HB-2

SAMPLE

HOME PROGRAM POLICIES AND PROCEDURES FOR

____

HOUSING DEVELOPMENT FOR HOMEOWNERSHIP

1. PURPOSE

This program will make available financial assistance to community housing development organizations (CHDOs) to develop affordable, single family units for sale to low income households. The financial assistance may be used for construction financing to develop new single-family units or to acquire and rehabilitate existing housing units.

2. AUTHORITY

The legal authority of this program comes from the working agreement with Tennessee Housing Development Agency, Public Law 101-625 (National Affordable Housing Act of 1990), as well as State and local laws.

3. PROGRAM RESOURCES

The source of funds for the undertaking of homeownership activities is a grant in the amount of $_________________ in CHDO set-aside funds which ____ has been awarded by the Tennessee Housing Development Agency (THDA), through the U.S. Department of Housing and Urban Development Home Investment Partnership Act.

4. APPLICABLE LAWS

A. The local governing bodies, contractors, subcontractors, vendors and applicants for rehabilitation assistance are required to abide by a number of State and Federal laws, and may be required to sign documents certifying their compliance.

1. Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128 and 24 CFR 92.358).

2. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)(42 U.S.C. 4201-4655), 49 CFR Part 24, and 24 CFR 92.353)

3. Debarment and Suspension provisions as required by 24 CFR Part 24 and 24 CFR 92.357.

4. National Environment Policy Act of 1969 (NEPA), 24 CFR Parts 50 and 58, and 24 CFR 92.352.

5. Equal Opportunity Provisions and Fair Housing, 24 CFR 92.350.

6. Affirmative Marketing, 24 CFR 92.351.

7. Lead-based Paint Poisoning Prevention Act, 24 CFR 92.355.

8. Conflict of Interest Provisions, 24 CFR 85.36 or 24 CFR 84.42, as applicable, and 24 CFR 92.356.

9. Davis-Bacon Act and Contract Work Hours and Safety Standards Act, and 24 CFR 92.354.

10. Intergovernmental Review of Federal Programs, Executive Order 12372 and 24 CFR 92.359.

11. Drug-Free Workplace, 24 CFR part 24, subpart F.

12. Standard Equal Opportunity Construction Contract Specifications.

13. Certification of Non-segregated Facilities for Contracts Over $10,000.

14. Title VI of Civil Rights Act of 1964 Provisions.

15. Section 109 of Housing and Community Development Act of 1974 Provisions.

16. Section 3 Compliance Provisions.

17. Age Discrimination Act of 1975 Provisions.

18. Section 504 Affirmative Action for Handicapped Provisions.

19. And any other Federal requirements as set forth in 24 CFR Part 92, HOME Investment Partnerships Program

5. DRUG-FREE WORKPLACE

A. The ____ (HOME Grantee) will or will continue to provide a drug-free workplace by:

1. Notifying employees in writing that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Grantee's workplace and specifying the action that will be taken against employees for violation of such prohibition.

2. Establishing an ongoing drug-free awareness program to inform employees about:

    a. The dangers of drug abuse in the workplace;

    b. The Grantee's policy of maintaining a drug-free workplace;

c. Any drug counseling, rehabilitation, and employee assistance programs; and

d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

C. Providing each employee engaged in the performance of the HOME contract a copy of the notification required in paragraph A(1) above;

D. The written notification required in paragraph A(1) above will advise the employee that as a condition of employment under the HOME grant, the employee will:

1. Abide by the terms of the notification; and

2. Notify the employees in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

E. Notifying the State in writing, within ten (10) calendar days after receiving notice under D(2) above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal Agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under D(2) above, with respect to any employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to an including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or the appropriate agency;

3. Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs A, B, C, D, E and F above.

6. CONFLICT OF INTEREST

A. No person listed in paragraph B may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

B. **PERSONS COVERED** – Immediate family members of any employee or board member of ____ non-profit agency is ineligible to receive benefits through the HOME program. “Immediate family member” means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister or brother (including a stepsister or stepbrother) of any covered individual.

In addition, the conflict of interest provisions as apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of THDA, or the non-profit agency (including CHDOs) receiving HOME funds, and who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME funds or who is in a position to participate in a decision-making process or gain inside information with regard to these activities.

C. **APPEARANCE OF A CONFLICT OF INTEREST -** Grantees must also make every effort to avoid the appearance of favoritism in the eligibility determination process. In those cases where the applicant is otherwise eligible, but there exists the appearance of a conflict of interest or the appearance of favoritism, the Grantee must complete HO-4A (Determination of a Conflict of Interest) and submit written documentation to THDA that the following procedures have been observed:

1. The Grantee must publish an announcement in the local newspaper concerning the potential for a conflict of interest and request citizen comments.

