11-White
- 12-Black/African American
- 13-Asian
- 14-American Indian/Alaskan Native
- 15-Native Hawaiian/Other Pacific Islander
- 16-American Indian/Alaskan Native & White
- 17-Asian & White
- 18-Black/African American & White
- 19-American Indian/Alaskan Native & Black/African American
- 20-Other Multi-Racial

Size of Household: Enter the code based on the following:

- 19- 1 Person
- 20- 2 Persons
- 21- 3 Persons
- 22- 4 Persons
- 23- 5 Persons
- 24- 6 Persons
- 25- 7 Persons
- 26- 8 or more Persons
- 27- Vacant

Type of Household: For each residential unit, enter one code based on the following definitions:

- 1-Single/Non-Elderly: One-person household in which the person is non-elderly.
- 2-Elderly: One or two person household with a person at least 62 years of age.
- 3-Related/Single Parent: A single parent household with a dependent child or children (18 years old or younger).
- 4-Related/Two Parent: A two-parent household with a dependent child or children (18 years old or younger).
- 5-Other: Any household that is not included in the above categories, including two or more unrelated individuals.
- 9-Vacant Unit

Rental Assistance: Rental Activities enter one code. If you have a rent subsidy, you may use code 1, 2, or 3.





1-Section 8: Tenants receiving assistance through the Section 8 Certificate Program under 24 CFR part 882 or Section 8 Housing Voucher Program under 24 CFR part 887.

2-HOME Tenant-Based Rental Assistance: Tenants receiving rental assistance through the HOME program.

3-Other Assistance: Tenants receiving rental assistance through other Federal, State, or local rental assistance programs, including rental assistance payments administered by the U.S. Department of Health and Human Services or through the State’s Department of Social Services.

4-No Assistance

9-Vacant Unit

Minor & Non Minor/Dependents: Enter the number of minor children that will be occupying the unit in the 1st column. Enter the number of non-minor children or dependents in the 2nd column.

Female Head of Household: Place an “X” in the column if a female is the head of the household. To be a Female Head of Household, there must be a minor or a dependent living in the unit. Therefore, a Single Female cannot be a Female Head of Household.

Elderly Head of Household: Mark an X in the 1st column if the head of household is elderly. Enter the number of persons over 62 in the household in the 2nd column.

Disabled Head of Household: Place an “X” in the 1st column if the head of household is disabled. Enter the number of disabled persons in the household in the 2nd column.

DEMOLITION SET-UP FORM – PAGE 1

At the time of project completion the recorded lien for each property must be submitted to IHCDA

The upper left-hand corner of the form is for IHCDA use only.

In the upper right-hand corner of the form, fill in the award number, award expiration date, name of person completing the form, the date you are preparing the set-up form, the e-mail address, phone and fax number of the person completing the form, the date the Section 106 concurrence was received, and the date the household income was verified.

Check the Appropriate Box: Original Submission or Revision.

Name of Award Administrator: Enter the name of the Procured Award Administrator (if applicable).

Faith Based Organization?: Is the Award Administrator a faith-based organization? Check Yes or No.

Institution of Higher Education?: Is the Award Administrator an Institution of Higher Education? Check Yes or No.

Name of Award Subrecipient: Enter the name of the Award Subrecipient (if applicable).

Faith Based Organization?: Is the Award Subrecipient a faith-based organization? Check Yes or No.

Institution of Higher Education?: Is the Award Subrecipient an Institution of Higher Education? Check Yes or No.





Part A: Recipient Information

- Item 1 Name of Recipient: Enter the award recipient’s name.
- Item 2 Recipient Tax ID and DUNS Number: Enter the Employer Tax ID and DUNS Number of the recipient.
- Item 3 Amount of Development Fund for Address: Enter the total amount of CDBG Funds requested and Program Income used for this address. This amount must be the total amount listed on the Summary of Assisted Sites.

Part B: Project Information

- Item 1 Name of Owner: Enter the Last and First name of the owner of the property to be rehabilitated.
- Item 2 Street Address: Enter the street address of the property to be rehabilitated.
- Item 3 City & Zip Code: Enter the City and Zip code of the property to be rehabilitated.

Tenure Type: Check the Owner Occupied Rehabilitation box.

Total Units Upon Completion: This cell is pre-filled at 1 for Owner Occupied Rehabilitation Awards.

Total Development Fund Assisted Units: This cell is pre-filled at 1 for Owner Occupied Rehabilitation Awards.

Total non-assisted but eligible units: This cell is pre-filled at 0 for Owner Occupied Rehabilitation Awards.

County Name: Enter the County Name.

County Code: Enter county code for the county in which the development is located.

Type of Ownership: For Owner Occupied Rehabilitation check the individual box.

Complete for CHDO (Community Housing Development Organization) Projects: Do not check a box.

Enter the following District Numbers: State Representative District, State Senate District, and U.S. Congressional District for the specific address. You can only enter one number on each line.

Set-up Form – Page 2 - Part D: Household Characteristics

Provide information on the characteristics of each household to be assisted with Development Fund funds.

Unit Number: Is pre-filled

Number of Bedrooms: Is pre-filled

Occupancy & Reason: Is pre-filled

Reason: Is pre-filled

Monthly Rent





Tenant Contribution: Is pre-filled

Subsidy Amount: Is pre-filled

Total Rent: Is pre-filled

Housing Costs

Previous Housing Cost: Is pre-filled

Current Housing Cost: Is pre-filled

Income Data:

Monthly Gross Income: Use the Section 8 definition of income as described in the HUD guidebook “Technical Guide for Determining Income and Allowances for the HOME Program,” to calculate the homebuyer’s Gross Annual Income. Divide the Gross Annual Income by 12 and enter the **monthly** gross household income.

Enter 80% of the area median income for the household size: You will find the 80% AMI number listed on the Income Limits chart provided by IHCDA. Income Limits are updated yearly and given to Award Recipients as soon as they are available from HUD. Use the most current income limits.

Once you verify income, if a contract is not signed within 6 months then you must re-verify the household’s income. At the time of re-verification you must use the income limits currently in effect. Keep in mind, the income limits are subject to increase or decrease from year to year.

Percent of Area Median Income: For each occupied residential unit, this number automatically calculates based on the household’s monthly income and low-income (80% of AMI) amount entered for the household size.

Household Data:

Hispanic Household: Place an “x” in the column if the head of household is Hispanic. If a person is Hispanic you must also complete the Race/Ethnicity column. Hispanic is not considered a Race/Ethnicity Type.

Race/Ethnicity – Head of Household: For each occupied residential unit, enter one code only based on the following:

- 11-White
- 12-Black/African American
- 13-Asian
- 14-American Indian/Alaskan Native
- 15-Native Hawaiian/Other Pacific Islander
- 16-American Indian/Alaskan Native & White
- 17-Asian & White
- 18-Black/African American & White
- 19-American Indian/Alaskan Native & Black/African American
- 20-Other Multi-Racial

Size of Household: Enter the code based on the following:

- 1- 1 Person
- 2- 2 Persons
- 3- 3 Persons
- 4- 4 Persons





- 5- 5 Persons
- 6- 6 Persons
- 7- 7 Persons
- 8- 8 or more Persons
- 9- Vacant

Type of Household: For each residential unit, enter one code based on the following definitions:

- 1-Single/Non-Elderly: One-person household in which the person is non-elderly.
- 2-Elderly: One or two person household with a person at least 62 years of age.
- 3-Related/Single Parent: A single parent household with a dependent child or children (18 years old or younger).
- 4-Related/Two Parent: A two-parent household with a dependent child or children (18 years old or younger).
- 5-Other: Any household that is not included in the above categories, including two or more unrelated individuals.
- 9-Vacant Unit (Not applicable for Homeowner Rehabilitation)

Rental Assistance: Homeowner Rehabilitation enter a 4

Minor & Non Minor/Dependents: Enter the number of minor children that will be occupying the unit in the 1st column. Enter the number of non-minor children or dependents in the 2nd column.

Female Head of Household: Place an "X" in the column if a female is the head of the household. To be a Female Head of Household, there must be a minor or a dependent living in the unit. A Single Female cannot be a Female Head of Household.

Elderly Head of Household: Mark an X in the 1st column if the head of household is elderly. Enter the number of persons over 62 in the household in the 2nd column.

Disabled Head of Household: Place an "X" in the 1st column if the head of household is disabled. Enter the number of disabled persons in the household in the 2nd column.

Lead-Based Paint Form

Step 1: Age of Structure Enter the year the structure was built.

Step 2: Assess the Situation Determine if your rehabilitation qualifies under any of the Lead Based Paint Exemptions. If so, check the appropriate box and submit the documentation listed in red on the form. If your project qualifies as exempt, do not complete the remainder of the form.

Does Not Disturb De Minimus Level:

This is no longer an Exempt Activity. Please see the Lead Chapter of the Manual to Determine if you can check this box. You must submit a copy of the work write-up.

Rehabilitation Activities:

Rehabilitation Cost: Enter the amount of rehabilitation dollars listed on the summary of assisted sites.





Amount of Lead Reduction Assistance: Enter the amount of lead reduction assistance. Please attach the work write up, if applicable. Lead reduction assistance is the dollar amount that you are spending to correct the lead issues found in the Risk Assessment.

Adjusted Rehabilitation Cost: This is the difference between the amount of CDBG funds for Rehab and the amount of lead reduction assistance. The dollar amount must be below at or below \$25,000. If not, you are required to use an abatement contractor to abate the lead in the home. Please call IHCDA before you continue.

Buy & Rehab Activities:

Federal Assistance: Enter the total amount of CDBG assistance listed on the summary of assisted sites.

Acquisition Cost: Enter the acquisition cost of the property.

Rehabilitation Cost: Enter the total amount of rehabilitation that will be completed on the property.

Amount of Lead Reduction Assistance: Enter the amount of lead reduction assistance.

Adjusted Rehabilitation Cost: This is the difference between the amount of CDBG Funds and amount of lead reduction assistance. The dollar amount must be below at or below \$25,000. If not, you are required to use an abatement contractor to abate the lead in the home. Please call IHCDA before you continue.

Step 3: Address the Lead-Based Paint

Acquisition Only:

Under Acquisition Only awards, recipient must perform a visual assessment for Lead Based Paint. A paint test only needs to be done if the visual assessment fails.

Person Completing Visual Assessment: Enter the person's name.

Name of Organization: Enter the name of the organization the employs the person doing the assessment.

Visual Assessment Certificate Date: Enter the date on which the person completing the assessment received their Visual Assessment Certification.

Date of Visual Assessment: Enter the date the visual assessment was completed.

Result of Visual Assessment: Select either Pass or Fail.

Result of Paint Test: If the visual assessment failed, you must do a paint test or assume lead-based paint. Enter the result of the paint test as either Pass or Fail, or Assume Lead-Based Paint. Remember that you must pass Clearance.

Rehabilitation And Buy & Rehab:

Rehabilitation less than \$5,000: A risk assessment is **not** required. Enter either Paint Test or Assume.

Rehabilitation greater than \$5,000: A risk assessment is required. Check Risk Assessment and Paint Test, Dust Wipes and Soil Sample, if applicable OR check Risk Assessment and Assume Lead-Based Paint.

*If the box "Does Not Disturb De Minimus Level" is checked you must do a Risk Assessment and a Paint Test. However, you are **not** required to use safe work practices or pass lead clearance. Check Risk Assessment and Paint Test*





Risk Assessment Information: Enter the Date, Name and License Number of the Risk Assessor.

Enter the test results:

- Pass means No Lead-Based Paint Hazards Were Found.
- Fail means Lead-Based Paint Hazards Were Found.

If the Rehab dollars are less than or equal to \$5,000 and the Paint Test Passed submit the following:

- Lead Form
- Paint Test Results
- Summary Inspection Form

If the Rehab dollars are greater than \$5,000 and the Paint Test Passed submit the following:

- Lead Form
- All Test Results
- Summary of Lead-Based Paint Risk Assessment Form

If Does Not Disturb De Minimus Level (regardless if pass or fail) submit the following:

- Lead Form
- Paint Test Results
- Summary of Lead-Based Paint Risk Assessment Form

Step 4: Clearance Testing at Unit Completion

Until a property address receives a final “passed” clearance test, 10% of the funds Set-up under the Rehabilitation Budget Line Item will not be paid.

Upon Completion of the unit, enter the Date of Clearance Test & Clearance Date. Submit the following:

- Lead Form – Step 4 Completed
- Lab Results (Dust Wipes)
- Hazard Reduction Completion Notice Form

The Lead Form, Lab Results, and the Hazard Reduction Completion Notice can be submitted with the final rehab draw on the address. However, IHCDA recommends these items be submitted to the IDIS Associate before the claim is submitted, as this will speed up the draw process.

Final Lead Clearance

Until a property address receives a final “passed” clearance test, 10% of the funds Set-up under the Rehabilitation Budget Line Item will not be paid.

When submitting the final lead clearance, please complete the remainder of the Lead Form (see the Set-Up Section of this manual). The following should be included:

- Lead Form – Step 4 Completed
- Lab Results (Dust Wipes)
- Hazard Reduction Completion Notice Form





The Lead Form, Lab Results and the Hazard Reduction Completion Notice can be submitted with the final rehab draw on the address. However, IHCDA recommends these items be submitted to the IDIS Associate before the claim is submitted, as this will speed up the draw process.

e. Pre Agreement Costs

The following costs may be incurred by the applicant, subrecipient of the applicant or a professional administrator procured by the applicant; however these entities need to understand the level of risk that is involved by completing these actions. If an organization chooses to expend funds prior to receiving NSP award approval, IHCDA is in no way obligated to provide funding for the development. The organization is assuming all of the risk associated with costs incurred prior to receiving a CDBG award.

Costs associated with the preparation of an application are not eligible for reimbursement.

The following costs may be incurred by the applicant, sub recipient or administrator procured by the applicant:

Cost (Budget Line Item)	When Eligible Costs May Be Incurred	How Long You Have to Claim Costs	Other Requirements That Must be Met in Order to be Reimbursed
Administration	As of the Board Award Date	N/A	Must have received an IHCDA award
Environmental and Historic Review	Up to six months prior to the initial application date	One year from the date of initial application	N/A
Program Delivery	Up to six months prior to the initial application date	One year from the date of initial application	N/A
Acquisition	Up to six months prior to the initial application date	One year from the date of initial application	Must have completed the entire Environmental and Historic Review Process (including approval from IHCDA)
Construction or Rehabilitation	Up to six months prior to the initial application date	One year from the date of initial application	Must have completed the entire Environmental and Historic Review Process (including approval from IHCDA)

1. The costs may be reimbursed from the CDBG award assuming that all federal requirements were adhered to incurring the costs and procuring an award administrator.

All costs not listed above must be incurred after award execution and receipt of a Release of Funds letter from IHCDA. Any costs incurred prior to this and not listed above will be disallowed by IHCDA.

f. Claim Voucher

Claims are submitted online. Register on our website <http://www.in.gov/ihcda/> to begin claiming funds.

Administration costs can be claimed without a set up. Set ups are required for claiming funds for addresses.

Submit the claim online. Print the receipt and summary. Sign the receipt. Scan the claim receipt, summary and documentation. Email the scanned documents to claims@ihcda.in.gov





The turnaround for payment of claims is 10 business days from the day IHCDA receives a claim that includes all documentation necessary to support the claimed amount. If additional documentation is required, it may take longer than 10 business days.

All payments will be made by ACH. The banking information must be submitted prior to submitting the first claim. An automatic email will be sent to the email address of the person who submits the claim when the ACH payment is sent.

Contract execution forms must be submitted prior to submitting the claim for any contract.

CLAIM VOUCHER NARRATIVE

Narratives are entered online.

7. Update on the accomplishments made during the award.
8. Update on any problems or delays encountered or anticipated in accomplishing the award during its award timeframe.
9. Update on how the match/leverage requirement will be met.
4. Local Units of Government Only – answer questions 4(a) and 4(b) updating on the actions being taken to affirmatively further fair housing.

Supporting Documentation Requirements

The following outline the supporting documentation requirements for the claims process.

1. Include a detailed summary listing expenditures being requested for reimbursement by line item.
2. Include a copy of all invoices. Construction invoices must contain a detailed description of the work performed along with the address of the property. Hand written invoices and invoices with hand written alterations will not be accepted.
3. Include a copy of the HUD1 with claims for acquisition. Claims requesting funds for acquisition prior to closing must include a copy of an executed good faith estimate (must be signed) with a breakdown of the total selling cost, HOME amount, and balance of funds.
4. Supporting documentation for claims for the Administration, Environmental Review, Program Delivery, CHDO Operating Costs, budget line items requesting reimbursement for time spent on the undertaking by staff of a local unit of government, sub recipient, or not-for-profit organization must include: name of the employee, dates worked, number of hours worked, the chargeable rate, and the total wage computation.

DO NOT include actual time sheets with the drawdown submission; however, the recipient must keep this documentation on file for IHCDA monitoring purposes. Additionally, at monitoring, IHCDA staff will be documenting that the proper hourly rate and fringe benefits is being billed to the IHCDA program





5. **Developer's fees line item can be drawn by requesting this line item on letterhead of your organization.**
6. Initial Drawn Down of Rent-up Reserve – in order to draw this line item, you must submit a request with your claim voucher and the appropriate support documentation in the amount of the request on your agency's letterhead. This allows the drawing of the funds to be held by the organization until needed, however, when the rent-up reserve is needed, a request must be made to your Compliance Monitor.
7. Use of the rent-up reserve – in order to draw these funds you must request permission from IHCDA. These funds can be drawn as often as needed. The request should be in writing and must include support for the draw. You should include with your request a current income and expense report for the previous three months and the documentation of where the rent-up reserve payment is being made. We may request additional documentation during our review. You will receive a formal approval/denial letter allowing you to utilize these funds.
8. Fringe benefits must also be listed on the support documentation summary.
9. Indirect costs are chargeable to the program in one of two ways and can only be used for the administration and CHDO Operating Costs line items:
 - Costs may be maintained directly, such as accurate counts of telephone calls, copies made, and postage spent.
 - Costs may be allocated through an indirect cost allocation plan. The indirect cost allocation plan must be approved by a federal or state agency for IHCDA to recognize this plan. The following documentation must be included with the first drawdown only:
 - A copy of the agency's indirect cost allocation plan;
 - A summary of costs included in the indirect cost allocation plan; and
 - Approval letter from federal or state agency that approved the indirect cost allocation plan.
10. The mileage rate per mile is \$.44.

Inspection Certification Form

This form is signed when the rehabilitation or new construction work has been completed and is then placed in the file for monitoring purposes.

Fill out the top of the Form

Contractor Statement: Documents that the contractor has satisfactorily completed the work according to the construction contract.

Inspector Statement: Documents that a physical inspection of the property has been completed and that the work items corrected at a minimum meet the stricter of the local rehabilitation standards or the Indiana Building Code.

Property Owner Statement: Documents that all work items have been completed in accordance with the contract and that the homeowner understands the final payment will be disbursed to the contractor.

Receipt & Disbursement of Funds

The following outlines the time frame in which the receipt of your federal funds must be expended.

Establish account for CDBG funds.





CDBG recipients may choose to either establish a separate fund within the general fund or establish a separate bank account for the CDBG program. The bank account must be non-interest bearing.

Disburse CDBG funds in a timely manner.

CDBG recipients have five business days to disburse drawdown from their local CDBG account to a \$5,000 balance or less. The CDBG recipient must begin counting the three days from the date it receives the ACH from IHCDA. Additionally, if the recipient disburses the CDBG funds to a sub recipient or award administrator, they, in turn, must achieve a \$5,000 balance or less within five business days of receiving the funds.

If the recipient is unable to disburse the federal funds in a timely manner, the recipient must immediately return the funds to IHCDA.

Retainage Policy

For all awards, IHCDA will hold the final \$5,000 of an award until all completion reports, match/leverage documentation, and all other supporting documentation is received and approved. Additionally, IHCDA will hold the final \$5,000 of an award until the final monitoring has been completed and all findings and concerns associated with it have been resolved.

Return of Funds

Complete and submit the Return of Funds form along with the funds to the IHCDA Staff Accountant.

Financial Management Forms

The following ledgers help to control receipts and disbursements of federal funds as well as ensuring that you do not over expend your budget line items.

Federal Cash Control Register

The Federal Cash Control Register must be used to record requests for payments submitted, checks or ACH's received, and disbursements. The balance of federal cash on hand on both a daily and cumulative basis is calculated. The register documents the timely disbursement of the CDBG funds. It also serves as a crosscheck to total receipts, disbursements, and the cash balance shown in the accounting records. It is imperative to record each transaction as it occurs.

If you employ the services of an award administrator or sub recipient who makes payments with the CDBG funds, this entity is also responsible for keeping a federal cash control register and responsible for disbursing funds in the manner prescribed for the funding source.

When a draw request has been sent to the IHCDA, the request for funds must be recorded in the Federal Cash Control Register section under Request for Payment Submitted column. The columns to complete include the document number, date of request, amount requested. The document number to use is the claim on the Claim Receipt. By maintaining the Request for Payment Submitted section of the Federal Cash Control Register, in-process claims become easier to track.

When funds are received by the recipient, the date the IHCDA ACH is received and the ACH number, and the amount are entered into the Funds Received section. When funds are disbursed, the date of disbursement, check





number, payee, and check amount are recorded in the appropriate boxes of the Disbursements section of the Federal Cash Control Register

Ledger of Expenditure by Site Address

F. Acquisition Section

Complete the information and do not leave any fields blank. There must be a date listed for closing.

G. Contract Section

List all contracts executed using New Construction, Rehabilitation, or Program Delivery funds.

List any changes that occur to the contract including all any change orders.

Project Completion Reports

Rental Completion Report

In the upper right-hand corner of the form enter the date the form is being completed and the Date Rehab/New Construction was completed.

Check the applicable box: Original Submission or Revision.

g. Project Costs

Project Costs: Include all CDBG funds used for the project and all other funds (public and private) with one exception: do not double count. If private funds are used for construction financing and those funds are later replaced by permanent financing, do not report both. Report all CDBG funds expended on the project. (Note: Federal regulations specifically prohibit paying back CDBG funds with CDBG funds.)

For funds other than CDBG, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on number 6 should be the total cost of the project. The total amount of CDBG funds reported in the block titled "Total CDBG Funds" means the total amount of CDBG funds invested into the project.

Item 1 CDBG Funds. Do not include CDBG program income in any of the following three (3) categories.

- (1) Direct Loan. Enter the amount of CDBG drawn for this project in the form of a direct loan. Enter the loan's interest rate, if any. Enter the affordability period as listed in the award agreement. This line should be filled out if payments are being made to IHCDA.
- (4) Program Delivery & Development Subsidy. Enter the amount of CDBG funds drawn for Program delivery and Relocation.
- (3) Deferred Payment Loan (DPL). Enter the amount of CDBG funds drawn for this project in the form of a loan where payment of principal and interest is deferred until a future time. Enter the interest rate, if any. Enter the affordability period as listed in the award agreement.





A Deferred Payment Loan (DPL) is sometimes called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years, or repayment of principal and interest starts after the bank loan is repaid).

Total CDBG Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this CDBG-assisted project.

- (1) Other Federal Funds. Exclude any CDBG funds expended on this project.
- (2) State/Local Appropriated Funds.
- (3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 3 Private Funds.

- (1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).
- (2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the project owner.
- (5) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc. *(Please note that Low Income Housing Tax Credits should NOT be included under Private Grants).*

Total Private Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 4 Low Income Housing Tax Credit Syndication. Enter the net amount of the tax credits.

Item 5 CDBG Program Income. Enter the amount of funds provided from CDBG repayment income.

Item 6 Total Project Cost. Enter the sum of totals for CDBG funds, Public funds, and Private funds.

Demolition Completion Report

In the upper right-hand corner of the form enter the date the form is being completed and the Date Rehab/New Construction was completed.

Check the applicable box: Original Submission or Revision.

h. Project Costs

Project Costs: Include all CDBG funds used for the project and all other funds (public and private) with one exception: do not double count. If private funds are used for construction financing and those funds are later





replaced by permanent financing, do not report both. Report all CDBG funds expended on the project. (Note: Federal regulations specifically prohibit paying back CDBG funds with CDBG funds.)

For funds other than CDBG, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on number 6 should be the total cost of the project. The total amount of CDBG funds reported in the block titled "Total CDBG Funds" means the total amount of CDBG funds invested into the project.

Item 1 CDBG Funds. Do not include CDBG program income in any of the following three (3) categories.

- (1) Direct Loan. Enter the amount of CDBG drawn for this project in the form of a direct loan. Enter the loan's interest rate, if any. Enter the affordability period as listed in the award agreement. This line should be filled out if payments are being made to IHCDA.
- (6) Program Delivery & Development Subsidy. Enter the amount of CDBG funds drawn for Program delivery and Relocation.
- (3) Deferred Payment Loan (DPL). Enter the amount of CDBG funds drawn for this project in the form of a loan where payment of principal and interest is deferred until a future time. Enter the interest rate, if any. Enter the affordability period as listed in the award agreement.

A Deferred Payment Loan (DPL) is sometimes called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years, or repayment of principal and interest starts after the bank loan is repaid).

Total CDBG Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this CDBG-assisted project.

- (1) Other Federal Funds. Exclude any CDBG funds expended on this project.
- (2) State/Local Appropriated Funds.
- (3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 3 Private Funds.

- (1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).
- (2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the project owner.





- (7) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc. *(Please note that Low Income Housing Tax Credits should NOT be included under Private Grants).*

Total Private Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 4 SWEEP Funds. Enter the net amount of SWEEP funds.

Item 5 DOE Funds. Enter the amount of DOE funds.

Item 6 LIHEAP Funds. Enter the amount of LIHEAP funds.

Item 7 CDBG Program Income. Enter the amount of funds provided from CDBG repayment income.

Item 8 Total Project Cost. This is the total for CDBG funds, Public funds, and Private funds.

Owner Occupied Rehabilitation Completion Report

In the upper right-hand corner of the form enter the date the form is being completed and the Date Rehab/New Construction was completed.

Check the applicable box: Original Submission or Revision.

i. Project Costs

Project Costs: Include all CDBG funds used for the project and all other funds (public and private) with one exception: do not double count. If private funds are used for construction financing and those funds are later replaced by permanent financing, do not report both. Report all CDBG funds expended on the project. (Note: Federal regulations specifically prohibit paying back CDBG funds with CDBG funds.)

For funds other than CDBG, to the extent a choice must be made to avoid double counting, report permanent financing rather than construction financing. The total amount reported on number 6 should be the total cost of the project. The total amount of CDBG funds reported in the block titled "Total CDBG Funds" means the total amount of CDBG funds invested into the project.

Item 1 CDBG Funds. Do not include CDBG program income in any of the following three (3) categories.

- (1) Direct Loan. Enter the amount of CDBG drawn for this project in the form of a direct loan. Enter the loan's interest rate, if any. Enter the affordability period as listed in the award agreement. This line should be filled out if payments are being made to IHCDA.
- (8) Program Delivery & Development Subsidy. Enter the amount of CDBG funds drawn for Program delivery and Relocation.
- (3) Deferred Payment Loan (DPL). Enter the amount of CDBG funds drawn for this project in the form of a loan where payment of principal and interest is deferred until a future time. Enter the interest rate, if any. Enter the affordability period as listed in the award agreement.





A Deferred Payment Loan (DPL) is sometimes called a conditional grant (e.g., repayment is required when the project is sold, or is forgiven if the owner does not sell the project for a specified number of years, or repayment of principal and interest starts after the bank loan is repaid).

Total CDBG Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 2 Public Funds. Enter in blocks (1) through (3), the total amount of public funds expended on this CDBG-assisted project.

(1) Other Federal Funds. Exclude any CDBG funds expended on this project.

(2) State/Local Appropriated Funds.

(3) State/Local Tax Exempt Bond Proceeds.

Total Public Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 3 Private Funds.

(1) Private Loan Funds. Enter the amount of all of the costs for this project that have been paid with funds obtained from private financial institutions and enter the interest rate and amortization period of the loan. If there are multiple loans, enter the interest rate and term of the largest loan (Do not double count).

(2) Owner Cash Contributions. Enter the amount of all cash contributions provided by the project owner.

(9) Private Grants. Enter the amount of cash contributions provided by private organizations, foundations, donors, etc. *(Please note that Low Income Housing Tax Credits should NOT be included under Private Grants).*

Total Private Funds. This will pre-fill. The amount is the total of lines 1-3.

Item 4 SWEEP Funds. Enter the net amount of SWEEP funds.

Item 5 DOE Funds. Enter the amount of DOE funds.

Item 6 LIHEAP Funds. Enter the amount of LIHEAP funds.

Item 7 CDBG Program Income. Enter the amount of funds provided from CDBG repayment income.

Item 8 Total Project Cost. This is the total for CDBG funds, Public funds, and Private funds.

Final Lead Clearance

10% of the construction contract will be held until a property address receives a final “passed” clearance test. When submitting the final lead clearance, please complete the remainder of the Lead Form. The following must be submitted: (1) lead form, (2) letter from inspector noting license number, (3) results of the lead test, and (4) I-LEAD certificate of completion (see Lead Chapter).





Individual Site – Match Summary Form

This form is used to document the match by category that was invested into each CDBG-assisted or Non CDBG-assisted but CDBG-eligible unit.

Most of the information at the top of the form will pre-fill. Enter the date the final project draw request was submitted to IHCDA

Potential Sources of Match/Leverage: For each applicable category, enter the amount of match that has been expended on the project. IHCDA will determine whether or not the reported funds are eligible to be counted toward the Recipient's CDBG match/leverage liability. For each entry on the log, attach supporting documentation.

Below are the instructions for completing Line 10-21:

10. **Donated Cash:** List the value of any cash contributions made by the State, other governmental units, private entities, or individuals. HOME Funds cannot be used to match/leverage CDBG Awards.

A cash contribution may be made from program income from a federal grant earned after the end of the award period if no federal requirements govern the disposition of the program income. Included in this category are repayments from closed out grants under the Urban Development Action Grant Program, the Rental Rehabilitation Grant Program, and certain State Small Cities Community Development Block Grant awards.

Cash paid for time spent on administrative, environmental review or project delivery costs that were not reimbursed or paid for; do count as match/leverage for CDBG Awards. Example: A Local Unit of Government could pay sub recipient cash for Admin time spent on the award. However, the Local Unit of Government must spend their own funds and could not request those funds from IHCDA through their CDBG Award.

Nonprofit recipients or sub recipients who are reporting match/leverage contributions may not count contributions that result from ongoing annual fund drives. Contributions or grants to affordable housing that are not a part of an ongoing annual fund drive may be counted.

Required Documentation: Attach a listing of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported. Submit a copy of the check for the match/leverage money that was received as well as copies of the checks that the recipient wrote to pay for services rendered using the match/leverage dollars.

11. **FHLB - AHP Grant:** Grant awards through the Federal Home Loan Bank Affordable Housing Program should be reported here. *However, if the funds were a loan do not report here, the loan would be reported on Line 18, as only the Below Market Interest Rate (BMIR) would count as match/leverage.*

Required Documentation: Documentation should include a specific statement (e.g., award letter) or other evidence that the contribution is for the general or specific project being reported.

12. **Private Grant:** List the amount of any other grant funds awarded to the project address.





Required Documentation: Attach a listing of the contribution, donor, and date of contribution. Documentation should include a specific statement (e.g., donor letter) or other evidence that the contribution is for the general or specific project being reported.

13. Volunteer Labor: List the value of all donated or voluntary labor that was provided in connection with site-preparation, construction, or rehabilitation of the housing. Donated or voluntary labor is valued at a fixed rate by HUD. Currently, that rate is \$10 per hour for any type of unskilled labor. The rate of pay for a skilled labor is their normal hourly rate of pay.

Required Documentation: Attach a log showing the name, date, and hours of labor donated to the specific project.

14. Donated Professional Services: List the value of all donated or voluntary legal, architectural, or engineering services that were provided in connection with the project.

The value of services contributed by a professional who has been contracted for other work on the CDBG project can be counted as CDBG match/leverage as long as you can document that the time was not reimbursed. Donated services are valued at the professional's actual hourly charges.

Required Documentation: The Recipient must document that the professional's hourly charges are reasonable and customary for the type of work performed. Attach a log showing the name, date, hourly rate, and number of hours donated to the specific project.

15. Waived Fees & Permits: List the value, based on customary and reasonable means for establishing value, of state or local taxes, fees, or other charges that are normally and customarily imposed or charged by a state or local government on all transactions or projects in the conduct of state or local government operations that are waived, forgone, or deferred in a manner that achieves affordability of housing that is assisted with CDBG funds.

Fees or charges that are associated with the CDBG Program only (rather than normally and customarily imposed or charged on all transactions or projects) are not eligible forms of contributions.

The amount of any real estate taxes may be based on post-improvement property value, using customary and reasonable means of establishing value. For taxes, fees, or charges that are given for future years, the value is the present discounted cash value, based on a rate equal to the rate for the Treasury security with maturity closest to the number of years for which the taxes, fees, or charges are waived, forgone, or deferred.

Required Documentation: The Recipient must document that the waived fees and permits are reasonable and customary governmental charges. Attach a list of waived fees, date of waiver, and value of waiver.

For Tax Exemption or Tax Abatement attach a copy of the spreadsheet provided by IHCDA that shows the calculations along with all supporting documentation for the figures used.

16. Value of Donated Land/Building: List the value, before CDBG assistance is provided and minus any debt burden, lien, or other encumbrance, of donated or other real property. Property must be appraised in conformance with established and generally recognized appraisal practice, and value must be based on the best available data properly analyzed and interpreted. An independent, certified appraiser must perform the appraisal of land and structures. Partial donations are also acceptable (e.g., a sale below market price); however, the acquisition cost must be "demonstrably below the appraised value" and the seller must acknowledge in writing that the price differential is intended as a contribution to affordable housing.





Required Documentation: Attach a copy of the sales agreement or other documentation showing the sale price, the appraisal, and the seller's statement.

17. Value of Donated Material: List the value of all site-preparation and construction materials donated to the project.

Required Documentation: Attach a list of materials, donors, date of donation, and valuation.

18. Private Mortgage Financing: List the value of any below market financing as defined by HUD. The grant equivalent of a below market interest rate loan to the project that is not repayable to the State's CDBG Investment Trust Fund may be counted as match. If the loan is made from funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the difference between payments to be made on the borrowed funds and payments to be received from the loan to the project, based on a discount rate equal to the interest rate on the borrowed funds.

If the loan is made from funds other than funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the yield forgone, using one of the following measures of market rate yield, as appropriate: (1) with respect to 1-4 unit housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points; (2) with respect to 1-4 unit housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points; or (3) with respect to a multifamily project, a rate equal to the 10-year Treasury note rate plus 300 basis points. The week ending Treasury note rate for the week of the loan closing is the one used for comparison.

Required Documentation: Attach a copy of the Below Market Interest Rate (BMIR) spreadsheet provided by IHCDA that shows the calculations along with all supporting documentation for the figures used.

19. Trust Fund Loan: List the amount of IHCDA Trust Fund loan funds used on the property address.
20. Required Infrastructure: List the cost of any investment, not made with federal resources, in on-site and off-site infrastructure that was directly required for the housing and made within twelve months of the time CDBG funds are committed to the project (set up in IDIS). These infrastructure investments must be prorated to reflect only that portion of the costs directly attributable to the CDBG-assisted housing. The costs must be reasonable and customary and may be contributed by a municipality or public or private utility. Infrastructure improvements cannot be counted as match in projects that are not CDBG-assisted, regardless of whether the project will be used to meet some or all of the Recipient's match requirement.

Required Documentation: Attach documentation of the contribution (and, if applicable, any calculations showing how a pro-ration was achieved).

21. Other: Enter the amount of any other funds utilized on the project. IHCDA will determine whether or not these funds can count toward the Recipient's match/leverage liability.

Required Documentation: Attach documentation of each expenditure.

22. Total Match/Leverage: Enter the total estimated value of the match/leverage contribution. Please note that IHCDA will review the information you have submitted and determine the value and eligibility of the match/leverage. You will be contacted by IHCDA if we cut any match/leverage listed on the form.

Close out Documents





Financial Settlement/Expenditure Summary

This form must be completed and submitted with the final claim on the award.

Complete a line for each budget line item.

For each line item, complete the following:

Original budget amount per award agreement: List the amounts from your original award agreement.

Budget Modifications: If you reduced a line item, list a negative number in amount of the reduction. If you increased a line item, list the positive amount of the increase. The total for this column must equal \$0.00. Do not include de-obligations in this column.

Prior De-obligations: If you de-obligated any funds during your award, list the amount of de-obligation in positive numbers in this column.

Amount Drawn: List the amount of funds drawn under each line item.

Amount remaining to be de-obligated: This field will pre-fill.

j. Applicants & Beneficiary Summary (Not applicable to Emergency Shelter)

This form must be completed and submitted with the final claim on the award.

At the top of the form, indicate with an “X” the appropriate award activity. If a project involves more than one activity, submit a separate sheet for each activity as well as a total sheet. The total sheet must reflect the number of persons for the entire award, non-double counted [if the same person is involved in more than one housing activity - only count the person once on the total sheet].

Cumulative Applicants: Report information on all persons that have completed an application for the program from the beginning of the award period.

Cumulative Beneficiaries: Report information on all persons benefiting from the program from the beginning of the award period.

Below are the instructions for completing the form. Keep in mind, the left side of the form is for Applicants and the right side of the form is for Beneficiaries.

Total Households – Enter the total number of households that applied for and received assistance.

Total Persons – This will pre-fill once you enter line 1-10.

Line 1-10: List the number of persons that applied for and received assistance based on their ethnicity.

Line 11: This will pre-fill.

Line 12: List the number of low and moderate-income persons. Low and moderate-income persons have incomes less than 80% of area median income (adjusted for household size) as established by HUD. This will pre-fill on the Beneficiary side of the form.

Line 13: List the number of disabled persons (persons with a physical or mental impairment).





Line 14: List the number of elderly persons (persons aged 62 and over).

