



HOME-ARP RENTAL HOUSING DEVELOPMENT PROGRAM DESCRIPTION

Tennessee Housing Development Agency

The Tennessee Housing Development Agency (“THDA”) was allocated federal funds appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) (“ARP”) for the HOME Investment Partnerships Program (“HOME”) to provide homelessness assistance and supportive services through the HOME-American Rescue Plan Program (“HOME-ARP”). The purpose of this Program Description is to explain the requirements and application process of THDA’s HOME-ARP Rental Housing Development Program (the “Program”).

Program funding can be used for acquisition, construction, and rehabilitation of affordable rental housing for qualifying and low-income households. The funding may be combined with other resources, but may also be used to cover 100% of project development costs.

Program funding will be administered as grants through a competitive application process for projects located in any of Tennessee’s 95 counties. An applicant must apply for at least \$500,000 and may apply for a maximum grant of \$2,500,000. The Program application period will open on Monday, December 5, 2022 and applications must be received by THDA on or before 4:00 PM CT on Friday, January 13, 2023. THDA anticipates notifying successful applicants on or about February 3, 2023. Successful applicants must enter into a grant agreement with a term of March, 1, 2023 through February 28, 2026.

The application package, as well as additional program documentation, will be made available on THDA’s website beginning December 5, 2022 at <https://thda.org/government-nonprofit-partners/home-program>

1) ALLOCATION OF FUNDS

HOME-ARP 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 allocation will be a minimum of \$15,000,000.

2) MINIMUM INVESTMENT

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

3) ELIGIBLE RECIPIENTS

THDA will accept applications from qualified non-profit housing developers and Public Housing Authorities that will be the final owner of the proposed rental project. The applicant must materially participate (regular, continuous, and substantial on-site involvement) in the development and operation of 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, must be qualified to do business in the State of Tennessee.
 - ii) Demonstrate at least two years of related housing development and management experience in Tennessee. For the purposes of 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”).
 - 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 HOME-ARP Units will comply with Program requirements during the entire period that begins upon selection and ending upon the conclusion of all HOME-funded compliance or Affordability Periods.

4) FORM OF ASSISTANCE

Program funds will be awarded as a grant secured by a note, deed of trust, and a declaration of land use restrictive covenants (“restrictions”).

- a. Recipient shall execute the note and record a fully and accurately executed deed of trust and restrictions (the “legal documents”) during the construction phase prior to requesting any draws.
- b. A copy of the recorded deed of trust and restrictions must be submitted to THDA within thirty (30) days of final closing.

5) DEVELOPER FEE

A Developer Fee of up to fifteen percent (15%) of the HOME-ARP 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%) 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.

6) ELIGIBLE ACTIVITIES

Program funds may be used for acquisition, construction, and rehabilitation of affordable rental housing for qualifying and low-income households as defined herein.

7) ELIGIBLE COSTS

Program funds may be used to pay for up to 100% of the following eligible costs associated with the acquisition, development, and operation of HOME-ARP Units:

- a. Development hard costs – defined in 24 CFR 92.206(a).
- b. Acquisition – the costs of acquiring improved or unimproved real property.
- 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.
- e. Operating Cost Assistance – funds may be used to pay ongoing operating cost assistance or to capitalize an operating cost assistance reserve for HOME-ARP Units where THDA determines in its underwriting that the reserve is necessary to maintain the HOME-ARP Units’ long-term operational feasibility. However, Program funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost during the minimum Affordability Period.

8) AFFORDABILITY PERIOD

HOME-ARP Units are rent and income limited for an affordability period of 15 years (“Affordability Period”).

