



**TENNESSEE HOUSING DEVELOPMENT AGENCY**  
**2024 HOME RENTAL HOUSING DEVELOPMENT PROGRAM**  
**PROGRAM DESCRIPTION**

The Tennessee Housing Development Agency (“THDA”) administers the federally funded HOME Investment Partnership Program (“HOME”), which is designed for the production and preservation of affordable housing through the acquisition, new construction, or rehabilitation of affordable housing for low-income households. The purpose of this Program Description is to explain the program requirements and application process.

THDA will provide HOME funding under its HOME Rental Housing Development Program (the “Program”) for the new construction and/or acquisition and rehabilitation of rental housing projects that consist of no more than a total of 11 units. The funding may be combined with other resources, except for the Low-Income Housing Credit (“LIHC”).

Program grants will be awarded through a competitive application process to Community Housing Development Organizations (“CHDO”), other non-profit housing developers, and Public Housing Authorities in all 95 Tennessee counties. An applicant must apply for at least \$300,000 and may apply for a maximum grant of \$1,500,000, subject to other limits defined herein. The application period for the Program will open on Thursday, February 22, 2024 and applications must be received by THDA on or before 4:00 PM CT on Thursday, April 4, 2024. THDA anticipates notifying successful applicants on or about May 10, 2024. The Program period of performance will begin on July 1, 2024 and will end on June 30, 2027.

The application package for Program resources, as well as additional program documentation, will be made available on THDA’s website beginning February 22, 2024 at <https://thda.org/government-nonprofit-partners/home-program>

**1) ALLOCATION OF FUNDS**

1. HOME funds committed to the State of Tennessee, through THDA, will be allocated as provided in the State of Tennessee's Consolidated Plan, as amended. The amount of the 2024 Allocation is currently unknown until there is an approved federal budget; however THDA will initially set aside up to 10% of its total allocation for administrative and planning purposes, 20% for its CHDO set aside and up to 5% for CHDO Operating Expense.
2. THDA will make available approximately 50% of its remaining 2024 HOME allocation from HUD, after all set asides described in item 1 Above, for the 2024 HOME Rental Development Program Description. Additionally, THDA may make available any unallocated or returned funds from the

2023 or earlier funding rounds, as determined at the time of award in May 2024.

## **2) ELIGIBLE RECIPIENTS**

THDA will accept applications from qualified CHDOs, other qualified nonprofit housing developers, and Public Housing Authorities. All applicants must be the final owner of the proposed rental housing project. An applicant must materially participate (regular, continuous, and substantial on-site involvement) in developing, owning, and operating the development throughout the affordability period, as defined herein.

- a. To be eligible the entity must meet the following criteria:
  - i. Be organized and existing to do business in the State of Tennessee, or if organized in another state, be qualified to do business in the State of Tennessee.
  - ii. Demonstrate at least two (2) years of related housing development and management experience in Tennessee. For this Program, “related housing experience” means the development, ownership, and management of affordable rental housing.
  - iii. For acquisition only of a qualified housing development, demonstrate at least two years of related housing management experience in Tennessee.
  - iv. Demonstrate the financial capacity necessary to undertake, complete, and manage the proposed project, as demonstrated by its ability to own, construct, or rehabilitate and manage and operate affordable rental housing. THDA will evaluate the experience of the entire proposed team with owning, developing, and managing projects of similar size and scope serving the intended population proposed. Applicants and their development team must undergo an evaluation by THDA of their capacity before the applicant may qualify as an Eligible Recipient, as defined herein.
  - v. Have demonstrated understanding of the Federal, State and local housing programs used in conjunction with HOME funds to ensure compliance with all applicable program requirements and regulations.
  - vi. Not be debarred or excluded from receiving federal assistance or THDA assistance prior to selection or entering into the grant contract with THDA.
  - vii. Certify that housing units assisted with the HOME will comply with HOME program requirements during the entire period that begins upon selection and ends upon the conclusion of all HOME-funded compliance and affordability periods.
  - viii. Receive a minimum of 60% of the points available for a minimum score of 60 or greater.

## **3) CHDO REQUIREMENTS**

Though an entity is not required to be a qualifying CHDO to apply for or receive these funds to be considered a qualifying CHDO and eligible for available points under the CHDO Designation criteria of the scoring matrix, the applicant must also meet the following additional requirements:

- a. Have an Internal Revenue Service (“IRS”) designation under Section 501(c)(3) or Section 501(c)(4) of the federal tax code. A 501(c)(3) non-profit applicant may not submit an application until they have

received their designation from the IRS. A 501(c)(4) non-profit applicant must provide documentation satisfactory to THDA, in its sole discretion, that the non-profit has filed the necessary materials with the IRS and received a response from the IRS demonstrating 501(c)(4) status;

- b. Have no part of its net earnings inuring to the benefit of any member, founder, contributor or individual;
- c. Have among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws, and experience in the provision of housing to low-income households;
- d. Have standards of financial accountability that conform to 2 CFR Part 200, Uniform Administrative Requirements, Audit Requirements and Cost Principles; Not be controlled by, or under the direction of, individuals or entities seeking to derive profit or gain from the CHDO. If a CHDO is sponsored or created by a for-profit entity, all of the following must apply:
  - i. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer or real estate management firm;
  - ii. The for-profit entity may not have the right to appoint more than one-third of the membership of the CHDO's governing body. CHDO board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
  - iii. The CHDO must be free to contract for goods and services from vendors of its own choosing; and
  - iv. The officers, directors, owners (stockholders, managers, members, etc.) or employees of the for-profit entity cannot be officers, directors, owners (stockholders, managers, members, etc.) or employees of the CHDO;
- e. Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a CHDO, however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of recipient governmental entity. Board members appointed by the State or local government may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers of the Board or employees of a CHDO;
- f. Maintain accountability to low-income community residents by:
  - i. Including residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations in at least one-third of the CHDO's governing board's membership. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
  - ii. Providing a formal, written process for low-income program beneficiaries to advise the CHDO in its decisions regarding the design, site selection, development, and management of affordable housing. The process must be described in the organization's by-laws or has been adopted by its board by resolution. Low-income board representation alone does not satisfy this requirement.
- g. Have a demonstrated capacity to successfully carry out housing projects assisted with HOME funds. A CHDO undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with

HOME funds. Paid staffing may be documented by providing copies of the most recent W-2, as applicable, issued by the nonprofit entity for each staff member. For its first year of funding as a CHDO, a CHDO may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key CHDO staff. A CHDO that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of 24 CFR 92.300(a)(2). A CHDO does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated or cost allocated by another organization, or by hiring a consultant; and have a history of serving the community within which the housing to be assisted with HOME funds is to be located. In general, a CHDO must be able to show at least one year of serving the community through housing activities benefiting low-income persons or families before HOME funds may be awarded to that CHDO. However, a newly created CHDO formed by local churches, service organizations, or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least one year of serving the community through housing activities benefiting low-income families.

#### 4) SPEND DOWN REQUIREMENT

Applicants with previous HOME, National Housing Trust Fund (NHTF), HOME-ARP, and Tennessee Housing Trust Fund Competitive Grant program rental development grant awards must have submitted an official Request for Payment Form with supporting documentation demonstrating the spend down of the following percentages of all existing rental development grants by March 31, 2024, to be eligible for funding:

GRANT YEAR	SPEND DOWN REQUIREMENT
Any 2020 Round	100 percent
Any 2021 Round	100 percent
Any 2022 Round	75 percent
Any 2023 HOME-ARP, NHTF or Competitive Round	50 percent
Any 2023 HOME Rental Round	Ineligible

#### 5) FORM OF ASSISTANCE

HOME funds will be awarded as a grant, secured by a note, deed of trust, and a declaration of land use restrictive covenants (“restrictions”). The entire grant term beginning with issuance of the Reservation of Funds and ending with the final project completion, issuance of a Certificate of Occupancy or equivalent and submission of all final draw requests and legal documentation is 3 years.

- a. Eligible Recipients will be initially provided a Reservation of Funds with a total term period of 3 years. Prior to being issued the grant agreement and within six (6) months of the beginning of the term of the Reservation of Funds recipients must have satisfied the following requirements;
  - i. Submission and approval of site and neighborhood standards
  - ii. Submission and approval of an Environmental Review Record and receive issuance of a release of Funds letter.
  - iii. Submittal of a final development budget with documentation of all committed development sources.
- b. Eligible Recipients must sign a grant contract, initially, preliminarily awarding HOME funds to a proposed project.
- c. Prior to requesting any draws, a Recipient must execute a note and record a fully and accurately executed

deed of trust and restrictions (the “Legal Documents”) and provide such to THDA.