Line 15: List the number of persons living in Female Headed Households. A female head of household cannot be a single female it must be a female with a dependent.

k. Rental Development Package

Rental developments are required to submit a “FINAL” Rental Development Package. For scattered site, the recipient must complete a separate Rental Development Package for each mortgage held on the units.

Exception to the above requirement:

If none of the information contained in the original rental development package has changed, then this document will not have to be submitted. However, the original rental development package must be resubmitted with your closeout documents.

IHCDA’s review of the rental development package may result in an award reduction or other corrective action should the development no longer meet IHCDA’s published underwriting criteria.

l. Policy Endorsement

m. A Policy Endorsement is required for all Rental Activities.





CHAPTER 4 – Conflict Of Interest Prohibition

Overview

Federal Regulation: [29 CFR Part 92.356](#)

Conflicts Prohibited

No persons who exercise or have exercised any functions or responsibilities with respect to HOME or CDBG activities or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

Procurement Conflicts

Procurement standards must require that no employee, officer, agent of the recipient or administering agency may participate in the selection or administration of a contract supported by HOME or CDBG if a conflict of interest real or apparent, would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for award:

- Employee, agency or officer of the recipient or administering agency;
- Any member of an employee’s, agent’s or officer’s immediate family;
- An employee’s, agent’s or officer’s partner; or
- An organization that employs or is about to employ any of the above.

Conflicts of Interest at Rental Properties

Immediate family members of an officer, employee, agent, elected or appointed official or consultant of an owner, developer, or sponsor are prohibited from occupying a program-assisted affordable housing unit in a project for the duration of the affordability period.

Persons Covered

The conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving HOME or CDBG funds.

Conflict Examples:

Organization	Description	Conflict
Local Unit of Government	The town council president’s brother was to bid on the inspection services to be provided under a CDBG award.	The town council president would not be able to participate in the procurement of the contract in which his brother plans to bid. However, the selection of the inspection firm must be made in accordance with the local unit of government’s





		procurement standards.
Not-for-profit – not acting as a owner, sponsor or developer	A board member of the organization intends to bid on work that the organization is undertaking using HOME funding.	The board member would need to follow the HOME procedure for conflict of interest

Procedures

The award recipient of HOME or CDBG funds will need to submit the conflict in writing to its IHCDA Real Estate Production Analyst. The letter should contain the following information:

1. A request for an exception to the conflict of interest prohibition;
2. A copy of the minutes from a public meeting denoting that the affected person has publicly disclosed the conflict of interest and has stated that he/she has withdrawn from functions or responsibilities with respect to the assisted activity in question; and
3. An opinion from the recipient’s attorney that the interest for which an exception is sought would not violate state or local law.

IHCDA will forward the conflict of interest to the U.S. Department of Housing and Urban Development (HUD) to determine if an exception to the conflict is allowed. IHCDA will notify the award recipient in writing whether an exception has been allowed or denied by HUD.

If an exception is allowed, a completed Uniform Conflict of Interest Disclosure Statement must be sent to the following parties within fifteen (15) days:

1. Indiana Housing and Community Development Authority (IHCDA);
2. State Board of Accounts; and
3. Clerk of the Circuit Court of the county in which the contract was executed.

Factors to Consider When Granting an Exception

- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program which would otherwise not be available;
- Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class;
- Whether the affected person has withdrawn from his or her function or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;
- Whether the interest or benefit was present before the affected person was in a position constituting the conflict of interest;
- Whether undue hardship will result either to the Participating Jurisdiction or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and
- Any other relevant consideration.

Exclusions to Conflict of Interest

There are select situations where the process for notification of a conflict of interest with a project is **not** applicable:

- Any CHDO or not-for-profit organization acting as an owner, sponsor, or developer of a project.
- An employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.





CHAPTER 5 – Procurement Procedures

Overview

Federal Regulations:

This section outlines requirements that must be followed when procuring all materials, supplies, equipment, and construction or professional services related to a CDBG or HOME award. The purpose of these requirements is to ensure that recipients of a CDBG or HOME award follow *competitive* procurement procedures.

Note that any procurement action that takes place for the award regardless of the funding source must follow the procurement process outlined in this chapter, e.g. even if matching funds will be used to pay for the architectural services, those services must be procured using one (1) of the approved methods that follow.

Also, these standards must be used in all phases of procurement, including procurement made prior to, but in expectation of, the issuance of the award.

It is recommended that award recipients consult with their legal counsel prior to initiating procurement activities.

Procurement Applicability:

ENTITY	May be selected <u>without</u> federal procurement process?	May select contractors/other partners <u>without</u> procurement process?
For-profit	Yes	Yes
Private Non-Profit acting as developer	Yes	Yes
Private Non-Profit acting as sub recipient	Yes	No
Public Non-Profit (Housing/Redevelopment Authority)	Yes	No
Public Entity (State or local government agency)	Yes	No

A. Procurement by Local Units of Governments

The most stringent procurement standard applies to procurement by cities, towns, and counties. Both state and federal law govern this type of procurement.

Applicable Federal Regulations

- 24 CFR Part 85 (Federal Awards made prior to December 26,2014)
- 2 CFR Part 200 (Federal Awards made after December 26, 2014)
- OMB Circular A-87
- OMB Circular A-102
- OMG Circular A -110





- Super Circular (previously A-133)

Applicable Indiana Procurement Laws (applicable to cities, towns, and counties)

- Public Purchases Law - materials, equipment, goods and supplies IC-36-1-9.
- Public Works Law - Construction, alteration, or repair of any public building or any other work or improvement of any character IC-36-1-12.

These standards apply whether staff, a sub-recipient, or a contractor of the local unit of government receiving the funds performs the procurement action.

The majority of this Chapter (sections F to K) covers these standards.

B. Procurement by Not-for-Profit Organizations

If a not-for-profit organization is the recipient of a CDBG or HOME award, it is also required to follow *competitive* procurement standards. However, the not-for-profit may choose to either follow the local unit of government procedures OR utilize their own procurement standard. If the not-for-profit chooses to utilize their own procurement standards, the standards must be pre-approved by IHCDA. A sample procurement policy is located in the Procurement Policy Exhibits.

If a not-for-profit is acting as a developer, competitive procurement standards are not required. Not-for-profit organizations acting as a developer must have site control (ownership or lease in some cases) and must plan, obtain permits, and manager the project from start to finish.

Note that not-for-profits receiving federal grants are subject to certain federal requirements:

Applicable Federal Regulations

- CFR Part 84
- OMB Circular A-110

Thus, IHCDA strongly encourages not-for-profits to consult with their legal counsel when writing their procurement standards, to ensure they are complying with these requirements.

If a not-for-profit does not have written procurement standards in place, OR if the not-for-profit's procurement standards do not meet the requirements of OMB Circular A-110, then the not-for-profit must then follow the procurement requirements of local units of government as described in sections F-K of this chapter.

An exception to these requirements is for HOME, CDBG, and Development Fund projects funded in conjunction with Section 42 Rental Housing Tax Credits (RHTCs). In those cases, the project falls under the rules of the Qualified Allocation Plan (QAP) which does not require procurement procedures be followed.

C. Procurement by For-Profit Organizations

Private individuals and business associations (corporations, partnerships, sole proprietorships, etc.) are not usually subject to restrictions on purchases. However when using Federal funds some controls are required.

1. **Sole-Source Procurement:** Where a private individual or business association wishes to select a contractor with which it has an ongoing relationship, using sole source procurement, a *cost-price analysis* must be





done to ensure that the bid is in line with reasonable and customary charges for similar work (see “Cost-Price Analysis” in this chapter). A sample cost-price analysis form is find within the chapter exhibits.

2. Competitive Procurement

a. Awards Made As Grants: Competitive procurement may be by competitive negotiation and does not require publication. Proposals should be requested from at least two (2) qualified contractors, including at least one (1) MBE/WBE contractor. Check the Indiana State website for all MBE/WBE contractors and contact your regional Compliance Auditor for the IHCDA MBE/WBE list compiled from previous IHCDA projects.

The for-profit grantee should open the sealed bids and select the “lowest and best” bid. All bids received must be kept for review by IHCDA. If there is substantial deviation in bids (ten percent (10%) or more) and the lowest bid is not selected, the reason for non-selection must be noted in the file. Substantial deviation from the written bid specifications or inability to meet time constraints of the bid are acceptable reasons for non-selection. However, bid specifications must not have been so narrowly written as to preclude otherwise qualified bidders.

b. Awards Made as Loans: This category applies only to loans which are scheduled for repayment. Loans which are “forgivable” must be treated as a grant for purposes of procurement. The process is the same as with grants (above); however, if the for-profit organization wishes to select a bid other than the “lowest and best,” it must pay the difference between the “lowest and best bid” received and the bid actually selected.

An exception to these requirements is for HOME, CDBG, and Development Fund projects funded in conjunction with Section 42 Rental Housing Tax Credits (RHTCs). In those cases, the project falls under the rules of the Qualified Allocation Plan (QAP) which does not require procurement procedures be followed.

D. Purchasing Officer Responsibility

Grantees should designate a purchasing officer for CDBG and HOME purchases and procurement activities. Written procurement procedures should be in place to guide the purchasing officer. Small communities/organizations may designate the community’s legal counsel, consultant, or other responsible person as the purchasing officer. The purchasing officer is responsible for the following:

1. Determining the need for procurement of supplies, equipment, construction, or services based on the project plan.
2. Assigning appropriate persons to prepare specifications, manage solicitations, and negotiate contract terms.
3. Monitoring solicitation of bids including preparation of bid specifications, advertising, receipt, and evaluation of bids.
4. Participating in the final selection of contractors.
5. Overseeing pre-construction activities and negotiations.
6. Overseeing the execution of contracts.
7. Determining that the purchase is in compliance with the conflict-of-interest requirements: no member, officer, or employee of the award recipient or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who





exercise any functions or responsibilities with respect to the program during their tenure, or for one (1) year thereafter, shall have any direct or indirect interest in any contract, subcontract, or proceeds thereof, financed in whole or in part with CDBG or HOME funds.

E. Four Allowable Methods of Procurement; Basic Requirements for Local Units of Government

There are four (4) allowable methods of procurement, depending on the type of goods or services being procured and who is doing the procurement. These are: 1) competitive sealed bids, 2) competitive negotiation, 3) small purchases, and 4) non-competitive and sole source purchases. A synopsis of each method and process is found in the following sections; however, this information should not be considered a substitute for reviewing the applicable state laws and federal circulars.

Following are the basic requirements for Local Units of Government:

1. All construction contracts procured by a local unit of government must be through the competitive sealed bid method. Purchases may not be made in multiple increments to avoid formal competitive sealed bid procedures.
2. Procurement of materials and supplies estimated to be in excess of \$25,000 must be procured through the competitive sealed bid method. Purchases may not be made in multiple increments to avoid formal competitive sealed bid procedures.
3. Professional services over \$25,000, such as engineering or consulting services, must be procured by the competitive negotiation method if the competitive sealed bid method is not used. Purchases may not be made in multiple increments to avoid formal competitive sealed bid procedures.

F. Competitive Sealed Bids (Invitation for Bids)

Competitive sealed bids are solicited through formal advertising, such as in the newspaper legal section. A fixed price contract is awarded to the lowest responsible bidder whose bid conforms to all the material terms and conditions of the bid invitation, technical specifications, and is the lowest in price. The contract award may be a fixed sum, or a unit price with ceiling that the contractor exceeds at its own risk, but it cannot be a cost plus percentage of cost contract. Such contracts are not allowed under [federal regulations](#).

When using competitive sealed bids, the award recipient must provide all prospective bidders with a competitive description of the items or services to be purchased. This description should avoid specific brand requirements, although "brand name or equal" descriptions may be used as an example of functional or quality requirements. The procurement must lend itself to a firm fixed price contract that allows selection of a successful bidder primarily on price.

In addition, two (2) or more responsible vendors must be willing and able to compete for the contract. If only one (1) bid is received the award recipient must perform a "cost-price analysis" to substantiate the reasonableness of the bid price received (See "[Cost-Price Analysis](#)" in this Chapter).

The basic process to follow when using the Competitive Sealed Bid method is as follows.

1. **Prepare Technical Bid Specifications:** These specifications should provide complete and accurate descriptions of materials, products, and services to be provided. The specifications should address any





concerns identified during the environmental review. Where applicable, the architect or engineer must certify that handicapped access standards have been or will be satisfied, or specify the basis for exemption.

2. **Obtain Davis-Bacon Wage Decision:** If the project has been determined to require Davis-Bacon wages, secure the applicable wage rate decision(s) from the IHCDA Labor Standards Officer and include them in the bid documents and construction contracts. To obtain applicable wage rate decisions, the award recipient must submit the "Request for Wage Determination" form to IHCDA. (See [Labor Standards](#) information in Chapter 7)
3. **Prepare the project bid terms and conditions.** The award recipient's attorney should review the bid documents for the following:
 - a. Technical specifications.
 - b. City, town, or county, as well as federal and state requirements.
 - c. CDBG or HOME related requirements.
 - d. Cost and pricing information.
 - e. Method of payment.
 - f. Advertisement for bid (as required by state law).
 - g. Bidders information specifying method of bidding, bid evaluation, and contract award.
 - h. Contract form.
 - i. For contracts over \$100,000:
 - 1) Bid Proposal Form (Indiana General Form No. 96) required for public works projects with contracts to exceed \$100,000 (Form 7 of this Chapter).
 - 2) Bonding forms (bid, performance, and payment bonds) (See "Bonding" in this chapter).
 - 3) Section 3 requirements. (See [Section 3 information](#))
 - j. For Davis-Bacon Projects: Current prevailing federal wage publication (See Labor Standards information in Chapter 9).
4. **Publication:** Bid advertisements must be published at least fourteen (14) days before the bid is due. The bid advertisement must be published twice in a general circulation newspaper at least seven (7) days apart, and the second ad must be published seven (7) days before bids are opened [public advertisement requirements are detailed under Indiana Law I.C. 5-3-1-2(e)]. The advertisement should:
 - a. Include the place and date where plans and specifications are available for review.
 - b. Include the place, date, and time fixed for receiving bids.
 - c. Include bonding and certification requirements.
 - d. State the goal of ten percent (10%) participation by MBE/WBE firms (see sub-section 6 below).
 - e. State the goals/obligations related to Section 3 (see Section 3 chapter).
 - e. For Davis-Bacon projects, the advertisement should specify that the project is subject to Davis-Bacon prevailing wages. The current prevailing federal wage publication must be incorporated in bid packets for all applicable procurement (See Chapter 9).
5. **Davis-Bacon Pre-Bid Conference:** For Davis-Bacon projects, the award recipient must conduct a pre-bid conference. (See [Chapter 7](#).)
6. **MBE/WBE Requirements:** IHCDA has a goal of ten percent (10%) participation by MBE/WBE firms in HOME and CDBG funded projects. Therefore efforts must be made (and documented) to attract proposals from minority-owned businesses and women's business enterprises. The preferred method is to send a certified letter inviting the firm to bid. Such letters should be sent to at least two (2) such firms for each procurement action. Other acceptable forms of solicitation include: 1) E-mail with return/read receipt; and 2) Hand delivery and signed receipt. The State of Indiana maintains a directory of MBE/WBE firms at <http://www.in.gov/idoa/2352.htm>.





7. **(Optional) Preparation of a Bidder's List:** Award recipients, in order to alleviate the publication requirement each time projects go out to bid, may want to create a bidder's list. To create a bidders list, the award recipient must publish at least twice in a newspaper of general local circulation. The advertisements must be at least seven (7) days apart, with the second publication made at least seven (7) days before the deadline for submitting a request to be placed on the bidder's list [public advertisement requirements are detailed under Indiana Law I.C. 5-3-1-2(e)]. The advertisement must specify any requirements contractors must satisfy in order to be placed on the bidders list. These requirements may include, but are not limited to, the submission of financial statements, statements of experience, proposed plans for performing the work, documentation of insurance, licensing, and/or bonding, and equipment available.

Thereafter, each time a project activity goes out to bid, the award recipient must notify all contractors on the bidders list, as well as document efforts to solicit minority and women owned business enterprises. The notification should inform contractors where bid documents are available for review.

At any point in time, a contractor may request to be placed on or deleted from the bidder's list. Additionally, the bidders list should be updated every six (6) months. To update the bidder's list, the recipient should follow the publication requirements as well as contact each non-responsive contractor that is on the bidder's list to ask if it would like to remain on the bidder's list.

8. **Maintaining Bids:** Grantees should maintain a log of bidders who were sent or submitted bid documents. All bids received during the bidding period must be logged with the name of the bidder and the time and date of receipt. The sealed bids must be secured unopened in a safe place. No bid should be accepted if it is late.
9. **Amendments to Bid Documents (including revisions to wage rates):** Amendments to the bid documents, including those revisions of wage rate decisions, must be sent to all potential bidders who obtained the original bid documents. Amendments can be issued up to seventy-two (72) hours prior to bid opening; if amendments are not issued within seventy-two (72) hours prior to the bid opening, the date must be extended exactly one (1) week.
10. **Bid Opening & Evaluation**
 - a. Contracts for work on public property, including public facilities and improvements, must be awarded in a public meeting. All bids should be read aloud during this meeting. Maintain minutes of the meeting to document the project, time, and date of the bid opening, and the bidders and bid amounts in the order they were opened.
 - b. Where procurement is performed on behalf of an individual, such as in an owner-occupied rehabilitation award, the bid opening should include the property owner and a representative of the award recipient or not-for-profit sub-recipient. Formal minutes are not required, but meeting notes are recommended.
 - c. A *bid tabulation sheet* must be completed showing the name and bid price of each bidder, and whether the bid was responsive. The grantee should review all bids to determine if each is legally and technically responsive. The award recipient must award contracts only to responsible contractors possessing the ability to perform successfully under the terms of the proposed procurement. Consideration should include contractor integrity, experience, compliance with public policy, performance history, and capacity of the contractor to perform within the stated time period, as well as cost when making the decision.





- d. The Bid should include a completed Section 3 Forms regardless of applicability. If the contractor qualifies as a Business without residential makeup, the Section 3 resident certification forms are not required.
 - e. If the contract was not awarded to the lowest bidder, a detailed, written explanation must be prepared.
 - f. Unsuccessful bidders must be promptly notified. Any or all bids may be rejected if there is a sound documented reason.
11. **Time Limits:** The award recipient has sixty (60) days from the date of bid opening to (a) award the contract or reject all bids or, (b) reject all bids. Notice to proceed must also be provided to the successful bidder within sixty (60) days of bid opening (IC 36-1-12-6).
12. **Cost-Price Analysis:** Two (2) or more responsive vendors must be willing and able to compete for each contract. If only one (1) bid is received, the award recipient must perform a “cost-price analysis,” as described below, to substantiate the reasonableness of the bid price received. Ask another contractor that performs the type of work that was bid to provide an estimate of cost. This estimate must be on the letterhead of the contractor and must be in writing.
13. **Bids Exceeding Project Budget:** If all the bids exceed the amount budgeted for the project, the award recipient cannot negotiate with the low bidder to bring the contract within the budget limits. The award recipient can reject all bids, provide needed funds from other sources, or re-allocate award funds. However, prior to a re-allocation of award funds, the award recipient may need to submit an award modification request to IHCD A for approval (See information on Modifications in Chapter 13).

If the award recipient has reason to believe that available funds are likely to be inadequate for the full scope of work proposed, the award recipient should ask all bidders to submit deductible alternatives to the project can proceed without a second bid solicitation. If deductible alternatives are requested, the document must specify the method and order in which deductible alternatives will be applied in determining the low bid. Drawings must clearly show the deductible alternative(s).

14. **Other Requirements Prior to Signing Contracts**

- a. **Release of Funds:** Prior to contract award, the award recipient must ensure all compliance and environmental clearances have been met. Contracts may not be executed until the award recipient receives both a written notice of Release of Funds from IHCD A for the applicable budget line item and written notice from DHPA that the Section 106 Review Process has been completed (refer to the IHCD A website for Environmental Review information). Failure to comply with these release procedures may result in disallowance of all applicable costs.
- b. **Verification of Contractor Eligibility:** Prior to contract award, the award recipient must complete the Verification of Contractor/Subcontractor eligibility process. See chapter exhibits for instructions on completing this process.
- c. **Bonding Requirements:** The successful bidder must meet all bonding requirements prescribed by Indiana law (see “Bonding Requirements” in this chapter). Award recipients should seek the assistance of legal counsel in regard to bonding requirements.





15. **Contract Provisions:** All contracts must include specific provisions as described in section O. of this chapter.
16. **Davis-Bacon Requirements:**
 - a. **Notice of Contract Award:** Where the project is covered by Davis-Bacon wage rates, the grantee must send a “Notice of Contract Award” to the IHCDA Labor Standards Officer and to the Department of Labor (DOL) area office within ten (10) days of contract award. Copies should also be retained by the grantee in its project files. This information must also be filed by the contractors for all subcontracts over \$10,000.
 - b. **Pre-Construction Conference:** For Davis-Bacon projects, a pre-construction conference must be held to acquaint the general contractor and subcontractors with federal requirements. IHCDA staff will brief the contractor on the payment process, federal wage requirements, minority/women business development goals, Section 3 goals, forms to be used and how the award recipient may use this meeting, or a similar one, to review the contractor’s records and accounting systems. Pre-construction conference minutes must be prepared to document the subjects discussed at the meeting. A list of federal regulations pertinent to procuring and managing CDBG & HOME construction contracts can be found in [Labor Standards](#) chapter. This list may serve as the agenda for the pre-construction conference.
 - c. **Notice of Start of Construction.** For Davis-Bacon projects, send a “Notice of Start of Construction” to IHCDA Labor Standards Officer. (See Labor Standards chapter.)
17. **Notice to Proceed:** Send a “Notice to Proceed” to the contractor. (See Labor Standards chapter.) This document notifies the contractor that construction may begin.
18. **Grantee’s Contract File:** The grantee should maintain a contract file containing the following:
 - a. Description of contractor selection method.
 - b. All bids received.
 - c. Bid tabulation.
 - d. Verification of contractor eligibility.
 - e. Contract for services.
 - f. Records of progress payments, including retainage.
 - g. Contract change orders, if any.

The Award recipient should use this file to monitor the contractor throughout the construction period.

G. Competitive Negotiation (RFP) Procedure

The competitive negotiation method is recommended for all procurement of [professional services](#). The procurer prepares a formal Request for Proposals (RFP) and requests proposals from at least two (2) or more qualified firms or individuals. Negotiations should be conducted with [more than one \(1\)](#) of the responding sources. The basic process to follow when using the Competitive Sealed Bid method is as follows.

1. Prepare the Requests for Proposal

- a. The RFP must not be prepared or solicited by those firms or individuals who will be submitting proposals.
- b. The RFP should include these elements, at a minimum:





- 1) Scope of Services - detailed description of the extent and type of work to be performed.
- 2) Time Requirements - performance period.
- 3) Proposal Instructions - the format of the proposal.
- 4) Evaluation of Proposals - The award recipient must identify all significant evaluation factors (and their relative importance), including price or cost where required, technical expertise, past experience, price, staffing, etc. and how the proposals received will be scored.
- 5) Federal, state, and local regulations applicable to the award.
- 6) Considerations for Bidding - any additional requirements not pertaining to the scope of services that should be considered when preparing a proposal.

2. Solicit for Proposals

- a. Proposals must be solicited from at least two (2) qualified sources to permit reasonable competition.
- b. The RFP must be publicized.
- c. IHCDA has a goal of ten percent (10%) participation by MBE/WBE firms in HOME and CDBG funded projects. Therefore efforts must be made (and documented) to attract proposals from minority-owned businesses and women's business enterprises. The preferred method is to send a certified letter inviting the firm to bid. Such letters should be sent to at least two (2) such firms for each procurement action. Other acceptable forms of solicitation include: 1) E-mail with return/read receipt; and 2) Hand delivery and signed receipt. The State of Indiana maintains a directory of MBE/WBE firms at <http://www.in.gov/idoa/2352.htm>.
- d. The award recipient must retain documentation of the RFP distribution process.

3. Evaluation of Proposals

- a. When proposals or statements of qualification are received, each should be evaluated by the award recipient based upon pre-established criteria. Evaluation criteria commonly used include the following, at a minimum:
 - 1) Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
 - 2) Past record of performance on such federally-funded contracts within the State of Indiana, and a list of other clients served including type of work, timeliness, quality requirements, and cost control. References submitted by interested bidders should be contacted.
 - 3) Capacity of the firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
 - 4) Familiarity of the firm with the type of problems applicable to the project.
 - 5) Price
- b. The review process for both statements of qualification and proposals in response to a Request for Proposal should be thorough, uniform, and well-documented. The review process is to be conducted by a committee or board which, to the greatest extent possible, includes persons with the appropriate technical skills. Reviewers must have no conflicts of interest with the firms or individuals under review, such as family relationships, close friendships, or business partnerships.
- c. Negotiations should be conducted with more than one (1) of the sources submitting proposals. Retain verifiable documentation recording the negotiations process.





- d. Award must be made to the responsible firm or individual whose proposal will be the most advantageous to the project, considering price and other factors. Unsuccessful bidders must be promptly notified. When the award is made to a responsible bidder not having the lowest price, the award recipient must document its reasons for not selecting the lowest proposed price.

4. Establish a Professional Contract File

The grantee should maintain a contract file containing the following:

- a. A description of the method used to select architect, engineer, or consultant;
- b. Qualification statements or proposals received;
- c. Negotiation methods;
- d. Cost and pricing data supporting the contract;
- e. Verification of contractor eligibility;
- f. Contract for services;
- g. Records of progress payments, including retainage withheld; and
- h. Contract change orders, if any.

H. Small Purchases Procedures (For services and supplies ONLY, not construction contracts.)

Small purchase procedures are those relatively simple and informal procurement methods appropriate for procurement of services, supplies, or other property, costing not more than \$25,000.

1. **Services Under \$25,000:** Although competitive negotiation is the recommended method for procuring all professional services, the small purchase procedure is also acceptable.
 - a. At a minimum, two (2) quotes shall be reviewed from qualified, responsible firms.
 - b. At a minimum, one (1) quote attempt must be documented from an MBE/WBE firm.
 - c. Receipt of these price quotes must be well-documented and a record of the procedure used must be maintained by the award recipient.
 - d. If a firm is selected on a basis other than price, the reason for the selection must be well-documented and maintained by the award recipient.
2. **Supplies and Materials Under \$25,000:** When the small purchases method is used for procuring supplies and materials, the award recipient may purchase on the open market or may invite quotes from not less than two (2) vendors.
 - a. If the award recipient purchases on the open market, at least two (2) informal price quotations should be obtained using the "Informal Price Quotation Form"
 - b. If the award recipient chooses to invite formal quotes, a "Request for Quotation Form" should be completed.

I. Non-Competitive and Sole Source Purchases

Competitive procurement should be used whenever possible. Non-competitive proposals may be used only when the other three (3) methods are not feasible, and award files must document such a determination.

Non-competitive negotiation may only be used in one (1) of the following circumstances:

1. Public urgency will not permit a delay for competitive solicitation;
2. The item desired is available from only one (1) source; or
3. After solicitation of a number of sources, competition is determined inadequate.





Any grantee wishing to utilize sole source procurement must first obtain approval from IHCDA. This can be accomplished by sending a letter that details the efforts undertaken to obtain multiple bids and the reason sole source procurement was selected.

Note that while this method shortens the procurement process; there must still be written bid specifications for construction services and a written scope of services for professional service contracts.

Again, sole source procurement is discouraged and must be well documented to avoid denial or disallowance by IHCDA staff and Indiana State Board of Accounts examiners.

J. Administrative and Other Professional Services

1. Administrative Services by Staff of a Local Government Award Recipient

A city, town, or county award recipient may elect to perform some or all administrative and professional services functions in-house. The award recipient may be reimbursed for the direct costs of administrative and other professional services functions. All reimbursement payments must be made to the city, town, or county, "force" account.

Award recipient employees may not be paid extra for performing award administration during the course of their standard work schedule. However, if an employee is selected to perform the services through a competitive procurement process, the services must be performed on their own time (not during regular work hours), and they may receive reimbursement above their standard salary.

2. Administrative Services by a Contractor

A contractor may be a for-profit entity, a not-for-profit, or a municipal employee. A contractor may perform administrative or professional services as a stand-alone activity or in conjunction with other activities.

The competitive negotiation method is recommended for all procurement of professional services, regardless of dollar amounts, and is required for all services contracts over \$25,000 if the competitive sealed bid method is not used.

Administrative and services costs may not be bid by "fixed price", except for repetitive, low cost services such as legal opinions for title, or accounting review of pro-forma. All other procurement of services must be at an hourly rate, with an estimate of the number of hours required to accomplish the task. Different activities may be bid at different rates. Both the rates and the number of hours for the task must be available for review by the award recipient, sub recipient; IHCDA, HUD, or their designated representatives.

3. Administrative Services by a Sub-Recipient

a) Distinction between Sub-recipients and Administrators

1) Sub-recipient not-for-profits may serve as the administrator for the award recipient without competitive procurement as long as the following conditions are met:

- i. The sub-recipient is also operating the funded housing activity; and
- ii. That activity is a usual and customary activity of the sub-recipient;





- 2) Not-for-profit entities that wish to only provide administrative services, whether to an award recipient or sub-recipient, may only be procured through competitive procurement that meets the applicable requirements for the procurer.
- b) The sub-recipient is reimbursed on a direct cost basis (costs actually incurred and so documented) only for costs that are reasonable and necessary to project administration.
 - c) Grantees and their sub-recipients must execute a written sub-recipient agreement that includes:
 - 1) A statement of work describing the work to be performed, a schedule for completing the work, and a budget. These items must be described in sufficient detail to allow the award recipient (recipient governmental unit) to effectively monitor the sub recipient's performance;
 - 2) A description of what records the sub-recipient must keep and what records it must submit in order to assist the award recipient in meeting its record-keeping and reporting requirements;
 - 3) A description of how any program income expected to be generated will be handled;
 - 4) A statement of applicable uniform administrative requirements such as Treasury Circulars A-110 and A-128;
 - 5) A clause for suspension and termination of agreements for noncompliance and convenience;
 - 6) A statement of reversion of CDBG-funded assets at the time the agreement expires;
 - 7) A statement of any federally approved indirect cost allocation plans and the name of the approving cognizant agency(s);
 - 8) A description of other program requirements such as labor standards or fair housing requirements, with the exception that sub-recipients do not assume the award recipient's environmental responsibilities;
 - 9) A copy of the not-for-profit's 501(c) tax exempt certification should be attached to the agreement.
 - d) The award recipient has the responsibility of monitoring its sub-recipients. While IHCDA does not prescribe how that monitoring should take place, we suggest that the award recipient at least follow the monitoring guidelines found in the Program Monitoring & Audit chapter (Chapter 16). Ultimately, it is the award recipient that will be held accountable for all aspects of award administration and program compliance.

K. Contractor Verification

Prior to bid award, recipients must verify that all contractors and subcontractors bidding are eligible to participate in federally funded projects. A contractor is eligible to participate as long as it is not appear as debarred or suspended from contracting on federal programs. The recipient must not execute a contract until the verification process is completed in order to ensure that the entity is not debarred or suspended.

There are two web-based searches that must be conducted and documented: (1) HUD's Limited Denials of Participation list; and (2) System for Award Management (formerly known as the Excluded Parties List System). Both of these processes must be completed for each contractor/subcontractor prior to entering into a contract.

When the process is completed, the following should be included in the project file for each contractor/subcontractor:

1. Printed copy from HUD's Limited Denials of Participation List for both the Company and Principal's name; and
2. Printed copy from the Excluded Parties List System for both the Company and Principal's name.





HUD's Limited Denials of Participation List can be found online at:

https://www5.hud.gov/ecpcis/main/ECPCIS_List.jsp.

The System for Award Management (SAM) can be found online at www.sam.gov.

L. Insurance

1. Award recipients will be required to provide proof of adequate builder's risk insurance during construction and property insurance following construction for the assisted property throughout the affordability period of the award. Specific requirements are as follows:
 - a. Construction Period
 - 1) Owner-Occupied Rehab: Contractor liability and/or property insurance that includes coverage for work done by contractors.
 - 2) Other Rehab: Builders risk, contractor liability and/or property insurance that includes coverage for work done by the contractors.
 - 3) New Construction: Builders risk and/or property insurance that includes coverage for work done by the contractors is required throughout the construction period.
 - b. Affordability Period
 - 1) Homeowner or Homebuyer: Adequate property insurance (beneficiary loan documents must stipulate).
 - 2) Rental: Adequate property insurance must be maintained throughout the affordability period. (This is required for all properties assisted through open or closed awards.)
2. Policy Requirements
 - a. If a contractor liability policy is used, it must name IHCDA as additionally insured.
 - b. If a builder's risk policy is used, it must name IHCDA as both a loss-payee and an additionally insured.
 - c. If a homeowner policy is used, nothing needs to be added to the policy. Once the lien is placed on the home, the entity placing the lien automatically becomes a loss payee.
 - d. The builder's risk or contractor liability policy can be in the name of the recipient, contractor, owner of the property, or sub-recipient.
 - e. The builders risk coverage must be for the replacement value of the property, increasing as appropriate throughout the construction period to the full replacement value at construction completion.
 - f. The value of the contractor liability must be, at a minimum, for the replacement value of the property. Additionally, if the contractor employs persons, the policy must also include workers compensation.
 - g. The value of the property insurance must be, at a minimum, for the replacement value of the property.





M. Bonding Requirements

For any construction contracts or subcontracts exceeding \$100,000, the following is required:

- a. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the contractor for one hundred percent (100%) of the contract price. A "performance bond" is a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. A "payment bond" is a bond executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- d. In lieu of acquiring the payment and performance bonds, IHCDA will accept an irrevocable line of credit listing IHCDA as the sole beneficiary and equal to (a) the greater of the IHCDA award amount or (b) twenty five percent (25%) of the total construction contract. The line of credit must be issued for the entire construction period plus one (1) year following construction completion. (Awarded prior to December 26, 2014). Awards funded after December 26, 2014 will need to obtain performance and payment bonds. Please refer to [2 CFR 200.325](#)

Where bonds are required the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to [31 CFR part 223](#), "Surety Companies Doing Business with the United States;" OR

N. Conflict of Interest

Award recipients shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the awarding and administration of contracts supported by CDBG funds. No employee, officer or agent of the award recipient shall participate in selection, awarding, or administration of a contract supported by CDBG funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when one (1) of the following has a financial or other interest in the firm selected for an award:

1. An employee, officer or agent;
2. Any member of his or her immediate family;
3. His or her partner; or
4. An organization that employs, or is about to employ, any of the above.

The award recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. However, award recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the award recipient's officers, employees, or agents or by contractors or their agents.





For more information see [Conflicts of Interest](#) chapter.

O. Required Contract Provisions

All contracts must include the following provisions.

1. Effective date of contract.
2. Names and addresses of award recipient or sub-recipient and contractor.
3. Names of representatives of award recipient or sub-recipient and contractor who will act as liaison for administration of the contract.
4. A citation of the authority of the award recipient under which the contract is entered into and the source of funds.
5. Contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
6. Provisions for termination by the award recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
7. Scope of Services:
 - a) Detailed description of extent and character of the work to be performed.
 - b) Time for performance and completion of contract services, including project milestones, if any.
 - c) Specification of materials or other services to be provided by both parties, (e.g., maps, reports, printing, etc.).
 - d) Clause requiring records to maintained throughout the applicable records retention period.
 - e) An access to records clause including a provision that all negotiated contracts awarded by recipients shall include a provision to the effect that the state, the recipient, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the contractor which are pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.
 - f) A Conflict of Interest Clause.
 - g) Provisions for compensation of services, including the basis for submission of billings as the work progresses and specification of the total contract amount.
8. Bonding and Insurance Requirements, as applicable (see sections M and N of this chapter).
9. Federal Contract Provisions: All contracts awarded (including small purchases) must contain the following federally mandated provision:
 - a) Equal Employment Opportunity -Executive Order 11246: Equal Opportunity Clause, goals for female and minority participation and implementing regulations

The contractor and any subcontractors shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."

- b) Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Invention Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.





- c) Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15)

For contracts and subcontracts of amounts in excess of \$100,000 the contractor or subcontractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Agency (EPA).

- d) Byrd Anti-Lobbying Amendment (31 U.S.C.1352)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

- e) Debarment and Suspension (Executive Orders 12549 and 12689)

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or No procurement Programs in accordance with E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

- 10. Construction Contracts and Subcontracts for Davis-Bacon Projects must have the follow physically attached to the (See also Labor Standards chapter):
 - a) Federal Wage Determination with modifications
 - b) Additional Classifications (if applicable)
 - c) Federal Labor Standards Provisions (HUD 4010)
 - i.Davis-Bacon Act
 - ii.Contract Work Hours and Safety Standards Act
 - iii.Copeland “Anti-Kickback Act”
 - d) U.S. Department of Labor Notices (jobsite): WH 1321, WH 1462, and OSHA 2203 publications
- 11. Section 3 requirements (See Section 3 chapter).

P. Additional Requirements for Public Projects

- 1. If construction or alternation of any public building is estimated to cost more than \$50,000, work must be performed pursuant to and in compliance with plans and specifications approved by a licensed architect or engineer (IC 36-1-12-7).
- 2. A municipal utility may maintain, extend, and install services without adopting plans and specifications and without awarding a contract, if such work is performed by the employees of such utility. However, the





award recipient must coordinate such "force account" with IHCDA, and all applicable federal wage requirements must be followed.

3. Retainage Requirements

- a) When a local unit of government enters into a contract in excess of \$100,000 for any public work (other than for highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys and highway rights-of-way), a portion of all payments shall be retained until all contracted and subcontracted work has been satisfactorily completed.
- b) The retained portion shall be placed in an escrow account selected by mutual agreement between the award recipient, contractor, and subcontractor. The escrow agent may be a commercial bank, savings and loan institution, or IHCDA.
- c) Any interest income on retained funds should go to the contractor. To determine the amount of retainage to be withheld, the award recipient shall have the choice of:
 - 1) Withholding no more than ten percent (10%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or
 - 2) Withholding no more than five percent (5%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.
- d) IHCDA recommends also retaining payments on contracts below \$100,000 to ensure quality work. IHCDA also recommends that escrow accounts be interest-bearing and that interest income be given to the contractor(s) upon completion and acceptance of the work performed.