9) TARGETING AND OCCUPANCY REQUIREMENTS

HOME-ARP activities must primarily benefit households in qualifying populations, as defined below. However, to improve the feasibility and maintain the long-term viability of projects with HOME-ARP Units, an Eligible Recipient may invest HOME-ARP funds in units that are not restricted for occupancy by qualifying households, but such units must be restricted for low-income households as follows:

- a. Targeting: Program funds can only be invested in units restricted for qualifying households or low-income households as follows:
 - i) Not less than 70 percent of the total number of HOME-ARP Units must be restricted for occupancy by households that are qualifying households at the time of the household’s initial occupancy; and
 - ii) Not more than 30 percent of the total number HOME-ARP Units may be restricted to low-income households. These low-income HOME-ARP Units do not have to be restricted for occupancy by qualifying households, however low-income HOME-ARP Units are only permitted in projects that include the requisite percent of HOME-ARP Units for qualifying households.
- b. Occupancy Requirements:
 - i) Qualifying Households. Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP Unit. A qualifying household after admission retains its eligibility to occupy a qualifying household restricted HOME-ARP Unit, irrespective of the qualifying household’s changes in income or whether the household continues to meet the definition of a qualifying population. Therefore, a qualifying household restricted HOME-ARP Unit always remains in compliance as long as the unit is occupied by a household that met the definition of a qualifying population at the time of its admission.
 - a) As an example, a household that qualifies as “Homeless” at admission does not meet the Homeless definition once the household occupies a HOME-ARP Unit, but remains a qualifying household and is eligible to remain in the HOME-ARP Unit restricted for qualifying populations. Income determinations for qualifying households are therefore only for purposes of establishing a qualifying household’s rental contribution and not for maintaining continued eligibility in the Program.

- b) In a project with floating units, the project may shift the HOME-ARP qualifying population designation to another unit to serve another qualifying household if the household's income subsequently is certified to be at or above 80 percent of the area median income ("AMI") and the household no longer meets the definition of any qualifying population.
- ii) Low-Income Households. At initial occupancy, HOME-ARP Units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a household's income increases above 80 percent AMI during the affordability period, the HOME-ARP 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.
- a) The owner/manager of the project 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.
 - b) The requirements for correcting any noncompliance using vacancies or re-designation of units depends on whether the HOME-ARP Units are fixed or floating and whether other funding sources (e.g., LIHTC) impose income or other restrictions on the units.
 - i. Fixed HOME-ARP Units. The project is temporarily out of compliance and will remain so until the over-income household moves out. At such time the unit must be rented to another low-income household. A non-HOME-ARP assisted unit cannot be re-designated as a HOME-ARP Unit.
 - ii. Floating HOME-ARP Units. Projects with floating HOME-ARP Units do not have specific units that are designated as the HOME-ARP Units. Instead, the total number of units designated as HOME-ARP Units and non-assisted units at the time of the grant contract must stay the same throughout the Affordability Period. Therefore, if there is an over-income household in a unit designated as HOME-ARP, when a non-assisted unit becomes available the units will be re-designated, the HOME-ARP Unit becomes a non-assisted unit and the non-assisted unit gets designated as a HOME-ARP Unit.

10) UNIT DESIGNATION

The applicant must declare in the application the number of HOME-ARP Units in the project restricted for qualifying households, the number declared for low-income households, and whether the units are fixed or floating units. All designations must be included in the grant

contract. In a project containing HOME-ARP and other units, fixed or floating HOME-ARP Units must be designated in accordance with 24 CFR 92.252(j). The project must maintain this unit mix throughout the Affordability Period.

11) QUALIFIED POPULATIONS, TARGETING AND PREFERENCES

HOME-ARP requires that funds be used to primarily benefit individuals and families in the following specified “qualifying populations.” Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through the Program without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population or required for income determinations in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

a. Qualifying Populations:

i) Homeless, as defined in 24 CFR 91.5.

a) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

b) An individual or family who will imminently lose their primary nighttime residence, provided that:

i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

ii. No subsequent residence has been identified; and

- iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- c) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - i. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 .S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;
- ii) At risk of Homelessness, as defined in 24 CFR 91.5.
 - a) An individual or family who:
 - i. Has an annual income below 30 percent of median family income for the area, as determined by HUD;
 - ii. Does not have sufficient resources or support networks, e.g., family, friends, faith based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and

iii. Meets one of the following conditions:

- (1) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
- (2) Is living in the home of another because of economic hardship;
- (3) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
- (4) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low income individuals;
- (5) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
- (6) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- (7) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

b) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C.5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

c) A child or youth who does not qualify as “homeless” under this section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

iii) Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.

For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:

- a) A current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
- b) A person with whom the victim shares a child in common;
- c) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- d) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
- e) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence, which is defined in 24 CFR 5.2003 means violence committed by a person:

- a) Who is or has been in a social relationship of a romantic or intimate the victim; and
- b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;

- ii. The type of relationship; and
- iii. The frequency of interaction between the persons involved in the relationship.