**6) SUBSIDY LIMITS**

The investment of HOME funds must conform to the following minimum and maximum subsidy limits per unit:

The minimum amount of HOME funds that must be invested in a project is \$1,000 times the number of HOME-assisted units (“HOME Units”) in the project.

- a. The maximum amount of HOME funds that may be invested per HOME Unit per size is based on THDA’s d subsidy limits as the time the project contract is executed. The current approved subsidy limits are:

\$129,758	0-Bedroom (Efficiency) Limit
\$148,748	1-Bedroom Limit
\$180,882	2-Bedroom Limit
\$234,004	3-Bedroom Limit
\$256,862	4-Bedroom Limit

**7) DEVELOPER FEE**

The sum of the Developer’s overhead and the Developer’s profit is (the “Developer Fee”). Consulting fees and guarantor fees are also considered part of the total Developer Fee calculation. A Developer Fee of up to fifteen percent (15 percent) of the HOME development costs, net of the development fee, prorated acquisition costs, and any prorated permanent financing costs may be charged as a project soft cost. The Developer Fee must be drawn in proportion to the expended hard costs of the Program and no more than eighty percent (80 percent) of the Developer Fee may be drawn prior to the final project draw. No portion of the Developer Fee may be drawn until all monitoring fees have been paid.

**8) ELIGIBLE ACTIVITIES**

HOME funds must be used for the new construction of or the acquisition and/or rehabilitation of existing affordable, permanent rental housing projects that consist of eleven (11) total units or less that address the needs of low-income households, families whose annual incomes do not exceed 80 percent of the area median income (“AMI”), as further defined at 24 CFR 92.2, The housing may be stick built or modular housing, as defined in Tennessee Code Annotated Title 68 -126-202 & 303, provided that the housing meets all of the applicable state and local codes. All HOME Units must be occupied by low-income families and meet the requirements of 24 CFR 92.252.

HOME funds may not be used for public housing units. HOME Units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME affordability period, except within the exceptions listed below.

- a. Exception. HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit. Units developed with both HOME and HOPE VI may receive operating assistance under section 9 of the 1937 Act. Units developed with HOME and HOPE VI funds under this paragraph may subsequently receive Capital Funds for rehabilitation or

modernization.

- b. Using HOME funds in public housing projects. Consistent with § 92.205(d), HOME funds may be used for affordable housing units in a project that also contains public housing units, provided that the HOME funds are not used for the public housing units (except as provided in paragraph a. of this section) and HOME funds are used only for eligible costs.
- c. The HOME funds must be used in accordance with the requirements throughout 24 CFR 92 and the project must meet the requirements of such, including rent requirements in 24 CFR 92.252.

**9) ELIGIBLE COSTS**

HOME funds may be used to pay the following eligible costs:

- a. Development hard costs – defined in 24 CFR 92.206(a).
- b. Acquisition costs of existing housing.
- c. Related soft costs – defined in 24 CFR 92.206(d).
- d. Relocation costs – as defined in 24 CFR 92.206(f), 24 CFR 92.353, and described in this Program Description.

**10) AFFORDABILITY PERIOD**

HOME Units are rent and income limited for an affordability period of 5 to 20 years, depending on the project activity type and total amount of HOME funds allocated to the project divided by the total amount of HOME Units, resulting in a per unit allocation, as described below (the “Affordability Period”). The Affordability Period begins on the date that THDA determines that the project has met the terms of “project completion” in the federal Integrated Disbursement and Information System (IDIS) as defined at 24 CFR 92.2.

ACTIVITY	HOME FUNDS PER HOME UNIT	AFFORDABILITY PERIOD
Acquisition or rehabilitation of existing housing	Under \$15,000	5 Years
Acquisition or rehabilitation of existing housing	\$15,000 - \$40,000	10 Years
Acquisition or rehabilitation of existing housing	Over \$40,000	15 Years
New construction or acquisition of newly constructed housing	Regardless of cost	20 Years

**11) INCOME LIMITS & TARGETING**

- a. HOME Units must be occupied by households who are low-income, meaning their annual incomes do not exceed 80 percent AMI, and must meet the requirements of 24 CFR 92.252 to qualify as affordable

housing.

- b. If a rental project has 5 or more HOME Units, at least 20 percent of the HOME Units must be occupied by very low-income families, families whose annual incomes do not exceed 50 percent AMI, and meet one of the following rent requirements (the “Low HOME Rents”): The rent does not exceed 30 percent AMI of a family whose income equals 50 percent AMI, as determined by the U.S. Department of Housing and Urban Development (“HUD”), with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under 24 CFR 92.252(a), then the maximum rent for units hereunder is that calculated under 24 CFR 92.252; or
  - i. The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program; and
  - ii. The remaining units can be rented at no more than the High HOME Rents, or the lesser of (i) the fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111 or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent AMI, as determined by HUD, with adjustments for the number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.
  - iii. Note, very low-income households may occupy High HOME Rent units and pay High HOME Rents.
- c. Further, at initial project lease up, at least 90 percent of the households assisted must have incomes that do not exceed 60% percent of AMI, as determined and made available by HUD. The balance of the assisted households must have incomes that do not exceed 80 percent of AMI.

## **12) UNIT DESIGNATION**

The applicant must declare in the application the number of HOME Units in the project and whether the units are fixed or floating units. All designations must be included in the grant contract and legal documents. In a project containing HOME and other non-assisted units, fixed or floating HOME Units must be designated in accordance with 24 CFR 92.252(j). The project must maintain this unit mix throughout the Affordability Period.

## **13) PROHIBITED ACTIVITIES**

- a. Providing HOME funds to rental units that require reconstruction.
- b. Using HOME funds to refinance existing debt.
- c. Using HOME funds to create transitional housing.
- d. Using HOME funds for the acquisition and rehabilitation or new construction of housing for sale to home buyers.

- e. Providing non-federal matching contributions required under any other Federal program.
- f. Providing assistance authorized under Section 9 of the 1937 Act (annual contributions for operation of public housing).



- g. Carrying out activities authorized under 24 CFR Part 968 (Public Housing Modernization).
- h. Providing assistance to eligible low-income housing under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages).
- i. Providing assistance to a project previously assisted with HOME funds during the period of affordability established by HUD and THDA in the written agreement with the Recipient as stated in § 93.205(a) except as permitted for renewal of funds committed to operating cost assistance.

Additional HOME funds may be committed to a project up to one year after project completion, but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount as determined by THDA as defined by HUD. HUD has prescribed the use of the Section 234 – Condominium Housing Limits from the Annual Indexing of Basic Statutory Mortgage: Limits for Multi-Family Housing Programs as described in the Interim Rule.

- j. Using HOME funds for political activities; advocacy; lobbying, whether directly or through other parties; counseling services; travel expenses; and preparing or providing advice on tax returns.
- k. Using HOME funds for administrative, outreach, or other costs of the Recipient, or any other Recipient of such grant amounts, subject to the exception in Section 1338(c)(10)(D)(iii) of the Act,
- l. Using HOME funds to refinance multifamily loans made or insured by any federal program, including CDBG.
- m. Providing tenant-based rental assistance for the special purposes of the existing Section 8 program, in accordance with Section 212(d) of the Act.
- n. Assisting or developing emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, dormitories, including those for farm workers or housing for students.
- o. Providing HOME assistance to rental units that are Manufactured Housing, as defined in Tennessee Code Annotated Title 68 -126- 202 & 303, and/or Manufactured Housing lots.
- p. Paying for any cost that is not eligible under 24 CFR 92.730 through 93.200 or is prohibited under 24 CFR 92.214.

#### **14) LAYERING**

Before THDA can commit HOME funds, it must evaluate the project proposed in the application to determine that the proposed amount of HOME funds needed to complete the project is necessary to provide a quality affordable housing project that meets the Program requirements and will remain financially viable throughout the Affordability Period. Layering is the combining of more than one governmental resource on a HOME-assisted project.

The applicant must disclose all government resources that have been utilized and/or that the applicant intends

to utilize in the HOME project, especially THDA resources. Failure to disclose said information may result in cancellation of award and money due to THDA.

THDA will evaluate the project in accordance with its underwriting and subsidy layering guidelines and standards that require the following:

- a. An in depth review of underlying project assumptions, development sources and uses, and projected operating income and expenses, and the project's long-term financial viability to determine the project's proposed costs and need for HOME funds are necessary and reasonable, while preventing over-subsidization of the project;
- b. An assessment of the current market demand for the proposed budget;
- c. Review of and determination that the applicant's experience and financial capacity are satisfactory based on the size and complexity of the project;
- d. Firm written financial commitments for the project;
- e. A careful review of the project's operating budget, including the basis for assumptions, projections of a project's net operating income, and reasonably expected changes in revenue and expenses during the Affordability Period to determine if any HOME-funded operating cost assistance is necessary and, if applicable, an operating cost assistance reserve is sized appropriately;
- f. An assessment of the project's overall viability through the Affordability Period based on the households it will serve; and
- g. THDA will require completion and submission of a development budget, operating budgets, and an operating proforma, as defined below, for the length of the Affordability Period in a format that will be included with the application

## 15) PROFORMA

A proforma is a cash flow projection for a specific period of time that takes into account expected income and expenses of a rental property and projects financial viability and affordability over the period ("Proforma").