Q. Notice of Contract Execution

After you have executed a contract, complete "Notice of Contract Execution" Form, and submit via email to the IHCDA Real Estate Coordinator. Additionally, this form requests insurance information that is being utilized for this activity. IHCDA staff will ensure that this form has been submitted prior to paying claims on your awards. If amendments or change orders are issued to the contracts, submit a revised notice with both the original contract amounts listed and the revised contract amounts listed.

The following codes are used to complete: *Notice of Contract Execution Form*:

Type of Trade Code:

Racial/Ethnic Codes:

- 1 - New Construction
- 2 - Rehabilitation
- 3 - Project Management/Administration
- 4 - Professional
- 5 - Education/Training
- 6 - Architect/Engineering/Appraisal
- 7 - Other

- 1 - White
- 2 - Black Americans
- 3 - Native Americans
- 4 - Hispanic Americans
- 5 - Asian or Pacific Islander
- 0 - Public Agency/Non-Profit





S. CDBG Disclosure Form

For CDBG projects, a CDBG Disclosure Form (HUD 2880) must be completed by all award recipients at the time of award execution. If the recipient answered “No” to the threshold questions in Part 1 of this form, then no further action is necessary. However, if the recipient answered “Yes” to the threshold questions in Part I of this form, then Part II of this form must be completed as individual contracts are awarded.

T. Award Recipient and Contractor Debarment Procedures

1. In order to address potential recurring problems, the State of Indiana has codified statutory proceedings which apply to any federal or state program administered by the State agencies, including IHCDA.
2. A person and/or contractor may be debarred if any of the following have occurred within a reasonable period of time before institution of debarment proceedings:
 - a) Serious or repetitive violation of any federal or state law, or IHCDA program regulation or instruction.
 - b) Serious or repetitive failure to perform contractual obligations or carry out representations or warranties to IHCDA or to any award recipient under any program administered by IHCDA.
 - c) Acts of misconduct indicating a lack of business integrity directly affecting responsibility to participate in IHCDA programs, including but not limited to false representation, misappropriation of funds, embezzlement, theft, forgery, fraud, negligent service, bribery, falsification of records, and receipt of stolen property.
 - d) Serious or repetitive violation of any non-discrimination or equal opportunity requirements in connection with any program administered by IHCDA.
 - e) Debarment from any agency of the federal government or of any state government.
3. Award recipients and contractors receiving awards or compensation under IHCDA’s HOME/CDBG program who commit serious or repetitive violations of HOME/CDBG regulations or this *Award Manual* are subject to such debarment proceedings. Those award recipients and/or contractors who are debarred by IHCDA from further participation in IHCDA’s HOME/CDBG program will be given the right to appeal such debarment.
4. The U.S. Department of Housing and Urban Development (HUD) has also established debarment procedures. Contractors receiving awards or compensation under IHCDA’s HOME/CDBG program who commit serious or repetitive violations of HOME/CDBG regulations may also be debarred by HUD.





CHAPTER 6 – Section 3: Economic Opportunities For Low And Very Low Income Persons

Overview

Federal Regulation: [24 CFR Part 135](#)

The purpose of the Section 3 of the Housing and Urban Development Act of 1968 ([12 U.S.C. 1701u](#)) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very low income persons.

Each year HUD invests billions of federal dollars into distressed communities for projects designed to build and rehabilitate housing, improve roads, develop community centers, and otherwise assist families achieve the American Dream. The Section 3 regulation recognizes that HUD funding typically results in projects/activities that generate new employment, training and contracting opportunities. These economic opportunities not only provide “bricks and mortar”, but can also positively impact the lives of local residents who live in the neighborhoods being redeveloped.

Section 3 of the Housing and Urban Development Act of 1968 [[12 U.S.C. 1701u](#) and [24 CFR Part 135](#)] is HUD’s legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects. As a condition of receiving HUD Community Planning and Development assistance, recipients certify that they will comply with the requirements of Section 3 annually pursuant to [24 CFR 570.607\(b\)](#). Accordingly, the Department has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

A. Applicability of Section 3 to Community Planning & Development Assistance

1. Funding Threshold

HUD’s guidance on Section 3 has been revised and updated effective June 9, 2009. Previously, the threshold for whether a recipient had to comply with Section 3 requirements was if an individual award was for \$200,000 or greater. HUD’s new interpretation is that the requirements **apply when the recipient has received \$200,000 in construction funding from all HUD Community Planning & Development (CPD) programs during a program year.** This includes CDBG, HOME, HOPWA, ESG, NSP, and other programs.

2. Applicable CPD Programs

- Community Development Block Grants (CDBG)
- Home Investment Partnership (HOME) Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants





- Neighborhood Stabilization Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
(See also HUD website for guidance on Sec 3 applicability to ARRA.)

3. Applicability Limited to Construction Activities

The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

4. Applicability to Contractors

Contractors or subcontractors that receive contracts in excess of **\$100,000** for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

B. Section 3 Requirements

1. Section 3 Goals

If it is determined that a recipient or contractor meets the threshold requirements above, the recipient or contractor must attempt to reach the following goals found at [24 CFR Part 135.30](#):

- 1) Offering thirty percent (30%) of new employment opportunities to Section 3 residents.
- 2) Awarding ten percent (10%) of the total dollar amount of all covered construction contracts to Section 3 businesses.

See “Definitions & Certification” in this chapter.

2. Goals Limited to New Jobs and Contracts

Section 3 goals are required when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities. If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

3. Mandatory Reporting Required

Whether or not an IHCDA award generated a need for new employment or contracts, the recipient must still submit Section 3 annual reports to IHCDA indicating this information. This is because IHCDA is obligated to report this data in the aggregate for all our recipients to HUD.

Recipients also are asked to submit their own annual report to HUD (form HUD-60002). Contractors who receive more than \$100,000 are also required to complete the annual HUD form.





C. Implementing Section 3: Recipient Responsibilities

1. Implementing procedures to notify Section 3 residents and business concerns about employment and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects (contracts \$100,000 or greater) of their responsibilities by incorporating the Section 3 Clause into all covered solicitations and contracts [see [24 CFR Part 135.38](#)];
3. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
4. Documenting actions taken to comply with Section 3; and
5. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with [24 CFR Part 135.90](#).

D. Definitions and Certification

1. **Section 3 Residents** are one (1) of the following:
 1. Residents of Public and Indian Housing; or
 2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.
2. **Section 3 Business Concerns** are one (1) of the following:
 1. Businesses that are fifty-one percent (51 %) or more owned by Section 3 residents;
 2. Businesses whose permanent, full-time employees include persons, at least thirty percent (30%) of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
 3. Businesses that provide evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.
3. **Self-Certification and/or Evidence Required**
 1. Residents and business concerns seeking Section 3 preference shall certify and/or submit evidence to the recipient/contractor verifying that they meet the definitions provided above.
 2. Recipients can use their discretion for determining the type of evidence that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

E. Annual Reporting to HUD (Form HUD-60002 - Section 3 Summary Reports)

1. Annually, each recipient of Community Planning and Development funding is required to submit form HUD-60002 (See Exhibit 1 of this chapter) to HUD's Economic Opportunity Division in Washington, DC. , preferably online from the following website: www.hud.gov/section3.
2. Section 3 Annual Summary Reports are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations **AND** those of its covered





contractors, subcontractors, and sub-recipients. (i.e., it should include the results of any contractor with a contract of \$100,000 or greater).

3. The Section 3 Summary Report should correspond to all covered projects and activities that were administered (not awarded) during the reporting period.
4. Section 3 reports must be submitted by all agencies that receive funding in excess of \$200,000 whether new jobs/contracts were created or not.
5. The “reporting period” option in the online Section 3 Summary Reporting System (box #7) lists quarters but the Section 3 reporting is an annual requirement. Accordingly, recipients should select **Quarter 4** to document the total amount of covered activities/projects that were completed during the entire reporting period.
6. Note that recipients must submit a separate HUD-60002 for each type of covered funding (e.g., separate reports must be submitted for CDBG and HOME funding). However, while each report lists only the projects covered by that funding source, the recipient is required to comply with section 3 based on the cumulative total of awards from all CPD funding sources.

Example 1: A regional non-profit is administering three HUD CPD awards this year:

- It is still administering an NSP award that was granted in a previous year. Approximately \$180,000 in construction contracts will be bid this year.
- It is administering two (2) CDBG grants for communities in their region for owner-occupied rehab programs, which total \$150,000 in construction contracts.
- It has a HOME award for rehabilitation of a rental project, and approximately \$175,000 in construction contracts will be awarded this year.

The organization will need to file three (3) 60002s, one (1) for each program.

In addition, if under any of the three (3) programs at least \$100,000 is bid to a single contractor, the organization also must report on the activity generated by the contractor including bids to sub-contractors.

Example 2: A small urban non-profit has a HOME grant from IHCDA of \$90,000 to assist in rehabilitation of a small apartment building it owns. Under the previous Section 3 interpretation, IHCDA would not have required a report from this organization since the award was less than \$200,000. However, the organization could have other HUD CPD awards from the city in which it is located, so under the new interpretation, IHCDA will require the non-profit to submit a 60002. However, the 60002 should only reflect the activity related to the organization’s IHCDA award. Also, since the construction contract is for less than \$100,000, the organization only needs to report on the contracts they awarded, not any awarded from the contractor to subcontractors.

F. Annual Reporting to IHCDA Via Form HUD-6002

IHCDA has four responsibilities with regard to Section 3:

1. Inform recipients about the requirements of Section 3;
2. Assist recipients and their contractors with achieving compliance;
3. Monitor recipients’ performance with respect to meeting the requirements of Section 3; and
4. Report to HUD on the cumulative Section 3 activities taking place within its jurisdiction on an annual basis.





In order to comply with these responsibilities, IHCDA will require all recipients to submit an annual update using Form HUD-60002. Annual reports will be due July 1 of each year. A copy of HUD-60002 is provided as Form 1 to this chapter. Please submit all update reports to section3@ihcda.in.gov.

The following information is required by HUD to be included on the Annual Summary Report (HUD-60002).

1. The total dollar amount of HUD funding that was received by the recipient for covered projects/activities during the specified reporting period.
2. The total number of new employees that were hired by the recipient and/or its covered contractors, subcontractors, and sub-recipients, as a result of performing or completing covered project/activities.
3. The number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and sub-recipients), as a result of covered projects/activities, that met the definition of a Section 3 resident.
4. The total number of man hours worked on covered projects (optional).
5. The aggregate number of hours worked by Section 3 residents on covered projects (optional).
6. The total number of Section 3 residents that participated in training opportunities that were made available by the recipient agency, its contractors, sub-recipients, or other local community resource agencies.
7. The total dollar amount of construction and/or non-construction contracts (or sub-contracts) that were awarded with covered funding.
8. The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
9. Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, sub-recipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

G. HUD Compliance

Absent evidence to the contrary, HUD considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at [24 CFR Part 135.30](#), specifically:

1. Thirty percent (30%) of the aggregate number of new hires shall be Section 3 residents; and
2. Ten percent (10%) of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns.

Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the Department to make a compliance determination.

Recipients that submit Section 3 reports containing **all zeros**, without a sufficient explanation to justify their submission, are in **noncompliance** with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs.





Recipients that are subject to the annual Single Audit may also receive an audit finding for failure to submit form HUD-60002 to HUD.

H. Source / Additional Information

For additional information, see “ANNUAL SECTION 3 SUMMARY REPORTING REQUIREMENTS FOR RECIPIENTS OF HUD COMMUNITY PLANNING & DEVELOPMENT FUNDING (TECHNICAL ASSISTANCE ON FORM HUD-60002)” Available at <http://www.hud.gov/offices/fheo/section3/section3.cfm>.





CHAPTER 7 – Labor Standards (Davis-Bacon Requirements)

This chapter discusses with the Davis-Bacon requirements for federal projects; however, you should refer back to the procurement chapter for the applicable procurement methods and requirements.

OVERVIEW

Federal Regulation: [29 CFR Part 570](#)

The Davis-Bacon Act of 1931 and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

A. Labor Standards Acts

The regulations for labor standards requirements are found at 29 CFR Parts 1, 3, 5, 6, and 7.

The three basic statutes governing labor standards requirements are:

1. *Contract Work Hours and Safety Standards Act*

The Contract Work Hours and Safety Standards Act requires that workers receive “overtime” compensation at a rate of one and a half (1 ½) times their regular hourly wage after they have worked forty (40) hours in one (1) week. It applies to all construction contracts issued under the HOME and CDBG programs.

2. *Copeland “Anti-Kickback” Act*

The Copeland “Anti-Kickback” Act requires that workers be paid at least once a week, without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. The Act also requires contractors to maintain payroll records and submit weekly statements of compliance to the contracting agency. Payment to employees must be in cash or a negotiable instrument payable on demand. It applies to all contracts covered by Davis-Bacon.

3. *Davis Bacon Act*

The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work. Prevailing wages are computed by the U. S. Department of Labor (DOL) and are issued in the form of a federal wage decision for each classification of work.

Davis-Bacon wage rate provisions apply when HOME/CDBG funds are involved with equipment purchases that require installation and installation involves “more than an incidental amount” of construction work. Davis-Bacon wage rate provisions do not apply to equipment purchases where the cost of installation is only an incidental amount of construction activity.





Wage provisions apply to all construction, alteration or repair contracts over \$2,000 **except** for:

- (a) Contracts for rehabilitation or new construction of a residential property containing less than less than eight (8) units in a CDBG undertaking.
- (b) Contracts for rehabilitation or new construction of a residential property containing less than twelve (12) HOME-assisted units.
- (c) Force account employees of a state or political subdivision (other than a public housing agency), including situations where one political subdivision contracts with another using such employees, may work at their standard rate of pay, even if less than prevailing wage rates.

(For more information on if Davis-Bacon applies to your project, see the following section entitled "Applicability of Davis-Bacon Requirements")

B. Applicability of Davis-Bacon Requirements

HOME

- Applies to any contract for the construction of affordable housing containing twelve (12) or more HOME-assisted units, regardless of whether HOME funds are used for construction or non-construction activities (non-construction activities include real property acquisition, architectural and engineering fees, and other professional services). In some cases, Davis Bacon requirements may be triggered when HOME funds are used to provide down-payment assistance.
 - A HOME project with twelve (12) or more HOME-assisted units that is constructed under multiple contracts each containing less than twelve (12) HOME-assisted units is not covered. Please note HOME regulations prohibit breaking a single project into multiple contracts for the purpose of avoiding Davis-Bacon.
 - Ex/ X Not-For-Profit receives an award to complete a twenty (20) unit owner occupied rehabilitation project where an individual contract is awarded out for each unit. If four (4) contractors are awarded contracts to complete rehabilitation on five (5) units each, then Davis-Bacon would not apply.
 - If multiple HOME projects each containing less than twelve (12) assisted units are grouped into a contract(s) for construction that covers a total of twelve (12) or more assisted units, the contract is covered.
 - Ex/ X Not-For-Profit receives HOME funding to complete three (3) separate rental new construction projects in town. Upon completion X Not-For-Profit will own and manage all three (3) properties. Additionally, they have received common bank financing for all three (3) properties. Project #1 contains six (6) HOME-assisted units, Project #2 contains six (6) HOME-assisted units, and Project #3 contains six (6) HOME-assisted units. Project #1 is awarded to ABCD Construction under one contract. Projects #2 and #3 are lumped in together under one (1) contract and awarded to EFGH Construction. Davis-Bacon would not apply to ABCD Construction but would apply to EFGH Construction.
- Applies to affordable housing containing twelve (12) or more units assisted with HOME funds regardless of whether HOME funds are used for construction or non-construction activities. Such property may be one (1) building or multiple buildings owned and operated as a single development.

CDBG

- Applies to all of the following activities that are funded in whole or in part by CDBG funds:





- (1) the rehabilitation or new construction of residential property containing a total of eight (8) or more units (this includes both assisted and non-assisted or market rate units); or
- (2) the construction, alteration and/or repair, or painting of a public building or facility; or
- (3) any construction work on non-residential property valued at more than \$2,000.
- Therefore, if CDBG funds finance only a portion of the construction work, labor standards are applicable to the entire project. CDBG can finance other activities than “construction work” which do not trigger Davis Bacon requirements, such as real property acquisition, architectural and engineering fees, other services, and other non-construction items.
 - Property is defined as one (1) or more buildings on an undivided lot or on contiguous lots or parcels, which are commonly-owned and operated as one rental, cooperative, or condominium project.
 - Ex. X Developer will be rehabilitating three (3) apartment buildings each consisting of five (5) units and located on one (1) tract of land. CDBG funds will provide the financing to rehabilitate one (1) of these buildings. Upon completion, X developer will own the property. Davis-Bacon does apply to this project because CDBG funds are financing a portion of the project, it consists of the rehabilitation of fifteen (15) units, all fifteen (15) units will be under the same ownership, and the property is located on contiguous lots (in this case one tract of land).
- Applies to the construction, alteration and/or repair, or painting of a public building or facility.
- Applies to any construction work on a non-residential property valued at more than \$2,000.00
- Applies to all migrant seasonal farm worker housing projects.

C. Key Roles to Managing Davis Bacon Requirements

I. Labor Standards Officer (LSO)

The Labor Standards Officer is the person your organization will appoint to administer and enforce the Federal labor standards provisions associated with your award. This person must be identified before the start of construction to ensure compliance with all applicable labor standards requirements. Duties will include but not limited to:

- **Apply Davis Bacon requirements properly.** Make certain labor standards, including Davis Bacon prevailing wage rates, are applied where required. Ensure any exemptions or exceptions are identified.
- **Through education and advice, support contractor compliance with labor standards.** Provide basic training and technical support to contractors to ensure they understand their obligations under prevailing wage and reporting requirements.
- **Monitor contract performance.** Perform reviews of certified payroll submissions and other information to help insure contractor compliance with labor standards provisions and the payment of prevailing wages to workers. Identify any discrepancies and or violations. Ensure corrections and/or payment of wage restitution has been made. Ensure all contracts with the general contractor and subcontractors have the required federal language physically attached.
- **Determine if contractors are eligible to work on federally assisted projects.** Check the System for Award Management www.sam.gov and IHCDA’s State debarment list to ensure contractors are eligible.
- **Conduct on-site inspections including interviews with laborers and mechanics.**
- **Investigate probable violations and complaints of underpayment.** Thoroughly explore any evidence of violations, especially allegations of underpayment.
- **Ensure all appropriate posters are posted at the construction site.**
- **Inform IHCDA of non-compliance with contractors.** Carry a no-tolerance policy toward contractors who violate prevailing wage laws.





- **Report potential criminal or complex actions to IHCDA.** Examples include violations of the Contract Work Hours and Safety Standards Act (CWHSSA), debarment recommendations, and liquidated damages assessments.
- **Comply with all HUD requirements** concerning statutory and state requirements.

2. IHCDA's Labor Standards Officer (LSO)

IHCDA has designated the Director of Real Estate Compliance to be the agency's Labor Standards Officer. The purpose of this role is to manage all projects that trigger the Davis Bacon provision. Duties include:

- Determining Davis-Bacon Applicability
- Ensure all bid documents, contracts, and subcontracts contain the applicable Davis Bacon wage decision and Federal labor standards provisions.
- Provide contractor training. The IHCDA LSO will provide Davis Bacon compliance, Section 3, and MBE/WBE training at the pre-construction conference and available for additional training upon request.
- Reviews all additional classification requests
- Ensures all contracts and subcontracts have all required language
- Monitor Davis Bacon Compliance provided from the project LSO
- Report restitution and overtime pay to HUD
- Ensure the project LSO is complying with Davis Bacon compliance

3. General Contractor Responsibilities

The General Contractor (GC) is responsible for the oversight and management of the construction job. Non-compliance from either the General Contractor or any sub-contractors will result in a withholding of payment. The GC shall maintain such records relative to *all* laborers and mechanics working on the site of the work. Payrolls and related records shall be maintained during the course of the construction work and preserved by IHCDA and the general contractor and all employers for at least five years following the completion of the work. Duties of the General Contractor include:

- Ensuring all employees of either the GC and any subsequent subcontractors are aware of Davis Bacon regulations.
- Post all applicable posters and the wage classification in an area that can be seen by all workers at all times
- Review Subcontractor payrolls on a weekly basis
- Submit any job classification requests if applicable
- Ensure GC employees as well as Subcontractor employees are paid according to the wage scale or higher
- Pay restitution to any employee who received less than the applicable wage rate
- Maintain a file for each subcontractor that has the following information:
 - Contractor's Legal Name and Address
 - Business Owner Legal Name and Address
 - Sub-Contractor Davis Bacon Certification Form
 - Section 3 Certification Form
 - Copies of payrolls and a list of fringe benefits for each employee
 - Executed copy of the construction contract and all required exhibits
 - Bonding Documentation (if applicable)
 - Insurance Certification





D. Step-by-Step Outline of the Davis Bacon Requirements

1. Submit the “Notice of Labor Standards Officer” Form to your IHCDA Compliance Auditor once award agreement is received
 - ◆ The Labor Standards Officer is the person your organization will appoint to administer and enforce the Federal labor standards provisions associated with your award. Duties will include but not be limited to:
 - Ensuring the correct wage determination is being used.
 - Verifying the eligibility of contractors and subcontractors.
 - Reviewing weekly certified payrolls submitted by contractors and subcontractors.
 - Monitoring contractors and subcontractors and conducting site visits.
 - Conducting the required employee interviews.
 - Investigating and resolving Labor Standards violations.
 - Corresponding with and providing information to your IHCDA Compliance Auditor.
2. Request a Wage Decision from your IHCDA Compliance Auditor
3. Prepare Bid Documents - the following must be physically included in the bid documents:
 - ◆ Federal Labor Standards Provisions - HUD Form 4010; and
 - ◆ The Wage Decision
4. Follow the procurement standards outlined in Chapter 7.
5. Maintain a list of those entities/persons that request a bid packet.
6. A Pre-Bid Conference should be held by the recipient/architect approximately three (3) weeks prior to bid opening. At this conference you should briefly go over the Davis Bacon requirements and the construction/rehabilitation that needs to be completed; therefore, allowing for the entities to submit a competitive bid. Keep minutes of this conference for review by your IHCDA Compliance Auditor.
7. Wage Decision Update
 - ◆ The day prior to bid opening, check the Department of Labor website (<http://www.wdol.gov/>) to verify that the wage decision has not been modified. Submit to your IHCDA Compliance Auditor the Wage Decision Update Verification form, to verify that you have followed this step.
 - ◆ In the event that the contract is not awarded within ninety (90) days of bid opening, the wage rate must again be verified and is subject to modification. If there is a change in the wage decision, you must give the wage decision to each entity/person that received a bid packet.
8. Open all bids publicly – and maintain a log of bids as they are opened.
9. Prepare bid tabulation
10. Retain copy of minutes of bid opening
11. Complete the Contractor and Subcontractor Eligibility Process
12. Award contract at a public meeting. Retain copy of minutes. Include in the contract:
 - ◆ Federal Labor Standards Provisions - HUD Form 4010 ;
 - ◆ Wage Decision;





- ◆ Federal Contract Provisions and
 - ◆ Davis Bacon Contract Provisions
13. Submit the “Notice of Contract Execution” to your IHCDA Compliance Auditor (See Procurement Chapter).
 14. Contact IHCDA to schedule a Pre-Construction Conference – then submit Notice of Pre-Construction Conference to your IHCDA Compliance Auditor
 15. Pre-Construction Conference (given by your IHCDA Compliance Auditor and/or IHCDA Labor Standards Officer).
 - ◆ Every contractor/subcontractor must be present
 - ◆ The General Contractor will sign off on the Pre-Construction Conference Packet
 - ◆ Sign-in sheet must be kept as well as minutes – forward a copy of both to IHCDA
 16. Volunteers – if you plan on using volunteers, it must be approved by IHCDA. In your request, you must include the following:
 - ◆ The individual must truly be a volunteer;
 - ◆ The individual cannot receive compensation;
 - ◆ The individual can be paid for out of pocket expenses (hotel, travel, etc.); and
 - ◆ The individual cannot be employed as a contractor on the project and volunteer time.
 17. Submit the “Notice of Start of Construction” to your IHCDA Compliance Auditor
 18. Weekly, check Contractor’s and Subcontractor’s weekly payrolls against the wage decision to ensure compliance with prevailing wages.
 19. Conduct interviews of Contractor’s and Subcontractor’s employees.
 20. Submit the “Notice of Completion/Final Inspection” to your IHCDA Compliance Auditor.
 21. If applicable, submit the “Final Wage Compliance Report” to your IHCDA Compliance Auditor. *****Please note: If at any point during the award term, the recipient discovers a violation of the Davis-Bacon wage requirements has occurred, IHCDA must be notified immediately. *****

E. Types of Wage Decisions

Residential Construction

Includes the construction, alteration, or repair of single-family houses and apartment buildings of no more than four (4) stories** in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks.

Building Construction

Includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, and equipment or supplies. This includes the installation of utilities and of equipment; as well as incidental grading, utilities, and paving.

Heavy/Highway Construction

Heavy construction includes those projects that are not properly classified as either “building,” “highway,” or “residential.” It generally includes above ground work such as bridges, dams, docks, water and sewer line projects, and some drainage projects.





Highway construction includes construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

**Please note that residential developments of five (5) or more stories are subject to a commercial Davis-Bacon wage decision. A commercial wage decision would be either a Building or Heavy/Highway Construction decision depending on the type and scope of the project. Both public facilities (such migrant/seasonal farm worker housing) and developments of less than five (5) stories that involve significant commercial development may also be subject to the commercial wage decision. All other residential developments should be subject to the residential wage rates, which are significantly lower than commercial wage rates.

F. Wage Decision Effective Dates

Wage decisions “lock-in” (i.e., become effective) for each covered project based upon bid opening, contract award or start of construction (see 29 CFR Part 1). After “lock-in”, the wage decision is “frozen” for the duration of the construction work, i.e., the wage decision for the project is no longer subject to modification. Wage decisions for most LCA projects will “lock-in” at contract award or start of construction if there is no award *except*:

1. For contracts entered into pursuant to competitive bidding, the wage decision will “lock-in” on the bid opening date *provided* that the contract is awarded within 90 days.
2. If the contract is not awarded within 90 days, the wage decision must be updated as of the date of award.
3. Modifications that are published less than 10 days before bid opening may be disregarded if it is found that there is not a reasonable amount of time to notify prospective bidders of the modification before bid opening. If so, a record of the finding must be made to the contract file.

G. Requesting Additional Wage Classifications

The job classifications listed on the wage decision is derived from the Department of Labor’s assessment of the area and the surveys completed. It should be noted that not every job classification is represented in the wage classification. If there is a position that is needed, but not listed on the wage decision, please fill out the Additional Classifications Request Form and submit it to the IHCDA Labor Standard Officer.

This request is submitted to HUD and then to the Department of Labor for final approval. This process can take from 14 days to 3 months. It is imperative to submit this request as soon as the General Contract has been executed. The U.S. Department of Labor will issue an official letter with the job classification and hourly wage and fringe benefit amount. This letter should be included in all construction contracts as an amendment to the contract.

Additional Wage Classifications must meet the following criteria:

- The requested work classification is used in the area of the project by the construction industry.
- The work that will be performed is not performed by a work classification already contained in the wage decision.
- The proposed wage rate bears a reasonable relationship to the wage rates on the wage decision; and
- The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s)

If the proposed wage is denied by the Department of Labor and a new wage is given, restitution will need to be paid immediately to the affected contractors. Proof of restitution should include a copy of the restitution payroll, a copy of the restitution check to the affected employee, and a signed receipt from the employee stating they received the restitution payment.





H. Use of Apprentices and Trainees

Apprentices and trainees may work at less than the prevailing rates, if they are registered in a bona fide apprenticeship or training program registered with the U.S. Department of Labor or a Department of Labor-recognized State Apprenticeship Council.

Bona fide programs are those that have been registered with DOL, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, Bureau of Apprenticeship and Training (BAT) and or with a BAT – recognized State Apprenticeship agency (SAC).

1. Registration – The apprentice or trainee shall be individually registered in a bona fide program certified by the BAT or SAC
2. Wage Rates- Each apprentice and trainee shall not be paid less than the specified rate in the registered program for his/her level of progress. If the rate specified is represented as a percentage of the journey worker for that craft, the percentage shall be applied to the corresponding wage rate contained in the wage decision.
3. Apprentices and trainees must receive fringe benefits as specified in the approved program. If the program does not document any fringe benefits, the apprentices and trainees must receive the full fringe benefit specified on the applicable wage decision for their craft.
4. Ratio to journeymen- The maximum number of apprentices or trainees employed on the site of work may not exceed the ration of apprentices to journeymen permitted to the employer by the BAT or SAC certified program. Apprentices or trainees who are employed at the site in excess of the allowable ration shall be paid the wage rate contained in the applicable wage decision for the classification of work actually performed.

The allowable ratio of apprentices and trainees to journeyman on the job site is the allowable ratio under the approved program.

- If a contractor or subcontractor employs apprentices and trainees in such a number that exceeds the allowable ratio under the program all apprentices and trainees are considered improperly employed and will be entitled to the rate for the classification of work which they are performing.

I. Weekly Certified Payroll Reports

Weekly certified payroll reports must be kept on Department of Labor payroll form WH-347. Instructions for completing this form. A fill-able form WH-347 along with instructions for completing it can be found in the Chapter Exhibits.

Additional forms that may be used to assist you in ensuring compliance with the required wages and fringe benefits include:

- The monthly payroll report summary form
 - Can help summarize each month the payroll information being collected from the weekly payroll reports.
- The project wage rate sheet form
 - Can be used to breakdown the required wages and fringe benefits to be paid for each job classification being utilized on the project.
 - Serves as a checks and balances between the information the Recipient Labor Standards Officer is reviewing on the weekly certified payrolls and what is required to be paid.





J. Fringe Benefits

The definition of fringe benefit is:

- The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and
- The rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected (D-B Act. 40 U.S.C, Sec 3141)
- Documentation of Fringe Benefits for each employee must be documented in contractor file. It must also be documented in dollar and cents by the hour.

Bona fide fringe benefits include:

- Health, life, dental, vision or other similar insurance premiums paid by the employer
- Pension or retirement contributions made by the employer into a plan recognized by the Internal Revenue Service
- Expenses of certain recognized apprenticeship or training programs
- Vacation/holiday pay may be considered as long as the employee would receive any unused amounts at termination of employment, and other paid leave

Payroll deductions required by law are not considered fringe benefits and would include:

- Social security
- Worker's compensation
- Unemployment insurance
- Taxes
- Court ordered payments

The following are also not considered bona fide fringe benefits:

- Travel time
- Bonus payments
- Use of company tools or equipment
- Use of company vehicle
- Uniforms or safety shoes

If bona fide fringe benefits are being paid in addition to the minimum required wages, the contractor/subcontractor must include a breakdown of those fringe benefits either on the payroll form or as an attachment to the payroll form.

If bona fide fringe benefits are not being paid in addition to the minimum required wages, the contractor/subcontractor must pay at a minimum the required wages plus the required fringe benefits for the applicable classification in cash.

- Ex/ The wage decision in the contract for a particular job requires electricians to be paid \$15.00/hr in wages and \$5.00/hr in fringe benefits. Contractor A is not paying any fringe benefits to his electricians but does have a couple of them working on this job. Therefore, Contractor A must pay his electricians \$20.00/hr in wages (\$15.00/hr in required wages plus \$5.00/hr in required fringe benefits) for this job since he is not paying fringe benefits.





K. Overtime Payment

Overtime hours are defined as all hours worked at the site of work in excess of 40 hours in any workweek. CWHSSA requires the payment of time and one-half the basic rate of pay for all hours worked in excess of 40 hours in a week. Amounts paid to fulfill the fringe benefit portion of the prevailing wages listed in the wage determination – both contributions to bona fide benefit plans and cash payments made to meet wage determination fringe benefits requirements – are excluded in computing overtime obligations under CWHSSA. CWHSSA requires the payment of overtime premium pay only if the laborer or mechanic works in excess of 40 hours in a work week on the CWHSSA covered contract(s). Overtime hours worked, which are not subject to CWHSSA, may be subject to Fair Labor Standards Act overtime pay. CWHSSA overtime violations are subject to liquidated damages calculated at the rate of \$10 per day, per violation.

L. Employee Interviews

IHCDA requires a minimum of ten percent (10%) of each trade working on the project be interviewed. Form HUD-11 should be used when conducting these interviews. Instructions for completing this form can be found in chapter forms.

M. Interim Monitoring Requirements

Halfway through the award term or at fifty percent (50%) of funds drawn, whichever is sooner, IHCDA will conduct an interim monitoring to ensure compliance with the labor standards provisions. Focus points will include weekly collection and review of the certified payroll reports, correctly paying the required wages and fringe benefits, and conducting the required employee interviews. This interim monitoring is required and any issues found during the review must be addressed before additional claims to IHCDA will be released for payment.

Please refer to the IHCDA Monitoring Handbook in Chapter 16 (Program Monitoring and Audit) of this manual for information on what we'll be reviewing during this interim monitoring review.

N. Restitution Requirements

If a violation of labor standards requirements results in an underpayment of wages to employees, the Recipient's Labor Standards Officer should notify the general contractor to either make wage restitution, or direct its subcontractor to do so. Where restitution amounts are in excess of \$10 per worker, the employer must attest to wage restitution paid on a correction certified payroll. In cases where restitution is required to be paid to workers who were not paid the required minimum wages and fringe benefits IHCDA must see the following:

Restitution less than \$1,000.00

- Original payroll reports for affected employee(s);
- Correction payroll reports for affected employee(s);
- A copy of the reimbursement check that was sent to the employee;
- A signed and dated receipt from the employee showing they did indeed receive payment; and
- Final Wage Completion Report Form

Restitution greater than \$1,000.00

- Original payroll reports for affected employee(s);
- Correction payroll reports for affected employee(s);
- A copy of the reimbursement check that was sent to the employee;





- A signed and dated receipt from the employee showing they did indeed receive payment;
- Statement of future compliance from contractor/subcontractor on company letterhead; and
- Final Wage Completion Report Form
- IHCDA will prepare and send to HUD a HUD 5.7 Enforcement Report along with a Schedule of Back Wages Due Report

O. Retainage Requirements

IHCDA will hold the final \$5000 of an award until the final monitoring has been completed and all findings and concerns associated with it have been resolved. The final \$5,000 will be held until all of the following items have been addressed:

- All completion reports, leverage documentation, and closeout documentation has been received and approved;
- The final monitoring has been completed and all findings and concerns associated with it have been resolved; and
- The final inspection has been completed and an inspection clearance letter has been issued.

This retainage policy applies to all awards, not just awards subject to Davis Bacon requirements. If wage violations are not corrected within 30 days after notification of being out of compliance, the project appointed Labor Standards Officer must notify a Compliance Auditor at IHCDA to withhold payment until full payment of restitution has been made. Only the amounts necessary to meet the potential back wage and CHSSA liquidated damages liabilities should be withheld.

P. Pre-Construction Conference Checklist

The following outlines the materials that will be covered at the Davis Bacon Pre-Construction Conference. IHCDA has created a Conference packet to be utilized during the meeting that can be found in the chapter exhibits. The Recipient LSO should provide a copy for each contractor present at the pre-construction meeting.

- A. General Information regarding Contractor/Subcontractors
- B. Equal Employment Opportunity
 1. Section 3: Housing and Urban Development Act of 1968
 2. Minority/Women Business Enterprises
 3. Other Requirements
- C. Labor Standards
 1. Ineligible Contractors and Subcontractors
 2. Overtime
 3. Copeland Anti-Kickback Act
 4. Posters at the Construction Site
 5. Other Labor Standards Requirements
- D. Davis Bacon Requirements
 1. General Requirements
 2. Workers Not Listed on the Wage Decision
 3. Classifications





4. Apprentices
5. Weekly Payroll Requirements
6. Fringe Benefits
7. Self-employed Owners
8. Disputes
9. Compliance





CHAPTER 8 – Lead Based Paint Requirements

OVERVIEW

Federal Regulation: [24 CFR Part 35](#)

Lead is highly toxic and affects virtually every system of the body. At high exposure levels, lead poisoning can cause coma, convulsions, and death. While adults can also suffer from excessive lead exposures, the groups most at risk are fetuses, infants, and children under the age of six (6). At low levels lead's neurotoxic effects have the greatest impact on children's developing brains and nervous systems, causing reductions in IQ and attention span, reading and learning disabilities, hyperactivity, and behavioral problems (Davis, 1993). These effects have been identified in many carefully controlled research studies (National Academy of Sciences, 1993). However, the vast majority of childhood lead-poisoning cases go undiagnosed and untreated, since most poisoned children have no obvious symptoms.

HUD estimates that three-quarters of pre-1980 housing units contain some lead-based paint. The likelihood, extent, and concentration of lead-based paint all increase with the age of the building. Fully ninety percent (90%) of privately owned units built before 1940, eighty percent (80%) of units built between 1940 and 1959, and sixty-two percent (62%) of units built between 1960 and 1979 contain some lead-based paint (HUD, 1990b). Because the greatest risk is in dwellings built before 1950, older housing generally commands a higher priority for lead hazard controls.

The belief that in order to be poisoned children *must* eat lead-based paint chips is unfounded. The most common cause of poisoning is the ingestion—through hand-to-mouth transmission—of lead-contaminated surface dust (Clark, 1991; Bellinger, 1991; Roberts, 1991; Chisolm, 1985; Farfel, 1990; Farfel, 1994). Lead-contaminated dust may be so fine that it cannot be seen by the naked eye. In addition, lead-contaminated dust is difficult to clean up. Leaded dust is generated as lead-based paint deteriorates over time, is damaged by moisture, abraded on friction and impact surfaces, or disturbed in the course of renovation, repair, or abatement projects. Lead can also be tracked into homes from exterior dust and soil.