Sexual assault, which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking, which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a) Fear for the person’s individual safety or the safety of others; or
- b) Suffer substantial emotional distress.

Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:

- a) Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
 - b) Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- iv) Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family’s homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:
- a) Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as “homeless” as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

- b) At Greatest Risk of Housing Instability is defined as household who meet either paragraph i. or ii. below:
- i. has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);
 - ii. has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from “At risk of homelessness” definition established at 24 CFR 91.5:
 - (1) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - (2) Is living in the home of another because of economic hardship;
 - (3) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - (4) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
 - (5) Lives in a single room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
 - (6) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - (7) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.
 - (8) Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

12) LAYERING

Before THDA can commit HOME-ARP funds, it must evaluate the project proposed in the

application to determine that the proposed amount of HOME-ARP funds needed to complete the project is necessary to provide quality affordable housing that meets the Program requirements. The applying entity will be required to document that any capital subsidy and operating cost assistance necessary to provide quality affordable housing that meets the requirements of this Notice is secured and documents and the project is financially viable throughout the 15-year HOME-ARP compliance period. THDA will evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects.

THDA will use existing HOME rental underwriting standards as the foundation for their HOME-ARP underwriting guidelines but will implement standardized underwriting guidelines for HOME-ARP 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-ARP 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-ARP-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 a 15-year operating proforma in a format that will be included with the application.

13) MARKET

THDA will assess whether neighborhood market conditions demonstrate a need for the project.

- a. For HOME-ARP Units for qualifying households, a market assessment is not required. Rather, an unmet need among qualifying populations for the type of housing proposed can be demonstrated through gap analysis, CoC data, public housing and affordable housing

waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the qualifying populations.

- b. For projects containing units restricted for occupancy by low-income households or market-rate households, a market assessment must be conducted in accordance with 24 CFR 92.250(b)(2). A third-party market assessment completed by the developer or another funder meets this requirement. The applicant must review the assessment and provide a written, dated acknowledgement that it accepts the assessment's findings and conclusions. The market assessment and the applicants written, dated acknowledgement must be retained for recordkeeping purposes.

14) PROJECT COMPLETION AND INITIAL OCCUPANCY

HOME-ARP 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 effective date of the grant contract, the project must comply with the terminated project requirements at 24 CFR 92.205(e)(2). If the HOME-ARP units are not occupied by eligible qualifying households or low-income households within six months following project completion, the Recipient must submit to THDA information on its efforts to coordinate with a CoC, homeless service providers, social service, and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The Recipient must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households within 12 months of project completion.

15) 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-ARP funds may not be used to fund the commercial or non-residential portion of a mixed-use project. Therefore, if a HOME-ARP assisted project contains such commercial or non-residential space, other sources of funding must be used to finance that space.
- d. HOME-ARP funds can only be used to fund the residential portion of a mixed-use project, which meets the HOME-ARP qualifying populations, 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-ARP funds, the residential living space in the project must constitute at least fifty one percent (51%) of the total project space and each building in the project must contain residential living space.

16) RENT LIMITS AND UTILITY ALLOWANCES

- a. **Units Restricted for Occupancy by Qualifying Households.** In no case can the HOME-ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits annually.

Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to Section VI.B.13.d of the HUD CPD Notice-21-10.

- b. **Rent limitations – Low-Income Households.** HOME-ARP Units occupied by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit).

Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program).

The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to Section VI.B.13.d of HUD CPD Notice-21-10.

- c. **Rent limitations – Single Room Occupancy (SRO) Units.** A HOME-ARP project may consist of SRO units. For the purposes of HOME-ARP rental, a SRO unit is defined as a

unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's designation as a SRO cannot be inconsistent with the building's zoning and building code classification.

If the SRO units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent.

The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of HUD CPD Notice-21-10.

- d. **Initial Rent Schedule and Utility Allowance.** THDA will establish maximum allowances for utilities and services and update the allowances annually.
 - i) THDA may adopt to use the utility allowance schedule of the local PHA or establish its own utility allowances.
 - ii) THDA must review and approve the HOME-ARP rents proposed by Recipient, subject to the HOME-ARP rent limitations.
 - iii) For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the rent for the unit cannot exceed the maximum rent minus the monthly allowance for utilities and services.