- a. All Applicants must complete a proforma included in the application in a term of 5, 10, 15 or 20 years depending on the project type and its Affordability Period. The applicant must demonstrate a need for the HOME funds. If the project development costs require additional financing, including other grant source funding, prior to making any HOME draws documentation must be provided by Recipient that all other financing or grant funding has been identified and secured.

A project may not incur more debt in the development than the operating budget and proforma indicate that the development can support. Documentation that final debt does not exceed the supportable debt as indicated on the operating budget will be a threshold requirement.

- b. An updated final Development Budget, Operating Budget and Proforma package will be required before any draw requests may be processed.

## **16) PROJECT COMPLETION AND INITIAL OCCUPANCY**

HOME rental projects must meet the definition of project completion at 24 CFR 92.2. If the project fails to meet the project completion definition within 4 years of project commitment, the project must comply with the terminated project requirements at 24 CFR 92.205(e)(2). If the HOME Units are not occupied by eligible low-income households within six months following project completion, the Recipient must submit to THDA a report of its efforts to market the development to low income households and an updated marketing plan of new steps that will be taken to fill units by eligible low income populations. The Recipient must repay all HOME funds invested in any housing unit that is not rented to eligible low-income households within 18 months of project completion.

## **17) LEVERAGE**

Leverage is a contribution of value in the form of cash, materials, or labor in a pre-approved form and method toward the hard development costs of a project. Leverage must be in the form of contributions to the project's hard development costs.

- a. In the scoring matrix, any project that has leveraged funds will receive additional points. Leveraged funds are funds provided by the applicant and grants from other sources. The value of land acquired through non-HOME resources may be counted as leverage when the appraised value is documented and proof of ownership at the time of application is demonstrated. Loan proceeds from a lending institution do not count as leverage. However, the savings generated from a below market interest rate will count as leverage when properly documented. Administrative funds, anticipated fund-raising revenues and construction loans do not count toward leverage. Leveraged funds counted in one program year do not qualify again as leverage in subsequent years. All proposed leverage must be thoroughly supported by appropriate back-up documentation, including firm commitment letters, award letters, and warranty deeds.
- b. The value of donated labor, materials and land will count toward leverage. The value of unskilled labor is set at the current minimum wage, and the value of skilled labor is set at twice the current minimum wage. The value of land and/or a building donated or acquired for a project prior to the application will count as leverage, but there must be an appraisal or tax assessment included in the application to document its value. In order to count donated supplies or materials, only the documented value of the actual goods or materials will be considered and they must be legitimately required by the project. The donor must provide a letter to confirm the amount of the supplies or materials. Proposed discounts will not count as leverage.

## **18) MARKET**

Applicants must document that neighborhood market conditions demonstrate a need for the project.

## **19) MIXED-USE PROJECTS**

A "mixed-use" project contains, in addition to at least one residential unit, other non-residential space, which is

available to the public. The following rules apply regarding mixed-use:

- a. Laundry and/or community facilities for use exclusively by the project tenants and their guests do not constitute a mixed-use project.
- b. The presence of a leasing office or a maintenance area does not constitute a mixed-use project either.
- c. HOME funds may not be used to fund the commercial or non-residential portion of a mixed-use project. Therefore, if a HOME assisted project contains such commercial or non-residential space, other sources of funding must be used to finance that space.
- d. HOME funds can only be used to fund the residential portion of a mixed-use project, which meets the HOME rent limits and income targeting requirements.
- e. If the rental project will contain a model apartment that will be shown to potential renters, the model apartment will be considered a non-residential area, unless the model apartment will be rented in the event of high occupancy.
- f. In order for a mixed-use project to be eligible to use HOME funds, the residential living space in the project must constitute at least fifty one percent (51 percent) of the total project space and each building in the project must contain residential living space.

## **20) RENT LEVELS AND UTILITY ALLOWANCES**

HUD requires that the rent charged for HOME Units be affordable to low- and very low-income households for the duration of the Affordability Period. THDA must annually review and approve the rents for each HOME-assisted rental project.

HUD publishes HOME Rent Limits annually to define what is considered affordable. The HOME Rent Limits are adjusted for different localities and for each bedroom-size unit from zero (efficiency) to six bedrooms.

- a. The HUD-published HOME Rent Limits include utilities. Therefore, when a tenant pays directly for utilities, the cost of utilities paid by the tenant must be subtracted (using the applicable utility allowances) from the published HOME rents to determine the maximum rent that can be charged for the HOME Unit.
- b. The Recipient must determine individual utility allowances for each rental project either by using the HUD Utility Schedule Model or determining the utility allowance based on the specific utilities used at the project. Utility allowances must be reviewed and updated annually. Use of utility allowances provided by public housing authorities is not permitted.
- c. HUD adjusts the HOME Rent Limits every year. If the rent limits go up and utility costs remain steady, the Recipient may raise rents accordingly, but if the rent limits decrease or the utility costs increase, the Recipient may be required to decrease rents. The Recipient is never required to decrease rents below the initial rents approved by the THDA at time of project commitment, although market conditions may make it necessary to do so.
- d. Rent adjustments must be made in accordance with the tenant's lease. THDA must approve all rent schedules for a project prior to lease-up and throughout the Affordability Period.

- e. Recipients must never charge rent amounts that exceed the published HOME rents, adjusted for utility arrangements and bedroom size.
- f. If the HOME-assisted unit receives Section 8 or Tenant-Based Rental Assistance (“TBRA”), then the maximum rent for the HOME Unit cannot exceed the HUD-published HOME Rent Limit. Therefore, the subsidy payment plus the tenant’s contribution towards rent cannot exceed the HUD-published High HOME rent limit for a High HOME Rent unit or the Low HOME rent limit for a Low HOME Rent unit.
  - i. Rents charged to tenants with Section 8 or TBRA (subsidy plus tenant contribution) must be the same as the rents charged to other tenants without such assistance for comparable units. The Section 8 rules specifically prohibit an owner from charging a higher rent for a unit that is occupied by a voucher holder than the rent charged for a comparable unit not occupied by a voucher holder. This means that if the Recipient charges less than the maximum HOME rent for HOME Units that are not occupied by vouchers holders, it can only charge that rent to the voucher holder.
- g. For the duration of the Affordability Period, the property must accept a Housing Choice Voucher if one is presented by a HOME eligible tenant for a non-PBRA/PBV covered HOME unit.
- h. High HOME Rent Limits. The lesser of (i) the Section 8 Fair Market Rents for existing housing or (ii) 30 percent of the adjusted income of a family whose annual income exceeds 65 percent AMI. The High HOME Rents apply to HOME Units that are High HOME Rent units and are occupied by low-income tenants.
- i. Low HOME Rent Limits. One of the following; (i) 30 percent of the tenant’s monthly adjusted income; (ii) 30 percent of the annual income of a family whose income equals 50 percent AMI; or (iii) if a unit has a Federal or state project-based rental subsidy and the very low-income tenant pays no more than 30 percent of his or her adjusted income toward rent, then the maximum allowable rent for the HOME Unit is the rent allowable under the project-based rental subsidy program.
  - ii. THDA determines which LOW HOME Rent limits apply at the property.
  - iii. Low HOME Rents apply to at least 20 percent of the units in properties with five or more HOME Units that are occupied by very low-income tenants.

## **21) OCCUPANCY REQUIREMENTS**

If a household’s income increases above the allowable income limit for the HOME Unit during the Affordability Period, the HOME Unit will continue to qualify as affordable housing, despite the temporary noncompliance caused by the increase in income of the household, if steps are taken at the next available opportunity to restore compliance.

The requirements for correcting any noncompliance using vacancies or re-designation of units depends on whether the HOME Units are fixed or floating and whether other funding sources impose income or other restrictions on the units.

- a. Fixed HOME Unit. When a tenant becomes over income in a Fixed HOME Unit, correction depends on

whether the over-income tenant is occupying a High HOME Rent Unit or a Low HOME Rent Unit.