Children can also be exposed to lead in bare soil. The high levels of lead in soil typically come from deteriorating exterior lead-based paint around the foundation of a house (TerHarr, 1974; Linton, 1980). The fallout of lead emissions from the combustion of leaded automobile gasoline, lead-based paint, and industrial sources also contributes to lead levels in soil (ATSDR, 1988). In some areas high leaded soil levels result from factory and smelter emissions or deteriorating lead-based paint on steel structures, such as bridges. Bare soil that is contaminated with lead poses a hazard to children who play in it. Lead in soil may also be tracked into a home, increasing interior leaded dust levels.

A. General Education Requirements

IHCDA requires all grantees to participate in educating the public on the hazards of lead poisoning. The following material must be posted or distributed to the parties indicated regardless of project activity:

1. *For Contractors and Subcontractors:* "Lead Paint Safety: A Field Guide for Painting" - This brochure must be distributed to every contractor and sub-contractor participating in a HOME or CDBG assisted housing rehabilitation program. Documentation of the distribution of this brochure to the contractors and sub-contractors must be maintained in the project file. The recipient must create a receipt form for the contractor to sign to document receipt of the brochure. This brochure can be ordered from the National Lead Information Center at (800) 424-5323.





2. *For Homeowners and Renters:*
 - a. “Protect Your Family from Lead in Your Home” - This EPA brochure must be distributed to every family participating in any housing activity. Documentation of the distribution of this brochure to beneficiaries must be maintained in each project file. Additionally, for rental housing projects, all tenants during the affordability period must receive this brochure at move-in and sign a receipt form to be maintained in their file.
 - b. “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools” - Renovators must distribute to each family the EPA/HUD pamphlet. Documentation of the distribution of this brochure to beneficiaries must be maintained in each project file.
3. *For Organizations: “Runs Better Unleaded”* - This poster must be displayed at the offices of the local unit of government, sub-recipient, award administrator, and any administrative organization involved in a federally assisted project. IHCDA encourages local officials to post these posters at any public facility located in the jurisdiction.

B. Lead Hazard Testing and Clearance Process (See also Chapter 12, Funds Management, Lead Form for Set-up and Clearance)

1. Determine if the property is exempt from testing. Properties that might be exempt from testing include:
 - a. Residential structures built after January 1, 1978;
 - b. Rehabilitation that does not disturb paint;
 - c. Areas where state and local governments banned lead-based paint prior to January 1, 1978;
 - d. Properties found not to have lead-based paint during earlier testing that meets the requirements of prior evaluations;
 - e. Properties where all lead-based paint has been identified and removed using approved methods;
 - f. Unoccupied units that will be demolished;
 - g. Property not suitable for human residential habitation;
 - h. Zero-room dwelling units where child occupancy is unlikely; or
 - i. Elderly and disabled housing (as defined by 24 CFR Part 35.110 and Part 35.115): This refers to housing designated exclusively for persons with disabilities or housing reserved for households composed of one (1) or more persons sixty-two (62) years of age or older, or other age if recognized as elderly by a specific Federal housing assistance program. It does not refer to single-family homes owned or occupied by elderly persons or persons with disabilities. Additionally, this exemption does not apply if a child less than the age of six (6) resides or is expected to reside in the dwelling unit.
2. The “Approach to Lead Hazard Evaluation and Reduction” varies depending on level of assistance to the unit, so calculate the level of assistance using the “Lead Form for Set-up and Clearance” in Chapter 12, Funds Management.
 - a. The following costs are not counted when calculating the level of assistance for a project:
 - 1) “Soft” Costs such as Administrative Costs, Program Delivery, Environmental Review, and Relocation Costs.
 - 2) Acquisition Costs
 - 3) Lead Hazard Evaluation and Reduction Costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributed to lead-based paint reduction.





- b. In multi-family projects that include both federally-assisted and non-assisted units, use the following formula:

$$\frac{\begin{array}{l} \text{Rehabilitation hard} \\ \text{costs for all assisted} \\ \text{dwelling units (not} \\ \text{including common or} \\ \text{exterior areas)} \end{array} + \begin{array}{l} \text{Rehabilitation hard} \\ \text{costs for common areas} \\ \text{and exterior surfaces} \end{array}}{\begin{array}{l} \text{Number of federally-} \\ \text{assisted units in the} \\ \text{project} \end{array} + \begin{array}{l} \text{Total number of units in} \\ \text{the project} \end{array}}$$

3. Identify the “Approach to Lead Hazard Evaluation and Reduction” using the tables below.

	< \$5,000 assistance to unit	\$5,000 - \$25,000 assistance to unit	> \$25,000 assistance to unit
Approach to Lead Hazard Evaluation and Reduction	Do no harm	Identify and control lead hazards	Identify and abate lead hazards
Notification	Yes	Yes	Yes
Lead Hazard Evaluation	<ul style="list-style-type: none"> Paint testing of surfaces to be disturbed by rehabilitation 	<ul style="list-style-type: none"> Paint testing of surfaces to be disturbed by rehabilitation Risk assessment 	<ul style="list-style-type: none"> Paint testing of surfaces to be disturbed by rehabilitation Risk assessment
Lead Hazard Reduction & Clearance	<ul style="list-style-type: none"> Repair surfaces disturbed during rehabilitation Safe work practices Clearance of work site 	<ul style="list-style-type: none"> Interim controls Safe work practices Clearance of unit 	<ul style="list-style-type: none"> Abatement Safe work practices Clearance of unit
Ongoing Maintenance	For rental properties	For rental properties	For rental properties
EIBLL	No	No	No
Options	<ul style="list-style-type: none"> Presume lead-based paint Use safe work practices on all surfaces 	<ul style="list-style-type: none"> Presume lead-based paint Use standard treatments 	<ul style="list-style-type: none"> Presume lead-based paint Abate all applicable surfaces

- Conduct the Lead Hazard Evaluation
- Notify the occupant of the Lead Hazard Evaluation.
- Complete Lead Hazard Reduction activities as directed according to the level of assistance and the results of the Lead Hazard Evaluation.





7. Conduct the Lead Hazard Reduction and Clearance Test.
8. Provide the occupant with the Notification of Hazard Reduction and Clearance.
9. Complete and submit the “Lead Form for Set-up and Clearance” (see Chapter 3, Funds Management Forms).

C. Evaluation Process

1. **Visual Assessments** must be conducted by persons that have completed HUD’s online visual assessment training located at: www.hud.gov:80/lea/training/visualassessment/h00100.htm.
2. **Paint testing** must be conducted by a licensed lead-based paint inspector or risk assessor.
3. **Risk assessments** must be conducted by a licensed risk assessor.
4. All paint testing samples and risk assessment samples must be analyzed by an approved laboratory.

D. Notice of Evaluation

1. The administering agency must notify occupants about the results of the lead hazard evaluation within fifteen (15) days after the results have been determined. The notification must provide the following information:
 - a. The presence and location of lead-based paint or the presumption of lead based paint.
 - b. A description of how occupants can get additional information including the full report of the testing methods and results.
 - c. An explanation of the decision to forego evaluation and presume that lead-based paint and/or hazards exist. You must notify occupants of the reasons for making this presumption.
2. The notice of evaluation may be provided to the occupant as follows:
 - a. In single-family buildings, recipients can provide this information to the homeowner directly.
 - b. In multi-family buildings, recipients can either distribute this information to each household or post it in a central location where all residents can access it.
3. The results and methods of all evaluations must be summarized in a report that is made available to residents if requested. Program staff can prepare the report; however, in some cases the paint inspector or risk assessor may be the most qualified person to write the report.
4. Occupants must receive the results of the hazard reduction and clearance tests within fifteen (15) days of completion.

E. Lead Hazard Reduction

1. Renovations in target (pre-1978) housing and child-occupied facilities must be conducted by certified renovation firms, using renovators with accredited training, and following the safe work practice requirements.





2. Safe Work Practices

- a. At least one (1) certified renovator must be at the job or available when work is being done. The certified renovator may be a certified LBP Abatement Supervisor who has completed the four (4) hour RRP refresher course.
- b. Safe work practices must be used for all work on all lead-based paint surfaces. Safe work practices are required on deteriorated interior surfaces (i) larger than two (2) square feet, (ii) over ten percent (10%) of any building component (e.g., window or door trim) and (iii) on deteriorated exterior surfaces larger than twenty (20) square feet.

3. Lead Hazard Reduction Measures

- a. **Paint Stabilization:** Includes repairing disturbed paint and applying a new coat of paint. Paint stabilization must be done by a certified abatement worker or by a contractor who is supervised by a certified abatement supervisor.
- b. **Interim Controls and Standard Treatments:** Includes addressing friction and impact surfaces, creating smooth and cleanable surfaces, encapsulation, removing or covering lead-based paint components, and paint stabilization. Interim controls and standard treatments must be completed by a certified abatement worker, by a contractor who is supervised by a certified abatement supervisor or by workers trained in a HUD approved lead based paint worker course.
- c. **Abatement:** Abatement involves permanently removing lead-based paint hazards, often through paint and component removal, and enclosure. Abatement work must be done by a licensed abatement supervisor along with certified abatement workers.

4. Pre-Construction Conference

For activities where a licensed Lead-Based Paint Abatement Supervisor is utilized, a pre-construction conference for all contractors and workers that will be involved in disturbing lead-based paint is required. The supervisor will be required to explain safe work practices and review the work specification for each particular job site. The supervisor must explain the entire process to contractors, including possible increase in job cost, use of HEPA vacuums, clearance test, relocation, retainage, and maintaining a licensed Lead Project Supervisor onsite during all site preparation, abatement activity, and site cleanup. Award recipients are required to keep documentation of minutes and attendees of the pre-construction conference. IHCDA staff will document this requirement at monitoring.

F. Relocation

Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

1. Treatment will not disturb lead-based paint hazards or soil-lead hazards;
2. Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;





3. Treatment of the interior will be completed within one (1) period of eight (8) daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g. exposed live electrical wiring, release of toxic fumes, or site-disposal of hazardous waste); or
4. Treatment of the interior will be completed within five (5) calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health, or environmental hazards and, at the end of work on each day, the worksite and the area within at least ten (10) feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

If it is determined those occupants must be relocated from the lead premises then the occupants must remain away from the unit until the unit passes clearance.

G. Lead Hazard Clearance Tests

1. Clearance Tests must be conducted by a licensed lead-based paint inspector, risk assessor or clearance technician.
2. The clearance examiner must be independent from the individual or entity that conducted the paint stabilization or other lead hazard reduction, unless they are employees of the administering agency. Note: If agency employees are used, the same individual who conducted paint stabilization is not permitted to conduct clearance.
3. The purpose of clearance is to make sure that the unit is safe for occupants to return. Occupants are not permitted in the work area until it has passed clearance. Clearance must be performed at least one (1) hour after work has been completed. During clearance, a licensed professional will take dust samples and have them tested for lead. Clearance tests are not required when work areas is smaller than a total of two (2) square feet per room, ten percent (10 %) of the total surface area of interior components, such as window sills, or smaller than twenty (20) square feet on the exterior (DeMinimus).
4. **Before Clearance.** Prior to the clearance inspection, the contractor and program staff should ensure that the worksite is ready for inspection.
 - a. Be sure that all required work has been completed.
 - b. Be sure that all the lead hazard reduction measures have been completed.
 - c. Remove debris, paint chips, and dust from all surfaces, especially horizontal surfaces.
 - d. Remove debris and chips from the ground surrounding the building.
 - e. No less than one(1) hour after work has been completed; perform a final check of all surfaces for dust and chips. Check where dust tends to settle such as window troughs and sills, the tops of doorframes, and baseboards.
5. **Clearance Tasks.** During clearance, the licensed professional will complete the following tasks.
 - a. Conduct a visual assessment of the unit and worksite to identify dust, debris, and deteriorated paint.
 - b. Take dust samples from floors, interior windowsills, and window troughs.
 - c. If work was done to the exterior, visually assess the soil near the worksite.





- d. Submit the samples to an NLLAP-recognized laboratory for analysis.
- e. Write a report presenting the results of the clearance examination.

	Floors (µg/ft ²)	Interior Window Sills (µg,ft ²)	Window Troughs (µg/ft ²)
Lead in Dust (as measured by a dust wipe sample)	40	250	400

6. **Final Payment to Contractor.** A minimum of ten percent (10%) of the total contract must be held from the contractor until you receive a clearance report detailing that the levels of lead are within the acceptable range.

H. Notification of Lead Hazard Reduction and Clearance

- 1. The administering agency must provide occupants with the “Notification of Lead Hazard Reduction and Clearance” within fifteen (15) days of completion.
- 2. The notice should include:
 - a. A summary of the hazard reduction activities and clearance results;
 - b. A contact name, address, and telephone number for further information; and
 - c. The locations of remaining lead-based paint surfaces and lead hazards.

I. On-Going Lead Based Paint Requirements

- 1. Owners must inform current and new occupants of the lead hazard reduction methods that took place and where lead-based paint exists in their units. The brochure entitled “Protect Your Family from Lead in Your Home” must be provided to all new occupants upon move-in (see Part B.1 of this Chapter).
- 2. Owners should request, in writing, that the occupants of rental units monitor lead-based paint surfaces and inform the owner of potential hazards.
- 3. Regular maintenance and evaluation of the lead hazard reduction work must be performed. The owner is responsible for:
 - a. A visual inspection of lead-based paint at unit turnover or at least annually;
 - b. Repair of all unstable paint;
 - c. Repair of encapsulated or enclosed areas that are damaged; and
 - d. Owners must continue to comply with the notification requirements when additional lead hazard evaluation and hazard reduction activities are performed.





CHAPTER 9 - Construction Standards & Physical Inspections

A. Construction Standards

All IHCD A projects constructed or rehabilitated must meet the stricter of the Indiana State Building Code, local building codes, or manufacturer's instructions. The General Administrative Rules at 675 IAC 12 provides State of Indiana codes and standards for rehabilitation. The Rules can be accessed at the following address:

<http://www.in.gov/dhs/2490.htm>

At the time of publication and adoption of this Compliance Manual, the adopted codes referenced are believed to be those in force. As standards and codes change and put into effect by the governing authorities having jurisdiction, the new standards and codes will apply in lieu of those referenced.

Please note this Guide is to be used only as a supplement to compliance with all applicable State and Federal codes, laws, regulations, statutes, and rules. This Guide should not be considered a complete guide to physical inspection compliance. The responsibility for compliance with Federal program regulations lies with the grantee and/or property owner. IHCD A's obligation to monitor for compliance with the requirements of the Code does not make IHCD A or its subcontractors liable for any non-compliance issues.

B. Additional HOME and HTF Standards

All projects that use HOME funds for rehabilitation or acquisition must comply with the IHCD A Rehabilitation Standards.

All projects that use HTF funds for rehabilitation or acquisition must comply the IHCD A HTF Rehabilitation Standards.

I. Uniform Physical Condition Standards

The property conditions must also be in accordance with the Uniform Physical Conditions Standards. These are the standards to which projects requiring on-going compliance will be inspected by during the affordability period. Refer to the checklist in Chapter 9 Exhibits.

II. Accessibility

The Uniform Federal Accessibility Standards sets standards for facility accessibility by physically handicapped persons for Federal and federally-funded facilities. These standards are to be applied during the design, construction, and alteration of buildings and facilities to the extent required by the Architectural Barriers Act of 1968, as amended. Guidelines and standards may be found at:

<https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>

Section 504 of the Rehabilitation Act of 1973- provides accessibility requirements for New Construction, Substantial Rehabilitation, and Rehabilitation. Please see [Chapter 10](#) - Accessibility Requirements of the IHCD A CDBG & HOME Program Manual for an outline of Section 504 requirements.

III. Lead Based Paint





HUD's Lead Safe Housing Rule 24 CFR Part 35 must be addressed in all projects receiving IHCDA HTF funding. The Rule may be accessed here:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/lshr

C. Additional CDBG Owner Occupied Rehabilitation Standards

All Awardees and Grant Administrators of the CDBG OOR program are required to use the IHCDA Rehabilitation Priority List. The IHCDA Rehabilitation Priority List is a guide to assist in the development of the scope of work for OOR (owner occupied rehabilitation) projects. The List is required to be submitted with the Environmental Review site specific documentation.

HUD's Lead Safe Housing Rule 24 CFR Part 35 must be addressed in all projects receiving IHCDA CDBG funding.

D. Access requirements for Physical Inspections on IHCDA Assisted Properties

All IHCDA-assisted units, including but not limited to HOME, CDBG, CDBG-D, HTF, and Development Fund, must be inspected by IHCDA during the award period

A minimum of 20% of all multi-family rental units, all common areas, office space, maintenance/storage areas, and the exterior will be inspected

All single family homebuyer and rental units need accessed for inspections

All homes part of an OOR (owner-occupied rehabilitation) award need accessed for inspections

E. Third Party Building Inspectors Policy

The award recipient shall procure, or have on staff, an IHCDA approved inspector to monitor and inspect all IHCDA funded projects before, during, and after construction and/or rehabilitation. Third Party Inspectors must be approved prior to any construction and/or rehabilitation. Requests for persons to be approved should be sent to the IHCDA Design and Construction Review Analyst with the required documentation.

I. Qualifications

The following list of qualifications are for person(s) seeking to conduct inspections for IHCDA funded projects. At least one of these qualifications need met in order to qualify to conduct inspections for IHCDA awards.

- Three (3) years previous experience as a building code official or inspector- documented employment with contacts listed for verification
- ICC (International Code Counsel) Residential Building Inspector certificate- completion certificate will need submitted for approval prior to conducting inspections
- Documented experience conducting inspections of five (5) or more IHCDA awards must be approved by IHCDA in advance
- Local building code official- current building official in the projects jurisdiction
- Licensed architect- current licensee listed at www.in.gov/pla





- Licensed engineer- current licensee listed at www.in.gov/pla
Licensed home inspector- current licensee listed at <http://www.in.gov/pla/3119.htm>

An approved inspector may be disqualified to conduct current and future inspections at the discretion of IHCDA for the following:

1. Expired license (architect, engineer, and home inspector)
2. Failure to conduct recipients inspection within 30 days of completion of scope of work for the project (multi-family) or each single family home (rental or OOR)
3. For owner-occupied rehabilitation awards, more than 10% of the total homes served having a building code finding and/or incomplete scope of work for current and previous awards
4. Individuals/Contractors suspended or debarred and listed on the System for Award Management (SAM)

II. Third Party Building Inspector Responsibilities

At a minimum, the following standards are required:

- Ensure all contractually agreed upon rehab and/or construction is in accordance with Section A of this chapter
- Conduct progress inspections during rehab and/or construction for quality assurance
- Verify and substantiate all change order requests
- Conduct final inspections of all completed rehab and/or construction
- Mitigate all issues/concerns between contractors, property owners, recipients, and/or administrators prior to IHCDA inspections
- Sign the IHCDA Inspection Certification form only after determining all rehab and/or construction is in accordance with Section A of this chapter
- Re-inspect and verify required repairs based on IHCDA inspection(s) are complete and in compliance with Section A standards

E. SCOPE OF WORK

I. HOME and HTF awards:

1. All single and multi-family projects shall be inspected once the project has reached approximately 50% of completion or funds drawn. The inspection needs coordinated with the IHCDA Design & Construction Review Analyst. The following documents need submitted for review prior to scheduling the first IHCDA inspection:

Rental Rehab (single and multi-family)

- Scope of work (detailed repairs, specifications, and locations of the rehab work)
- Lead Form (located in Funds Management)
- IHCDA Inspection Certification form (if applicable at this time)
- Development Features form (if applicable to your application commitments)
- Construction Design Release (if applicable)

New Construction (rental and homebuyer)

- IHCDA Inspection Certification form (if applicable at this time)





- Development Features form (if applicable to your application commitments)
 - Construction Design Release (if applicable)
2. Upon completion of the project, the award recipient is responsible for inspecting the entire project to ensure it meets the applicable standards referenced under Section A of this chapter. This inspection must be performed by the local code official, licensed home inspector, architect, engineer, or IHCDA approved third-party building inspector.

The award recipient's inspector shall inspect each unit within 30 days of completion of the scope of work or building plans. All building code, workmanship, application commitments, and other issues found during this inspection must be corrected prior to signing the IHCDA Inspection Certification form.

The award recipient may request someone from within their agency or the administrator to conduct the inspections. Qualifications detailing the person's construction and code inspection experience needs submitted to the IHCDA Design & Construction Review Analyst for review and approval if in accordance with the IHCDA Approved 3rd Party Building Inspector Policy.

Once the recipient's inspector has verified all the work is in compliance with the Indiana State Building Code and signs the Inspection Certification form, the recipient shall contact the IHCDA Design & Construction Review Analyst and coordinate the IHCDA final inspection.

3. To request the final inspection by IHCDA the following needs submitted for review prior to scheduling:

Rental Rehab (single and multi-family)

- Scope of work (detailed repairs, specifications, and locations)
- Lead Form (Funds Management)
- IHCDA Inspection Certification form
- Development Features form (based on application and/or scope of work commitment)
- Construction Design Release (if applicable)

New Construction (rental and homebuyer)

- IHCDA Inspection Certification form (if applicable at this time)
- Development Features form (if applicable to your application commitments)
- Construction Design Release (if applicable)
- Certificate of Occupancy
- LEED, Energy Star, NAHB Certificate or contract with design information

After reviewing the inspection documents, the Design & Construction Review Analyst will contact the recipient and/or administrator via phone or email to coordinate the date and time of the inspection or send a request for more information.

A confirmation letter will be sent to the recipient and/or administrator once the date and time of the inspection is determined.

4. After each IHCDA inspection, the recipient and/or administrator will receive an inspection report listing, by address, any deficiencies observed. If deficiencies are noted, the recipient will have approximately 30 days to address them.





If additional time beyond the 30 days is needed to address deficiencies, an extension request can be to the Design and Construction Review Analyst. The request should detail the reasons for the request. Once reviewed, a response with the decision will be emailed to the recipient and/or administrator.

Once all repairs are made, the IHCDA affidavit needs submitted to the Design & Construction Review Analyst via email or mail within the 30 day timeframe noted in the report for each project or single family home. The affidavit shall be signed by the award recipients authorized signatory and give a detailed description of each repair to include a photo.

After reviewing the affidavit and photo(s), either a letter stating all repairs have been corrected or a request for more information will be emailed to the recipient and/or administrator.

IHCDA may conduct a re-inspection of any project to verify the repairs are in accordance with all applicable standards if the extent of the deficiencies are warranted, requested by the award recipient, or property owner.

The final inspection and any corrections must be completed before the award can close-out.

All HOME and HTF rental projects will be inspected periodically throughout their affordability period in accordance with HUD's Uniform Physical Conditions Standards.

II. CDBG Owner Occupied Rehabilitation awards:

1. All owner occupied rehabilitation units must be inspected at a minimum of twice during the award period. Progress inspections during construction should also be conducted for quality assurance.

The first inspection is conducted by the award recipient's inspector upon completion of the scope of work and must be performed by the local code official, licensed home inspector, architect, engineer, or IHCDA approved third-party building inspector.

The local code official is the preferred person to conduct inspections for the award grantee if feasible.

The award recipient may request someone from within their agency or the administrator to conduct the inspections. Qualifications detailing the person's construction and code inspection experience needs submitted to the IHCDA Design & Construction Review Analyst for review and approval if in accordance with the IHCDA Approved 3rd Party Building Inspector Policy located in this chapter.

If paid staff of the award recipient completes work on a home an approved third-party inspector must conduct the first inspection.

The recipient shall inspect each unit within 30 days of completion of all repairs noted in their scope of work. All building code, workmanship, application commitments not incorporated, and other issues found during this inspection must be made prior to signing the IHCDA Inspection Certification form.

Once the recipient's inspector has verified all the work is in compliance with the Indiana State Building Code and signs the Inspection Certification form, the recipient shall contact the IHCDA Design & Construction Review Analyst and coordinate the final inspection.

2. To request the final inspection by IHCDA the following needs submitted for review prior to scheduling:
 - Scope of work (detailed repairs, specifications, and locations)





- Lead Form (Funds Management)
- IHCDA Inspection Certification form
- Development Features form (based on application and/or scope of work commitment)

The average award has between 5-20 homes; therefore, you should contact the IHCDA Design & Construction Review Analyst and coordinate final inspections in groups of at least 3 to 5 units rather than waiting until all the units are complete.

After reviewing the inspection documents, the Design & Construction Review Analyst will contact the recipient and/or administrator via phone or email to coordinate the date and time of the inspection or send a request for more information.

A confirmation letter will be sent to the recipient and/or administrator once the date and time of the inspection is determined.

3. After each IHCDA inspection, the recipient and/or administrator will receive an inspection report listing, by address, any deficiencies observed. If deficiencies are noted, the recipient will have approximately 30 days to address them.

If additional time beyond the 30 days is needed to address deficiencies, an extension request can be made in writing to the Design and Construction Review Analyst. The request should detail the reasons for the request. Once reviewed, a response with the decision will be emailed to the recipient and/or administrator.

Once all repairs are made, the IHCDA affidavit needs submitted to the Design & Construction Review Analyst via email or mail within the 30 day timeframe noted in the report for each project or single family home. The affidavit shall be signed by the award recipient and/or administrator and give a detailed description of each repair to include a photo.

After reviewing the affidavit and photo(s), either a letter stating all repairs have been corrected or a request for more information will be emailed to the recipient and/or administrator.

IHCDA may conduct a re-inspection of any project to verify the repairs are in accordance with all applicable standards if the extent of the deficiencies is warranted, requested by the award recipient, or property owner.

The final inspection and any corrections must be completed before the award can close-out.

III. CDBG rental projects:

The same process for inspections with the HOME section of the chapter will be conducted.

Documents submitted for inspection:

1. Scope of Work (rehabilitation projects)
 - Room by room detailed list of all the work completed in each
 - Exterior and common areas where work is complete identified
 - One PDF document per home/project with all the requested forms shall be emailed for review





- All components and materials repaired and/or replaced must be identified. For example, if the scope of works states to “repair or replace as needed” roof decking, it should state if any decking was actually replaced and where
2. Lead Form- one page form located in the Funds Management chapter
 3. IHCDA Inspection Certification Form- all signatures must be on one page
 4. Electrical Spreadsheet- used to develop the room by room scope of work
 5. Development Features Form- documents design features from you application including Energy Star rated appliances, and insulation upgrades
 6. LEED, Energy Star, NAHB certificate- if applicable
 7. Certificate of Occupancy- if applicable
 8. Construction Design Release- if applicable





CHAPTER 10 – ACCESSIBILITY REQUIREMENTS

Overview

Federal Regulation: [24 CFR part 8](#), [28 CFR parts 35](#)

This chapter outlines Section 504 of the Rehabilitation Act. Recipients cannot discriminate against an otherwise qualified individual with disabilities, solely by reason of his or her disability, with regards to participation in any program or activity receiving CDBG or HOME funds. This chapter defines the recipient’s responsibilities in terms of physical and program accessibility of its CDBG or HOME program. For more information on Fair Housing and nondiscrimination see [Chapter 13](#).

Recipients must include the accessibility logo on all client related brochures, applications and correspondence. An electronic copy of the logo is available in the Chapter 10 Exhibits or by contacting your IHCDA Real Estate Production Analyst or Compliance Auditor.



Per Section 504 of the Rehabilitation Act of 1973:

“No **otherwise** qualified individual with disabilities, shall, **solely** by reason of his or her disability, be excluded from the participation in, or denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance from HUD.”

A. Accessibility Requirements

New Construction

5 or more units	15 or more units
Required minimum of five percent (5%) of the units or at least one (1) unit accessible for mobility impairments; Minimum of two percent (2%) or at least one (1) unit accessible for hearing or vision impairments	Required minimum of five percent (5%) of the units or at least one (1) unit accessible for mobility impairments; Minimum of two percent (2%) or at least one (1) unit accessible for hearing or vision impairments

Substantial Rehabilitation

5 or more units	15 or more units
Recommended minimum of five percent (5%) of the units or at least one (1) unit accessible for mobility impairments; recommended minimum of two percent (2%) or at least one (1) unit accessible for hearing or vision impairments	Required minimum of five percent (5%) of the units or at least one (1) unit accessible for mobility impairments; Minimum of two percent (2%) or at least one (1) unit accessible for hearing or vision impairments





Rehabilitation

5 or more units	15 or more units
Recommended minimum of five percent (5%) of the units or at least one (1) unit accessible for mobility impairments; recommended minimum of two percent (2%) or at least one (1) unit accessible for hearing or vision impairments	Recommended minimum of five percent (5%) of the units or at least one (1) unit accessible for mobility impairments; recommended minimum of two percent (2%) or at least one (1) unit accessible for hearing or vision impairments

B. Physical Accessibility

All new construction housing projects with five (5) or more units or projects involving substantial rehabilitation must be designed and constructed to be readily accessible to and usable by individuals with disabilities.

A minimum of five percent (5%) or at least one (1) of the units (whichever is greater) must be accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the Uniform Federal Accessibility Standards (UFAS) is accessible for purposes of this section. An additional two percent (2%) of the units (but not less than one (1) unit) in such a project must be accessible for persons with hearing or vision impairments.

Substantial Rehabilitation is defined as having fifteen (15) or more units (in a project) and the cost of the rehabilitation is greater than seventy-five percent (75%) of the replacement cost of the completed facility.

C. Distribution of accessible dwelling units

Accessible dwelling units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and shall be available in a sufficient range of sizes and amenities so that a qualified individual with a disability has a choice of living arrangements that is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade level.

D. Occupancy of accessible dwelling units

Recipients with accessible units shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, when an accessible unit becomes vacant, the owner or manager before offering such units to a non-disabled applicant shall offer such unit:

- (1) First, to a current occupant of another unit of the same project, or comparable projects under common control, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then
- (2) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

When offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, the owner or manager may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.





E. Homeownership programs

Recipients are required to ensure that any newly constructed or rehabilitated housing units for purchase i.e. single family (including semi-attached and attached) units receiving Federal financial assistance shall be made accessible upon request of the prospective buyer if the nature of the disability of an expected occupant so requires.

In such cases, the buyer shall consult with the seller or builder/sponsor regarding the specific design features to be provided. If accessibility features selected at the option of the homebuyer are ones covered by the standards prescribed by the Uniform Federal Accessibility Standards, those features shall comply with the standards prescribed in the UFAS. The buyer shall be permitted to depart from particular specifications of these standards in order to accommodate his or her specific disability.

The cost of making a facility accessible under this paragraph may be included in the mortgage amount within the allowable mortgage limits, where applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective homebuyer, subject to maximum sales price limitations (see 24 CFR 235.320).

F. 24 CFR Part 8/Accessibility Standards for Design, Construction, and Alteration

This regulation deals with the Uniform Federal Accessibility Standards (UFAS) for construction. The UFAS outlines specific requirements in terms of creating units accessible for people with disabilities. The UFAS contains specs and guidance on access ramps, doorway widths, handles on doors, cabinets, sink heights, etc.

These standards are used in new construction and substantial rehabilitation as defined under the physical accessibility section above.

Copies of UFAS are available through HUD's Publications Office. (800) 767-7468. HUD's TDD (hearing or speech impaired) number is 202-708-0113. IHCDA also has limited copies available for use. Please contact your IHCDA Real Estate Production Analyst.

Recipients also need to ensure that the space where clients apply for housing is accessible. IHCDA staff will review the physical offices of the recipient, sub recipient, and/or award administrator in order to determine the accessibility of the offices.

G. Program Accessibility

In addition to physical accessibility, recipients are also required to have accessible programs. Recipients must ensure that people have access to apply for that program.

For example, if an applicant required an application in Braille or in a language other than English, the recipient is required to make that accommodation.

Additionally, recipients must have a communication system in place for the hearing and speech impaired. Relay Indiana is a free service that relays calls between a person using a text telephone (TTY/TTD) and users of the general telephone network in Indiana. If the need to use this service arises, recipients should call Relay Indiana at 800-743-3333.

For more information on reasonable accommodations and modifications as required under [Fair Housing](#), see Chapter 11.





CHAPTER 11 – Uniform Relocation Act & Section 104(D) Requirements

Overview

Federal Regulations: [49 CFR Part 24](#), [24 CFR Part 42](#)

This chapter provides guidance on how to handle permanent and temporary displacement of residents as a result of the IHCDA assisted development. URA and Section 104(d) can be extremely costly to an award recipient if not done correctly. The information in this chapter is presented based on the type of activity you are undertaking.

According to Title I of the Housing and Community Development Act of 1974, as amended, and Title II of the National Affordable Housing Act of 1990, as amended, "Each award recipient shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of assistance received under this title..." as required under the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, as amended, and Federal implementing regulations at 49 CFR Part 24 and the requirements of **Section 104(d) of Title I of the Housing and Community Development Act of 1974**, as amended.

A. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) applies to:

- ◇ Displacement that results from acquisition, demolition, or rehabilitation for HUD-assisted developments carried out by public agencies, nonprofit organizations, private developers, or others.
- ◇ Real Property Acquisition for HUD-assisted developments (whether publicly or privately undertaken).
- ◇ URA requirements apply to all CDBG or HOME assisted projects regardless of whether federal, local, or private funds are paying for the specific development activity that is causing displacement to occur.

B. URA Assistance to Displaced Households

Assistance must be provided to displaced persons who **leave** the development. Displaced households must receive:

- ◇ Appropriate notices and other advisory services to assure they are fully informed of their rights, make informed decisions, and receive referrals to appropriate services that may be needed.
- ◇ Replacement housing including the offer of a comparable replacement dwelling and, if necessary, financial assistance to make the unit affordable. (Financial assistance may be in the form of a Replacement Housing Payment or tenant-based rental assistance, such as Section 8 Certificates and Vouchers). There is no income cut-off for eligibility for relocation assistance. Anyone who is displaced may be entitled to URA assistance.
- ◇ Moving and related expenses to help cover costs of the move. The displaced person has the option of choosing:





- a payment for actual, out-of-pocket, reasonable moving and related expenses; or
- a fixed moving expense allowance based on the U.S. Department of Transportation (DOT) residential moving cost schedule. The current allowance can be found online at https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm. It is called the "Residential Moving Cost Schedule".

C. URA Assistance to Displaced Businesses

Assistance must be provided to displaced business who **leave** the development. Displaced businesses must receive:

- ◇ Appropriate notices and other advisory services to assure they are fully informed of their rights, make informed decisions, and receive referrals to appropriate services that may be needed.
- ◇ Payments associated with moving to another location
 - Commercial Move is based on the lower of two bids or estimates prepared by a commercial mover.
 - Self-Move is a payment based upon one or a combination of the following:
 - The lower of two bids or estimates prepared by a commercial mover.
 - Supported by recipient bills for labor and equipment. Hourly Labor rates shall not exceed the rates paid by a commercial mover. Equipment rental fees should be based upon actual rental cost of the equipment and cannot exceed the cost paid by da commercial mover.
 - Other Costs such as advertising signs, moving machinery, and utility connections. Contact your Compliance Auditor for a full list of eligible costs which can also be found at [49 CFR 24.301](#)

D. Maximum Relocation Benefit to Displaced Person or Entity

1. Business Displacement

- The Maximum Reestablishment Expense Payment to a displaced business can be up to \$25,000 [42 U.S.C. 4622(a)(4)] and;
- Maximum Fixed Moving Expense Payment benefit can be up to \$40,000 [42 U.S.C.4622(c)].

2. Homeowner –occupant displacement

- Maximum Replacement Housing Payment for displaced 90 day (formerly 180 day)
- Homeowner-occupant increased from \$22,500 to \$31,000 [42 U.S.C. 4623(a)(1)]

3. Residential Tenant Displacement

- Maximum Replacement Housing Payment for displaced 90 day residential tenant increased from \$5,250 to \$7,200

E. URA Assistance to Remaining Households

Assistance must also be provided to those persons who are expected to **remain** in the development. Remaining households must receive:

- ◇ Appropriate notices and other advisory services - To assure that they are fully informed of their rights, make informed decisions, and receive referrals to appropriate related services that may be needed.





- ◇ Suitable housing - The household must be offered a unit within the development that is decent, safe, and sanitary and appropriate for the household's size.
- ◇ Affordable housing - If a household's rent increases as a direct result of a federally assisted activity to an amount that is more than the household can afford, the household is considered "economically displaced." The award recipient must treat this household like any other displaced household by issuing a "Notice of Eligibility" and providing relocation assistance.
- ◇ Temporary relocation assistance - Including moving and related expenses to cover the cost of any temporary move (e.g., while the unit is being rehabilitated).
- ◇ Moving and related expenses - To help cover the cost of any permanent move to another unit in the development.

F. Temporary Relocation for Homeowner Repair and Improvement

Participation in the homeowner repair and improvement program is voluntary, so participants are **not** eligible for permanent relocation assistance. Award recipients are required to provide *temporary* relocation assistance in the event that a unit becomes temporarily unlivable during rehabilitation.

During the initial eligibility review for the homeowner repair and improvement program, award recipients should inform participants that relocation might occur. Award recipients can provide relocation in the form of paying for hotels, housing participants in another unit, paying for meals, etc. Homeowner repair and improvement participants are not required to receive relocation advisory notices.

G. Property Acquisition – Willing Buyer/Seller Transaction

This situation arises when the property owner is interested in selling the property. In this case, you would use Voluntary Acquisition Disclosure to Seller form to notify the property owner of the following:

1. of the property’s estimated fair market value;
2. the purchase price of the property ; and
3. that the purchaser does not have the power of eminent domain.

This notice must be sent certified mail or hand delivered with signed receipt.

Willing buyer/seller transactions are *ineligible* for relocation assistance. However, any *tenants* residing in the building are entitled to relocation. Please refer to Chapter 5 Section G: Property Acquisition with Rental Tenants for further guidance.

H. Property Acquisition- Non-Willing Buyer/Seller Transaction

If award funds are used to acquire a property for the purpose of becoming HOME or CDBG housing, the award recipient is responsible for ensuring compliance with all of the relocation statutes.