17) INCOME LIMITS

HOME-ARP funds may be used to benefit only Low-Income Households at 80% AMI or less.

18) PROHIBITED ACTIVITIES

- a. Providing HOME-ARP funds to rental units that require reconstruction.
- b. Using HOME-ARP funds to refinance existing debt.
- c. Using HOME-ARP funds for housing for sale to home buyers.
- d. Providing non-federal matching contributions required under any other Federal program.
- e. Providing assistance authorized under Section 9 of the 1937 Act (annual contributions for operation of public housing).
- f. Carrying out activities authorized under 24 CFR Part 968 (Public Housing Modernization).
- g. Providing assistance to eligible low-income housing under 24 CFR Part 248 (Prepayment

of Low-Income Housing Mortgages).

- h. Providing assistance to a project previously assisted with HOME funds during the period of affordability established by HUD and THDA in the grant contract with the Recipient as stated in § 93.205(a) except as permitted for renewal of funds committed to operating cost assistance.
- i. Using HOME-ARP funds for political activities; advocacy; lobbying, whether directly or through other parties; counseling services; travel expenses; and preparing or providing advice on tax returns.
- j. Using HOME-ARP 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,
- k. Paying for any cost that is not eligible under 24 CFR 92.730 through 93.200 or is prohibited under 24 CFR 92.214, except as amended in the appendix of CPD Notice 21-10.
- l. Using HOME-ARP funds to refinance multifamily loans made or insured by any federal program, including CDBG.

19) PROPERTY AND DESIGN STANDARDS

HOME-ARP Units must comply with all property standards applicable to rental projects required in 24 CFR 92.251 paragraphs (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e) manufactured housing, and (f) on-going property condition standards.

- a. 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-ARP Units must also conform to the THDA Minimum Design Standards for New Construction of Single Family and Multifamily Units or to the THDA Design Standards for Rehabilitation of Single Family and Multifamily Housing Units, as applicable. 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.
 - 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% 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%) 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-ARP assisted project, regardless of whether all units are HOME-ARP 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-ARP Units, the accessible units may be either HOME-ARP Units or non-assisted units.
 - 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%) or more of the replacement cost. In such projects, a minimum of five percent (5%) 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%), 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-ARP assisted project, regardless of whether they are all HOME-ARP 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-ARP assisted, the accessible units may be either HOME-ARP Units or non-assisted units.
 - iv) When rehabilitation less extensive than Substantial Rehabilitation is undertaken in

projects, 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%) 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%) 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.

20) 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 HOME-ARP 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:
 - a) Make the unit usable by the greatest number of people.
 - b) Respond to the changing needs of the resident.
 - c) 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:
 - a) Stepless entrances. Minimum 5' x 5' level clear space inside and outside entry door.
 - b) Broad blocking in walls around toilet, tub and shower for future placement of grab bars.
 - c) Full-extension, pull-out drawers, shelves and racks in base cabinets in kitchen.
 - d) Front mounted controls on all appliances.
 - e) Lever door handles.
 - f) 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:
 - a) One zero-step entrance.
 - b) Doors with thirty two (32) inches of clear passage space.
 - c) One bathroom on the main floor that is accessible to a person using a wheelchair.
- ii) More information on Visitability can be found at: <http://www.visitability.org>.

21) ENVIRONMENTAL REVIEW

The environmental effects of each activity carried out with HOME-ARP 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-ARP 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.

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-ARP 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-ARP.

22) LEAD-BASED PAINT

Housing assisted with HOME-ARP funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and 24 CFR Part 35, subparts A, B, J, K, M, and R. The lead-based paint regulations are available at 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.

23) FLOOD PLAINS

HOME-ARP 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.

24) 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.

25) 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-ARP grant related to the conflict of interest or may have all or some portion of the HOME-ARP grant rescinded, all as determined by THDA in its sole discretion.

26) DEBARMENT AND SUSPENSION

On all HOME-ARP 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.