- i. High HOME Rent Unit. If the tenant is occupying a High HOME Rent Unit, the property is temporarily out of compliance until the unit is vacated and can be rented to another low-income household. The Recipient cannot terminate or fail to renew the household's lease because the household is over-income, but the household's rent must be adjusted according to 92.252(i)(2). However, such over-income households are protected by the terms of their lease and such rent change can only go into effect at renewal or when the lease permits.
  - ii. Low HOME Rent Unit, Income Increases within Low-Income Limit. The property is temporarily out of compliance and will continue to be out of compliance until either (i) a High HOME Rent Unit can be re-designated as a Low HOME Rent Unit or (ii) the Low HOME Rent Unit is vacated by the over-income tenant and can be rented to a very low-income tenant. The Recipient may not increase the tenant's rent above the Low HOME Rent Limit while the unit remains designated as a Low HOME Rent Unit. When a High HOME Rent Unit in the property is vacated, the unit must be re-designated as a Low HOME Rent Unit, regardless of bedroom size, and be rented to a very low-income tenant at no more than the Low HOME Rent. Once this happens, the unit occupied by the over-income tenant must be re-designated as a High HOME Rent Unit and the Recipient may then increase the tenant's rent up to the HIGH HOME Rent Limit, subject to the lease provisions.
  - iii. Low HOME Rent Unit, Income Increases Above Low-Income Limit. The property is temporarily out of compliance until the unit is vacated and can be rented to another very low-income household. The Recipient cannot terminate or fail to renew the household's lease because the household is over-income, but the household's rent must be adjusted according to 92.252(i)(2). However, such over-income households are protected by the terms of their lease and such rent change can only go into effect at renewal or when the lease permits. When a High HOME Rent unit becomes available, it must be re-designated as a Low HOME Rent Unit, regardless of bedroom size, and be rented to a very low-income tenant, at no more than the Low HOME Rent. The unit occupied by the over-income tenant must be re-designated as a High HOME Rent unit, but since the tenant is over the low-income limit, the property will continue to be temporarily out of compliance until the tenant vacates the unit.
- b. Floating HOME Units. When a tenant becomes over income in a project with Floating HOME Units, correction depends on whether the over-income tenant is occupying a High HOME Rent Unit or a Low HOME Rent Unit.
- i) Floating High HOME Rent Unit. The Recipient must adjust the rent of the over income household so that it pays 30 percent of its month adjusted income as rent. The rent adjustment must be made as soon as the lease permits in accordance with the terms of the lease. In a property with floating HOME units, a household is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood. The next vacant comparable non-assisted unit must be designated as a High HOME Rent Unit. "Comparable" is defined as a unit that is equal to or greater in terms of size, number of bedrooms, amenities, etc. The Recipient may not make the replacement with a lesser unit unless doing so would preserve the original unit mix. Once the comparable non-assisted unit is designated as the new High HOME Rent Unit, the unit with the over income tenant is re-designated as a non-assisted unit. The new High HOME Rent Unit must be rented to a low-income tenant at a rent that does not exceed the High HOME Rent. Once the unit with the over-income tenant is re-designated as a non-assisted unit, the Recipient may adjust the tenant's rent without considering the HOME limits, subject to the lease term.

- ii) Floating Low HOME Rent Unit, Income Increases Within Low-Income Limit. When a tenant's income increases to low-income and is no longer very low-income and occupies a floating Low HOME Rent Unit, the unit that is occupied by the over-income household keeps its designation as a Low HOME Rent Unit until a comparable unit can be substituted. The rent of the over-income tenant must not exceed the Low HOME Rent Limit while the unit is a Low HOME Rent Unit. When the next High HOME Rent Unit in the property is vacated, it must be re-designated as a Low HOME Rent Unit rented to a household whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME Rent Limit. Once the new Low HOME Rent unit is designated, the unit with the over income household is re-designated as a High HOME Rent Unit and the households rent may be adjusted to no more than the High HOME Rent Limit, subject to the terms of the lease.
- iii) Floating Low HOME Rent Unit, Income Increases Above Low-Income Limit. The next vacant, comparable, non-assisted unit must be designated as a Low HOME Rent Unit and rented to a tenant whose income does not exceed the very low-income limit at a rent that does not exceed the Low HOME Rent Limit. Comparable is defined as a unit that is equal to or greater in terms of size, number of bedrooms, amenities, etc. The Recipient may not make the replacement with a lesser unit unless doing so would preserve the original unit mix. Until a comparable Low HOME Rent Unit is designated, the unit that is occupied by the over-income tenant is considered a Low HOME Rent Unit that is temporarily out of compliance. The rent of the over-income tenant in the original Low HOME Rent Unit must be adjusted as soon as the terms of the lease permit it. The over-income tenant must pay 30 percent of the household's monthly adjusted income as rent until a comparable Low HOME Rent Unit is substituted, Once a comparable Low HOME Rent Unit is substituted, the unit with the over-income tenant must be re-designated as a non-assisted unit. The Recipient may adjust the tenant's rent without considering the HOME restrictions, subject to the terms of the lease.

## **22) HOUSING SET-ASIDES FOR INDIVIDUALS WITH DISABILITIES**

Applications that propose housing in which more than twenty percent (20 percent) of the assisted units will be set-aside for individuals with disabilities must meet the qualities of settings that are eligible for reimbursement under the Medicaid home and community-based services that were established by the Centers for Medicare and Medicaid Services (CMS) in the final rule dated January 16, 2014:

<https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>.

- a. THDA requires that all home and community-based settings meet certain qualifications, including:
  - i) Is integrated and supports full access to the greater community.
  - ii) Is selected by the individual from among setting options.
  - iii) Ensures individual rights of privacy, dignity, and respect, and freedom from coercion and restraint.
  - iv) Optimizes autonomy and independence in making life choices.
  - v) Facilitates choice regarding services and who provides them.

- b. For provider owned or controlled residential settings, the following additional requirements apply:
  - i) The individual has a lease or other legally enforceable agreement providing similar protections.
  - ii) The individual has privacy in their unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit.
  - iii) The individual controls his/her own schedule, including access to food at any time.
  - iv) The individual can have visitors at any time.
  - v) The setting is physically accessible.

### **23) PROPERTY AND DESIGN STANDARDS**

- a. Property standards must be met when HOME funds are used for a project. All rental housing constructed or rehabilitated with HOME funds must meet all THDA Design Standards, applicable local, county and state codes, rehabilitation standards, Uniform Physical Condition Standards (UPCS) or other Standard as defined by HUD, and zoning ordinances at the time of project completion. In the absence of a local code, new construction of single-family units for rental must meet the current, State-adopted edition of the International Residential Code for One- and Two- Family Dwellings. The newly constructed units must also meet accessibility requirements and mitigate disaster impact as applicable per State and local codes, ordinances, etc. Rehabilitation of existing single-family units for rental must meet the current, State- adopted edition of the International Existing Building Code.
- b. HOME funded units must also conform to the THDA Minimum Design Standards for New Construction and Rehabilitation of Single Family and Multifamily Units. THDA must review and approve plans, work write-ups and written cost estimates and determine cost reasonableness for both new construction and rehabilitation prior to putting the project out to bid.
- c. Additional design standards include:
  - i) Energy Code. New construction projects must also meet the State-adopted edition of the International Energy Conservation Code. Copies of the Energy Code may also be obtained from the International Code Council at the address listed above.
  - ii) Energy Conservation. In addition to meeting the State-adopted edition of the International Energy Conservation Code, new construction projects must be Energy Star qualified as certified by an independent Home Energy Rating System (“HERS”) rater.
  - iii) Broadband Infrastructure. THDA requires that newly constructed rental units and those which are substantially rehabilitated must be wired for broadband internet access or infrastructure for project wide wireless internet service.
  - iv) Modular Housing must be certified by the state of Tennessee
- d. Section 504
  - i) Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted activities



and programs on the basis of disability, and imposes requirements to ensure accessibility for qualified individuals with disabilities to these programs and activities.