Step 1 – Property Owner Notification

Send a notice to the seller; this packet of information must include a cover letter explaining the IHCDA recipient's interest in the property (see sample cover letter in Chapter exhibits), the informational HUD URA booklet 1041-CPD entitled "When a Public Agency Acquires Your Property" (booklet available), and the HUD URA booklet 1044-CPD entitled "Relocation Assistance to Displaced Homeowner Occupants). Notices should be issued **as soon as feasible** after a specific property has been identified for CDBG or HOME assistance. This packet of information should be sent certified mail; however, if certified mail is not used, a signed statement from the homeowner must be obtained to document their receipt of this information.

There are different types of replacement housing depending on whether the resident is a homeowner or rental tenant as well as how long they have lived in the property. Please refer to the following information in making your determination of benefits:

- a. Replacement Housing Payment Calculation for URA (90-179-Day Homeowner)
- b. Replacement Housing Payment Calculation for URA (Rental Tenants)
- c. Replacement Housing Payment Calculation for Section for 104(d)

For the specific requirements and calculation methods for the above, please refer to the Relocation Definitions in Section M.

Step 2 – Determine Value of Property

You must determine the value of the property.

- a. If the value of the property is below \$10,000, a licensed real estate appraiser may determine value. The estimate must be in writing.
- b. For property valued above \$10,000, a fee appraisal documenting value must be obtained. The appraisal must be conducted by a licensed real estate appraiser.
- c. For properties that have been damaged and are located within the 100-year floodplain, a fee and review appraisal must also be completed. The review appraisal must be conducted by a licensed real estate appraiser. In the event the two appraisals do not match, the review appraisal value must be utilized.

You must notify the property owner by certified mail of the time and date of the appraisal. The homeowner can attend the appraisal if they choose.

Step 3 – Notify Property Owner of Offer

After the completion of the market valuation or appraisals, the recipient notifies the property owner of the offer to purchase. This should be sent either certified mail or hand delivery with a signed receipt.

Step 4 – Sign the Purchase Offer

Once the property owner accepts the offer, you may execute the purchase offer. If this is done prior to release of funds and Section 106 Historic Clearance, you should enter into a purchase option that documents the Section 106 Clearance and Release of Funds process must be successfully completed as a condition of sale.

Step 5 – Recipient Questionnaire

The recipient should complete the questionnaire, which provides additional information regarding the property.





I. Property Acquisition with Rental Tenants

Step 1 – General Information Notice (Forms – two of them)

- a. Residential Tenant That Will Not be Displaced Form
- b. Residential Tenant to be Displaced Form

The notice must be provided as soon as feasible after the submission of an application to IHCDA, or as soon as a specific property has been identified for CDBG or HOME assistance.

The notice must explain that the CDBG or HOME assisted development has been proposed and caution the resident not to move prematurely.

The notice must inform the resident of the terms for continued occupancy if the resident will not be displaced or of the assistance available if the person will be displaced.

If displacement is possible, the notice must enclose additional information about available relocation assistance by including HUD URA booklet 1042-CPD entitled "Relocation Assistance to Tenants Displaced from Their Homes" (available as Chapter 11 Forms).

Step 2 - Notice to Tenants Moving In After Application Form

This notice must be issued to each prospective tenant BEFORE the tenant agrees to move into the development.

The notice must explain that the development has been proposed and inform residents that they may be displaced or sustain a rent increase as a result and that they will NOT be entitled to relocation assistance in either event.

Failure to issue this notice can be very costly. The award recipient may incur unnecessary relocation liability for each resident who moves in after the application for CDBG or HOME assistance and is not given this notice.

Step 3 - Notice of Non- displacement Form

For acquisition and/or residential rehabilitation projects, this notice is issued to residents who will remain in the project after its completion.

The notice is issued at the time of the execution of the agreement for acquisition and/or rehabilitation and contains a specific offer of a suitable, affordable unit in the project.

Step 4 - Temporary Relocation Notice

Residents who are not required to move permanently may be required to move temporarily, if all conditions of the move are "reasonable".

Residents that are to be temporarily relocated must receive "reasonable" advance written notice of the location, terms and conditions of the temporary move and of their right to reimbursement of all reasonable out-of-pocket expenses.

Step 5 - Notice of Eligibility for Relocation Assistance Forms

For acquisition and/or residential rehabilitation projects, this notice is issued to residents who will be displaced.





The notice is issued at the time of the execution of the agreement for acquisition and/or rehabilitation and contains a commitment for relocation assistance including:

- a. Address of at least one (1) comparable replacement unit and other appropriate (but not necessarily comparable) referral housing units.
- b. A specified amount for a replacement housing payment and moving expenses.

Because the comparable rents set an upper limit for assistance, failure to provide information about available, comparable units may result in a requirement to pay excessive relocation costs.

For a household who can be offered a decent, safe, and sanitary unit in the project but not an affordable one, the notice may offer the household the opportunity to waive relocation assistance and remain in the development.

There are different types of replacement housing depending on whether the resident is a homeowner or rental tenant as well as how long they have lived in the property. Please refer to the following information in making your determination of benefits:

- d.
- e. Replacement Housing Payment Calculation for URA (90-179-Day Homeowner)
- f. Replacement Housing Payment Calculation for URA (Rental Tenants)
- g. Replacement Housing Payment Calculation for Section for 104(d)

For the specific requirements and calculation methods for the above, please refer to the Relocation Definitions in Section M.

Step 6 - 90 Day (and 30 Day) Notices

Each lawful occupant to be displaced must receive at least ninety (90) days written advance notice before being required to move.

The notice cannot be given before the person is issued a Notice of Eligibility for Relocation Assistance **or** before being notified of the availability of a comparable replacement dwelling.

The notice must specify the date by which the property must be vacated, or if the date is unknown, it must indicate the earliest date that the occupant may be required to move.

If no date is specified in the 90-Day Notice the occupants must be informed that they will receive at least thirty (30) days advance written notice of the specific date of the move.

J. Information and Counseling

1. All residents must be kept informed of development activities and scheduling.
2. Information and counseling should also include:
 - ◇ Referrals to other available assistance and human services (e.g., health services, public assistance, child care)
 - ◇ Information about Federal, State, and local housing programs and how to apply for them.
 - ◇ Information about the household's rights under the Fair Housing Act.





- ◇ For those who are displaced: information, to the extent possible, about replacement housing opportunities that may promote fair housing and moves to neighborhoods outside areas of racial concentration.

K. Donations

Owners may offer to donate properties, and these transactions would be considered voluntary. But the owners must be informed of their rights under URA, AND they must waive these rights in a written consent document. However, any tenant residing in an owner-donated property would be eligible for relocation.

L. Section 104(d) Tenant Assistance and Relocation Requirements

- ◇ Whenever:
 - Any unit, at any rent level that is occupied by a low or moderate-income person is **demolished** with CDBG or HOME funds; the displaced person is eligible for relocation assistance at the Section 104(d) levels.
 - A CDBG or HOME funded **conversion** displaces a low or moderate-income person; the displaced person is eligible for relocation assistance at Section 104(d) levels.
 - A low or moderate-income person remains in a development **converted** with CDBG or HOME funds, Section 104(d) economic displacement rules apply.
- ◇ Any displaced person who qualifies for Section 104(d) assistance is also covered by URA.
- ◇ High-income residents of a CDBG or HOME funded development who are displaced (physically or economically) are not eligible for Section 104(d) assistance but are eligible for URA assistance.

SECTION 104(d) REPLACEMENT HOUSING PAYMENT

- ◇ The Section 104(d) Replacement Housing Payment is available only to low and moderate-income households; however, high income displaced tenants are eligible to receive assistance under the URA.
- ◇ The Section 104(d) Replacement Housing Payment is intended to provide affordable housing for a 60-month (5 year) period. There is no cap on the Section 104(d) Replacement Housing Payment.
- ◇ Replacement Housing Payment includes paying a security deposit.
- ◇ For homeowners who are displaced and who qualify for Section 104(d), use the market rent of the comparable and replacement units in this calculation.
- ◇ **Be sure to compare the Section 104(d) calculation to the amount that they would receive under the URA formula. If the amount calculated under the URA formula exceeds the amount under the Section 104(d) formula, then the displaced household is entitled to the URA amount.**





- ◇ Provide homeowners with a copy of HUD booklet 1365-CPD *Relocation Assistance Under Section 104(d) to Persons Displaced From Their Homes*.

M. Section 104(d) One--For-One Replacement Requirements

- ◇ Award recipients may not use CDBG or HOME dollars to reduce the supply of "low/moderate dwelling units."
- ◇ Section 104(d) requires that each applicable low/mod unit that is "lost" through conversion or demolition in conjunction with a CDBG or HOME assisted development be replaced by another affordable unit.
- ◇ This is a bricks and mortar requirement. It is not related to the circumstances of the household who lives in the unit, nor whether the unit is currently owned or rented.
- ◇ Award recipients **MUST** replace a unit if:
 - It meets the definition of a low/mod dwelling unit; **AND**
 - It is occupied or is a vacant occupiable dwelling unit; **AND**
 - It is to be demolished or converted to a unit with market rents above the FMR or to a use that is no longer for permanent housing.
- ◇ A unit **DOES NOT** need to be replaced if:
 - It does not meet **all** of the triggering criteria.
 - It is a substandard unit not suitable for rehabilitation (as defined by local minimum housing standards or the State Consolidated Plan) that has been vacant for over a year.
- ◇ Income of the current resident is not relevant when evaluating triggers for replacement.

1. DISCLOSURE AND REPORTING REQUIREMENTS

- ◇ Before an award recipient executes a contract for any activity that would create the need for one-for-one replacement, the award recipient must:
 - Make the plan public, by publication in a newspaper of general circulation; and
 - Submit to IHCDA the following information:
 - Description of the proposed activity;
 - Location and number of units to be removed;
 - Schedule for the beginning and completion of the demolition or conversion;
 - Location and number of replacement units;
 - Source of funding and timing for providing the replacement units;
 - The award recipient's basis for determining that the replacement units will remain affordable for at least ten (10) years from the initial date of occupancy; and
 - The award recipient's justification (if applicable) for replacing larger units with smaller units.
- ◇ There will be no formal IHCDA approval of the submission. IHCDA will forward the information to HUD and both agencies will use it during their monitoring activities.





2. REPLACEMENT UNITS

- ◇ Replacement units must be:
 - Within the award recipient's jurisdiction and, if possible, consistent with other statutory priorities, in the same neighborhood;
 - In standard condition; and
 - Designed to remain affordable to low-income families for ten (10) years.
- ◇ The total number of bedrooms replaced must equal the total number of bedrooms removed (but not necessarily in the same unit configurations).
- ◇ Larger units may not be replaced with smaller units unless the award recipient can demonstrate that the replacement is consistent with the housing need of low or moderate-income households in the jurisdiction. Example: A jurisdiction might show that the need for one-bedroom units as shown in the local comprehensive plan or housing plan greatly exceeds the need for two-bedroom units.
- ◇ Replacement units must be provided within a **four (4) year time frame**.
 - Units made available up to one (1) year before the submission of the award recipient's plan for a one-for-one replacement may be counted as replacement units.
 - Units made available within three (3) years after the beginning of the demolition or rehabilitation can be counted as replacement units.
- ◇ Substandard units that are rehabilitated can count toward the replacement unit if:
 - No person was displaced by the assisted activity; and
 - The unit was vacant for at least three (3) months before the agreement authorizing the rehabilitation; and
 - The unit is in standard condition following rehabilitation.

N. URA and Section 104(d): Similarities

Both URA and Section 104(d) provide assistance for persons who have been displaced as a direct result of CDBG or HOME assisted developments. Specific similarities between the two sets of regulations include:

- ◇ **Minimizing displacement** - Both regulations stress that displacement should be minimized when possible.
- ◇ **Notices** - Both require that a General Information Notice, and a Notice of Non-Displacement or a Notice of Eligibility for Relocation Benefits be provided.
- ◇ **Economic displacement** - Both regulations consider people who cannot afford to remain in the property after completion to be economically displaced.
- ◇ **Relocation assistance and procedures**
 - Moving expenses are the same under the two sets of regulations.
 - Both require payments of rental assistance, although the amounts and available types vary across the two regulations.





- Both permit offering Section 8 to eligible families who will remain in the development to avoid economic displacement. And, as with URA, "gap" payments may be required in some cases.
 - Both require that displaced tenants be offered comparable dwelling units that are decent, safe, and sanitary.
 - Advisory services are required under both Section 104(d) and URA.
 - Appeals are provided for under both sets of requirements.
- ◇ **Award recipient responsibility and records** - Award recipients are responsible for ensuring subrecipient compliance with both Section 104(d) and URA and keeping adequate records.

O. Key Relocation Definitions

Advisory Services - Includes timely notices, information booklets, explanation of assistance, referrals to comparable housing, referrals to social services, counseling, and advice on rights under the Fair Housing Act.

Affordable Rent (CDBG/HOME) - is rent plus utilities that does not exceed thirty percent (30%) of a household's gross monthly income.

Comparable - Tenants who are displaced must be referred to at least one (1) comparable replacement unit.

- ◇ Comparables are used to:
 - Assure that displaced persons actually have a place to go, and
 - Set a limit on the maximum liability for the agency for replacement housing payments because the replacement housing payment is based upon the lesser of the cost of the household's replacement unit or the cost of the comparable unit.
- ◇ Generally, "comparable" units must be:
 - Similar in size
Generally, comparable units will have the same amount of space as the original unit. Sites should be typical in size for residential development with normal site improvements. NOTE: If the original unit was dilapidated, a smaller, decent, safe, and sanitary unit adequate in size to accommodate the household may be considered comparable. If a household is found in an overcrowded unit, however, the comparable must alleviate the overcrowding.
 - Similar in function
The unit performs the same function, service, or purpose as the displacement unit and contains the same principle features.
 - Reasonably accessible to the person's employment
 - Located in equal to or better area than the displacement unit vis-a-vis public utilities and commercial and public facilities. The location should be no less desirable than the displacement location and provide access to work, services, and facilities. Comparable units may not be in areas subject to unreasonable, adverse environmental conditions.
 - Currently available to the displaced person. Units are "available" if:
The person has been informed of the location; has sufficient time to negotiate an agreement to lease or purchase; and receives relocation payments (as necessary) in sufficient time to complete the move or purchase.
 - Decent, safe, and sanitary (See definition below)
 - Within the financial means of the displaced person.
Note: Because URA requires that financial assistance be provided to assist the household to afford the replacement unit, the unit selected, as the comparable is not required to be affordable by the household without assistance.





- ◇ The type of rental property affects whether it is considered comparable.
 - Public housing is a suitable comparable unit for displaced public housing tenants, but not for other tenants.
 - Project based subsidized housing (e.g., Section 8 or Section 236 developments) is an acceptable comparable for displaced public housing tenants as well as those who lived in such projects before being displaced.
 - A privately owned unit made affordable by a tenant-based subsidy (e.g., Section 8 Rental Certificates) is an acceptable comparable for displaced person who previously lived in a unit with a project-based subsidy.
 - Affordable privately owned housing is an acceptable comparable for any tenant.

Conversion -

- ◇ Changing the use of the unit (e.g., from permanent rental housing to a hotel or to a non-residential use).
- ◇ Rehabilitating a low/mod unit with CDBG or HOME assistance causing the post rehab rent to be above the FMR (If rent increases, but does not exceed the FMR, then the household may be eligible for URA, but not Section 104(d)).
- ◇ Conversion does not occur if the sole development activity is acquisition. However, if CDBG or HOME funds are used for any development activity (i.e., acquisition but not the subsequently planned rehabilitation), the entire development is considered to be funded with CDBG or HOME funds.

Decent, Safe, and Sanitary Units must:

- ◇ Be structurally sound, weather-tight, and in good repair;
- ◇ Include wiring that is safe and adequate for lighting and other devices;
- ◇ Contain a heating system capable of sustaining a healthful temperature;
- ◇ Be adequate in size for the household including:
 - Separate, well-ventilated bath with sink, bathtub or shower, and toilet in good working order and properly connected;
 - A kitchen area with sink, potable water, sewage drainage, and space and connections for stove and refrigerator; and
 - Unobstructed access to safe, open space at ground level.
- ◇ For a person with mobility impairments, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling; and
- ◇ Comply with the lead-based paint requirements of 24 CFR Part 35 (i.e., no cracking, peeling, chipping, scaling paint, and provide lead-based paint notice if children under seven (7) years of age will occupy the unit).
- ◇ For programs covered by the Section 8 Housing Quality Standards (HQS), units that meet HQS are considered "decent, safe, and sanitary" replacement units.
- ◇ Qualified persons who are knowledgeable of the local housing code must inspect units.

Demolition -

- ◇ Any unit occupied by a lower income resident that is demolished with CDBG or HOME funds triggers the requirement to provide relocation assistance to the occupant at Section 104(d) levels.
- ◇ Whether or not a demolished unit must be replaced depends upon its condition and how long it has been vacant prior to demolition (see Section K One for One Replacement).





Development- An activity or series of activities that are integrally related, each essential to the other, whether or not all components receive federal financial assistance. If federal funds are used in **any** activity, the entire development is considered a federally assisted development.

Displacement - occurs when a person (or their property) permanently moves as a **direct result** of a federally assisted acquisition, demolition, or rehabilitation activity. A direct result includes the following:

- ◇ The person is required to move from the property (e.g., because the household size cannot be accommodated after rehabilitation, the unit is demolished or its use is changed, or the household's lease is not renewed).
- ◇ The person leaves the property because a decent, safe, and sanitary and affordable unit in the property was not offered.
- ◇ The person leaves the property because of unreasonable temporary relocation requirements or unreasonable terms for permanent moves within the property.
- ◇ The person leaves for whatever reasons, AND the necessary notices to assure that the person was fully informed about relocation rights and assistance were not given or were not given in a timely fashion.
- ◇ The person leaves the property because the landlord did not renew their lease in order to avoid displacement.
- ◇ The landlord forces tenants to move in order to provide a "vacant" property for assistance.

Displacement does not include persons who:

- ◇ Were evicted for cause, BUT not if the eviction is taken to evade paying relocation assistance.
- ◇ Have no legal right to occupy the property (e.g. persons that meet the definition of squatters under local law).
- ◇ Before leasing and occupying the property, but after application for development funding, receive written notice of the possibility that displacement or an increase in rent may occur and that relocation assistance will not be provided.
- ◇ Retain the right of use and occupancy of the property following acquisition (life estates).
- ◇ After being fully informed of their rights, waive them.
- ◇ The award recipient decides (and HUD agrees in writing) were not displaced as a direct result of the development (professional relocatees).
- ◇ Were required to move out for a short period to facilitate emergency repairs, as long as certain conditions are met (see Temporary Relocation).

Economic Displacement - Applies to tenants who will to remain in the development after rehabilitation. If a tenant's rent increases as a result of the development and the increased rent and utilities is greater than the household's affordable rent level, then the household must be considered "economically displaced". The award recipient must treat this household like any other displaced household, by issuing a "Notice of Eligibility" and providing relocation assistance.

General Information Notice (GIN) - Informs all occupants of a possible development and of their rights under the URA. Stresses that the household should not move at this time.

HUD-assisted - Any development that involves Community Development Block Award (CDBG) or HOME Investment Partnership Program (HOME) funds awarded through the Indiana Housing and Community Development Authority (IHCDA).

Involuntary Acquisition - The use of eminent domain to acquire a property.





Low and Moderate Income - Households that have a gross annual income below eighty percent (80%) of the area median income. HUD annually publishes a table of low and moderate incomes by area and household size.

Low/Mod Unit -

- ◇ A low/mod unit is a housing unit that has a market rent (including estimated tenant-paid utilities) that is equal to or below the Section 8 Fair Market Rent.
- ◇ The determination of a low/mod unit is **not based upon the income of the occupant**. For example, a unit that rents above the FMR that is occupied by a low or moderate-income tenant is NOT a low/mod unit. But a unit that rents below the FMR that is occupied by a high-income person IS a low/mod unit.
- ◇ To determine whether an owner-occupied unit is a low/mod unit, consider the "market rent" for the unit based upon the rents for comparable units that are being rented.

Market Rent - Rent charged for an unsubsidized comparable unit. Generally, this is what a tenant pays. A reduced rent charged to a relative or on-site manager is **not** market rent. For owner-occupied units, the market rent is the rent the unit could command if it were rented.

Move-in Notice - Informs households moving into potential projects after the application that they may be displaced and that they will not be entitled to assistance.

Moving and Related Expenses - In addition to the Replacement Housing Payment, the displaced person has the option of:

- ◇ A payment for actual, out-of pocket, reasonable moving and related expenses; or
- ◇ A fixed moving expense allowance based on a Department of Transportation (DOT) schedule that is published periodically (available from IHCDA).

90-Day Notice - Informs displaced households of the day by which they must vacate the property. Displaced households may not normally be given less than ninety (90) days to vacate their residence.

Notice of Eligibility - Informs households to be displaced of their rights and levels of assistance under the URA. Information on comparable units must be included with this notice.

Notice of Non-Displacement - Informs households who will remain in the project after completion of the assisted activity of their rights and of the terms and conditions of their remaining at the property.

Referral Unit - Other appropriate (but not necessarily comparable) housing which is suggested to the household as part of advisory services.

Replacement Housing Payment (RHP) - Replacement housing assistance is available to both renters and homeowners.

- ◇ Assistance is provided in the form of either rental assistance or purchase assistance.
- ◇ Rental Assistance may be in the form of a Replacement Housing Payment or, for eligible households, Section 8 tenant-based rental assistance if it is available. The household (not the award recipient) has the right to choose whether rental assistance is provided through a Replacement Housing Payment or through tenant-based rental assistance for URA relocation. Under Section 104(d) requirements, the award recipient (not the tenant) decides whether tenant-based rental assistance or a replacement housing payment will be made. However, if the household wants a cash payment and therefore rejects an offer of tenant-based rental assistance under Section 104(d), the household retains its right to a cash payment (forty-two (42) months) under URA.





- ◇ Replacement Housing Payments must be made in installments unless the tenant wishes to purchase a home. If the tenant wishes to purchase, the full amount of the payment must be paid in lump sum and attributed to the purchase cost of the home. Down payment assistance equals 42 x monthly rental assistance payment. IHCDA may allow an increase up to \$5, 250 (if calculation is less). Under Section 104(d), cash purchase assistance can only be used to buy a co-operative unit or for mutual housing and based on present (discounted) value of 60 x monthly rental assistance payment. If the displaced tenant wishes to purchase other than a co-operative unit or mutual housing unit, replacement housing benefits may be calculated using the URA formula and paid in one (1) lump sum. The household may then use the URA assistance to buy any type of unit.

Replacement Housing Payment Calculation for URA (90-Day Homeowner)

- ◇ A displaced homeowner who has owned and occupied the property for at least ninety (90) days immediately before the initiation of negotiations is eligible for a replacement housing payment.
- ◇ The payment includes the difference between:
 - the cost of a replacement dwelling (lesser of the comparable and actual), and
 - the acquisition price of the displacement unit.
- ◇ The payment also includes:
 - any additional mortgage financing costs, and
 - reasonable expenses incidental to the purchase.

EXAMPLE: URA Replacement Housing Payment - 90- Day Homeowner

Price of actual replacement dwelling	= \$60,000
Price of comparable replacement dwelling	= \$55,000
<i>Choose the lesser: \$55,000</i>	
Acquisition price of displacement dwelling	= \$25,000
<i>Difference: \$55,000 - \$25,000</i>	= \$30,000
<i>Increased financing costs</i>	= \$ 1,000
<i>Incidental costs</i>	= \$ 1,000

Replacement Housing Payment **\$32,000** *[To be provided in a lump sum to be applied to purchase price.]*

Replacement Housing Payment Calculation for URA (90-179-Day Homeowner) - Receive the same assistance as a displaced rental tenant, except this owner can never receive more than a 90-Day homeowner would receive.

Replacement Housing Payment Calculation for URA (Rental Tenants) -

Assistance for Tenants in Occupancy
More than 90 Days

Assistance for Tenants in Occupancy
Less than 90 Days

Replacement Housing Payment makes up (for a 42 month period) the **difference between:**

Replacement Housing Payment makes up (for a 42 month period) the **difference between:**

The **lesser** of rent and estimated utility costs for the replacement dwelling or comparable unit; and

The **lesser** of rent and estimated utility costs for the replacement dwelling or comparable unit and;





- The **lesser** of: 30% of the tenant's average monthly gross income
- (a) 30% of the tenant's average monthly gross income; or
 - (b) the monthly rent and estimated average utility costs of the displacement dwelling; or
 - (c) the welfare rent (in as-paid welfare states only)
 - (d) Security Deposits must be included in the housing payment if it is non-refundable.

EXAMPLE: URA Replacement Housing Payment - Rental Tenant

\$600 Rent and utilities at actual replacement dwelling
 \$500 Rent and utilities at comparable replacement dwelling
 Choose the lesser: \$500

\$400 Rent and utilities at the displacement dwelling
 \$300 30% of gross monthly income
 Choose the lesser: \$300

Replacement Housing Payment is $\$500 - \$300 = \$200 \times 42 \text{ months} = \$8,400$
[To be paid in installments, or in a lump sum if used for a down payment.]

Replacement Housing Payment Calculation for Section 104(d) -

- ◇ As with URA, the payment is calculated using the lower of the cost of the tenant's replacement dwelling (including utilities) or a comparable replacement dwelling.
- ◇ The Replacement Housing Payment makes up (for a 60 month period) the difference between:
 - The **lesser** of the rent and utility costs for the replacement dwelling or comparable unit, and
 - The tenant's Total Tenant Payment (TTP), calculated as the **greater** of:
 - ◇ 30% of adjusted income; or
 - ◇ 10% of gross income; or
 - ◇ Welfare Rent (in as-paid states only)

Be sure to compare the Section 104(d) calculation to the amount that they would receive under the URA formula. If the amount calculated under the URA formula exceeds the amount under the Section 104(d) formula, then the displaced household is entitled to the URA amount.

EXAMPLE: Section 104(d) Replacement Housing Payment

\$500	Replacement Unit Rent	\$20,000	Annual Income
<u>\$ 50</u>	<u>Estimated Average Utilities</u>	<u>\$ 1,440</u>	<u>Adjustment (480 x 3)</u>
\$550	Replacement Unit Gross Rent	\$18,560	Adjusted Income
\$490	Comparable Unit Rent	\$20,000 / 12 months x .10 = \$167	
<u>\$ 50</u>	<u>Estimated Average Utilities</u>	\$18,560 / 12 months x .30 = \$464	
\$540	Comparable Unit Gross Rent	Welfare Rent	N/A
		TTP = \$464	

Replacement Housing Payment:

	\$ 540	Comparable Unit Gross Rent
minus	<u>\$ 464</u>	Total Tenant Payment (TTP)





\$ 76	Monthly Difference
<u>x 60</u>	Months
\$4,560	Replacement Housing Payment [To be paid in installments, or in lump sum if used for a downpayment (some restriction apply, see definition of replacement housing payment).]

Replacement Unit - The unit to which the household actually moves.

Section 8 Fair Market Rents (FMRs) -

- ◇ FMRs are determined by HUD and are published annually in the Federal Register. They are published by bedroom size for individual market areas.
- ◇ They are intended to represent a figure at or below which modest, decent, safe, and sanitary housing (including the cost of utilities) can be rented on the private market (approximately the 45th percentile of standard housing occupied by people who have moved within the last two (2) years).

Temporary Relocation -

- ◇ Residents who will remain in the development after rehabilitation may be required to move temporarily during rehabilitation.
- ◇ The temporary dwelling must be suitable and decent, safe, and sanitary - but not necessarily comparable. All other conditions of the move must be "reasonable".
- ◇ In addition to the Notice of Nondisplacement discussed earlier, the resident must, at a minimum, receive:
 - Reasonable advance written notice of the date and approximate duration of the planned temporary move.
 - Information about the terms and conditions under which the tenant will be returning to the unit when the development is completed.
 - Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary move including any increase in monthly rent/utility cost. (No claim form has been developed by HUD, but adequate documentation for reimbursements should be retained in award recipient files.)

Temporary Relocation Notice - Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move.

Total Tenant Payment (TTP) Under Section 104(d) - is the greater of:

- ◇ 30% of adjusted income;
- ◇ 10% of gross monthly income; or
- ◇ Welfare Rent (in as-paid states only)

Vacant Occupiable Dwelling Unit -

- ◇ A dwelling unit in standard condition (regardless of how long it has been vacant); or
- ◇ A vacant unit in substandard condition that is suitable for rehabilitation (regardless, how long it has been vacant); or
- ◇ A dilapidated unit, not suitable for rehabilitation which has been occupied (except by squatters) within one (1) year from before the date of agreement.

Voluntary Acquisition -

- ◇ In general, URA recognizes these potential types of voluntary transactions:
 - Purchases where the award recipient can exercise the power of eminent domain but agrees in writing not to do so.
 - Purchases where the award recipient does not have the power of eminent domain.





- Purchases of property from government agencies (Federal, State, or local) if the purchasing award recipient does not have the power of condemnation.
- Donations where the owner is informed of their rights under URA and waives these rights in a written consent document.

P. Record Keeping System

Good record keeping is essential. Sample forms are provided to assist in record keeping and managing the development workload. All records must be retained at least three years after all displaced persons and all property owners have received the final payment to which they are entitled, or the date the development is completed, whichever is latest.

The following record keeping system must be established and maintained for each displaced person (household or business).

- ◇ Establish a separate file for each tenant displaced.
- ◇ Completed copy of Acquisition / Relocation Summary Form for each property (See Chapter Forms).
- ◇ Copies of all notices and evidence of tenant receipt, including date of their receipt.
- ◇ Demographic information (e.g., name, address, sex, race, income, disability status, female-headed household, etc.).
- ◇ Description of relocation needs and preferences.
- ◇ Description of comparable replacement dwellings, including monthly housing cost, number of rooms, census tract location, etc.
- ◇ List of all referrals made, including date, address, and price. If refused, indicate reason for refusal.
- ◇ Comparable replacement dwelling on-site description, including:
 - Date of relocation;
 - Address and census tract of dwelling;
 - Monthly housing cost; and
 - Socioeconomic neighborhood information
- ◇ Inspection reports of comparable replacement dwellings.
- ◇ Payment type(s) and amount(s) and evidence, including date(s) of payment(s).
- ◇ Copies of any appeals and records of the outcomes.
- ◇ All relevant correspondence.

The following record keeping system is required for the acquisition (voluntary or involuntary) of real property.

- ◇ A separate case file established for each property when an owner is initially contacted.
- ◇ Completed copy of Acquisition / Relocation Summary Form for each property.
- ◇ A list identifying all parcels to be acquired for the development.
- ◇ For each parcel acquired, the files should include:
 - Identification of property and property owner(s);
 - Evidence that the owner was informed on a timely basis about the acquisition and his/her rights;
 - Copy of appraisal reports, and evidence the owner was invited to accompany each appraiser on the inspection of the property;
 - Copy of the written purchase offer and date of delivery to the owner;
 - Copy of the purchase contract and documents conveying the property;
 - Copy of closing statement identifying any incidental expenses;





- Evidence the owner received payment and appropriate documentation if payment differed from offer of just compensation; and
- Copy of any appeal or complaint filed with the award recipient and the award recipient's response.





CHAPTER 12 – Lien And Restrictive Covenants & Affordability Requirements

A. Affordability Periods

Housing assisted under IHCDA must meet the affordability requirements in accordance with [24 CFR 92.252\(e\)](#) for rental housing [or 92.254\(4\)](#) for homeowner housing throughout the entire affordability period as described in the tables below. **The affordability period begins after project completion.** Project completion is defined as the date that all necessary title transfer requirements and construction work have been performed; the rehabilitation completed complies with the requirements of 24 CFR 92 or 24 CFR 570 and stricter of the local rehabilitation standards or the Indiana State Building Code; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. IHCDA considers the date final completion information is entered into IDIS as the start date for the project affordability period.

HOME Affordability Periods

HOME Rental Housing or Homebuyer Projects

Amount of HOME subsidy per unit:	Affordability Period
Under \$15,000	5 years
\$15,000 - \$40,000	10 years
Over \$40,000 – or any rehabilitation/refinance combination activity	15 years
New construction or acquisition of newly constructed transitional, permanent supportive, or rental housing	20 years
RHTC Combo Deals	Term of Rental Housing Tax Credit Compliance/Extended Use Period

HOME Owner-Occupied Rehabilitation:

Amount of HOME subsidy per unit:	Affordability Period
Under \$15,000	2 years
\$15,001 - \$25,000	3 years
Over \$25,000 per unit (with prior IHCDA approval)	5 years

HOUSING Trust Fund

Housing Trust Fund	Affordability Period
ALL Awards	30 Years





CDBG Affordability Periods

Rental Housing:

Amount of CDBG subsidy per unit:	Affordability Period
Under \$15,000	5 years
\$15,000 - \$40,000	10 years
Over \$40,000	15 years

(*NOTE: CDBG rental projects cannot be new construction, so there is no separate new construction affordability period listed in this chart)

Owner-Occupied Rehabilitation: Chart is for award funded prior to 2017. Award funded after 2017 will no longer be required to record liens.

Amount of CDBG subsidy per unit:	Affordability Period
Under \$5,000.00	1 year
\$5,000 - \$10,000	2 years
Over \$10,000	3 years

Public Facilities- Shelters or Migrant Farmworker Housing:

Amount of CDBG subsidy per bed:	Affordability Period
Under \$15,000	5 years
Over \$15,000	10 years

Public Facilities- Non-Housing:

Affordability Period regardless of amount of subsidy	10 years
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CDBG-D Affordability Periods

Rental Housing:

Amount of CDBG subsidy per unit:	Affordability Period
Under \$15,000	5 years
\$15,000 - \$40,000	10 years
Over \$40,000	15 years





Amount of CDBG subsidy per unit:	Affordability Period
New Construction (regardless of amount)	20 years
RHTC Combo Deals	Term of Rental Housing Tax Credit Compliance/Extended Use Period

Owner-Occupied Rehabilitation: Chart is for award funded prior to 2017

Amount of CDBG subsidy per unit:	Affordability Period
Under \$5,000	1 year
\$5,000 - \$10,000	2 years
Over \$10,000	3 years

Public Facilities- Shelters or Migrant Farmworker Housing:

Amount of CDBG subsidy per bed:	Affordability Period
Under \$15,000	5 years
Over \$15,000	10 years

Public Facilities- Non-Housing:

Affordability Period regardless of amount of subsidy	10 years
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B. HOME Lien and Restrictive Covenants

The award recipient will be required to ensure that the restrictions referenced below are utilized in order to preserve the affordability of HOME assisted units. All HOME funded activities must be secured throughout the affordability period by a recorded lien and restrictive covenant agreement (LCRA) or note and mortgage created by IHCDA.

Resale Guidelines - HOME

Homebuyer Program

The recipient is responsible for ensuring that the HOME-assisted homebuyer projects continue to be the buyer’s primary residence throughout the affordability period. Confirmation that the buyer is using the property as his or her principal residence can often be accomplished by verifying that the buyer’s name appears on utility company records and/or insurance company records for the home. In addition, postcards or letters mailed with “do not forward” instructions can demonstrate whether the buyer is receiving mail at the home.





Resale restriction. The award recipient must ensure that a resale restriction in the form of a lien and restrictive covenant is executed and recorded on any property constructed, rehabilitated, or acquired, in whole or in part, with HOME Funds in the form of a development subsidy. A development subsidy consists of the difference between the cost of producing the unit and the fair market value of the property. If the homebuyer determines that it no longer intends to use the property as its principal residence, resale restrictions require the homebuyer to sell the property to a low-income family that will use the property as its principal residence. The term “low income household” shall mean a household whose gross annual income does not exceed eighty percent (80%) of the median household income for the geographic area published annually by HUD. The purchasing household should pay no more than twenty-nine percent (29%) of its gross household income towards the principal, interest, taxes and insurance for the property on a monthly basis. The homeowner selling the property will be allowed to receive a fair return on investment, which will include the homeowner’s investment and any capital improvements made to the property.

If HOME funds are provided to the homebuyer as a grant, the HOME funds will be subject to a resale restriction.

The award recipient will be required to repay IHCDA for any HOME funds utilized for any housing constructed, redeveloped, rehabilitated, or acquired that does not remain affordable in accordance with 24 CFR 92.254 for homeowner housing, as applicable, for the entire Affordability Period. Under resale guidelines the Affordability Period is based upon the total amount of program funds invested into the unit.

The award recipient must execute a lien and restrictive covenant prepared by IHCDA.

Recapture Guidelines - HOME

Homebuyer Program:

The recipient is responsible for ensuring that the HOME-assisted homebuyer projects continue to be the buyer’s primary residence throughout the affordability period. Confirmation that the buyer is using the property as his or her principal residence can often be accomplished by verifying that the buyer’s name appears on utility company records and/or insurance company records for the home. In addition, postcards or letters mailed with “do not forward” instructions can demonstrate whether the buyer is receiving mail at the home.

Recapture Provisions. The award recipient must ensure that a recapture provision in the form of a lien and restrictive covenant is executed and recorded on any property purchased, in whole or in part, by a homebuyer that receives a direct subsidy (“homebuyer subsidy”) in an amount greater than or equal to One Thousand and 00/100 Dollars (\$1,000) in HOME Funds. A homebuyer subsidy consists of any financial assistance that reduces the purchase price from fair market value to an affordable price, or otherwise directly subsidizes the purchase (e.g., down-payment or closing cost assistance, interest subsidies subordinate financing, or any other assistance that reduces the purchase price from fair market value to an affordable price).

If the homebuyer no longer utilizes the property as its principal residence during the Affordability Period described in the applicable table, the amount to be recaptured is the shared net proceeds of a prorated amount of the homebuyer subsidy. The proration shall be based on the length of time the homebuyer has occupied the property as its principal residence in relation to the Affordability Period (as outlined in the forgiveness schedules listed below). Any net proceeds that exist will be shared between IHCDA and the homebuyer. If there are not any proceeds, there is no amount to recapture.