27) PROFORMA

- a. All applicants must complete a proforma included in the application in a term of 15 years. The applicant must demonstrate a need for the HOME-ARP funds. If the project development costs require additional financing, including other grant source funding, prior to making any HOME-ARP 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.

28) 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-ARP grant will be calculated on a prorated basis of committed HOME-ARP Units to all buildings and units in the project and count toward the maximum per unit subsidy limit.

29) REPLACEMENT RESERVE ACCOUNTS

All projects must maintain a replacement reserve account beginning at the time of project completion for the term of the HOME-ARP 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%) 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%) 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.

30) OPERATING RESERVE ACCOUNT

All projects must establish and maintain, until the project has achieved a minimum of five (5) years of Stabilized Occupancy, 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.

31) NON-COMPLIANCE REPAYMENT & OTHER PENALTIES

All HOME-ARP awards will be structured as a grant to a Recipient with an Affordability Period of 15 years. Any HOME-ARP 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-ARP Units that do not meet the Program requirements for the Affordability Period must be repaid as follows:

- a. If the noncompliance or termination occurs within the first 10 years of the Affordability Period, the Recipient must repay the entire amount of HOME-ARP funds invested in the project.
- b. If the noncompliance or termination occurs in years 11 through 15, the repayment amount will be reduced by 20 percent for each year beyond the initial 10-years during which time the project was compliant.
- c. Repayment of the HOME-ARP funds is not required if the project owner sells or transfers, either voluntarily or involuntarily, the HOME-ARP project during the Affordability Period if;
 - i. the HOME-ARP restrictions remain,
 - ii. the project and new project owner continues to comply with all HOME-ARP requirements, and
 - iii. any HOME-ARP funds remaining in a project's operating cost assistance or reserve for replacement remain with the project and convey upon sale or transfer of the project as a restricted operating cost assistance reserve or reserve for replacement subject to HOME-ARP Notice requirements.

Failure to adhere to or maintain compliance with the requirements of a program administered through THDA's Community Programs 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.

32) COMPLIANCE REVIEWS

- a. Prior to drawing down HOME-ARP 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-ARP funds are awarded to a Recipient, THDA will monitor compliance by reviewing certain records related to the HOME-ARP 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 or THDA's Minimum Design Standards for Rehabilitation, as applicable.
- 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-ARP assisted projects no less than every three (3) years during the Affordability Period.
 - ii) For HOME-ARP projects of four (4) HOME-ARP Units or less, THDA will perform an on-site inspection of one hundred percent (100%) of the units no less than every three (3) years during the Affordability Period.
 - iii) For HOME-ARP projects consisting of five (5) or more HOME-ARP Units, THDA will inspect a minimum of four (4) of the HOME-ARP Units no less than every three (3) years during the Period of Affordability.
 - 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 UPCS 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.

33) MONITORING FEES

THDA charges a monitoring fee for all HOME-ARP Units. 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-ARP Unit.

- a. The monitoring fee must be paid prior to the Recipient making the request for Developer Fees to be drawn from the HOME-ARP 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-ARP 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.

34) 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-ARP 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.

35) HOME-ARP 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-ARP 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-ARP funds. Relocation requirements apply to all occupants of a project/site for which HOME-ARP assistance is sought even if less than one hundred percent (100%) of the units are HOME-ARP assisted.
 - i) Before application, displacement is triggered when a tenant moves permanently from the project before the applicant submits an application for HOME-ARP assistance if THDA or HUD determines that the displacement was a direct result of the rehabilitation, demolition, or acquisition for the HOME-ARP project. (e.g., THDA determines that the applicant displaced tenants in order to propose a vacant building for HOME-ARP 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-ARP 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-ARP 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-ARP 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-ARP 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.

36) SITE AND NEIGHBORHOOD STANDARDS

Housing provided through the HOME-ARP 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 § 891.125 - 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 93.150 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.

37) 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.

38) AFFIRMATIVE MARKETING

Prior to beginning a HOME-ARP project, Recipients must adopt affirmative marketing procedures and requirements for all HOME-ARP 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 that 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-ARP 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 website.

39) 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) 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 Program requirements as outlined herein and in HUD CPD Notice-21-10.
- c) Submission of a proforma based on the required period of affordability demonstrating a need for the HOME-ARP funds.
- d) All projects must meet the site and neighborhood standards as codified at 24 CFR 891.125 - Site and neighborhood standards.
- e) Proposals that will set-aside more than 20% 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>.
- f) Receipt of a score that equals at least 60% of the total points available.