- ii) For new construction of Multifamily Housing (five or more units), a minimum of 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and at a minimum, an additional two percent (2 percent) of the units (but not less than one unit) must be accessible to individuals with sensory impairments. The total number of units in a HOME-assisted project, regardless of whether all units are HOME-assisted, is used as the basis for determining the minimum number of accessible units. Also, in a project where not all the units are HOME-assisted, the accessible units may be either HOME-assisted or non-HOME-assisted.
  - iii) The Section 504 definition of substantial rehabilitation for Multifamily Housing includes construction in a project with eleven (11) or more units for which the rehabilitation costs will be seventy five percent (75 percent) or more of the replacement cost. In such projects, a minimum of five percent (5 percent) of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two (2 percent), at a minimum, (but not less than one unit) must be accessible to individuals with sensory impairments. As in the case of new construction, the total number of units in a HOME-assisted, regardless of whether they are all HOME-assisted, is used as the basis for determining the minimum number of accessible units, and, in a project where not all of the units are HOME-assisted, the accessible units may be either HOME-assisted or non-HOME-assisted.
  - iv) When rehabilitation less extensive than Substantial Rehabilitation is undertaken in projects of Eleven (11) or more units, alterations must, to the maximum extent feasible, make the units accessible to and usable by individuals with a disability, until a minimum of five percent (5 percent) of the units (but not less than one (1) unit) are accessible to people with mobility impairments. For this category of rehabilitation, the additional two percent (2 percent) of unit's requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible.
- e. Fair Housing Act of 1968, as amended. In buildings that are ready for first occupancy after March 13, 1991, and that have an elevator and four or more units, the public and common areas must be accessible to persons with disabilities; doors and hallways must be wide enough for wheelchairs; and all units must have the following:
- i) An accessible route into and through the unit.
  - ii) Accessible light switches, electrical outlets, thermostats and other environmental controls.
  - iii) Reinforced bathroom walls to allow later installation of grab bars; and kitchens and bathrooms that can be used by people in wheelchairs.
  - iv) If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.
  - v) These requirements for new construction do not replace any more stringent standards in State or

local law.

- f. Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131–12189) implemented at 28 CFR parts 35 and 36, as applicable.

## **24) UNIVERSAL DESIGN AND VISITABILITY**

THDA encourages the inclusion of features that allow individuals with physical disabilities to reside and/or visit the units constructed or rehabilitated with federal HOME funds through the use of Universal Design and Visitability.

### **a. Universal Design**

- i) Universal Design is a building concept that incorporates products, general design layouts and other characteristics to a housing unit in order to:

- (1) Make the unit usable by the greatest number of people.
- (2) Respond to the changing needs of the resident.
- (3) Improve the marketability of the unit.

- ii) The goal of universal design seeks to build housing that meets the needs of the greatest number of residents within a community. Universal design differs from accessible design, which is primarily intended to meet the needs of persons with disabilities. However, universal design is inclusive of adaptable design as universal design incorporates structural features that will allow a housing unit to be adapted to an individual's current or future needs. Universal design features include, but are not limited to:

- (1) Stepless entrances. Minimum 5' x 5' level clear space inside and outside entry door.
- (2) Broad blocking in walls around toilet, tub and shower for future placement of grab bars.
- (3) Full-extension, pull-out drawers, shelves and racks in base cabinets in kitchen.
- (4) Front mounted controls on all appliances.
- (5) Lever door handles.
- (6) Loop handle pulls on drawers and cabinet doors.

- iii) More information on Universal Design may be found at The Center for Universal Design at North Carolina State University: <http://www.ncsu.edu/ncsu/design/cud/index.htm>.

### **b. Visitability**

- i) Visitability refers to homes that are designed and built in a manner that allows individuals who have trouble with steps or use wheelchairs or walkers to live in or visit the unit. These features include:

- (1) One zero-step entrance.
- (2) Doors with thirty two (32) inches of clear passage space.
- (3) One bathroom on the main floor that is accessible to a person using a wheelchair.

More information on Visitability can be found at: <http://www.visitability.org>.

## 25) ENVIRONMENTAL REVIEW

The environmental effects of each activity carried out with HOME Rental funds must be assessed in accordance with the provisions of the National Environment Policy Act of 1969 (“NEPA”) and the related authorities listed in HUD's regulations at 24 CFR 58.

Under the Program, THDA is responsible for carrying out environmental reviews. THDA may not commit any funds under the Program or any other program listed at 24 CFR 58.1(b) for an activity or project until the environmental review process is complete and the HOME funds have been released. The applicant is responsible for gathering the information required for the environmental review. THDA must make a request for the release of the funds (“RROF”) from HUD for all projects.

Further, until the RROF and related certification have been approved, neither a Recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a 24 CFR 58.1 program if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. This prohibition prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions. ***As a result, an applicant may not take any choice limiting actions associated with the proposed site beginning with the submission of the HOME application to THDA.***

The restriction on undertaking or committing funds for choice-limiting actions does not apply to undertakings or commitments of non-federal funds before a project participant has applied for HUD funding. A party may begin a project in good faith as a private project and is not precluded from later deciding to apply for federal assistance. However, when the party applies for federal assistance, it will generally need to cease further actions on the project, using either federal or non-federal funds, until the environmental review process is complete.

Therefore, the Environmental Review covers the entire project, not just the portion funded by HOME funds. Except for the very limited exclusions listed under 24 CFR 58, any such prohibited action will make the entire project ineligible for funding under HOME.

## 26) LEAD-BASED PAINT

Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR Part 35, Subparts C through M. The lead-based paint provisions of 982.401(j) also apply, irrespective of the applicable property standard under 24 CFR 92.251. The Lead-Based Paint regulations are available at [www.hud.gov/lea](http://www.hud.gov/lea) or by contacting 1-800-424-LEAD (5323). Lead-based paint requirements apply to all units and common areas in the project.

## 27) FLOOD PLAINS

HOME funds may not be used to construct housing in an area identified by the Federal Emergency Management Agency (“FEMA”) as having special flood hazards. In addition, THDA strongly discourages the rehabilitation of units located in special flood hazard areas, but in a few limited instances and with written permission from THDA, units located in a floodplain may be assisted if the flood plain is mitigated by construction design. In cases where construction in the flood plain are allowed the project must be participating

in the National Flood Insurance Program and flood insurance must be obtained on the units.

## **28) PROCUREMENT**

It is important to keep the solicitation of bids for goods and services as well as professional services and construction contracts open and competitive.

- a. At a minimum all Recipients must comply with 2 CFR 200.318 - 326.
- b. All Recipients must have adopted procurement policies and procedures that meet state and federal requirements.
- c. Recipients must seek to obtain three (3) to five (5) quotes or bids using formal advertising or requests for proposals for the procurement of professional or construction services.
- d. There must be an established selection procedure and a written rationale for selecting the successful bid or proposal.

## **29) CONFLICT OF INTEREST**

In the procurement of property and services, THDA and Recipients must adhere to the conflict of interest provisions at 24 CFR 92.356. THDA will not request exceptions to the conflict of interest provisions from HUD. In the event a conflict of interest is discovered, Recipients shall repay that portion of the HOME grant related to the conflict of interest or may have all or some portion of the HOME grant rescinded, all as determined by THDA in its sole discretion.

## **30) DEBARMENT AND SUSPENSION**

On all HOME funded projects, Recipients shall certify that no vendor, its principals or managers are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from the covered transaction or listed on the “Excluded Parties List System” found at [www.SAM.gov](http://www.SAM.gov).

## **31) PROJECT SOFT COSTS**

In planning their programs, applicants may include, as a project soft costs, the reasonable and customary costs for work write-up and inspections. In addition, the costs for inspections and work write-ups, the costs for lead-based paint inspections, environmental reviews, risk assessments and clearance testing, and architectural and engineering fees are also paid as project soft costs. All project soft costs charged to the HOME grant will be calculated on a prorated basis of committed HOME Units to all buildings and units in the project and count toward the maximum per unit subsidy limit.

## **32) MATCH**

All applications from nonprofit housing developers **MUST** provide a 25 percent match towards the proposed project.

HOME match is permanent, non-federal contributions to a project. Matching contributions may be in the form of one or more of the following:

- a. Cash contributions not provided by an assisted household and not from a federal source, including the present value of the interest subsidy for loans made at rates below market.

- b. The grant equivalent of a below-market interest rate loan to the project that is not repayable to the Tennessee Housing Development Agency or the State of Tennessee as outlined at 24 CFR 92.220(a)(1)(iii).
- c. The cost, not paid with Federal resources, of on-site and off-site infrastructure that are directly required for the HOME-assisted project. The infrastructure must have been completed no earlier than 12 months before HOME funds are committed to the project.
- d. Reasonable value of donated site-preparation and construction materials.
- e. Reasonable rental value of the donated use of site preparation or construction equipment.
- f. Waived fees and taxes.
- g. Property donation or below-market sale. A copy of the appraisal and/or purchase contract must be submitted. The donor/seller of the property must also provide a statement certifying that the property was donated or sold for affordable housing purposes and an acknowledgment that the donor/seller received the URA Guide Form Notice Disclosure to Seller, as well as the HUD booklet entitled, "When a Public Agency Acquires Your Property." If the property was originally acquired with federal funds, the value of the property is not match eligible.
- h. The direct cost of supportive services provided to families residing in HOME-assisted units during the period of affordability as defined at 24 CFR 92.220(a)(10).
- i. The direct cost of donated, compliant home buyer counseling services provided to families that acquire properties with HOME funds under the provisions of 24 CFR §92.254, including on-going counseling services provided during the period of affordability. Counseling may not be valued at more than \$40 per hour.
- j. Reasonable value of donated or volunteer labor or professional services. Unskilled volunteer labor may not be valued at more than \$10 per hour; skilled volunteer labor may be valued at the documented going rate.
- k. Value of sweat equity may also be eligible if every assisted household under the HOME grant award is required to perform sweat equity. Sweat equity may not be valued at more than \$10 per hour.
- l. Other match sources as permitted under the HOME Final Rule.