The net proceeds are the total sales price minus all loan and/or lien repayments. The net proceeds will be split between the IHCDA recipient and borrower as outlined according to the forgiveness schedule below for the Affordability Period associated with the property.

If a homebuyer subsidy is provided to the homebuyer as a loan, the HOME funds will be subject to a recapture provision.





If there is both development subsidy and homebuyer subsidy or just homebuyer subsidy, a recapture provision must be implemented.

The award recipient must execute a lien and restrictive covenant prepared by IHCDA.

The award recipient is ultimately responsible for repaying IHCDA for any HOME funds utilized for assisting housing that does not remain affordable in accordance with 24 CFR 92.254 for the entire Affordability Period. Under recapture guidelines the Affordability Period is based upon the total amount of the homebuyer subsidy that the homebuyer received in HOME funds.

Owner Occupied Rehabilitation

If a homeowner receives HOME funds to rehabilitate or repair its home as a part of IHCDA's owner occupied repair program, the award recipient must ensure that a recapture provision is executed and recorded on the property. If the homeowner no longer utilizes the property as its principal residence during the Affordability Period, the amount to be recaptured is the shared net proceeds of a prorated amount of the amount of the total amount of funding utilized to repair or rehabilitate the property. The proration shall be based on the length of time the homeowner has occupied the property as its principal residence in relation to the Affordability Period (as outlined in the forgiveness schedules listed below). Any net proceeds that exist will be shared between IHCDA and the homeowner. If there are not any proceeds, there is no amount to recapture. The net proceeds are the total sales price minus all loan and/or lien repayments.

The award recipient is ultimately responsible for repaying IHCDA for any HOME funds utilized for any housing rehabilitated, or repaired that does not remain affordable for the entire Affordability Period. The Affordability Period is based upon the total amount of HOME funds invested into the unit.

The award recipient must execute a lien and restrictive covenant prepared by IHCDA.

Rental Projects

The award recipient must ensure that a lien and restrictive covenant is executed against every property constructed, rehabilitated, or acquired, in whole or in part, with HOME funds. Upon occurrence of any of the following events during the Affordability Period, the entire sum secured by the lien, without interest, shall be due and payable by developer and/or owner upon demand. Repayment may be demanded upon: (1) Transfer or conveyance of the real estate by deed, land contract, lease, or otherwise, during the Affordability Period; (2) Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the Affordability Period; (3) Units not being used as a residence by a qualifying tenant or not leased according to the HOME Program affordability requirements. The award recipient will be responsible for repaying IHCDA for any HOME funds utilized for any housing constructed, redeveloped, rehabilitated, or acquired that does not remain affordable in accordance with 24 CFR 92.252 for the entire Affordability Period. The Affordability Period is based upon the total amount of HOME funds invested into the development.

Prorated Recapture Tables

The following tables are all based on the number of years that have passed since the date the project was completed. Prorated recapture does not apply to rental projects. If repayment is required for a rental project, the entire sum secured by the lien, without interest, must be repaid by the award recipient or owner upon demand.





HOME 5-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of HOME Funds Recaptured
1 Year	80%
2 Years	60%
3 Years	40%
4 Years	20%
5 Years	0%

HOME 10-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of HOME Funds Recaptured
1 Year	90%
2 Years	80%
3 Years	70%
4 Years	60%
5 Years	50%
6 Years	40%
7 Years	30%
8 Years	20%
9 Years	10%
10 Years	0%

HOME 15-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of HOME Funds Recaptured
1 Year	93%
2 Years	87%
3 Years	80%
4 Years	73%
5 Years	67%
6 Years	60%
7 Years	53%
8 Years	47%
9 Years	40%
10 Years	33%
11 Years	27%
12 Years	20%
13 Years	13%
14 Years	7%
15 Years	0%





**HOME 20-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)**

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	95%
2 Years	90%
3 Years	85%
4 Years	80%
5 Years	75%
6 Years	70%
7 Years	65%
8 Years	60%
9 Years	55%
10 Years	50%
11 Years	45%
12 Years	40%
13 Years	35%
14 years	30%
15 Years	25%
16 Years	20%
17 Years	15%
18 Years	10%
19 Years	5%
20 Years	0%

C. CDBG & CDBG-D Lien and Restrictive Covenants

The award recipient will be required to ensure that the restrictions referenced below are utilized in order to preserve the affordability of CDBG and CDBG-D assisted units. All CDBG or CDBG-D funded activities must be secured throughout the affordability period by a recorded lien and restrictive covenant agreement (LCRA) or note and mortgage created by IHCDA.

Rental Housing

The award recipient must ensure that a lien and restrictive covenant is executed against every multi-family or rental property constructed, rehabilitated, or acquired, in whole or in part, with CDBG or CDBG-D Funds. Upon occurrence of any of the following events during the Affordability Period, the entire sum secured by the lien, without interest, shall be due and payable by the award recipient or owner upon demand. Repayment may be demanded upon: (1) Transfer or conveyance of the real estate by deed, land contract, lease, or otherwise, during the Affordability Period; (2) Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the Affordability Period; (3) Units not being used as a residence by a qualifying tenant or not leased according to the CDBG or CDBG-D Program affordability requirements. The award recipient must execute and record a lien and restrictive covenant on the property. The award recipient must execute a lien and restrictive covenant prepared by IHCDA. The award recipient is ultimately responsible for repaying IHCDA any CDBG or CDBG-D funds invested into any development that does not meet the affordability requirements throughout the Affordability Period. The Affordability Period is based upon the total amount of CDBG or CDBG-D funds invested into the development.





Owner-Occupied Rehabilitation

Applicability date: Projects funded under the previous 2014 IHCDA HOME and CDBG Manual are subject to the following. Projects funded in 2017 will no longer be required to record liens for owner occupied rehabilitation projects.

If a homeowner receives CDBG or CDBG-D funds to rehabilitate or repair its home as a part of IHCDA’s owner occupied repair program, the award recipient must ensure that a recapture provision is executed and recorded on the property. The lien and restrictive covenant must stipulate the following requirements: (1) the home must remain the homeowner’s principal residence throughout the Affordability Period; and (2) if the homeowner sells the property during the Affordability Period, the home must be sold to an income eligible household.

If the homeowner no longer utilizes the property as its principal residence during the Affordability Period, the amount to be recaptured is the shared net proceeds of a prorated amount of the amount of funding utilized to repair or rehabilitate the property. The proration shall be based on the length of time the homeowner has occupied the property as its principal residence in relation to the Affordability Period (as outlined in the forgiveness schedules listed below). Any net proceeds that exist will be shared between IHCDA and the homeowner.

If the homeowner sells the property to another a low-income household that will use the property as its principal residence throughout the remainder of the affordability period, the homeowner will not be required to repay the funds. The term “low income household” shall mean a household whose gross annual income does not exceed eighty percent (80%) of the median household income for the geographic area published annually by HUD.

The purchasing household should pay no more than twenty-nine percent (29%) of its gross household income towards the principal, interest, taxes, and insurance for the property on a monthly basis. The homeowner selling the property will be allowed to receive a fair return on investment, which will include the homeowner’s investment and any capital improvements made to the property. The award recipient must execute a lien and restrictive covenant prepared by IHCDA. The award recipient is ultimately responsible for repaying IHCDA any CDBG or CDBG-D funds invested into any unit that does not meet the affordability requirements throughout the Affordability Period. The Affordability Period is based upon the total amount of CDBG or CDBG-D funds invested into the unit.

Prorated Recapture Tables

The following tables are all based on the number of months/years that have passed since the date the project was completed. Prorated recapture does not apply to rental projects. If repayment is required for a rental project, the entire sum secured by the lien, without interested, must be repaid by the award recipient or owner upon demand.

***CDBG 1-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)***

Number of Months Since Completion	% of CDBG Funds Recaptured
6 Months	50%
1 Year	0%

***CDBG 2-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)***

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	50%
2 Years	0%





CDBG 3-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	67%
2 Years	34%
3 Years	0%

CDBG 5-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	80%
2 Years	60%
3 Years	40%
4 Years	20%
5 Years	0%

CDBG 10-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	90%
2 Years	80%
3 Years	70%
4 Years	60%
5 Years	50%
6 Years	40%
7 Years	30%
8 Years	20%
9 Years	10%
10 Years	0%

CDBG 15-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	93%
2 Years	87%
3 Years	80%
4 Years	73%
5 Years	67%
6 Years	60%
7 Years	53%
8 Years	47%
9 Years	40%
10 Years	33%
11 Years	27%
12 Years	20%
13 Years	13%
14 years	7%
15 Years	0%





**CDBG 20-Year Affordability Period- Recapture Schedule
(does not apply to rental projects)**

Number of Years Since Completion	% of CDBG Funds Recaptured
1 Year	95%
2 Years	90%
3 Years	85%
4 Years	80%
5 Years	75%
6 Years	70%
7 Years	65%
8 Years	60%
9 Years	55%
10 Years	50%
11 Years	45%
12 Years	40%
13 Years	35%
14 years	30%
15 Years	25%
16 Years	20%
17 Years	15%
18 Years	10%
19 Years	5%
20 Years	0%

D. Termination of Affordability Period

The affordability restrictions must terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure, or assignment of an FHA insured mortgage to HUD. The housing provider of CDBG, CDBG-D, or HOME funds may use purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the development.

E. Recording of Lien and Restrictive Covenant Agreement or LRCA

The award recipient shall be responsible for recording the Lien and Restrictive Covenant Agreement (LRCA) and any amendments thereto in the Office of the Recorder of the county in which the property is located.

Homebuyer/OOR

The award recipient’s final claim will be held until IHCDA receives a copy of the executed and recorded lien for all assisted units under the award.





Rental

IHCDA will not issue a release of funds letter until a copy of the executed and recorded lien has been received.

F. Rental Housing Compliance and Reporting

All rental projects are required to submit Annual Owner Certifications of Compliance to IHCDA, and are subject ongoing tenant file audits.

Guidance on rental housing compliance and ongoing reporting requirements can be found online in the *Federal Programs Ongoing Rental Compliance Manual* at <http://www.in.gov/ihcda/2519.htm>. For additional questions on ongoing compliance, please contact an IHCDA Compliance Auditor.





CHAPTER 13 – Fair Housing And Civil Rights

Overview

Federal Regulations: [24 CFR Part 1](#), [24 CFR Part 8](#), [29 USC 794](#)

Fair Housing and Civil Rights activities are required of all IHCDA award recipients. IHCDA does not fund institutions that discriminate on the basis of race, color, national origin, sex, religion, familial status, disability, sexual orientation, or gender identity in policy or in practice. All required actions are defined and discussed in the following pages of this section.

A. Fair Housing

The Fair Housing Act states that it is illegal to discriminate against any person because of race, color, religion, sex, disability, familial status, or national origin (the seven protected classes) in:

- the sale or rental of housing or residential lots;
- the advertising of the sale or rental of housing;
- the financing of housing;
- the provision of real estate brokerage services; and
- the appraisal of housing.

Fair Housing legislation is clear in regard to discriminatory practices and penalties. Prohibited activities include but are not limited to:

- refusal to rent or sell housing based on a protected class;
- providing different selection criteria to different applicants;
- failure to allow reasonable accommodations or modifications;
- eviction based on a protected class;
- steering or segregation at a property;
- false denial of availability; and
- discriminatory advertising.

IHCDA has established procedures for processing Fair Housing complaints. The procedures are as follows: 1) IHCDA will forward all Fair Housing complaints to the Fair Housing and Equal Opportunity Office at HUD and to the Indiana Civil Rights Commission; 2) IHCDA will notify the recipient of such complaint; and 3) if it is determined that there is a violation of the Fair Housing Act, IHCDA will consider the project to be out of compliance.

B. Allowable and Disallowable Inquiries under Fair Housing

The law does not intend to prohibit property owners, managers, and administrators from valid inquiries into an applicant's ability to meet lease requirements and/or program eligibility requirements as set forth in Federal or State programs or in a Tenant Selection Criteria. However, there are certain areas that owners, managers, and administrators must clearly understand in regard to legitimate questions and disallowed inquiries. These areas are:

1. Independent Living - An owner, manager, or administrator should not attempt to assess whether an applicant is capable of independent living but only whether the applicant meets essential eligibility requirements. If an applicant requires supportive services but does not ask that they be provided, the need for supportive services should not be considered a factor in determining eligibility. If the





provision of supportive services is part of the housing program, then these services should be provided in a non-discriminatory manner. However, no provider is required to take any action which would fundamentally alter the nature of the program in order to accommodate the disability of an applicant or tenant.

2. No Safe Evacuation Restriction of Children/Disabled in Housing - There can be no restriction as to where persons may reside in housing with the exception of Federal or management priorities for certain adapted or accessible units. Accepting or rejecting applicants on the basis of the ability to evacuate safely is not allowed.
3. Legal and Illegal Questions - The Fair Housing Law clearly defines legal and illegal questions for all applicants of all housing in the United States. It is unlawful to make an inquiry as to the nature or severity of a disability of an applicant for a dwelling, a person intending to reside in that dwelling after it is sold, rented or made available, or any person associated with that person.

However, the following inquiries can be made, **provided these inquiries are made to all applicants, whether or not they have disabilities, and are clearly defined in a written Tenant Selection Criteria policy (for more information on Tenant Selection Criteria and waiting lists see Chapter 1, Part I-3 and I-4):**

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability or for a priority available only to persons with disabilities or to persons with a particular type of disability;
- Inquiry to determine whether an applicant for a dwelling is a current abuser or addict of an illegal controlled substance;
- Inquiry to determine whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.
- Credit and criminal background check.

A manager or owner is never required to make available a dwelling to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

C. Reasonable Accommodations and Modifications under Fair Housing

A reasonable accommodation is a change, exception, or adjustment in rules, policies, practices, or services when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Per the Fair Housing Act, a recipient must allow a reasonable accommodation unless doing so will be an undue financial burden or fundamentally alter the nature of the provider's operations. For more information on reasonable accommodation, refer to the HUD and Department of Justice (DOJ) Joint Statement "Reasonable Accommodations Under the Fair Housing Act" released May 17, 2004 (available as Chapter Forms)

A reasonable modification is a change to the physical structure of the premises when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common





spaces. Per the Fair Housing Act, an owner must allow a reasonable modification at the expense of the tenant. However, if the changes needed by the tenant are ones that should have already been included in order to comply with design and construction accessibility standards, then the owner will be responsible for paying for the modifications. For more information on reasonable modification, refer to the HUD and Department of Justice (DOJ) Joint Statement “Reasonable Modifications Under the Fair Housing Act” Form released March 5, 2008 (available in Chapter exhibits).

D. Award Recipient Required Fair Housing Actions

When an award recipient is awarded a CDBG or HOME award through IHCDA, certain actions must be taken by the award recipient to comply with Fair Housing regulation and IHCDA policy.

Affirmatively Furthering Fair Housing (AFFH)

The Affirmatively Furthering Fair Housing regulations provide program participants with an effective planning approach to aid program participants in taking meaningful actions to overcome patterns of segregation, unequal treatment, and promote fair housing choice. HUD created the Assessment of Fair Housing (AFH) tool to through which program participants identify and evaluate fair housing issues, create a plan to address areas of concern and document action steps to eliminate housing discrimination.

1. All CDBG award recipients are required to take an action to affirmatively further fair housing. **The action(s) must reach the general community at-large and not be limited to low-moderate income residents only.** IHCDA strongly encourages each CDBG recipient to execute a Fair Housing Ordinance during the life of the award as an action to affirmatively further fair housing (a sample Fair Housing Ordinance is located in Chapter Forms). However, if a Fair Housing Ordinance has already been executed prior to the execution date of the CDBG award, the CDBG award recipient in receipt of the IHCDA award must take a different action to affirmatively further fair housing.

There is a full list of activities to choose from in the chapter exhibits. Suggested actions are as follows:

- Undertake fair housing enforcement (i.e. complaint processing);
- Work actively with existing entities (public or private non-profit) whose goal is to further fair housing;
- Display fair housing exhibits at local public exhibitions (County Fairs, Festivals, etc.);
- Review local zoning laws and procedures to determine whether the laws contribute to, or detract from, fair housing;
- Use local resources to assess existing public opinion about the status of fair housing organizations, public and private community centers, civil rights groups, and organizations that represent minorities, women, families, senior citizens, and persons with disabilities.
- Develop public information and educational programs promoting fair housing and provide fair housing information to the following types of groups:
 - citizen groups concerned with housing issues (fair housing groups, tenant associations, builders, real estate agents/brokers);





- organizations representing specific population groups (minorities, women, senior citizens, persons with disabilities); and
- other local organizations (advocacy groups, unions, voters' leagues).

Documentation of the Fair Housing action taken by the CDBG award recipient must be maintained in the award recipient's award file. Therefore, it is the responsibility of the award recipient to provide the proper documentation for the award files which will be monitored by IHCDA.

2. All HOME and CDBG award recipients with rental or homebuyer projects containing five or more assisted units must certify compliance with the IHCDA Affirmative Marketing Procedures (per the award agreement). **Additionally, the recipient must create an Affirmative Fair Housing Marketing Plan by using HUD form 935.2A (Form 4).** The plan must be updated at least once every five (5) years or more frequently when there are significant changes in the demographics of the local housing market area as described in the instructions for Part 9 on the Form 935.2A. The recipient must identify the population(s) least likely to apply for housing and the outreach/ marketing efforts that will be utilized to reach that population.
3. All CDBG and HOME award recipients are required to post the Fair Housing Opportunity poster at public buildings as evidence of the award recipient's fair housing policy. Also, if a subrecipient is associated with an IHCDA award, the subrecipient must also post the poster in its offices. Finally, if the project involves a public facility or a building with a common area, such as a leasing office, the fair housing poster must be hung conspicuously at those locations as well. Copies of this poster may be obtained from your IHCDA Real Estate Production Analyst or Compliance Auditor. Award recipients must also include the Fair Housing logo on all client correspondence (confirmation letters, brochures, leases, etc.) This logo is available at the following HUD website: <http://portal.hud.gov/hudportal/HUD?src=/library/bookshelf11/hudgraphics/fheologo>
4. Award recipients must provide all beneficiaries the HUD brochure entitled "You May Be A Victim Of..." Documentation of the client's receipt of the brochure must be maintained in the client's file. Therefore, the award recipient is responsible for creating a receipt form for the beneficiary to sign as receipt of the Fair Housing brochure. The brochure is available as Form 9 to this chapter.

E. Civil Rights

Introduction

The civil rights laws, regulations, and executive orders are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age and disabled status. These laws, regulations, and executive orders, as they apply to the CDBG or HOME program, protect individuals from discrimination in housing, the use of public facilities and services, benefits created by CDBG or HOME projects, and employment and business opportunities.

The following is a summary of the regulations.

Title VI - Civil Rights Act of 1964 (Public Law 88-352 , Implemented in 24 CFR Part 1)

Title VI provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving





federal financial assistance. It directs each federal department or agency that extends financial assistance to any program or activity through awards, loans, or contracts, except contracts of insurance or guaranty, to issue rules or regulations to be approved by the President to carry out the purposes of the Title. Title VI authorizes the termination or the refusal to grant or continue federal assistance under any program or activity involving a recipient receiving an express finding of a failure to comply, but only after due notice, an opportunity for a hearing, and a determination that compliance cannot be secured by voluntary means.

Title VII – Civil Rights Act of 1964 (as amended)

This provision prohibits discrimination in employment on the basis of sex.

The Fair Housing Act, Title VIII – Civil Rights Act of 1968 , as amended (Public Law 90-234)

Title VIII prohibits discrimination in housing practices including the sale or rental of dwellings, the financing of housing, or advertising. The original act applied to the protected classes of race, color, religion, sex, and national origin. The Fair Housing Amendments (Public Law 100-430) of 1988 added two protected classes: familial status and disability.

Title VIII also makes it unlawful to deny any person access to, membership, or participation in any multiple listing services or real estate brokers' organization for discriminatory reasons. The law is applicable in stages and ultimately applies to all dwellings except those which are specifically exempt. Title VIII generally does not apply to the sale or rental of a single family house by a private individual owner who does not own more than three (3) such single-family houses at any one (1) time. After December 31, 1969, the sale or rental of any such single-family home is exempted from the application of Title VIII only if it is sold or rented without the use of a broker and without discriminatory advertising. The act does not apply to rooms or units in dwellings containing living quarters occupied by not more than four families living independently of each other of the owner occupies one of such quarters as his or her residence.

Also exempted is the sale or rental of dwellings owned or operated by religious organizations, for other than a commercial purpose, to persons of the same religion unless membership in such religion is restricted on account of race, color or national origin. Neither does Title VIII prohibit a private club, not open to the public and providing lodging which it owns or operates for other than commercial purposes, from limiting rental or occupancy to its members.

Section 3: Housing and Community Development Act of 1968

Section 3 provides that to the greatest extent feasible, training and employment opportunities shall be made available to low-income residents of project areas and that contracts be awarded to small businesses located within the project area or owned in substantial part by project area residents. See Chapter 7 for more information on Section 3 requirements.

HOME Investment Partnerships Program Final Rule, 24 CFR Part 92.351

The HOME Rule establishes that all rental and homebuyer projects containing five (5) or more assisted units must adopt affirmative marketing procedures. See Part 5-D for more information on affirmative marketing requirements.

***Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended
(24 CFR Part 570.601)***





Section 104 provides that any CDBG grantee must, among other things, affirmatively further fair housing. See Part 5-D for more information on affirmative requirements.

***Section 109 of Title I of the Housing and Community Development Act of 1974, as amended
(24 CFR Part 570.602)***

Section 109 provides that no person in the United States shall on the ground of race, color, national origin, sex, or religion shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds.

Section 504: Rehabilitation Act of 1974

Section 504 provides that no otherwise qualified disabled individual in the United States, as defined in Section 7(6), shall, solely be reason of this disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Age Discrimination Act of 1975

The Act provides that no person in the United States on the basis of age shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Executive Order 11063

Executive Order 11063 provides that no person on the basis of race, color, religion, sex or national origin, shall be discriminated against in:

- Housing (and related facilities) provided with federal assistance.
- Lending practices, with respect to residential property, when such practices are connected with loans insured or guaranteed by the federal government.

Executive Order 11246, as amended by Executive Order 11375

Executive Order 11246, as amended by Executive Order 11375, provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in excess of \$25,000.

Executive Order 12138: Women Business Enterprise Policy

For purposes of this Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special needs of women business enterprises, establishing incentives to promote business or business-related opportunities for women business enterprises, collecting and disseminating information in the support of women business enterprises and ensuring to women business enterprises knowledge of any ready access to business-related services and resources. In implementing this Order an agency undertakes to use or to require compliance with numerical set-asides or similar measures. It shall state the purpose of such





measure and the measure shall be designed on the basis of pertinent factual findings of discrimination against women’s business enterprise and the need for such measure.

Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency

Executive Order 13166 provides that recipients of federally conducted and federally assisted programs must ensure that they provide meaningful access to limited English proficiency (LEP) applicants and beneficiaries so as not to discriminate on the basis of national origin in violation of Title VI of the Civil Rights act of 1964, as amended. See Part J of this chapter for more information.

Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity

Effective March 5, 2012 HUD amended multiple Sections of 24 CFR to implement a policy ensuring that HUD programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status.

For purposes of this amendment, the following definitions apply:

- Sexual orientation = homosexuality, heterosexuality, or bisexuality
- Gender identity = actual or perceived gender-related characteristics

F. Civil Rights Applicability

Civil rights laws, regulation, and executive orders are applicable to all award recipients regardless of the percentage of CDBG or HOME funded participation. Requirements included here are in addition to the community’s existing civil rights requirements.

To assure compliance with these requirements, both the award recipient and its contractors must document all policies, procedures and actions taken with respect to these requirements. In addition, the award recipient must fully document the characteristics of the population of the project area to determine the specific actions necessary to ensure civil rights compliance.

The following section outlines specific required and suggested civil rights policies and procedures.

G. Civil Rights Policies and Procedures

The award recipient must document compliance with civil rights policies and procedures in four general areas:

1. Employment
2. Housing
3. Benefits of Project
4. Contracts

1. Employment

The award recipient must keep records concerning any persons it hires, indicating that the hires were on an equal opportunity basis. To document equal employment opportunity efforts, all advertisements for employment must state that the award recipient is an equal opportunity employer. The award recipient must retain copies of the advertisements in its files. IHCDA also encourages the award recipient to prepare and implement an affirmative action hiring plan. Finally, records of the number of persons employed must be kept by race, sex, and income. If any CDBG or HOME funds go into any administrative arm or department of the





award recipient, all departments of the award recipient become subject to the civil rights requirements under the CDBG or HOME program.

Other suggested procedures for the award recipient to follow in demonstrating equal employment opportunity in its hiring, firing and promotion practices are:

- a. Document job descriptions and qualifications required of applicants and reasons for rejection or acceptance of each applicant.
- b. Provide the Indiana Employment and Training Services with job descriptions for all open positions and request the referral of minority and female applicants. Copies of all such correspondence should be kept in the award recipient files.
- c. Post the equal employment opportunity (EEO) posters prescribed by HUD and U.S. Department of Labor (DOL) at the city hall or other public buildings notifying the community that the award recipient is an equal opportunity employer. These posters are routinely sent out along with a federal wage decision, or can be obtained on request from the IHCDA Real Estate Production Analyst or Compliance Auditor. The award recipient must enter its name and address in the top box on the EEO poster. In the next two boxes the award recipient must enter the name and address of IHCDA and the HUD Area Office:

Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 1000
Indianapolis, IN 46204

U.S. Department of Housing and Urban Development
Fair Housing and Equal Opportunity Division
151 North Delaware Street
Indianapolis, IN 46204

2. Housing

If the award recipient has a CDBG or HOME funded housing project, it must affirmatively promote fair housing. Regardless of the CDBG or HOME project undertaken by the community, the community is required to not discriminate in any area related to housing.

An award recipient with a housing assistance project is required to post the fair housing opportunity poster at all work sites and at the city hall or other public buildings. For award recipients with no housing provision projects (e.g., housing planning only), this poster should still be posted in public buildings as evidence of the award recipient’s fair housing policy. Copies of this poster may be obtained from the IHCDA Real Estate Production Analyst.

For additional information on civil rights requirements for housing projects, see Part 5D.

3. Benefits of Project

The award recipient must keep records on the number of minority, female, and low-to-moderate income persons or families applying for and benefiting from the project. Records should include the make-up of the households being assisted, either individually or by target area.

A direct benefit activity is an activity which requires the beneficiary to submit an application or complete a personal record as an integral part of participating in the program. Individual household information will be available for direct benefit activities. For example, in a housing rehabilitation program, an application would be





an integral part of providing loans or awards to households. For such individual assistance, the award recipient should require each applicant to provide a signed declaration of the race, sex, and income status of his or her household. The award recipient must also require the applicant to provide written verification of the income status of the household.

Beneficiary information must be obtained and documented in a form that can be readily summarized for inclusion in the Close-out Documentation submitted to IHCDA at the end of the award.

4. Contracts

- a. All applicable civil rights language must be included in award bid documents and contracts with contractors or professional service firms. The procurement chapter (see Part 10-P) lists the required provisions that must be included in the contracts and bid documents. The contract and bid documents should also contain the requirements for a Section 3 plan and, when applicable, an affirmative action hiring plan.

The award recipient must make sure that all of the above items are completed prior to the actual award of the contract, or within fifteen (15) days of the award and before the notice to proceed is sent to the contractor. This includes, as applicable, the completion of the affirmative action hiring plan, the Section 3 plan, the signing of the above and the non-segregated facilities form. This would also be done by all contractors and subcontractors.

- b. The award recipient's contractors and subcontractors may be subject to the affirmative action requirements. All contractors and subcontractors holding any federal or federally-assisted construction contract in excess of \$10,000 are subject to the provisions of 41 CFR Part 60-4, Construction Contractors - Affirmative Action Requirements, which specifies language to be included in all applicable bid documents and contracts and the requirements of contractors subject to those regulation.
- c. Contracts subject to 41 CFR Part 60-4 include appropriate minority and women workforce participation goals. Indiana has adopted a state goal of ten percent (10%) participation for minority and/or women-owned business enterprises (MBE/WBE) on all contract requirements. Please refer to Section E, for further discussion of MBE/WBE participation.
- d. Non-construction contractors and construction contractors with fifty (50) or more non-construction employees and one (1) or more contracts totaling \$50,000 in a twelve (12) month period and which meet the other conditions of 41 CFR 60-2 are subject to the affirmative action requirements of 41 CFR Part 60-2, Affirmative Action Programs.
- e. 41 CFR 60-1.21 requires each award recipient to include in the invitation for bids for each formally advertised non-construction contract, or state at the outset of negotiations for each negotiated non-construction contract, that if the award should exceed \$1 million, the prospective contractor (and certain subcontracts) will be subject to a compliance review before the award of the contract.
- f. Contractors and subcontracts must post the appropriate equal opportunity and fair housing posters at all work places, regardless of the type of project. The EEO poster should be completed by placing the contractor's name and address in the top box. In the next two boxes the contractor should enter the names and addresses of IHCDA and the HUD Field Office as listed on page 5. The fair housing opportunity poster should be posted at all work places when a housing assistance project is involved.
- g. The award recipient must also inform its contractors and subcontractors of their requirement to file DOL form CC-257, "Monthly Employment Utilization Report". For all contracts and subcontracts less than \$100,000, this report must be filed with the award recipient each month by each contractor and





subcontractor. For contracts equal to or greater than \$100,000, this form must be filed each month with both the award recipient and the DOL area office. This form provides the award recipient with equal employment monitoring information and must be kept in the award recipient's files as evidence of this monitoring. A copy of this form may be obtained from the appropriate IHCD Compliance Auditor.

- h. All contractors under the program who: (1) are not exempt under 41 CFR 50-1.5; (2) have fifty (50) or more employees; and (a) are prime contractors or first-tier subcontractors having a contract or contracts totaling \$50,000 or more in any twelve (12) month period or (b) serve as depositories of government funds in any amount, or (c) are financial institutions which are issuing and paying agents for U.S Savings Bonds and Notes, are required by 41 CFR 60-1.7 to annually file on or before March 31 the Employer Information Report EEO-1 (Standard Form 100) with the DOL area office. Each contractor required to submit such report shall file it within thirty (30) days after it is awarded a contract unless the contractor has submitted such a report within twelve (12) months preceding the date of the award. To obtain a copy of this form with instructions, contact the appropriate IHCD Compliance Auditor.

H. Pre-Construction Conference (Davis Bacon projects only)

The award recipient must hold a pre-construction conference with the prime contractors and available subcontractors, apprising them of their responsibilities and obligation included in the contract documents. Items discussed and attendance at this conference must be documented in the form of minutes, a copy of which must be retained for each pre-construction conference held for each construction project. For further discussion of the pre-construction conference please refer to Labor Standards and Procurement sections, respectively. The following Civil Rights items (discussed previously in this chapter) should be explained and discussed at the pre-construction conference.

1. Title VI - Civil Rights Act of 1964
2. Section 3 - Housing and Urban Development Act of 1968
3. Section 504 - Rehabilitation Act of 1974
4. Executive Order 11063
5. Executive Order 11246, as amended by E.O. 11375
6. 41 CFR Part 60-4 - Construction Contractors - Affirmative Action Requirements, as applicable
7. Female and Minority Participation Goals, as applicable
8. 41 CFR Part 60-2 - Affirmative Action Programs, as applicable
9. 41 CFR Part 60-1.21, as applicable
10. Required Posters: Two (2) for equal employment opportunity and one (1) for fair housing opportunity
11. Signatures required of contractors on contract and certifications.

I. Minority and Women Business Participation

Minority-owned and women-owned business enterprises (MBE/WBE's) shall have the maximum feasible opportunity to participate in the performance of contracts under federal award programs. Award recipients shall exercise their "best efforts" to ensure that MBE/WBE's are given the opportunity to participate in CDBG, HOME, and HTF funded contracts, including contracts for services, supplies and construction activities. Indiana has adopted a goal of ten percent (10%) aggregate participation for minority- and/or women-owned business enterprises in CDBG or HOME funded projects.

A minority- or women-owned business enterprise is defined for this program as *a business which has been established for at least one (1) year and is fifty-one percent (51%) owned, operated and controlled by minorities or*





women. Corporation or partnerships formed merely to qualify as an MBE or WBE for purposes of this program will not be considered minority or women-owned business enterprises.

Award recipients are required to maintain documentation supporting their “best efforts” to achieve the state goal of ten percent (10%) minority and/or women-owned business enterprise participation on each CDBG, HOME, or HTF funded project. To document “best efforts: to attain the ten percent (10%) goal, the following steps should be taken to solicit bids from and encourage participation by minority- or women-owned business enterprises:

1. Where legal notice is required by law, include language notifying bidders of the ten percent (10%) MBE/WBE participation goal on the project.
4. Refer to the most current listing of MBE/WBE certified firms on the Indiana Department of Administration’s Minority & Women’s Business Enterprises website located at <http://www.in.gov/idoa/2352.htm>. Here you will be able to find a list of firms in the categories of work needed for the project, including professional services, supply, and construction services. Use services and assistance, as appropriate, of such organizations as the Small Business Administration, Minority Business Development Agency of the Department of Commerce.
3. Contact at least two (2) MBE/WBE firms from the referral list, notifying them of the impending bidding opportunity and how to participate.
5. If award recipients anticipate the use of subcontractors or additional purchasing contracts for supplies, then the referral list of qualified minority- and women-owned businesses should be disbursed to all prime contractors at this conference. Award recipients should supply a copy of the plans and specifications as well as a list of the organizations that will have plans and specification on file.
6. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women business enterprises.
7. Establish delivery schedules, where the requirement permits, which encourage participation.
8. Award recipients must maintain documentation supporting their “best efforts” for monitoring and auditing purposes. **Award recipients must document solicitation of MBE/WBE firms through Certified Mail receipts, Certificates of Mailing, receipts from hand-delivery of notices, or email. For email notification, recipients should use a ‘delivery receipt’ and/or ‘read receipt’ function on the email and maintain a copy of both the email and the verification that it was delivered and/or opened.**

J. Meaningful Access for Persons with Limited English Proficiency

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write or understand English (“limited English proficiency persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 in order to receive a particular benefit or service. In accordance with Title VI, its implementing regulations and Executive Order 13166, the recipient must agree to take reasonable steps to ensure meaningful access by LEP persons to activities funded with federal funds.

Any of the following actions could constitute “reasonable steps” depending on the circumstances. This is not, however, an exhaustive list of possible actions:

- Acquiring translators to translate vital documents, advertisements, or notices
- Acquiring interpreters for face-to-face interviews with LEP persons;





- Placing advertisements and notices in newspapers that serve LEP persons;
- Partnering with other organizations that serve LEP populations to provide translation, interpretation, or dissemination of information regarding the project;
- Hiring bilingual employees or volunteers for outreach and intake activities; or
- Contracting with a telephone line interpreter service.

K. Religious and Faith-Based Organizations

Equal Treatment and Religious Identity

Organizations that are religious or faith-based are eligible to participate in the CDBG and HOME programs on the same basis as any other organization. A religious organization that participates in the CDBG or HOME program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG or HOME funds to support any inherently religious activities (such as worship, religious instruction, or proselytization) and does not discriminate against program participants on the basis of religion or religious belief.

Among other things, faith-based organizations may use space in their facilities, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a CDBG or HOME-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

Beneficiaries and Anti-Discrimination

The organization may not discriminate against program participants or potential program participants (e.g. tenants, homeowners, or applicants) on the basis of religion, religious belief, the refusal to hold a religious belief, or the refusal to attend or participate in a religious practice.

Separation of Explicitly Religious Activities

Organizations that are directly funded under the CDBG or HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the assistance funded under this part, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries.

Alternative Provider

If a program participant or potential program participant objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonably prompt time after the objection, undertake reasonable efforts to identify and refer the program participant to an alternative provider to which the participant has no objection. Except for services provided by telephone, internet, or similar means, the referral must be to an alternate provider in the reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with applicable privacy laws and regulations. Recipients shall document any such objections from program participants and prospective program participants and any efforts made to refer such objecting participants to alternate providers.

Structures

Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for explicitly religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting program eligible activities. When a structure is used for both program eligible and explicitly religious activities,





program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

L. Violence Against Women Reauthorization Act of 2013 (VAWA)

APPLICABILITY

VAWA applies to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. VAWA also applies to all tenants and potential applicants, however the emergency transfer and bifurcation (separation) provisions of the rule are applicable solely to tenants. VAWA applies projects funded with CDBG, HOME, and HTF.

PROHIBITED DENIAL/TERMINATION

No applicant for or tenant of CDBG, HTF or HOME-assisted housing may be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

CONSTRUCTION OF LEASE TERMS

Recipient shall ensure that an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

- A. A serious or repeated violation of a lease for CDBG or HOME-assisted housing by the victim or threatened victim of such incident; or
- B. Good cause for terminating the assistance, tenancy or occupancy rights to CDBG or HOME-assisted housing of the victim of such incident.

TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY

No person may deny assistance, tenancy, or occupancy rights to CDBG or HOME-assisted housing to an applicant or tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking. Notwithstanding the foregoing, the owner and/or manager of CDBG or HOME-assisted housing may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing. The owner and or manger of CDBG or HOME-assisted housing must provide any remaining tenants with an opportunity to establish eligibility and a reasonable time to find new housing or to establish eligibility.

CONFIDENTIALITY OF TENANT INFORMATION RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The recipient shall ensure that any information submitted to the staff of CDBG or HOME-assisted housing, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is:





- A. Requested or consented to by the individual in writing;
- B. Required for use in an eviction proceeding against any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking; or
- C. Otherwise required by applicable law.

REQUIRED NOTICES

HUD published the Notice of Occupancy Rights (Found in Chapter 14 Exhibits) that requires housing providers inform tenants and applicants of their rights under VAWA.