Applications meeting the threshold requirements will be scored and ranked 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-ARP 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.

- i) 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-ARP program.
- ii) 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-ARP 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.

HOME-ARP-RENTAL HOUSING SCORING MATRIX - Up to 100 Points

PROJECT DESIGN - Up to 30 points

- a) The proposed project demonstrates exceptional planning, readiness to proceed, and administrative capability. All necessary components to accomplish the project have been identified in the application. The applicant has site control of the proposed site to be developed.
- b) Firm financial commitments for non-HOME-ARP resources have been secured, are current, and are demonstrated within the application.
- c) For proposals in which the units will be outside of the 72 counties included THDA's HCV area, the extent to which the project has a binding commitment for Federal, State, or local project-based rental assistance so that 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 Section 8 VASH vouchers, Continuum of Care rental assistance.
 - 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-ARP 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's financial statements and audit indicate a healthy financial position and include diverse funding sources.

SUPPORTIVE SERVICES FOR TARGETED QUALIFIED POPULATION – Up to 10 Points

The project application includes a thorough description and supporting documentation of its plan for the delivery of support services appropriate for the Qualified Population targeted by the proposed development. Proposals should demonstrate firm commitments of support service providers and other partners through shared past history on other related activities as well as through a written commitment to provide support services to Qualified Population tenants at the proposed development.

OTHER SOURCES OF FUNDS – Up to 10 Points

THDA shall award up to 10 points to applications that include a committed contribution of other resources of funds towards the project development. Commitment documents from the source providing the contribution must be included in the application.

Eligible sources of funds include:

- a) Grants from THDA, state agencies, federal or local governments, private foundations, the Federal Home Loan Bank, or other similar entities.
- b) Loans from public or private sources that are compliance or forgivable loans that require no repayment to the funding source.
- c) Equity from the applicant or related entities that will be a permanent funding contribution to the project and will not be repaid.
- d) Donations of land or buildings to the project as the demonstrated by a current property appraisal or the property tax records of the county in which the property is located.

Ineligible sources of other contributions that will not be counted include:

- Permanent financing sources.
- Cash contributions from private individuals.
- Loans that require repayment to the funding source, including those loans made through THDA's Community Investment Tax Credit (CITC) program.

To determine the points awarded, THDA will not round the percentage calculated.

Points will be awarded as follows:

- The sources of funds towards project development include an eligible contribution that is equal to or greater than 15% of the requested HOME-ARP funds: **10 points**
- The sources of funds towards project development include an eligible contribution that is equal to or greater than 10% and less than 15% of the requested HOME-ARP funds: **8 points**
- The sources of funds towards project development include an eligible contribution that is equal to or greater than 5% and less than 10% of the requested HOME-ARP funds: **5 points**
- The sources of funds towards project development include an eligible contribution that is equal to or greater than 1% and less than 5% of the requested HOME-ARP funds: **2 points**
- The sources of funds towards project development include an eligible contribution that is less than 1% of the requested HOME-ARP funds: **0 points.**
- NOTE: Percentage calculations of all eligible contributions will be calculated to the nearest tenth, rounding up if the number in the hundredth position is a 5, 6, 7, 8, or 9.

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](#)

CONTINUUM OF CARE INVOLVEMENT: - Up to 5 Points

The project application includes a letter from the lead authorizing official (Board Chair or Executive Director role) of the local Continuum of Care (“CoC”) in which the project is located that indicates the CoC’s awareness of the proposed project and describes the applicant’s involvement and collaboration in the work of the CoC.

PROJECTS LOCATED OUTSIDE OF A LOCAL PJ – 5 points

HUD has awarded HOME-ARP 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.

COUNTIES DESIGNATED AS DISTRESSED – 10 points Bonus

Tennessee Governor Bill Lee issued an executive order designating ten (10) Tennessee counties as distressed, including: Bledsoe, Clay, Cocke, Grundy, Hancock, Hardeman, Lake, Morgan, Perry and Scott. THDA will award 10 bonus points for applications with projects in the designated distressed counties.