THDA will monitor the contribution of match throughout the implementation of the grant.

### **33) REPLACEMENT RESERVE ACCOUNTS**

All projects must maintain a replacement reserve account beginning at the time of project completion for the term of the HOME Rental period of affordability.

- a. The replacement reserve requirement for all one-bedroom units is, initially, two hundred fifty dollars (\$250) per unit, inflated at three percent (3 percent) annually.
- b. The replacement reserve requirement for all units with two or more bedrooms is, initially, three hundred dollars (\$300) per unit per year, inflated at three percent (3 percent) annually.

- c. This account shall be used only for capital improvements and the replacement of long-lived capital assets, and not for routine maintenance and upkeep expenses.
- d. The replacement reserve must be, and must remain, an asset of the project, and will not be distributed to the Recipient or any entity or person affiliated with the Recipient at any time during or after the Affordability Period.
- e. Recipients shall provide THDA with a record of all activity associated with the replacement reserve account during the prior fiscal year in conjunction with submission of the project's annual compliance monitoring materials.
- f. The replacement reserve account must be maintained in a separate account in a federally insured financial institution.
- g. Reserve accounts must also be separate from the project's ordinary operating account.

### **34) OPERATING RESERVE ACCOUNT**

All projects must establish and maintain, until the project has achieved a minimum of five (5) years of Stabilized Occupancy (occupancy of at least ninety percent (90 percent) of the units in the property for a continuous period of at least ninety (90) calendar days), an operating reserve equal to a minimum of six (6) months of projected operating expenses plus must-pay debt service payments and annual replacement reserve payments.

- a. This requirement can be met with an up-front cash reserve; a guarantee from the owner with a surety bond to stand behind the guarantee; or partnership documents specifying satisfactory establishment of an operating reserve.
- b. The operating reserve account must be maintained in a separate account in a federally insured financial institution.
- c. For purposes of this paragraph, eligible operating costs are limited to insurance, utilities, real property taxes, maintenance, and replacement reserve payments.

### **35) NON-COMPLIANCE REPAYMENT & OTHER PENALTIES**

All HOME awards will be structured as a grant to a Recipient with an Affordability Period of between five (5) and twenty (20) years, depending on the activity type and the amount of HOME investment per unit of HOME-assisted housing. (See Section 10 of this Program Description).

- a. Construction begin within twelve (12) months of the date of the start date of the grant term. Failure to start construction within that timeframe may result in forfeiture of the award and require repayment of any HOME funds drawn.
- b. Any HOME funds that are used for costs that are ineligible, invested in a project that is terminated before completion, either voluntarily or otherwise, or invested in HOME Units that do not meet all federal Program requirements and requirements outlined herein for the Affordability Period must be repaid.

- c. Termination of the Restrictions on the project, including foreclosure or deed in lieu of foreclosure, do not terminate the repayment obligations under 24 CFR 503(b).

Failure to adhere to or maintain compliance with the requirements of a program administered through the Community Housing Division will result, depending on the egregiousness of the noncompliance, in penalties being assessed in the scoring of future applications and/or the inability to participate in programs administered by THDA for a period to be determined in THDA's sole discretion.

### **36) AFFORDABILITY PERIOD REVIEWS**

- a. Prior to drawing down HOME funds, Recipients shall sign a grant note, deed of trust and a declaration of land use restrictive covenants to enforce the Affordability Period.
- b. Once HOME funds are awarded to a Recipient, THDA will monitor compliance by reviewing certain records related to the HOME project. THDA will monitor compliance by conducting desk and/or on-site reviews of the project.
- c. THDA will conduct an on-site inspection at project completion in order to confirm that the project meets THDA's Minimum Design Standards for New Construction and Rehabilitation of Single Family and Multifamily Housing.
- d. At a minimum, THDA will conduct compliance reviews annually.
- e. THDA will conduct on-site property inspections during the Affordability Period in order to determine compliance with income and rent requirements, tenant selection, affirmative marketing requirements, and property and design standards and to verify any information submitted by the Recipient to THDA.
  - i. THDA will perform onsite inspection of all HOME assisted projects no less than every three (3) years during the Affordability Period.
  - ii. For HOME projects of four (4) HOME Units or less, THDA will perform an on-site inspection of one hundred percent (100 percent) of the units no less than every three (3) years during the Affordability Period.
  - iii. For HOME projects consisting of five (5) or more HOME Units, THDA will inspect a minimum of four (4) of the HOME Units no less than every three (3) years during the Affordability Period.
  - iv. The on-site inspection may include a review of records for all or a sample of the income and rent restricted units including, but not limited to, tenant files, rent rolls, approved and declined tenant applications, documentation supporting tenant income and employment verification, marketing materials and advertisements, and documentation of requests for reasonable accommodations.
  - v. The on-site review may also include a review of any local health, safety, or building code violation reports or notices and an inspection of the property to determine if the buildings are suitable for occupancy, taking into account local health, safety, and building codes, applicable THDA Design

Standards, and current standards as prescribed by HUD.

- vi. Any reports made by state or local government units of violations, with documentation of correction, will be reviewed.
- f. Each year during the Affordability Period, the Recipient shall submit to THDA, within one hundred twenty (120) days after the end of the project's fiscal year, each of the following:
- i. Audited financial statements for the Owner.
  - ii. Audited financial statements for the project.
  - iii. Bank statements for operating reserve and replacement reserve accounts as of the end of the project fiscal year.
  - iv. Proof of sufficient property and liability insurance coverage with THDA listed as mortgagee.
  - v. Documentation to show the current utility allowance is being used (i.e. a copy of the utility allowance table).
  - vi. For projects that received points at initial HOME application for pledging to provide permanent supportive services to special needs populations, an affidavit attesting to the supportive services provided to the project's population during the fiscal year must be provided by the provider(s) of such services.
  - vii. Compliance monitoring fees from previous years re-inspections if applicable.
  - viii. Such other information as may be requested in writing by THDA in its sole discretion.

### **37) MONITORING FEES**

THDA charges a monitoring fee for all HOME assisted units. HOME Recipients shall pay the entire fee covering the Affordability Period as indicated in the current HOME Operating Manual - Schedule of Monitoring Fees; but no less than \$300 per HOME Unit.

- a. The monitoring fee must be paid prior to the Recipient making the request for Developer Fees to be drawn from the HOME grant.
- b. Additional fees may be charged when follow-up is required due to non-compliance findings. Failure to pay these fees will be considered an administrative noncompliance issue.
  - i) The fee will be the current approved fee as published in the HOME manual and the most current program description at the time the fee is incurred but no less than:
    - (1) Re-inspection of a file or re-inspection of a 1-4 unit property: Two Hundred Dollars (\$200) per unit inspected.
    - (2) Re-inspection of a HOME project with five (5) or more units:



- (a) Two hundred dollars (\$200) per unit inspected;
  - (b) Standard mileage rate in effect under the current State of Tennessee travel regulations at the time of the re-inspection from Nashville to the property and back to Nashville;
  - (c) Applicable state allowed per-diem for one staff person;
  - (d) Lodging expenses as allowed under then current State of Tennessee travel regulations;
  - (e) Any other expenses incurred by THDA relating to the project re-inspection.
- c. Fees for re-inspections will be due to THDA prior to issuance of re-inspection results or release of any additional HOME-funded operating subsidy.

### **38) RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN**

Recipients shall replace all occupied and vacant habitable low-income housing demolished or converted to a use other than as lower income housing in connection with a project assisted with HOME Rental funds.

All replacement housing will be provided within three years after the commencement of the demolition or conversion. Before entering into a grant contract committing THDA to provide funds for a project that will directly result in the demolition or conversion, THDA will make public by and submit to the HUD/Knoxville HOME coordinator certain information. Each applicant proposing demolition or any reduction in lower income housing units shall submit the following information to THDA in connection with their application:

- a. A description of the proposed assisted project;
- b. The address, number of bedrooms, and location on a map of lower income housing that will be demolished or converted to a use other than as lower income housing as a result of an assisted project.
- c. A time schedule for the commencement and completion of the demolition or conversion.
- d. To the extent known, the address, number of bedrooms and location on a map of the replacement housing that has been or will be provided.
- e. The source of funding and a time schedule for the provision of the replacement housing.
- f. The basis for concluding that the replacement housing will remain lower income housing for at least fifteen (15) years from the date of initial occupancy.
- g. Information demonstrating that any proposed replacement of housing units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the approved Consolidated Plan.