EMERGENCY TRANSFERS

Emergency transfer plans must contain the following information:

- Emphasize that victims of sexual assault may qualify for an emergency transfer if they either reasonably believe there is a threat of imminent harm from further violence if they remain in the dwelling, or sexual assault occurred on the premises during the 90 calendar-day period preceding the date of the request for transfer.
- Must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of individuals seeking transfers or placement on waiting lists.
- Must allow for a tenant to transfer to a new unit when a safe unit is immediately available and the tenant would not have to apply in order to occupy the new unit.
- Describes policies for assisting tenants to make emergency transfers when a safe unit is not immediately available, both for situations where a tenant would not have to apply for the unit
- Document policies for assisting tenants who have tenant-based rental assistance and can make the move with the assistance
- Add provision requiring documentation as long as tenants can establish eligibility for an emergency transfer by submitting a written certification to their housing provider, and no other documentation is required for tenants who have established that they are victims of domestic violence, dating violence, sexual assault, or stalking to verify eligibility for a transfer
- Must state that emergency transfers are available upon request and can make them public whenever feasible
- Emphasize that tenants and applicants may choose which of the forms of documentation needed to document a VAWA crime
- Provides information in the case of conflicting evidence, tenants and applicants may need to submit third-party documentation to document occurrence of a VAWA crime. They will have 30 days to submit third-party documentation
- If a lease is bifurcated under VAWA, the remaining tenants who had not already established eligibility for assistance must be given either the maximum time permitted by statute or at least 90 calendar days from the date of the bifurcation of the lease or until expiration of the lease
- Tenants occupying a HOME assisted unit that are remaining in the household after the bifurcation of the lease will retain the unit
- Tenants occupying a HOME- assisted unit that are remaining in the house and receive HOME tenant based rental assistance (TBRA) will retain the HOME TBRA and the Private Jurisdiction must determine if the tenant removed from the unit will receive their own HOME TBRA





CHAPTER 14– Income Verification

All households receiving HOME or CDBG assistance must be income eligible. Therefore, the income verification process must be completed before the assistance begins. It is each recipient's responsibility recipient to become familiar with and comply with the income requirements.

IHCDA has chosen to utilize the Part 5 definition for determining annual income. The annual income definition is found at 24 CFR Part 5.609. This definition was previously referred to as the Section 8 definition. The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

For additional information on determining income eligibility, refer to the following resources:

- Chapter 5 of HUD Handbook 4350.3 *Occupancy Requirements of Subsidized Multifamily Housing Programs* (Included as Exhibit A of the Chapter)
 - Section 1: Determining Annual Income
 - Section 3: Verification
 - Exhibit 5-1: Income Inclusions and Exclusions
 - Exhibit 5-2 Assets
 - Appendix 3: Acceptable Forms of Verification
- “Technical Guide for Determining Income and Allowances for the HOME Program” (Included as Exhibit 3 to this Chapter)

A. Initial Income Certifications

Households must qualify as low-income at the time of initial occupancy or at the time HOME/CDBG funds are invested, whichever is later, in accordance with the Part 5 method of verifying income.

Determining eligibility for Owner-Occupied Projects

- Households must be income eligible at the time the construction contract is executed.

An income verification is good for six (6) months from the time of the verification. If more than six (6) months lapse, the household income must be re-verified.

Determining eligibility for Homebuyer Projects

- In the case of a contract to purchase existing housing, at the time of purchase;
- In the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or
- In the case of a contract to purchase housing to be constructed, at the time the contract is signed.

An income verification is good for six (6) months from the time of the verification. If more than six (6) months lapse, the household income must be re-verified.

Determining eligibility for Rental Projects

- Households must be income eligible at the time of lease execution.

An income verification is good for six (6) months from the time of the verification. If more than six (6) months lapse, the household income must be re-verified.





NOTE: For rental developments funded in conjunction with Low Income Housing Tax Credits, income verifications are good for one hundred and twenty (120) days from the date of verification. If more than one hundred and twenty (120) days have lapsed, the household income must be re-verified.

Providing copies of income documentation to IHCDA

At the time of final monitoring, the recipient must provide the IHCDA compliance auditor a disc containing electronic copies of all beneficiary files. These files must contain the income certification and verification documents for all beneficiaries (i.e. tenants or homeowners assisted).

B. Record Keeping: Files and Forms

Beneficiaries are eligible for the program only if the proper documentation verifying the household's eligibility is placed in its file. IHCDA strongly recommends efficient record keeping for monitoring purposes. A summary sheet may be placed in the beneficiary files as a self-checklist for recipients. The following is a guideline for what information to include in the beneficiary file:

Files

At a minimum, the following items must be located in the file and must be organized in chronological order for easy review:

1. Beneficiary application for assistance;
2. Tenant Income Certification Questionnaire Form
 - Completed at the time the beneficiary submits an application for assistance. A separate form must be completed by each adult household member.
 - Rental projects –Also completed for every year the household resides at the property as part of the recertification process. A separate form must be completed by each adult household member.
3. Tenant Income Certification Form
 - Must be signed and dated by all adult members of the household
 - Should be completed at the time of the initial income verification and if the initial income verification has expired, at the time of re-verification
 - Parts VI and VII are not applicable to Homebuyer and Owner-Occupied Rehabilitation projects
 - Rental projects – Must also be completed for every year the household resides at the property as part of the recertification process. The TIC must have proper signature and effective dates clearly stated
4. Verifications of all sources of earned and unearned income and of all asset sources noted on the Tenant Eligibility Questionnaire and Tenant Income Certification
 - 3rd party verifications are the preferred method of income verification
 - When utilizing paystubs as support documentation for verifying and anticipating income from wages of a beneficiary/tenant whose job provides steady employment (e.g. forty (40) hours a week fifty-two (52) weeks a year), you must obtain the number of paystubs that cover two (2) consecutive months of payments. For beneficiaries/tenants with jobs providing employment that is less stable or does not conform to a twelve (12) month schedule (e.g. seasonal laborers and other sporadic work), income documentation should be obtained that covers the entire previous twelve (12) month period.





- If utilizing tax returns as income verification, you must obtain a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form."
 - Rental Projects – Verifications must be obtained and an income certification completed for every year the household resides at the property.
5. Any other documentation verifying the beneficiaries' eligibility (e.g. joint custody of a child documentation, management clarification documents, etc.);
 6. Initial and subsequent leases and all lease addenda executed by the tenant and owner (Rental Only);
 7. Documentation of the receipt of the applicable brochures (Fair Housing & Lead Based Paint); and
 8. For tenants in rental projects receiving tenant-based Section 8 vouchers, a copy of the Housing Assistance Payment (HAP) Contract and the current HAP Amendment from the Section 8 agency showing the amount of rental assistance. For tenants in project-based Section 8 units, a copy of the current HUD Form 50059 showing the amount of rental assistance.

All documents included in the beneficiary/tenant file must be fully completed, signed, and dated. IHCDA will not accept documents that are incomplete, that have been marked with correction fluids (i.e. whiteout), or where information has been obliterated with pen or marker.

Tenant Income Certification (TIC) Form

Every beneficiary file must contain a Tenant Income Certification (TIC) form, regardless of funding source, activity type, or whether or not that beneficiary also has an income certification from another program in the file (e.g. HUD Form 50058/50059 or similar RD certification forms). **Since 2012, IHCDA's sample TIC Form is a mandatory form that must be used in all files. IHCDA will no longer accept any other TIC document, unless the TIC is submitted to IHCDA and specifically approved.**

The TIC must list the IHCDA income set-aside (and rent set-aside for rental projects) for the household. Therefore, the set-aside should be listed as 30%, 40%, 50%, 60%, or 80%, not the actual AMI % of the household. For example, at time of move-in a household may actually have an income at 43% of area median income. This would be reported as qualifying at the 50%, 60%, or 80% AMI income set-aside depending on the set-asides allowed for the project.

Tenant Eligibility Questionnaire

A fully completed Application and Tenant Eligibility Questionnaire is critical to an accurate determination of beneficiary eligibility. The information furnished on the Application and Tenant Eligibility Questionnaire should be used as a tool to determine all sources of income, including total assets and income from assets. **Beginning March 1, 2012, IHCDA's Tenant Eligibility Questionnaire form is a mandatory form that must be used in all beneficiary files.**

At the time of application, it is the management agent's or recipient's responsibility to obtain sufficient information on all prospective beneficiaries in order to completely process the application, determine household eligibility, and complete the Income Certification form. IHCDA requires that each adult household member complete a separate Eligibility Questionnaire at time of application, and for rental projects each year at annual certification.





C. Annual Household Income

Annual income is the amount of income that is used to determine a household's eligibility for assistance. Annual income is defined as follows:

1. All amounts, monetary or not, that go to or are received on behalf of the head of household, spouse or co-head (even if the household member is temporarily absent), or any other household member; or
2. All amounts anticipated to be received from a source outside the household during the twelve (12) month period following admission or annual recertification effective date.

Annual income includes amount derived (during the twelve (12) month period) from assets to which any member of the household has access.

The recipient must obtain third party verification of income sources of all adult household members age eighteen (18) or older, as well as benefits paid on behalf of minors in the household.

Regular Cash Contribution and Gifts: All income received on a regular basis from persons not living in the units must be counted. These sources may include rent and utility payments paid on behalf of the household, and other cash or non-cash contributions provided on a regular basis. The only exceptions are child care expenses paid directly to the child care provider on behalf of the household or groceries given to the household (actual grocery items, not money for groceries).

Examples:

The father of a young single parent pays her monthly utility bills. On average he provides \$100 each month. The \$100 must be included in the household's annual income.

The daughter of an elderly tenant pays her mother's \$175 share of rent each month. The \$175 value must be included in the tenant's annual income.

Welfare Rent as Income: Welfare assistance is counted as income. Most Owner/agents will use the actual gross amount of welfare assistance the household received. In certain "as-paid" localities, however, a special calculation is required. In an as-paid jurisdiction, welfare assistance for housing costs is established separately from the rest of the welfare assistance and may be adjusted based on the actual cost of the household's housing.

For welfare recipients, Owner/Agents in as-paid jurisdictions must count as income the amount of general assistance the household received plus the maximum amount of housing assistance the household could receive (rather than the amount the household is actually receiving).

Self-Employed Persons: *Self-employment net income (after business expenses) from non-farm business, including proprietorship and partnership must be counted. Also, farm self-employment net income (after operating expenses) must be counted. Include amounts from land rented for shares.*

Military Income: All regular pay, special pay, and allowances of a member of the Armed Forces must be counted. The exception to this rule is special pay to a household member serving in the Armed Forces who is exposed to hostile fire.





Whose Income Should Be Counted

Adults: Count the annual income (earned and unearned) of the head, spouse, co-head, and any other adult members of the household. In addition, persons under the age of eighteen (18) who have entered into a lease, under state law, are treated as adults and their annual income must also be counted. These persons will be the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

Minor children: Benefits or other unearned income, including income from assets, of minors is counted. This includes child support, AFDC payments, Social Security, and other benefits paid on behalf of the minor.

Temporarily absent household members. The income of temporarily absent household member is counted in Part 5 definition of annual income – regardless of the amount the absent household member contributes to the household. For example, a construction worker employed at a temporary job on the other side of the state earns \$600 per week. He keeps \$200 per week for expenses and sends \$400 per week to his household. The entire amount (\$600 per week) is counted in the household's income.

Adult students living away from home. If an adult full-time student is counted as a member of the household in determining the household size (to compare against the HUD income limits), only the first \$480 of the student's income must be counted in the household's income. However, if the student is the head, co-head or spouse you must count the full amount of income. (NOTE: Verification must be obtained from the school verifying the student is full time.)

Adult student living at home: Count only earned income up to a maximum of \$480 per year for full-time students, age eighteen (18) or older, who is not the head of the household, co-head, or spouse. (NOTE: Verification must be obtained from the school verifying the student is full time.)

Permanently absent household members. If a household member is permanently absent from the household (e.g., a spouse who is in a nursing home), the head of household has the choice of either counting that person as a member of the household, and including income attributable to that person as household income, or specifying that the person is no longer a member of the household.

Determining Household Size

The following persons shall not be included when calculating the household size for purposes of determining income eligibility: live-in aides (as defined in 24 CFR 5.403), unborn children, and children being pursued for legal custody or adoption who are not currently living with the household.

Whose Income Should Not Be Counted

Income of live-in aides. If a household includes a paid live-in aide (whether paid by the family or social service program), the income of the live-in aide, regardless of the source, is not counted. Except under unusual circumstances, a spouse or minor child cannot be considered a live-in aide.

Earned income of minors. Earned income of minors (age seventeen (17) and under) is not counted. However, unearned and asset income of minors is included in total household income.





Income Inclusions

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services.
2. Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness cannot be used as deductions in determining the net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the household.
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the household. Where the household has net household assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net household assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a period payment (except as provided in number 14 of Income Exclusions).
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in number 3 of Income Exclusions).
6. Welfare Assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - ◆ The amount of allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - ◆ The maximum amounts that the welfare assistance agency could in fact allow the household for shelter and utilities. If the household's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph is the amount resulting from one (1) application of the percentage.
7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. All regular pay, special day and allowances of a member of the Armed Forces (except as provided in number 7 of Income Exclusions).

Income Exclusions

1. Income from employment of children (including foster children) under the age of eighteen (18) years.
2. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant household, who are unable to live alone).
3. Lump-sum additions to household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in number 5 of Income Inclusions).
4. Amounts received by the household that are specifically for, or in reimbursement of, the cost of medical expenses for any household member.
5. Income of live-in aide (as defined in 24 CFR 5.403).
6. Certain increases in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.67(a))





7. The full amount of student financial assistance paid directly to the student or to the educational institution.
8. The special pay to a household member serving in the Armed Forces who is exposed to hostile fire.
9.
 - a. Amounts received under training programs funded by HUD.
 - b. *Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).*
 - c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program.
 - d. Amounts received under a resident service stipend (as defined in 24 CFR 5.609(c) (8)(iv).
 - e. Incremental earnings and benefits resulting to any household member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a household member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only of the period during which the household member participates in the employment-training program.
10. Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparation payments paid by foreign government pursuant to claims under the laws of the government by persons who were persecuted during the Nazi era.
12. Earnings in excess of \$480 for each full-time student eighteen (18) years old or older (excluding the head of household or spouse).
13. Adoption assistance payments in excess of \$480 per adopted child.
14. Deferred period amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Amounts received by the household in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
16. Amounts paid by a state agency to a household member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled household member at home.
17. Amount specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of 24 CFR 5.609(c) apply, including,
 - (i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
 - (ii) Payments to Volunteers under the Domestic Volunteer Services Act of 1973;
 - (iii) Payments received under the Alaska Native Claims Settlement Act;
 - (iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;
 - (v) Payments or allowances received under the Department of Health and Human Services' Low-Income Home Energy Assistance Programs;
 - (vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;
 - (vii) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;
 - (viii) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs. For Section 8 programs, the exception found in Section 237 of Public Law 109-249 applies and requires the amount of financial assistance in excess of tuition shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E);
 - (ix) Payments received from programs funded under Title V of the Older Americans Act of 1965;





- (x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange liability litigation, M.D.L. No. 381 (E.D.N.Y);
- (xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, 25, U.S.C. 1721) pursuant to 25 U.S.C. 1728(c);
- (xii) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- (xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991;
- (xiv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- (xv) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- (xvi) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act;
- (xvii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998;
- (xviii) Any amount received under the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780b), including reduced-price lunches and food under the Special Supplemental Food Program for Woman, Infants, and Children (WIC);
- (xix) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990;
- (xx) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 42 U.S.C. 4501);
- (xxi) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs; and
- (xxii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, United States District Court, District of Columbia, as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291).

D. Treatment of Assets

There is no asset limitation in the HOME or CDBG Program.

Third-party verification of all household assets is required, even if the total amount is less than \$5,000. This is different than the requirements for Section 42 Low-income Housing Tax Credit projects. *What to Include as an Asset*

Assets are items of value, other than necessary personal items. In general terms, an asset is a cash or non-cash item that can be converted to cash. Income from assets must be taken into consideration when determining the





eligibility of a household. Asset information (asset value and income from assets) must be obtained at the time of application and for rental projects annually at recertification. All asset sources must be verified.

The market value of an asset is its dollar value on the open market. The cash value of an asset is the market value minus reasonable expenses incurred to convert the asset to cash, including for example:

- ◆ Penalties or fees for converting financial holdings. Any penalties, fees or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value.
- ◆ Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property and any legal fees associated with the sale of real property are deducted from the market value to determine equity in real estate.

For the purposes of calculating annual income, the cash value of an item is counted as the asset, not the market value.

Any asset source that is not specifically excluded must be included. For more information regarding net household asset inclusions and exclusions, and how to determine the value of income from assets, see chapter 5 of HUD Handbook 4350.3 in Appendix A, specifically Section 5-7 and Exhibit 5-2.

Actual Income from Assets

Actual income from assets is the income generated by the asset, such as interest or a dividend. This is counted as income even if the income is not received by the household, for example, if the interest or dividend is automatically reinvested into the asset. When net household assets (cash value of all assets) are up to \$5000, the actual income from assets is always the income used. When net family assets exceed \$5000 then the actual income must be compared to the imputed income from assets (see below) and the higher amount is used for income determination.

Imputing Income from Assets

If net household assets (cash value of all assets) is greater than \$5000, asset income (which must be included as part of total gross household income) will be the greater of: a) actual asset income; or b) net family assets multiplied by the HUD approved passbook rate (the "Imputed Income from Assets"). The current passbook rate is 0.06%.

Disposed of Assets

Assets disposed of for less than fair market value are included as assets for a period of two (2) years from the date of disposal. The amount to be included as an asset is the difference between the cash value of the asset and the amount that was actually received (if any) in the disposition of the asset. This rule only applies if the difference between the cash value and the amount received is greater than \$1000.

Assets disposed of for less than the fair market value as a result of foreclosure or bankruptcy or those lost through a divorce or separation settlement are not included in this calculation.

Asset Inclusions

1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average six (6) month balance.
2. Cash value of revocable trusts available to the applicant.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under **HOME** and **CDBG**, equity in a household's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.





4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
5. Individual retirement accounts and Keogh accounts (even though withdrawal would result in a penalty).
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one (1) time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by an applicant.

Asset Exclusions

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
2. Interest in Indian trust lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated from the asset.
4. Equity in cooperatives in which the household lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e., where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

F. Income Verifications

The income of every prospective occupant of the unit must be verified. All regular sources of income, including income from assets, must be verified. Verifications must be received by the management agent prior to move-in. Verifications must contain complete and detailed information and include, at a minimum, direct written verification from all sources of regular income and income of assets.

Effective Term of Verification

Verifications of income are valid for six (6) months from the date of receipt by the owner/management and must be obtained prior to move-in or recertification effective date. After this time, if the tenant has not yet moved in or recertified, a new verification must be obtained. Verifications that are more than six (6) months old as of the effective date of the move-in or recertification event are invalid.

Methods of Verification

Three (3) methods of verification are permitted: **third-party verification from the source, third-party verification from the tenant ("tenant-provided documents"), and self-certification.** Per the updates to HUD Handbook 4350.3, Rev-1, CHG-4 released in 2013 (see Chapter 5, Part 5-13), both verification provided from the source and tenant-provided documents (formerly referred to as second-party verification) are now equally acceptable types of third-party documentation.

Owners/managers must set a policy on their preferred method of verification and must conduct verifications consistently for all households.

1. **Third-Party Written or Verbal Verification Provided by the Source**





IHCDA does not require that the owner/management agent use particular forms for third-party verifications; however, sample third-party verification forms are included in Appendix B. All requests for income verification must:

- a) State the reason for the request;
- b) Include a release statement signed and dated by the prospective tenant; and
- c) Provide a section for the employer or other third-party source to state the applicant/tenant's current anticipated gross annual income or rate of pay, number of hours worked, and frequency of pay. Over-time hours, bonuses, tips, and commissions must be included, as well as the probability and effective date of any increase during the next twelve (12) months. Spaces should also be available for a signature, job title, phone number, and date. If forms are returned with any information incomplete, management MUST contact the source and complete a clarification form to document incomplete information.

Note: Owners must send and receive verification forms directly to/from the third-party, not through the applicant or tenant.

When written verification is not possible prior to move-in, direct contact with the source will be acceptable to IHCDA only as a last resort and should be followed by written verification. The conversation should be documented in the tenant file to include all information that would be contained in a written verification. The information must include the name, title, and phone number of the contact, the name of the onsite management representative accepting the information, and the date the information was obtained.

In addition, if the owner receives third-party verifications that are not clear or are not complete, a documented verbal clarification may be accepted if it includes the name and title of the contact, the name and signature of the onsite management representative accepting the information, and the date the information was obtained.

Furthermore, if after requesting third-party verification, the third-party indicates that the information must be obtained from an automated telephone system, the owner may document the information provided from the telephone system. The documentation must state the date the information is received, all of the information provided, and the name, signature, and title of the person receiving the information.

2. Third-Party Tenant-Provided Documents

Per HUD Handbook 4350.3, REV-1, CHG-4, tenant-provided documents are now considered third-party documents and are equally as acceptable as verification documents provided by the source. The Handbook states in Part 5-13(B)(1)(b)(1) that the owner may use:

An original or authentic document generated by a third-party source... Such documentation may be in possession of the tenant (or applicant), and commonly referred to as tenant-provided documents. These documents are considered third-party verification because they originated from a third-party source.

Examples of tenant-provided documentation that may be used includes, but is not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notes.

When using tenant-provided information, the owner must consider the following:





- Is the document current? Circumstances may have changed since the document was created.
- Is the document complete?
- Is the document an unaltered original copy? When possible documents with original signatures are the most reliable.

The following requirements apply to tenant-provided documents:

- Using Paystubs for Employment Verification:** If utilizing paystubs for employment verification, the recipient must obtain two (2) consecutive months of paystubs from the tenant/applicant if the job provides steady employment. If employment is sporadic or seasonal, the recipient should obtain information that covers the entire previous twelve (12) month period.
- Using Bank Statements:** If utilizing bank statements as asset verification, the owner must obtain the six (6) most recent statements to verify a checking account and the most recent statement to verify a savings account.
- Using Tax Returns for Income Verification:** If utilizing tax returns as income verification, the recipient must obtain a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form."

The owner must be able to reasonably project expected income for the next twelve (12) months from the tenant-provided documents.

The owner may use information obtained electronically from fax, e-mail or the internet. A printout from a reliable source is adequate verification.

3. Tenant Self-Certification

As a last resort, the owner may accept a tenant's signed affidavit if third-party or tenant-provided verifications cannot be obtained. The recipient should try to refrain from using self-affidavits except where absolutely necessary.

If a self-affidavit must be used to verify income or asset sources, the owner is required to document the tenant file by explaining the reason third-party or tenant-provided verification could not be obtained and showing all efforts that were made to obtain verification. Per Chapter 5 of the HUD Handbook 4350.3, the following documents should be placed in the tenant file:

- A written note to the file explaining why third-party verification is not possible; and/or
- A copy of the date-stamped original request that was sent to the third-party; and/or
- Written notes or documentation indicating follow-up efforts to reach the third-party to obtain verification; and/or
- A written note to the file indicating that the request has been outstanding without a response from the third-party; and/or
- A written note to the file explaining why second-party verification is not possible.

The owner may accept self-certification if there is a fee associated with receiving the third-party verification (except required certified tax returns as discussed above). If the owner chooses to pay the fee to obtain the third-party verification, this cost cannot be passed on to the tenant or applicant.





4. Public Housing Authority Verification & Income for Section 8 Recipients (for CDBG, CDBG-D, & NSP only)

*Note: The following verification methodology cannot be used for HOME-assisted units.

In the case of a tenant receiving housing assistance payments under the Section 8 Program, the third-party income verification requirement is satisfied if the Public Housing Authority (PHA) provides a statement to the building recipient certifying that the household's income does not exceed the applicable program income limit.

The only documents that will be acceptable from the Public Housing Authority are HUD Form 50058 or the IHCDA approved Public Housing Authority Verification form in Appendix B (if provided by the local PHA). The form must be completed in its entirety by a qualified representative of the PHA and list the members of the household and the gross income of the household before any deductions that the household may be eligible for under the Section 8 Program. These forms will not be considered valid verifications if they are dated more than six (6) months prior to the household's move-in date or recertification effective date.

Once the recipient receives the HUD Form 50058 or IHCDA approved PHA form, no other verifications of income are required. However, verifications for other eligibility requirements such as the Tenant Eligibility Questionnaire and the Tenant Income Certification (TIC) form must still be completed and placed in the household's file. **The 50058 or PHA Form replaces the third-party income verifications but does not replace the TIC. A TIC must be included in the file; regardless of whether or not there is a 50058 (see Part 5.1 for more information).** The recipient may not rely on the HUD Form 50058 or PHA form if a reasonable person in the recipient's position would conclude that the tenant's actual annual income is higher than the tenant's represented annual income. Additionally, the HUD/PHA form must be signed by both the tenant and the PHA Representative when used as the income verification.

Because the HUD Form 50059 used for project-based Section 8 is not signed by a PHA representative, the Form 50059 cannot be used as income verification. However, the 50059 should be maintained in the file to verify the amount of rental assistance on the unit.

Furthermore, IHCDA cannot accept the Enterprise Income Verification (EIV) system used by Section 8 to verify income. Therefore, the income of Section 8 recipients living in program units must continue to be third-party verified. EIV documentation should be kept in a separate file from the HOME/CDBG verifications so that it is completely inaccessible to the IHCDA auditor.

Verification Transmittal

Income verification requests must be sent directly to the source by the owner or management agent and returned by the source to the owner or management agent. Under no circumstances should the applicant or resident be allowed to send or deliver the verification form to the third-party source. It is suggested that a self-addressed, stamped envelope be included with the request for verification, to ensure a timely response. In addition, fax copies of verifications are acceptable.

All tenant income verifications should be date stamped as they are received.

Acceptable Forms of Income Verification for Specific Income Sources

The following section provides brief guidance on some common and/or complicated sources of income to verify.





For complete information concerning acceptable forms of income Verification for Employment Income, Self-employment Income, Social Security/Pensions/Supplemental Security Income (SSI)/Disability Income, Unemployment Compensations, Alimony or Child Support Payments, Recurring Contributions and Gifts, Scholarships, Grants, Veteran's Administration Benefits, etc., see Chapter 5 of HUD Handbook 4350.3 and the *Technical Guide for Determining Income and Allowances* (both sources available in Appendix A).

1. Social Security and Supplemental Security Income

IHCDA will accept the Annual Benefit Award letter provided from the Social Security office to verify Social Security benefits. However, all Supplemental Security Income is required to be verified and dated within six (6) months prior to the certification date. When interpreting Social Security benefit letters, remember to use the gross amount before deductions, unless the deduction is for a prior overpayment of benefits.

The Social Security Administration (SSA) may no longer issue Social Security Number printouts and SSA field offices may stop providing benefit verification letters. Clients can obtain an instant verification letter online by creating a personal my Social Security account or by calling the national toll free number 1-800-772-1213 and using the automated application to have a letter sent via mail.

Benefits received through direct deposit or a Direct Express Debit Card are treated as income. In addition, the balance on a Direct Express Debit Card is also considered as an asset and must be verified consistent with the verification procedures for a savings account. A current balance must be provided and included as an asset in addition to the benefit income. This balance can be obtained through an online account service, a paper statement, or an ATM balance.

Delayed SS and SSI payments received as a lump sum are not counted as income, but are included as a lump sum asset (see the second income exclusion example on page 5-21 of HUD Handbook 4350.3). Delayed SS and SSI payments received as periodic payments are excluded from income (see item #13 in Exhibit 5-1 of HUD Handbook 4350.3).

When a Social Security cost of living adjustment (COLA) increase is announced, the increase must be factored into all income determinations with effective dates after the date the increase was announced. Recent COLA increases include:

- On October 22, 2014 the SSA announced a 1.7% COLA increase for 2015
- On October 22, 2015 the SSA announced a 0.0% COLA increase for 2016
- On October 18, 2016, the SSA announced a 0.3% COLA increase for 2017

2. Child Support Verification

IHCDA requires the following documentation to verify income from child support:

- The tenant must be asked on the application for tenancy and annually on the Tenant Eligibility Questionnaire (if applicable) if anyone in the household is **entitled** to receive child support.
- If the tenant is entitled and is currently receiving child support, a copy of the court order, divorce decree, or verification from the agency administering the child support payments must be received.





- If the tenant is receiving child support but there is no court order (i.e. the tenant has made an alternative arrangement with the child support payer), then the owner should attempt to obtain third-party verification from the source making the payments.
- If the tenant is entitled to receive child support, but has not received a payment within the previous year, verification from the agency administering the child support payments must be received by the owner. In addition, an affidavit from the tenant to the owner certifying that a) the tenant is not receiving child support payments; b) the reason the tenant is not receiving the payments; and c) the efforts made by the tenant to receive the payments must be obtained. If there is a court order but the tenant has not made efforts to receive the child support, then the owner must count the full amount of court ordered child support as income.
- If the tenant is entitled to receive child support, but payments over the previous year have been sporadic (i.e. more than one-third (1/3) of the payments have not been paid), then the recipient may average the payments received over the previous year to project anticipated income for the next twelve (12) months. The owner should document the file with the previous twelve (12) month history.

3. Unemployment and Welfare Benefits

When anticipating income from unemployment, the owner must annualize the weekly benefit amount regardless of whether or not the benefit end date suggests that benefits won't last for the full year. The owner may not use the total maximum benefit amount, the remaining benefit amount, or an average of the benefits received.

The only exception is if the tenant knows a date on which he or she will return to work or begin a new job. In this case, the recipient would calculate unemployment benefits up until the hire date and then calculate employment income for the rest of the year. IHCDA will expect to see third-party verification of the unemployment benefits and an employment verification showing the start date for the job, including all other information applicable to employment.

Welfare payments in the form of Temporary Assistance to Needy Families (TANF) are included in household income. Food stamps are not included as household income.

Settlement payments from claim disputes over unemployment or welfare are treated as lump sum assets. However, lump sum payments caused by delays in processing periodic payments in unemployment or welfare are included as income (see page 5-18 and Figure 5-3 on page 5-19 of HUD Handbook 4350.3).

4. Employment Income

Employment income must be third-party verified when possible. If utilizing tenant-provided documents, for tenants with jobs that provide steady employment, the owner must obtain the number of paystubs that covers two (2) consecutive months of payments. For tenants with jobs that are seasonal or sporadic, the owner must obtain documentation that covers the entire previous twelve (12) month period.

If utilizing tax returns as income verification, the owner must obtain a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form."

For purposes of verifying and calculating employment income, it is imperative to consider year-to-date earnings. IHCDA requires the owner to calculate employment income in one of the following manners:





- If third-party employment verification is received, calculate the total anticipated income for the year and compare to the anticipated income based off of the year-to-date (YTD) figure provided on the verification form (all employment verification forms must ask for YTD earnings). Use the higher of the two figures when calculating total household income.

-If the two (2) months of most recent paystubs are received, calculate the total anticipated income based off of the average of the paystubs and compare to the total anticipated income based off of the year-to-date (YTD) figure found on the most recent paystub. Use the higher of the two figures when calculating household income.

IHCDA provides sample income calculation worksheets for the convenience of the recipient/ management. Form #40 provides a calculation method for using paystubs and Form #41 provides a calculation method for using third-party employment verifications. Both forms are available in Appendix B.

5. Recurring Gifts / Regular Contributions to Household

Any regular contributions and gifts to the household from persons not living in the unit must be included in annual income. This includes payments paid on behalf of the family and other cash or noncash contributions provided on a regular basis. Temporary, nonrecurring, or sporadic contributions or gifts are not counted.

Groceries provided directly to the household (not money given to buy groceries) are excluded. Additionally, childcare payments paid directly to the childcare provider on behalf of the tenant are excluded.

Recurring gifts/contributions should be third-party verified when possible by having the contributor sign a self-certification stating the amount and frequency of the gift/contribution.

6. Income of Students and Student Financial Assistance

Student financial assistance must be counted as part of total household income and third-party verified through the school for all households receiving Section 8 assistance. However, financial assistance is not included as part of annual household income for households that do not receive Section 8 assistance. For Section 8 recipients, all forms of financial assistance in excess of cost of tuition (not including cost of books, room and board, and other class fees) are included as income. This includes grants, scholarships, private assistance, educational entitlements, etc. but does not include loans.

There are two (2) exceptions to this rule:

- i. The student is over the age of twenty-three (23) with dependent children; or
- ii. The student is living with his or her parents who are receiving Section 8 assistance.

If the Section 8 recipient meets one of the previous exemptions, then financial assistance is not included as part of total household income and does not need to be verified.

7. Periodic Payments and Withdrawals

The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. Additionally, the withdrawal of cash or assets from an investment





received as periodic payments should be counted as income. If benefits are received through periodic payments or withdrawals, the remaining amount held in the account is **not** counted as an asset. These types of sources should only be counted as an income or asset source, not as both. See HUD Handbook 4350.3, REV-1, CHG-4, Chapter 5, Part 5-6 M and 5-6 O.

C. Differences in Reported Income

The management agent should give the applicant/tenant the opportunity to explain any significant differences between the amounts reported on the application/questionnaire and amounts reported on third-party verifications in order to determine actual income. The explanation of the difference should be documented in the tenant file on a clarification form or self-affidavit.

D. Zero Income Households

It is possible that a household will have total annual income of \$0. This is possible if the household is receiving rental assistance, food stamps, and other forms of assistance that are not counted as income. However, it is often the case that households claiming to be zero income are in fact receiving some type of recurring gift from friends or family members (see part 5.3(D)(5) above).

If an individual applicant/tenant within the household has zero income, IHCDA advises having that individual fill out a form similar to IHCDA Form #15 "Non-employed Status Certification." This form asks the household member to certify that he or she has no employment, allows them to answer questions about other forms of income, and provides an option to claim zero income but explain that another household member pays for all expenses.

If the entire household is claiming zero income, IHCDA advises having the household complete a form similar to IHCDA Form #27 "Zero Income Certification and Basic Needs Questionnaire." This form asks the household to identify how various expenses will be paid and often serves as a way of catching recurring gifts and contributions to the household.

While zero income households do exist, it is the responsibility of management to prove due diligence when reporting households as zero income. Zero income households can raise a red flag for auditors, especially if the household that is claiming zero income is responsible for a portion of rent.

G. Rental Tenants

Household income must be certified at the time of occupancy and recertified on an annual basis in accordance with the Part 5 method of verifying income.

For information regarding on-going compliance, annual certification, etc. please refer to the rental housing compliance manuals available on IHCDA's website at <http://in.gov/myihcda/2490.htm> or contact your Compliance Auditor.

G. How to Calculate Area Median Income Percentages

To calculate the percentage of area median income, do the following:

- 50% Limit for Household Size * 2 = 100% Area Median Income Limits





- $\text{Actual Household Income} / 100\% \text{ Area Median Income Limit} = \% \text{ of Area Median Income}$

Example

A household of four (4) in Bartholomew County makes \$17,800 per year. The fifty percent (50%) limit for a household of four (4) in Bartholomew County is \$24,750. The percentage of area median income is calculated as follows:

Step 1: What is the total household income? \$17,800

Step 2: What is fifty percent (50%) of the area median income for a household of four (4)? \$24,750

Step 3: What is one hundred percent (100%) of the area median income for a household of four (4)? \$49,500
[\$24,750*2]

Step 4: What is the household's percentage of area median income? 36% [Step 1/Step 3]

H. Calculating Income & Assets: Examples

For example income and asset calculations, please refer to the *Technical Guide for Determining Income and Allowances for the HOME Program*. This HUD guidebook is included in the Chapter 14 exhibits folder online.





CHAPTER 15 – Modification Procedures

A. Introduction

At some point during the progress of your award, your award agreement may require a modification. Possible reasons for requesting a modification include:

1. Change of award ending date;
2. Change in project activities, site or area;
3. Reallocation of funds budgeted between approved activities;
4. A change in the use of principal and interest payments received by the recipient;
5. A change in private sector participants, investment, or housing goals; or
6. A change in any conditions listed in the Technical Corrections to your award agreement.

Modification requests are reviewed by IHCDA staff to determine if the recipient has proceeded in a timely and responsible manner, if the proposed modification presents new problems in meeting federal or state regulatory or policy requirements, or if the request in any way changes the review factors (including point awards) which initially led to funding. Where the proposed modification significantly alters the project from the original agreement, it may be advisable for the recipient to voluntarily return the award and reapply for funding when the project is solidified or when project obstacles have been overcome.

All modification requests submitted to IHCDA need to be in a letter format and submitted with an original signature of the chief executive officer or executive director of the recipient. These requests should be submitted to your Real Estate Production Analyst. A modification is not considered granted or denied until you receive a formal letter from IHCDA outlining a response to your request.

Note of Caution: When any modification is anticipated, the recipient must also consider the impact of the proposed modification on other regulatory requirements (e.g., a change in project location or participants may trigger a new environmental review). Recipients should carefully review the anticipated changes against all regulatory requirements to determine the full range of possible impacts including unanticipated expenses or even the possibility that the proposed project will no longer be eligible for funding.

B. Types of Modifications

There are two (2) types of modifications: minor program modifications and major program modifications. If a modification request includes both major and minor changes, the modification request will be considered a major modification request for review purposes.

Minor Program Modifications

A minor modification includes changes to the award such as expiration date extensions and budget reallocations. If the recipient requests a minor program modification and no other changes, the modification can be accomplished through an exchange of letters between the recipient and IHCDA.





When requesting a minor modification, a **detailed justification** must be included in the request. The chief executive officer of the recipient must sign the request. After reviewing the request, IHCDA will respond in writing to the request by either approving or denying it.

When a minor modification is approved, IHCDA will send the recipient a contract modification agreement in the form of a PDF file signed by a signatory of IHCDA. The recipient must print two (2) copies, sign both, return one (1) contract modification agreement to IHCDA, and place the other one in the recipient's project file.

Award Extension

An important minor modification is a request for a change of the expiration date. If an award cannot be fully drawn down by its stated date, a request for modification of expiration date must be submitted to IHCDA, and a modified project schedule must be attached. Since funds cannot be drawn after award expiration, it is recommended that modification requests be submitted well in advance of the expiration date.