### **39) HOME RELOCATION REQUIREMENTS**

THDA DISCOURAGES PROJECTS INVOLVING DISPLACEMENT OR RELOCATION of households. Prior to application, contact THDA if you are planning any project that may involve displacement or relocation.

HOME funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (“URA”) of 1970 and section 104(d) of the Housing and Community Development Act of 1974, in addition to the Displacement, Relocation, and Acquisition regulatory requirements of 24 CFR 92.353.

- a) URA requirements are triggered at the time the application is being prepared, and additional requirements are triggered at the time the working agreement is signed between THDA and the Recipient and when rehabilitation is completed. Treatment of displaced persons depends upon whether the displaced person is (1) a tenant or owner; (2) a business or household; (3) has income above or below the Section 8 Lower Income Limit.
- b) A Displaced Person is any person (household, individual, business, farm, or non-profit organization) that moves from the real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted with HOME Rental funds. Relocation requirements apply to all occupants of a project/site for which HOME Rental assistance is sought even if less than one hundred percent (100 percent) of the units are HOME Rental assisted.
  - i) Before application, displacement is triggered when a tenant moves permanently from the project before the applicant submits an application for HOME Rental assistance if THDA or HUD determines that the displacement was a direct result of the rehabilitation, demolition, or acquisition for the HOME Rental project. (e.g., THDA determines that the applicant displaced tenants in order to propose a vacant building for HOME Rental assistance.)
  - ii) After application, displacement is triggered when a tenant moves permanently from the project after submission of the application, or, if the applicant does not have site control, the date THDA or the Recipient approves the site because:
    - (1) The applicant requires the tenant to move permanently; or
    - (2) The applicant fails to provide timely required notices to the tenant; or
    - (3) The tenant is required to move temporarily and the applicant does not pay all actual, reasonable out-of-pocket expenses or because the conditions of the move are unreasonable.
  - iii) After execution of the grant contract, displacement is triggered when a tenant moves permanently from the project after execution of the grant contract covering the acquisition, rehabilitation or demolition because the tenant is not provided the opportunity to lease a suitable, affordable unit in the project.
- c) A Displaced person is not:
  - i) A tenant evicted for cause, assuming the eviction was not undertaken to evade URA obligations.
  - ii) A person with no legal right to occupy the project under State or local law (e.g., squatter).
  - iii) A tenant who moved in after the application was submitted but before signing a lease and commencing occupancy, was provided written notice of the planned project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or experience a rent increase), and the fact that the person would not qualify as a "displaced person" (or for any assistance under URA) as a result of the project.
  - iv) A person, after being fully informed of their rights, waives them by signing a Waiver Form.
- d) URA and its implementing regulations at 49 CFR Part 24 require relocation assistance where acquisition has occurred under URA. In addition, URA coverage was expanded in 1987 amendments to cover displacement of individuals resulting from rehabilitation, demolition or private acquisition carried out

under a federally assisted project or program.

- e) Section 104(d) of the Housing and Community Development Act ("The Barney Frank Amendments") and HUD's Residential Anti-Displacement and Relocation Assistance Plan include additional relocation requirements. This extra level of relocation protection may be triggered for low-income households when units are converted or demolished with CDBG, UDAG, HOME, or HOME Rental funds. In addition, when Section 104(d) is triggered, jurisdictions may need to replace any low/moderate income dwelling units that are lost due to the conversion or demolition. This section refers only to residential relocation. If non-residential (commercial/industrial) relocation is involved, contact THDA.
- f) Understanding how relocation requirements are triggered, alternate ways of meeting them, and the costs of the alternatives is essential in making HOME Rental program decisions. Concerns about relocation may cause a Recipient to consider establishing a preference for vacant buildings. However, Recipients should also consider that vacant buildings are often in various states of deterioration. Rehabilitating an occupied building, even with the cost of assisting tenants to remain or relocate, may be less costly than rehabilitating a vacant building. In occupied buildings, Recipients must consider whether occupants will be able to return after rehabilitation and whether Section 8 assistance is available to help meet relocation costs. Selecting vacant projects does not relieve all relocation concerns. Vacant buildings in good condition may have been recently occupied. If so, the Recipient must consider whether the owner removed the tenants in order to apply for HOME Rental assistance for a vacant building. If so, these tenants are displaced persons.
- g) Skilled staff can save the local program money and build goodwill with owners and tenants. Failure to understand and follow relocation requirements can result in unnecessary costs for the local program. It is possible for uninformed owners and staff to take steps that would obligate the local program to provide significant relocation benefits and services. Early briefings for owners and program staff on relocation rules are essential. Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition consolidates relocation requirements for HOME Rental and other HUD programs in one document. It is available from HUD Field Offices or by contacting THDA. HUD informational booklets for persons who are displaced or whose property is to be acquired are also available from HUD Field Offices or from THDA.

#### **40) SITE AND NEIGHBORHOOD STANDARDS**

Housing provided through the HOME program must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD regulations issued pursuant thereto; and must promote greater choice of housing opportunities. All projects must meet the site and neighborhood standards as codified at 24 CFR § 981.125 - Site and neighborhood standards.

- a) New Construction Rental Housing. In carrying out the site and neighborhood requirements for new construction, the Recipient shall provide documentation as THDA may require, in THDA's sole discretion, to determine that proposed sites for new construction meet the requirements in 24 CFR 981.125 with cross reference to 983.6(b) which places limiting conditions on building in areas of "minority concentration" and "racially mixed" areas.
- b) Rehabilitation of Rental Housing. Site and neighborhood standards do not general apply to

rehabilitation projects funded under HOME unless project-based vouchers are used in an HOME rehabilitation unit. In such case, the site and neighborhood standards for project-based vouchers will apply as determined by the issuing authority for the project-based vouchers.

#### **4I) EQUAL OPPORTUNITY AND FAIR HOUSING**

No person in the United States shall on the grounds of race, color, religion, sex, familial status, national origin, or disability be excluded from participation, denied benefits or subjected to discrimination under any program funded in whole or in part by HOME funds.

a) The following Federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and equal opportunity, are applicable to HOME projects:

- i) Fair Housing Act (24 CFR Part 100)
- ii) Executive Order 11063, as amended (24 CFR Part 107 - Equal Opportunity in Housing)
- iii) Title VI of the Civil Rights Act of 1964 (24 CFR Part 1 - Nondiscrimination in Federal programs)
- iv) Age Discrimination Act of 1975 (24 CFR Part 146)
- v) Section 504 of the Rehabilitation Act of 1973 (24 CFR Part 8)
- vi) Section 109 of Title I of the Housing and Community Development Act of 1974 (24 CFR Part 6)
- vii) Title II of the Americans with Disabilities Act 42 U.S.C. §12101 et seq.
- viii) Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity 24 CFR Parts 5, 200, 203, 236, 400, 570, 574, 882, 891 and 982
- ix) Section 3 of the Housing & Urban Development Act of 1968 24 CFR 135 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135
  - (1) Section 3 requires that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low-income persons, particularly those who are recipients of government assistance for housing.
- x) Executive Order 11246, as amended 41 CFR 60 (Equal Employment Opportunity Programs)
- xi) Executive Order 11625, as amended (Minority Business Enterprises)
- xii) Executive Order 12432, as amended (Minority Business Enterprise Development)
- xiii) Executive Order 12138, as amended (Women's Business Enterprise)
- xiv) Executive Orders 11625, 12432, and 12138 (Minority/Women's Business Enterprise) require

that Recipients prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women and entities owned by minorities and women in all contracts. Recipients must also develop acceptable policies and procedures if their application is approved by THDA.

- b) The HUD Office of Fair Housing also includes the following fair housing laws and Presidential Executive Orders which are not included in 24 CFR 5.105(a) but which are applicable to federally-assisted programs:
  - i) Architectural Barriers Act of 1968 42 U.S.C. §4151 et seq.
  - ii) Executive Order 12892, as amended (Affirmatively Furthering Fair Housing)
  - iii) Executive Order 12898
  - iv) Executive Order 13166 (Limited English Proficiency)
  - v) Executive Order 13217 (Community-based living arrangements for persons with disabilities)
- c) In addition to the above requirements, the Recipient must assure that its Equal Opportunity and Fair Housing policies in the HOME Program are consistent with the State's current Consolidated Plan.

#### **42) AFFIRMATIVE MARKETING**

Prior to beginning a HOME project, Recipients must adopt affirmative marketing procedures and requirements for all HOME rental projects with five (5) or more units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. The Recipient must also identify and take steps to attract populations who are least likely to apply for the housing to be created. Requirements and procedures must include:

- a) Methods for informing the public, owners and potential tenants about fair housing laws and the Recipient's policies;
- b) A description of what the Recipient will do to affirmatively market housing assisted with HOME funds;
- c) A description of what the Recipient will do to inform persons not likely to apply for housing without special outreach;
- d) Maintenance of records to document actions taken to affirmatively market HOME-assisted units and to assess marketing effectiveness; and
- e) Description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.
- f) All projects that receive HOME grants must advertise all vacant units on the [www.TNhousingsearch.org](http://www.TNhousingsearch.org) website.

### 43) APPLICATION AND EVALUATION PROCEDURE

THDA will evaluate each application to determine if the proposal meets threshold criteria. Threshold criteria include:

- a) Submission by an eligible applicant of a complete application, including any documentation required to be submitted through THDA's Participant Management System (PIMS).
- b) The applicant's financial statements and audit indicate a healthy financial position and include diverse funding sources.
- c) Application demonstrates a market need for the project.
- d) Proposal of an eligible activity; proposal of a project that in the opinion of THDA is physically, financially and administratively feasible; proposal of a project that meets the requirements outlines herein and under 24 CFR Part 92, as amended.
- e) Submission of a Proforma based on the required Affordability Period demonstrating a need for the HOME funds.
- f) All projects must meet the site and neighborhood standards as codified at 24 CFR § 891.125 - Site and neighborhood standards.
- g) All applications must demonstrate a minimum match contribution equal to 25 percent of the total HOME funds requested for the project.
- h) Applicants must have met all spend down requirements for other THDA rental development grants and be in good standing with all THDA programs on February 28, 2024.
- i) Proposals that will set-aside more than 20 percent of the units for individuals with disabilities must demonstrate that the project will meet the qualities of settings that are eligible for reimbursement under the Medicaid home and community-based services that were established by the Centers for Medicare and Medicaid Services (CMS) in the final rule dated January 16, 2014:

<https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>.

- j) Receipt of a score that equals at least 60 percent of the total points available.

Applications meeting the threshold requirements will be scored and ranked by Grand Division, as defined in Tennessee Code Annotated Title 4, Chapter 1, Part 2, in descending numerical order based on the scoring matrix provided on page 35, Section 44 of this Program Description.

THDA will first select the highest scoring application from each Grand Division of Tennessee.

If additional funding is available, THDA will combine all remaining applications into a single ranking by score. THDA will award funding starting with the highest score to lowest score until all funds are allocated or the amount of funds available is less than the need for the next highest scoring application.

Given the limited funding available statewide and in order to distribute HOME funding across Tennessee, THDA reserves the right to limit funding to only one award per county.

When the amount of funds available is less than the request for funding identified in the application, THDA reserves the right to offer partial funding pending the applicant's ability to secure additional financing within a timeframe established by THDA or to not select a proposed project if sufficient funding is not available to award all funds requested by the applicant.

1. When the applicant is not able to secure additional financing within THDA's identified timeline, THDA, subsequently and at its sole discretion, may move to the next lower scoring application(s) in order to meet its commitment obligations under the HOME program.
2. When THDA opts to not select a proposed project if sufficient funding is not available to award all funds requested by the applicant, THDA may move to the next lower scoring project(s) in order to meet its commitment obligations under the HOME program.

In the event of a tie score between applications, THDA will prioritize that application with the highest combined total of the Need and Opportunity Score. In the event that a tie still remains, the application with the highest Opportunity Score will be selected. If a tie still exists after the first two (2) tie breakers, THDA will prioritize the application with the highest percentage of Match.

THDA reserves the right to transfer unused funding to other HOME activities.

#### **44) HOME RENTAL HOUSING SCORING MATRIX - Up to 100 Points .**

##### **PROGRAM DESIGN AND PLANNING- Up to 35 points**

- a) The proposed project demonstrates appropriate planning, readiness to proceed, and administrative capability. All necessary components to accomplish the project have been identified in the application including all necessary funding to complete the project. The applicant has site control of the proposed site to be developed.
- b) Firm financial commitments for non-HOME resources have been secured, are current, and are demonstrated within the application.
- c) The extent to which the project has a binding commitment for Federal, State, or local project-based rental assistance so rents are affordable to extremely low and very low income families and sufficient funds support the project's operation.
  - i) Projects with committed project based VASH vouchers, Continuum of Care rental assistance, or project-based Section 8 vouchers are preferred.
  - ii) Projects that preserve existing housing with project-based rental assistance also are encouraged.
- d) The project's proforma demonstrates sufficient cash flow to supports the project's operation without a contribution of HOME funds by THDA to an operating reserve account for the project.
- e) The extent to which the proposed project fills the need demonstrated by the neighborhood market conditions.
- f) The extent to which the design of the proposed project is appropriate and meets the needs of the targeted population to be served.
- g) The extent to which formal partnerships have been established and demonstrated within the application to provide voluntary and appropriate support services for the targeted population.
- h) The extent to which the proposed project provides easy access to community living, including retail, employment, transportation, medical, education, recreation, and government services.
- i) The extent to which Universal Design and Visitability features will be included in the design of the projects.
- j) The extent to which energy efficiency features exceed the requirements of THDA's Design Standards for New Construction or Rehabilitation, as applicable.

##### **APPLICANT'S CAPACITY AND EXPERIENCE - Up to 30 points**

- a) The applicant's experience with owning, developing and managing rental units of similar size and scope serving the intended population proposed.
- b) The capacity of the applicant and its development and management team to carry out the proposed project within the schedule proposed.
- c) The past experience of the applicant and its development and management team to successfully develop or manage rental housing in compliance with all Federal, state or local program requirements.
- d) The past experience of the applicant and its development and management team to undertake THDA rental development projects in a timely manner.
- e) The past history of the applicant in serving the community in which the proposed project is to be located.
- f) The past history of the applicant and its development and management team to comply with THDA funding requirements and processes.
- g) The applicant is a qualified Community Housing Development Organization.

##### **NEED - Up to 10 points**



THDA has determined rental housing need factors for households whose annual incomes do not exceed 80% of the current published area median income. The county need factors are the percentage of low income tenant households that are cost burdened; projected 10-year population growth rate; county's projected 10-year population growth as a percent of the state's overall growth; prior allocation amount per low income household; prior allocation; rental market (LIHC) vacancy rate, and the pipeline of rental housing financed under the LIHC Program under construction and in lease-up. Scores to be used in the evaluation of rental projects are available [HERE](#)

### **AREAS OF OPPORTUNITY SCORE - Up to 10 Points**

THDA has determined factors which indicate census tracts of high opportunity. These factors include areas of high median gross rent, high cost burden, proximity to employment, high workforce participation, low levels of abandoned housing, rental market (LIHC) vacancy rate, and the pipeline of rental housing financed under the LIHC Program under construction and in lease-up. Scores to be used in the evaluation of areas of opportunity are available [HERE](#)

### **CHDO DESIGNATION – Up to 5 points**

THDA will award 5 points for applications where the applicant meets the requirements of a CHDO under the HOME program.

### **RURAL DESIGNATION– Up to 5 points**

THDA will award 3 points for applications with projects located in designated rural areas of Tennessee. For this program description, “rural” is defined as all Tennessee counties except the following: Anderson, Bedford, Blount, Bradley, Carter, Coffee, Hamblen, Hamilton, Haywood, Hawkins, Loudon, Madison, Maury, McMinn, Montgomery, Putnam, Roane, Robertson, Rutherford, Sevier, Sumner, Williamson and Wilson. All other counties are considered Rural.

THDA will award an additional 2 points if the applicant is a Tennessee Public Housing Authority in one of the above identified rural counties.

### **PROJECTS LOCATED OUTSIDE OF A LOCAL PJ – 5 points**

HUD has awarded HOME funds directly to Local Participating Jurisdictions (Local PJs). The Local PJs are Clarksville, Chattanooga, Jackson, Knoxville, Memphis, Nashville/Davidson County, Knox County, Shelby County, and the Northeast Tennessee/Virginia Consortium (the cities of Bristol, Kingsport, Johnson City, Bluff City, Sullivan County, and Washington County, excluding the Town of Jonesborough). Projects that are located outside the jurisdictional limits of a Local PJ will receive points under this criteria.

### **DESIGNATED DISTRESSED COUNTIES – 5 points Bonus**

The Appalachian Regional Commission has designated eight counties in Tennessee as distressed, including: Bledsoe, Clay, Cocke, Hancock, Hardeman, Lake, Perry, and Scott, . THDA will award 5 bonus points for applications with projects in these designated counties.

### **MATCH EXCEEDING 25% MINIMUM – 5 points Bonus**

For project that provide match in excess of 40%, THDA will award a 5 point bonus.