Changes in award expiration dates are **NOT** automatic. In signing the award agreement, the recipient has certified that the project can be completed within the time period specified. The recipient has not fulfilled its contractual obligations when award funds are not expended within the time frame specified in the award agreement. In addition, IHCDA is required by HUD to meet certain performance standards for expenditure of funds. As a result, it is the policy of IHCDA to permit changes in award expiration dates only when the recipient can demonstrate that:

- a) It could not have reasonably foreseen the delays; **and**
- b) It acted responsibly and in a timely manner to overcome the delays; **and**
- c) It informed IHCDA immediately upon learning that the project could not be completed within the time frame specified in the award agreement; **and**
- d) All aspects of the project can be **completed** within a very short period of time after the original end date -- usually not to exceed six months.

In all other instances, it is recommended that the recipient voluntarily return the award and reapply for funding when the project is ready to proceed or, where possible, consult with IHCDA to consider redesign of the project to allow earlier completion.

If you have determined that you would like to move forward with an extension to the expiration date, the modification request must include, but is not be limited to, the following information:

- Explanation as to why the modification is needed; and
- Detailed timeline by site address of what has transpired to date, please include all site addresses; and
- Detailed timeline by site address for completion of the project; and
- Signed modification request from the chief executive officer of the award recipient.

Budget Reallocation

When requesting a budget modification, the modification needs to include, but is not be limited to, the following information:

- Explanation as to why the modification is needed; and
- What led to the change in the costs attributable to the line item, e.g. requesting money to be moved into rehabilitation – additional costs due to historic preservation of existing windows; and





- Revised Budget; and
- Signed modification request from chief executive officer of the award recipient.

Major Program Modifications

A major modification is a substantial change in terms of the project purpose, scope, location, or beneficiaries. The recipient should allow a minimum of thirty (30) days for approval when requesting a major modification.

Types of modifications that can result in major modifications are:

- a. Adding an additional activity to an existing award
- b. Changing from one eligible activity to another

When a HOME recipient requires a substantial modification, IHCDA must receive a letter requesting the major modification from the award recipient's chief executive officer, a copy of the revised Project Budget (if applicable), and a modified project schedule.

When a CDBG or CDBG-D recipient desires to request substantial changes in terms of the project purpose, scope, location, or beneficiaries, the award recipient must provide citizens with reasonable advance notice of, and opportunity to comment on, activities which are proposed to be added, deleted, or substantially changed from the unit of general local government's application to the state. Before requesting a substantial modification from IHCDA, the recipient must do one (1) of the following:

- a. Hold a public hearing to obtain citizen's viewpoints. The recipient must publish a legal notice announcing the public hearing in a local newspaper of major circulation at least ten (10) calendar days prior to the public hearing date.
- b. Publish a legal notice in a local newspaper of major circulation specifying the proposed program change and providing citizens information for submitting comments to the proposed change. Citizens must be given at least ten (10) calendar days to comment on the proposed major modification before the request is submitted to IHCDA, and the recipient must respond to citizen comments within fifteen (15) working days where practicable.
- c. If the recipient determines that neither of the above options is feasible, the recipient may submit a request to its IHCDA Real Estate Production Analyst to utilize an alternative method of informing citizens about the proposed change.

The award recipient must submit the following to IHCDA: a letter requesting a major modification executed by the recipient's chief executive officer, a copy of the revised project budget (if applicable), a modified project schedule, and an original publisher's affidavit for the public notice.

Award Agreement Changes

When requesting an award agreement change - e.g. decreasing the number of units served or income beneficiary restrictions - the modification needs to include, but is not limited to, the following information:

- Explanation as to why the award recipient cannot fulfill the requirements stated in its initial application for funding; and
- The steps taken to meet the original requirements; and





- Description of beneficiaries that the recipient is planning to serve, number of units that it is planning to serve, etc.; and
- Signed modification request from the chief executive officer of the award recipient.

Please note that if you are increasing the number of units that will be served, you do not need to request approval from IHCDA; however, you are still bound to meet the beneficiary restrictions that were stated in the initial application approved by IHCDA.

Rent Limit Adjustments - HOME

Federal HOME regulations prohibit IHCDA from making supplemental HOME awards during a HOME-funded developments' affordability period, unless the award is made within one year of project completion or the supplemental funding assists a homebuyer in acquiring housing previously assisted with HOME funds [see 24 CFR 92.214(a)(7)].

HUD states at 24 CFR 92.252(g) that changes in the rent limits over time should be sufficient to maintain the financial viability of a development. However, the regulations go on to say, "HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly."

If award recipients find that the published rent limits are insufficient for a specific HOME-funded development, IHCDA will consider a request to adjust the 40% or 30% AMI rent limits to 60% or 50% units, for example. In this case, IHCDA would forward the request to HUD on the recipient's behalf. The petitioner would be required to demonstrate how the increased rents would continue to be affordable for the targeted areas.

Substantial Reconstruction

There are instances where "Substantial Rehabilitation" is insufficient. Improvements to the substandard house are either not enough to bring the house up to standards and make it structurally a safe living environment or the cost to rehabilitate the home may exceed the cost of simply replacing the home.

This policy summary addresses those rehabilitation projects where a determination must be made regarding the need and eligibility for substantial reconstruction of housing owned and occupied by low and moderate-income persons. *PRIOR APPROVAL BY THE IHCDA IS REQUIRED FOR ALL SUBSTANTIAL RECONSTRUCTION PROJECTS.*

For each request, the following definition applies and the following conditions must be met:

Substantial Reconstruction: Substantial reconstruction is defined to include the rebuilding of existing housing, on the same foundation or the same footprint, standing on a site at the time that owner eligibility is determined by the local unit of government. Rooms may be added outside the footprint of the housing being reconstructed in order to alleviate occupancy issues, but the reconstruction housing must essentially be similar to the original housing. Reconstruction also includes replacing an existing substandard unit with a new or standard unit of manufactured housing with the manufactured housing qualifying under the IHCDA's Manufactured Housing Policy and its six (6) criteria. Efforts must be made to assure that the replacement housing preserves the character of the structure replaced and the surrounding neighborhood. Housing must meet all applicable new construction building standards. *Substantial Reconstruction applies to owner occupied projects only.*

- Conditions: Substantial reconstruction waivers will be considered only in the following situation: The housing that is being reconstructed is part of a neighborhood rehabilitation effort in which the unit of local government is carrying out or proposes to carry out housing rehabilitation activities, and the housing to be





reconstructed would otherwise be a part of the housing rehabilitation in that neighborhood, and the unit of local government determines:

- 1) that the housing to be reconstructed is unsuitable for rehabilitation. Housing that is unsuitable for rehabilitation is housing that is substandard and not financially or structurally feasible for rehabilitation. The award recipient or its agents must document this determination. Such documentation should include inspection forms and cost estimates for rehabilitation and cost estimates for reconstruction which *demonstrates that the cost of substantial reconstruction is significantly less than the cost of rehabilitation*; and
- 2) the *estimated cost of reconstruction is at least twenty percent (20%) less than the estimated cost of purchasing comparable newly constructed housing* (including land) located in that neighborhood or in a comparable neighborhood of the unit of local government (for purposes of this paragraph, comparable newly constructed housing means a newly constructed residential structure of approximately the same size on a lot of approximately the same size); and
- 3) the *estimated cost of the reconstruction is less than the fair market value of the reconstructed housing and land* based on an appraisal obtained before reconstruction; and
- 4) the unit is located on land held by the beneficiary in fee-simple title or 99-year leasehold and is the principal residence of the beneficiary.
- 5) the property is subject to the resale restrictions or recapture provisions. (See Deed Restrictions Chapter). *Note: resale restrictions or recapture provisions must be recorded and are the only instruments to be used in protecting the public investment.*

B. All requests for approval to undertake substantial reconstruction activities must include the following information:

- 1) Cost estimates for rehabilitating the existing structure.
- 2) Cost estimates for the reconstructed housing.
- 3) Estimate of cost to purchase comparable newly constructed housing in the same or comparable neighborhood.
- 4) A copy of the appraisal for the unit that is to be reconstructed.
- 5) Written justification of efforts to assure the preservation of character for the replacement housing along with photos of the existing structure, neighboring properties and blueprints and front elevations of the replacement structure.
- 6) A Budget Modification requesting to reallocate funds to the “Not Feasible For Rehab” line item.
- 7) A complete sources and uses of funds for the project address. Please specify the terms of any private financing involved in the project.
- 8) A certified abstract of title and attorney’s opinion of title.
- 9) Beneficiaries of substantial reconstruction projects should, if financially able, participate in the financing of the project. If the beneficiaries’ financial participation in the project is at least fifty percent (50%) of the project costs (as identified in items seven (7) above) then no further client information is required. Otherwise, the following information on the client must be submitted to the IHCDA:
 - (a) Size of household.
 - (b) Annual income.
 - (c) Current mortgage amount.
 - (d) Total debts (not including mortgage).





- (e) Estimated cost for taxes and insurance on reconstructed property.
- (f) A list of any credit history problems (i.e., bankruptcy, pending lawsuits, loan defaults, etc.).
- (g) Justification for beneficiary level of financial participation.

C. All requests for waivers will be approved or denied in the discretion of the IHCDA following a review and evaluation of the justifications listed in support of the waiver request and a review and evaluation of the current status of the request.

C. Effective Date of Modification

Unless otherwise communicated in writing to the award recipient by IHCDA, all modifications will become effective as of the date that the modification agreement is signed by a signatory of IHCDA.

D. Modification Checklist

IHCDA has provided a checklist that will help you in determining if you are submitting all of the necessary information for a modification request. See Exhibit 1: Modification Checklist.





CHAPTER 16 – Program Monitoring & Record Retention

A. Introduction

The purpose of monitoring is to verify that the program is progressing as planned, that necessary records are being maintained, that contracts and purchase orders are appropriate and are being met in accordance with the required procurement procedures, and that specific program requirements and objectives are being met.

The purpose of an audit is to determine, upon completion of all activities, that the award was administered in accordance with all applicable state and federal laws, and in full compliance with award objectives.

B. Self-Monitoring

To anticipate and correct problems at the earliest possible stage, the recipient should perform periodic self-monitoring. Complex projects require more frequent monitorings, whereas simple projects may require only one (1). In any event, it is particularly recommended that a self-monitoring be completed prior to a visit by an Indiana Housing and Community Development Authority (IHCDA) Compliance Auditor or State Board of Accounts Auditor.

The recipient can use the sample monitoring handbook found in Exhibit 1 of this chapter to self-monitor. The handbook is a sample of the monitoring tool the IHCDA Compliance Auditor uses when performing a monitoring visit. Since this tool frequently updates, this version is a sample of version available at the time of manual revision. IHCDA Compliance Auditors may use a revised version of this tool when they monitor your development.

If, after performing this self-monitoring, the recipient decides that assistance is needed, assistance should be requested from IHCDA. IHCDA Compliance Auditors are available to do a “Progress Check.” A Progress Check is an interim monitoring but no “findings” or “concerns” will be made at the time of the Progress Check.

C. IHCDA Monitoring

All awards will receive at least one (1) final closeout monitoring from the Indiana Housing and Community Development Authority. The recipient must ensure that all records relating to the award are available at the time of IHCDA’s monitoring. The IHCDA Monitoring Tool is found as Exhibit 1 of this chapter. This is the tool that staff will utilize in the monitoring of your award implementation. **IHCDA will hold the final \$5000 of each award until the final monitoring has been completed and all findings and concerns associated with it have been resolved.**

At the time of final monitoring, the recipient must provide the IHCDA compliance auditor a disc containing electronic copies of all beneficiary files. These files must contain the income certification and verification documents for all beneficiaries (i.e. tenants or homeowners assisted).

For those projects determined to need special attention, IHCDA may conduct one (1) or more monitoring visits while award activities are in full progress. There are two possible types of special monitoring:

- Initial monitoring- monitoring early in the award term to ensure contract requirements and procurement procedures have been properly followed.
- Interim monitoring- monitoring halfway through the award term or award amount. Note: all projects invoking Davis Bacon will receive an interim monitoring to review labor standards requirements (see more information below).

Some of the more common factors that would signal special attention include: activity appears behind schedule, previous audit or monitoring findings of recipient or administrative firm, high dollar amount of award, inexperience of recipient or administrative firm, and/or complexity of program. These visits will combine onsite technical





assistance with compliance review. If the recipient’s systems are found to be nonexistent or are not functioning properly, actions taken by IHCDA could include suspension of further funding until appropriate corrective actions are taken, or termination of funding altogether.

Additionally, all awards subject to Davis Bacon requirements (see Chapter 9) will receive an interim monitoring at sooner of halfway through the award term or at fifty percent (50%) of funds drawn. The purpose of the interim monitoring is to ensure compliance with labor standards provisions, focusing on review of certified payroll reports. This interim monitoring is required and any issues found during the review must be addressed before additional claims to IHCDA will be released for payment.

1. Types of Monitoring Review

Onsite Monitoring Review

- Compliance Auditor will contact recipient to set-up monitoring based on award expiration and completion/close-out documentation submitted and approved.
- Recipient will receive a confirmation letter stating date, time, and general monitoring information.
- On date of monitoring, IHCDA staff will need: files, an area to review files, and a staff person available to answer questions.
- Before leaving, IHCDA staff will discuss known findings and concerns, along with any areas that are in question.

Desktop Monitoring Review

- Compliance Auditor will request information/ documentation from award recipient in order to conduct the monitoring. IHCDA staff will give approximately thirty (30) days for this information to be submitted.
- IHCDA staff will review information/ documentation submitted and correspond via the chief executive office the findings of the desk-top review. However, if during the course of the review additional information/ documentation is needed, staff will contact the award administrator.

2. Results of Monitoring Review

Upon completion of the monitoring visit, the recipient will receive a formal monitoring letter. The letter will list those areas of compliance that were reviewed and detail the results of the review. Determinations must be classified as (1) satisfactory; (2) Findings - clear statutory or regulatory violations; (3) Concerns – missing or unclear issues involving statutory or regulatory violations or issues not involving a statutory or regulatory requirement.

Satisfactory is reported when the review results in a determination that the recipient is meeting its statutory and regulatory responsibilities.

Findings are reported when the review of the recipient’s performance reveals a specific, identifiable violation of a statutory or regulatory requirement about which there is no question or there is inadequate support documentation to verify meeting statutory and regulatory responsibilities.

Concerns are reported when the results of the review are inconclusive, that is, they raise a question of whether or not a violation of a statutory or regulatory requirement has occurred, or compliance can be demonstrated or involves an issue that is not a statutory or regulatory requirement, but may involve management or program improvements. Concerns may also be raised where the recipient is in technical compliance with statutory or regulatory requirements, but appears to circumvent the intent of those requirements.





3. Determination and Responses

A review letter is submitted to the recipient within thirty (30) days of completion of the monitoring review and will require the recipient to provide a written response to any findings, questions of performance and/or concerns within thirty (30) days of receipt of the letter. The letter will summarize all positive and negative conclusions and the basis for those conclusions.

For a finding, the recipient is normally requested to explain, within a specified period, what steps it will take to remedy and/or prevent a recurrence of the violation.

For a concern, the recipient is asked for specific information to resolve the question, within a specified period. If the state suggests certain actions, those suggestions are fully optional; the recipient may choose to adopt those actions or present alternatives of its own design.

4. Clearing findings/concerns

The recipient must submit a response to identified issues within thirty (30) days of receipt of the monitoring letter. That response may include a request for additional time to research the issue or prepare the response. It is most imperative that recipients adhere to the monitoring response schedule. Where a recipient fails to be responsive or timely, sanctions may be imposed.

If the recipient indicates it has taken specific actions to clear a finding, the reviewer must verify that these actions have taken place before clearing the finding. If the nature of the violation is serious, or if it represents a recurrence of a previously identified issue, the reviewer may need to verify that corrective measures have been adopted before clearing the finding. Once the review indicates that satisfactory action has taken place, the reviewer will send a letter to the recipient indicating that the finding has been resolved.

Upon review of information submitted in response to a concern, the reviewer will determine if the information is satisfactory. If there is no doubt that the statutory or regulatory requirement has been met, the reviewer will send a letter indicating that the matter is resolved. If the response leads the reviewer to the conclusion that a statutory or regulatory violation has taken place, the reviewer will make a finding. The recipient will receive written notice that a finding has been made in the matter and will be given a specific action to resolve the finding.

5. Sanctions

If the review or monitoring results in any negative determination, or if IHCD A otherwise has reason to believe that the recipient has failed to comply in a substantial or serious manner with any requirement of the Federal Act or other program guidelines, IHCD A may elect to take action in order to (1) prevent a continuation of the deficiency, (2) mitigate, to the extent possible, the adverse effects or consequences of the deficiency, or (3) prevent a recurrence of the deficiency. In some instances, IHCD A action is dictated by the nature of the violation and the sanction may be specifically prescribed under federal law or regulation. IHCD A may pursue one (1) or more of the following sanctions to correct violations and/or deficiencies in recipient compliance:

(1) Request the recipient to submit additional information pertinent to the negative determinations and the recipient's proposal for corrective action;





- (2) Issue a letter of warning that advises the recipient or its administrator of the deficiency and puts the recipient or its administrator on notice that more serious sanctions will be imposed if the deficiency is not corrected or is repeated; advise the recipient that a certification will no longer be acceptable and that additional information or assurances will be required;
- (3) Advise the recipient to suspend disbursement of funds for a questioned activity or to a recipient whose activities are determined not to have satisfied the applicable performance criteria under the Federal Act;
- (4) Advise the recipient to reimburse its program account, the Federal Treasury or the state in any amounts improperly expended;
- (5) In the case of a determination that the recipient or any recipient has failed to comply substantially with any provision of the Federal Act or state law, refer the matter to the US and/or State Attorneys General with a recommendation that appropriate civil action be instituted;
- (6) Condition the use of funds from any other allocation or program income upon appropriate corrective action by the recipient;
- (7) Any other action or remedy under state or federal law including, but not limited to, instituting debarment procedures against the recipient and/or its administrator or sub-recipient.

6. Resolution of Disagreements

Where the recipient believes the determination of the reviewer has been incorrect and resolution through normal monitoring resolution procedures has not been successful, the following steps should be followed:

- a. The recipient should request, in writing, a hearing with the Compliance and Asset Manager, at which hearing both the recipient and the reviewer shall be present. Such a request should be received by IHCDA within the prescribed response period;
- b. If resolution is not reached, the recipient or IHCDA may petition the State Board of Accounts for an Audit Position Statement;
- b. If resolution is not reached and the issue involves interpretation of federal requirements, either party may appeal the decision by requesting the Indiana Housing and Community Development Authority to request a written determination from the US Department of Housing and Urban Development. For issues involving state requirements, such request for a ruling may be made to the State Attorney General. In the event of such action, both parties shall prepare summary position statements. Both statements shall be simultaneously submitted to the appropriate agency, with a request for written determination prepared by IHCDA. Based on the results of such determination, IHCDA will prepare a final determination which will be signed by the Executive Director of IHCDA, said determination to be final and conclusive.

7. Risk Assessments

IHCDA is federally required to complete a risk assessment on each recipient or subrecipient. The risk assessment includes risk categories generally cover use of funds, claims and transmittal compliance, and findings/concerns/errors from monitoring. The risk assessment outcome may result in increased or decreased monitoring site visits.





D. Single Audit (formally A-133)

1. General Information and Requirements

OMB Circular A-133 governs the audit requirements of states, local governments, and non-profit organizations. OMB Circular A-133 rescinds OMB Circular A-128. OMB Circular A-133 is effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996.). In the State of Indiana, responsibility of local units of government audits lies with the State Board of Accounts, (SBA).

OMB Circular A-133 requires the following:

- Non-federal entities that expend \$500,000 or more in Federal funds (all sources) during a fiscal year are required to have a single audit as outlined in OMB Circular A-133. The recipient must submit its single audit to IHCDA within the earlier of thirty (30) days after the receipt of the auditor's report(s) or nine (9) months after the end of the audit period.
- Non-federal entities that expend less than \$500,000 in Federal funds (all sources) during a fiscal year are exempt from Federal audit requirements for that year, but records must be made available for review or audit by representatives of IHCDA, HUD and/or General Accounting Office (GAO). Additionally, the entity must submit its audited financial statements or IRS Form 880 Return of Organization Exempt from Income Tax to IHCDA within the earlier of thirty (30) days after the receipt of the auditor's report(s) or nine (9) months after the end of the audit period.

The following lists many of the significant changes that occurred because of the implementation of OMB Circular A-133.

Once an A-133 Audit has been completed, the recipient retains the responsibility for follow-up and corrective action on all audit findings. In fulfilling this responsibility, the recipient must prepare a Summary Schedule of Prior Audit Findings. This summary schedule reports the status of all audit findings included in the prior year's Schedule of Findings and Questioned Costs relative to Federal awards. The summary schedule should also include audit findings reported in the prior audit's summary schedule of prior year's audit that were not listed as corrected. The summary schedule should explain the following:

1. When audit findings were fully corrected, the summary schedule need only list the audit findings and state the corrective action taken.
2. When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.
3. When corrective action is significantly different from corrective action plan or in the Federal agency's management decision, the summary schedule shall provide an explanation.
4. When the recipient believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:
 - (i) Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;
 - (ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and
 - (iii) A management decision was not issued.





The results of audits must be submitted to IHCDA within thirty (30) days of the issuance of the auditors' report or nine (9) months after the end of the audit period, whichever is earliest.

The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The data collection to be submitted includes (1) financial statements and Schedule of Expenditures of Federal Awards; (2) the Summary Schedule of Prior Audit Findings; (3) the auditors' reports; and (4) the Corrective Action Plan.

The data collection form is designed to provide information about the auditee, its auditor, its Federal programs, and the results of the audit. The description of the data collection form's contents specifies 16 different items that can be grouped into five general categories:

- i. Information about the auditor and auditee;
- ii. Identification of the Federal awarding agencies that will receive a copy of the reporting package;
- iii. Information about Federal award programs;
- iv. Information about the risk-based approach used by the auditor in selecting major programs; and
- v. Information about the reports issued by the auditor.

2. Using an IHCDA Approved Auditor

All auditors performing under OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" for a recipient must be qualified by IHCDA in order for IHCDA to accept the A-133 submitted by the recipient. The recipient must contact IHCDA's Risk Manager in order to ensure that its auditor meets IHCDA's requirements and/or to receive a copy of IHCDA's criteria for auditors.

3. Sanctions

If the recipient does not adhere to IHCDA's A-133 policy, IHCDA, at its sole discretion, may take appropriate action, including but not limited to:

- i. Withholding a percentage of funding until the audit is completely satisfied;
- ii. Withholding or disallowing claims;
- iii. Suspending all funding from any IHCDA awards until the audit is conducted; or
- iv. Terminating an award agreement.

4. Cost of Single Audit

Because the award has already undergone administrative closure and deobligation of residual award funds in most cases, it would be difficult to reimburse such costs from HOME funds. Therefore, recipients will be expected to bear the costs of the final audit from local funds. The recipient may include the estimated costs of the final Single Audit as part of its local match for the award (based upon SBA estimates).

F. Ongoing Rental Compliance Monitoring

All rental projects will be subject to ongoing compliance monitoring throughout their affordability period. This will consist of both (1) a review of annual owner certifications of compliance and (2) periodic onsite or desktop tenant file audits. For additional information on ongoing compliance requirements for rental projects, please refer to the compliance manuals available on IHCDA's website at <http://www.in.gov/ihcda/2519.htm>.





G. Ongoing Homebuyer Activity Compliance Monitoring

1. Annual Certification of Compliance

In order to ensure compliance with the affordability period and principal place of residency requirements of the homebuyer activity program, IHCDA will require each award recipient to submit a “Homebuyer Activity Annual Certification of Compliance” for the duration of the affordability period.

Using this form, the recipient must annually certify award compliance to IHCDA, under penalty of perjury, for each year of the affordability period. The recipient must certify that each home/homeowner covered under the award meets the affordability requirements. This requires that the recipient go to each homeowner to have him or her sign the “Principal Place of Residency Certification.”

The “Homebuyer Activity Annual Certification of Compliance” is due on or before January 31st of each year and certifies information for the preceding twelve (12) month period. The first annual certification is due by January 31st of the year following the award’s closeout date (i.e. the first year of the affordability period).

A complete submission includes the Certification, Exhibit A, and Exhibit B. The “Homebuyer Activity Annual Certification of Compliance” and related exhibit forms are made available on the compliance and asset management page of IHCDA’s website at <http://www.in.gov/myihcda/2342.htm>. IHCDA will not directly send the forms to the recipient each year. Rather, it is the responsibility of the recipient to pull the necessary forms and to contact IHCDA if there are any questions or concerns.

2. Failure to Comply

If the annual certification is not submitted for a particular award by the January 31st due date, IHCDA will contact the recipient with a reminder letter. Failure to submit reports by the deadline will result in a \$100 penalty late fee. This fee will be requested in the reminder letter sent by IHCDA.

Repeated failure to submit reports or to comply with requests for reports could result in suspension or debarment of the recipient. For more information on IHCDA’s suspension and debarment policy, refer to Chapter 17.

H. CDBG Record Retention and Custodial Requirements

1. Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of five (5) years, with the following qualifications:





- a. If any litigation, claim, or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
 - b. Records for nonexpendable property acquired with federal funds shall be retained for five (5) years after final disposition.
 - c. When records are transferred to or maintained by IHCDA, the five (5) year retention requirement is not applicable to the award recipient.
2. The retention period starts from the date of the submission of the final expenditure report.
 3. Award recipients must receive authorization from IHCDA if they desire to substitute microfilm or scanned copies in lieu of original records.
 4. IHCDA shall request transfer of certain records to its custody from award recipients when it determines that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, IHCDA may make arrangements with award recipients to retain any records that are continuously needed for joint use.
 5. IHCDA, HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of award recipients and sub-recipients to make audits, examinations, excerpts, and transcripts.
 6. Unless otherwise required by law, no federal grantor agency shall place restrictions on award recipients that will limit public access to the records of award recipients that are pertinent to an award except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 USC 552) if the records had belonged to the grantor agency.
 7. At the time of final monitoring, the recipient must provide the IHCDA compliance auditor a disc containing electronic copies of all beneficiary files. These files must contain the income certification and verification documents for all beneficiaries (i.e. tenants or homeowners assisted).

I. HOME Record Retention and Custodial Requirements

1. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five (5) year period, except as provided below:
 - a. For rental housing projects, records may be retained for five (5) years after the project completion date; except that records of individual tenant income verifications, project rents, and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.
 - b. For homeownership housing projects, records may be retained for five (5) years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.
 - c. Written agreements must be retained for five years after the agreement terminates.





- d. Records covering displacements and acquisition must be retained for five (5) years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.
 - e. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required retention period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.
2. Award recipients must receive authorization from IHCDA if they desire to substitute microfilm copies in lieu of original records.
 3. IHCDA shall request transfer of certain records to its custody from award recipients when it determines that the records possess long-term retention value. However, in order to avoid duplicate record keeping, IHCDA may make arrangements with award recipients to retain any records that are continuously needed for joint use.
 4. IHCDA, HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of award recipients and sub-recipients to make audits, examinations, excerpts, and transcripts.
 5. The award recipient must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.
 6. At the time of final monitoring, the recipient must provide the IHCDA compliance auditor a disc containing electronic copies of all beneficiary files. These files must contain the income certification and verification documents for all beneficiaries (i.e. tenants or homeowners assisted).





CHAPTER 17 – Suspension Policy

A. Purpose of this Policy

As a recipient of federal and state funds, IHCDA has a moral and legal obligation to ensure that those funds are used as intended. To fulfill this duty, IHCDA must have the discretion to suspend or debar those who :

- misuse, abuse or fail to use funds correctly;
- alter, forge, or change agency, IHCDA, state, or federal documents;
- submit documents containing misrepresentations and false information;
- violate agency internal controls that affect IHCDA programs or awards;
- violate State ethics standards found at 42 IAC 1;
- commit fraud or engage in self-dealing; and/or
- have been found to have serious compliance issues as it relates to IHCDA programs.

The purpose of this policy is to define suspension as it relates to misuse of funds on IHCDA funded projects during the award term and the affordability/compliance period and to explain how suspension is recommended, approved, and maintained.

This policy, while in alignment with the agency’s overall suspension policy, applies specifically to the programs administered and monitored by IHCDA’s Real Estate Development Department. These programs include Section 42 Low-income Housing Tax Credits, Tax Credit Assistance Program (TCAP), Section 1602 Exchange, the HOME Investment Partnerships Program, Community Development Block Grants (CDBG & CDBG-D), the Neighborhood Stabilization Program (NSP), and the Indiana Affordable Housing & Community Development Fund (“IHCDA Program”).

E. Scope of Persons Affected

This policy applies to all persons directly or indirectly receiving, administering or associated with funds from IHCDA Programs whether or not such person has a contractual relationship with IHCDA, including but not limited to the following persons:

- | | |
|---------------------------------|---|
| • Contractors | • Property owners |
| • Sub-contractors | • Property management companies and agents |
| • Applicants | • Developers |
| • Award recipients | • Syndicators |
| • Grant recipients | • Administrators |
| • Loan recipients | • Appraisers and Inspectors |
| • Sub-recipients | • Landlords |
| • Sub-grantees | • Tenants |
| • Loan Officers | • Program participants |
| • Real Estate Brokers or Agents | • Individuals employed by, contracted by or affiliated with any of the persons listed |

Such persons will be referred to as “affected persons” in this policy. For the purposes of this policy, the term “person” shall be interpreted broadly to mean any individual, trust, corporation, cooperative, association, organization, or any other entity.





F. Definitions

Affected person is defined as any person directly or indirectly receiving, administering, or associated with funds from an IHCDA Program whether or not such person has a contractual relationship with IHCDA. For the purposes of this policy, the term “person” shall be interpreted broadly to mean any individual, trust, cooperative, association, organization, or any other entity. Examples of types of affected persons can be found in Part B above.

Debarment is defined as a determined period of time, not to exceed five (5) years, during which an affected person is prohibited from participating in an IHCDA Program(s). See Part H below for additional information on debarment.

Suspension is defined as an *indefinite but temporary* status assigned to an affected person making it ineligible to apply for additional funding until such time that the suspension status is revoked. Suspension is generally invoked for failure to meet federal and/or state compliance obligations and reporting requirements. Other considerations leading to suspension could include but are not limited to: fraudulent activity, financial health concerns, and poor record of past performance. Unlike debarment, suspension is not for a set amount of time and can generally be revoked as soon as IHCDA’s concerns and any identified issues have been resolved.

Part D below discusses suspension recommendations based on noncompliance and poor performance. Other scenarios resulting in the recommendation of suspension are not discussed in detail but will follow the same basic guidelines herein, including issuance of (1) preliminary issue letters giving the affected person the opportunity to satisfy concerns, (2) a suspension recommendation letter notifying the affected person that suspension has been recommended, and (3) an official notice that suspension has been invoked.

Suspension does not waive any compliance requirements or release the project from its affordability period. A suspended organization must continue to keep its project(s) in compliance and work towards remedying any issues with the project(s) that caused the suspension recommendation. Failure to do so could result in further penalties as outlined in Part K below.

Suspension list is defined as IHCDA’s internal roster of entities that have been officially suspended or debarred. IHCDA will also maintain a list of entities recommended for suspension/debarment but not yet officially suspended/debarred. This may also be referred to as the “watch list.”

Suspension recommendation is defined as the act of an IHCDA employee recommending (usually based on the persistence of uncorrected noncompliance) that an entity be disqualified from future IHCDA funding by being placed on the IHCDA’s Suspension List. A suspension recommendation does not implement an actual suspension until approved by the appropriate IHCDA staff.

G. Suspension Recommendation

After completion of a monitoring, the affected person is sent either a “no issues” or an “issues identified” letter. If issues are identified, the affected person is given a correction period to respond. Failure to respond to the necessary corrections can result in a suspension recommendation as well as delay the closeout of the award. Suspension recommendation can also result if an organization has a history of repeated monitoring findings and concerns.





A recommendation for suspension can be made by any Compliance Auditor by issuing the letter entitled “Notice of Suspension List Recommendation.” This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

“Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDA’s Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance.”

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described in Part E below.

H. Suspending an Organization

After a suspension recommendation letter has been sent, the recommendation will be reviewed by the Chief Real Estate Development Officer. This review will ensure that the proper steps were taken by IHCDA staff and that the issue (1) has not been resolved and (2) warrants the suspension recommendation.

If suspension is invoked, the affected person will receive an official “Notice of Suspension” letter stating that the organization has been added to IHCDA’s Suspension List effective the date of the letter. All suspension letters will come directly from the Chief Real Estate Development Officer, not from a Compliance Auditor. A copy of the letter will be sent to IHCDA’s Executive Director and General Counsel. If the affected person is involved in the CDBG program, an OCRA representative will also be notified of the suspension. Copies of the suspension letter and all prior notifications will be maintained by IHCDA in the file for the applicable project/award.

Suspension is at the sole discretion of IHCDA. Unless otherwise stated, a suspension will apply to not only the affected person, but to any entity owned, controlled, or managed by the affected person or a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, parent or grandparent of the affected person, including “in-laws”, “half” or “step” relations. It is the responsibility of the affected person to ensure that others are aware of their suspension or debarment. Any violations of the suspension terms during the suspension or debarment period will be taken into consideration during review of a request for reinstatement.

An IHCDA decision to suspend an affected person is not appealable because it does not represent final disposition on the matter.

I. Maintaining a Suspension and Debarment List

IHCDA will internally maintain a list of entities recommended for suspension, suspended entities and debarred entities (for more information on debarment see Part H below). This list will be available to IHCDA management and appropriate staff. Because the suspension list will apply to the entire agency and be made available across departments, suspension based on performance on a Real Estate award could affect future funding from other IHCDA departments’ funding sources and from OCRA’s CDBG program.

J. Removal from Suspension List / Reinstating an Organization from Suspension

An affected person can be removed from the suspension list if the original issues that invoked the suspension are sufficiently resolved, the necessary documentation proving such is submitted to IHCDA, and the project /award is considered otherwise in compliance.

To request removal from the suspension list, the affected person should send a letter to IHCDA requesting such removal and providing a narrative of how the outstanding issues have been resolved. All necessary supporting documentation to prove compliance should be attached to the letter. This packet must be submitted to the Chief





Real Estate Development Officer. Upon receipt of the request, the Chief Real Estate Development Officer and the Compliance Auditor that originally recommended suspension (if applicable) will meet to review and make a determination. Removal from the suspension list is at the sole discretion of IHCD A.

K. Debarment

In its sole discretion, IHCD A may debar an affected person from participation in an IHCD A Program(s) for a period of up to five (5) years based on reasonable evidence that the affected person has behaved or is behaving improperly with regard to an IHCD A Program(s), whether intentionally or unintentionally. The period of debarment can be permanent (lifetime) for findings of an egregious nature. The difference between suspension and debarment is that a suspension is used to allow IHCD A to determine whether a debarment or other action is warranted pending completion of an investigation. Therefore, a suspension is intended to be an indefinite but temporary measure, while debarment is for a set amount of time.

IHCD A may debar an affected person without first suspending. The occurrence of an investigation or legal proceeding- and not a suspension- is a prerequisite for debarment. For example, IHCD A may use its discretion not to suspend an affected person while IHCD A investigates a claim or allegation. This decision could be based off factors such as the severity of the allegations, how reputable the source of the allegation, the speed and timing by which the investigation must be completed, the level of the affected person's duties with IHCD A Programs, and others. If the results of IHCD A's investigation show wrongdoing, the next step is debarment, not suspension. Suspension would not be appropriate because a suspension is imposed for the purposes of triggering an investigation, which already occurred.

Debarment is at the sole discretion of IHCD A. Unless otherwise stated, a suspension will apply to not only the affected person, but to any entity owned, controlled, or managed by the affected person or a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, parent or grandparent of the affected person, including "in-laws", "half" or "step" relations. It is the responsibility of the affected person to ensure that others are aware of their suspension or debarment. Any violations of the debarment terms during the debarment period will be taken into consideration during review of a request for reinstatement.

I. Appeals Process for Debarment

An IHCD A decision to debar an affected person may be appealed within thirty (30) calendar days of notice to the affected person of that decision. The appeal must be in writing and contain, at a minimum, the reasons for the appeal and supporting documentation or evidence. The appeal should be sent to IHCD A, 30 South Meridian Street, Suite 1000, Indianapolis, IN 46204, Attn: General Counsel with copy to the Chief Real Estate Development Officer. The burden is on the affected person to present additional information as to why the debarment should be dismissed. The General Counsel will not conduct an independent investigation in the case. The General Counsel will respond to the appeal within forty-five (45) calendar days of the receipt of the appeal. The response to the appeal is not appealable.

An IHCD A decision to suspend an affected person is not appealable because it does not represent final disposition on the matter.

J. Reinstatement Process for Debarment

After the period of debarment has expired, an affected person must request to be reinstated to participate in IHCD A programs. The request must be in writing and contain a certification that during the period of debarment, the affected person has not violated any terms of the debarment. This request should be sent to IHCD A, 30 South Meridian Street, Suite 1000, Indianapolis, IN 46204, Attn: General Counsel with copy to the Chief Real Estate





Development Officer. The General Counsel will respond within thirty (30) days of receipt of the request. The affected person is not allowed to participate in IHCDA programs until receipt of the reinstatement determination from the General Counsel.

K. Additional Consequences of Noncompliance – Recapture of Funds

In addition to suspension or debarment by IHCDA, affected persons found to be out of compliance with the HOME, CDBG, CDBG-D, NSP, and Development Fund programs are subject to all recourse under the regulations and statutes of those programs, including possible recapture of funds. If an affected person remains on the suspension or debarment list for more than ninety (90) days and has not informed IHCDA of corrective actions in progress, IHCDA will consider that affected person noncompliant and begin the process of recapturing funds for the project(s) that invoked the suspension. For more information on recapture, see [Chapter 12](#).