2. The Grantee's attorney must render an opinion as to whether or not a conflict of interest exists and that no state or local laws will be violated should the applicant receive HOME assistance.

3. The Grantee's elected body must pass a resolution approving the applicant.

7. AFFIRMATIVE MARKETING

A. _______________________________________ is committed to non-discrimination and equal opportunity in housing, and will seek to attract eligible homebuyers without regard to race, color, religion, sex, familial status, national origin, age or disability. In order to inform the public and potential homebuyers of available housing units, _________________________________will:

1. Make this information known through advertisements and announcements in the local media which include the Equal Opportunity logotype or slogan; and Contact lenders, community organizations, places of worship, employment centers, fair housing groups or housing counseling agencies to solicit applications from persons in the housing market area who are not likely to apply for housing without special outreach (e.g., racial minorities and female head of household).

8. ELIGIBLE HOUSING DEVELOPMENT ACTIVITIES

A. Eligible activities utilizing HOME CHDO set-aide funds for Homeownership Programs offered by ____________________________________ include:

1. *Construction financing* - HOME funds may be utilized as an up-front source of financing (without interest costs) to build affordable, new single family units for sale to low income households;

2. *Acquisition and rehabilitation* - HOME funds may be utilized to acquire existing units and to provide the necessary rehabilitation for resale to a low income household;

B. *Soft second mortgages* - At the time of permanent financing, the CHDO must leave up to $14,999 of HOME funds with the unit as a soft second mortgage as necessary to qualify the household for the permanent mortgage.

C. Before construction or acquisition/rehabilitation can begin under homeownership, there must be a homebuyer pre-approved for a permanent loan identified with a specific property. Speculative construction or acquisition is not permitted.

9. HOMEBUYER ELIGIBILITY REQUIREMENTS

A. The prospective purchaser must be low income, that is, have a gross annual household income that does not exceed 80% of the area median, adjusted for family size, as defined by the Section 8 income requirements.

B. The HOME program established the following timing for qualifying HOME-assisted homebuyers as income eligible:

1. In the case of a contract to purchase existing housing, the purchasing household must be low-income at the time of purchase;

2. In the case of a contract to purchase housing to be constructed, the purchasing household must be low-income as the time the construction contract is signed; and

3. In the case of a lease-purchase agreement for existing housing or housing to be constructed, the purchasing household must be low-income at the time the lease-purchase agreement is signed.

C. The homebuyer must obtain fee simple title to the property or a 99-year leasehold.

D The prospective homebuyer must occupy the property to be purchased has his/her principal residence.

E. All homebuyers must complete a minimum of 8 hours of homeownership education program from a THDA qualified homebuyer education trainer prior to purchase.

F. In underwriting the permanent mortgage, the new housing payment must not exceed 29% of gross monthly income. The total household debt, including the new housing payment, must not exceed 41% of the gross monthly income.

G. The homebuyer must make a contribution from <u>*his or her own funds*</u> equal to one percent (1%) of the purchase price of the property.

10. INCOME ELIGIBILITY

A. **ANNUAL INCOME (GROSS INCOME) -** The HOME program uses the income definitions of the Section 8 program to determine the annual income (gross income) used to classify a household for purposes of eligibility. Annual income means all amounts, monetary or not, which:

1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;

2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. In other words, it is the household's *future or expected* ability to pay rather than its past earnings that is used to determine program eligibility. If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a

redetermination at the end of the shorter period; and

3. Which are not specifically excluded in paragraph 6.8 (Income Exclusions) below.

4. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

5. MONTHLY GROSS INCOME - Monthly gross income is Annual Gross Income divided by 12 months.

B. **ASSETS -** In general terms, an asset is a cash or non-cash item that can be converted to cash. There is no asset limitation for participation in the HOME program. Income from assets is, however, recognized as part of Annual Gross Income. Assets have both a market value and a cash value.

1. MARKET VALUE - The market value of an asset is simply its dollar value on the open market. For example, a stock's market value is the price quoted on a stock exchange on a particular day, and a property's market value is the amount it would sell for on the open market. This may be determined by comparing the property with similar, recently sold properties.

2. CASH VALUE - The cash value of an asset is the market value less reasonable expenses required to convert the asset to cash, including:

   a. Penalties or fees for converting financial holdings. Any penalties, fees, or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value (e.g., penalties charged for premature withdrawal of a certificate of deposit, the transaction fee for converting mutual funds, or broker fees for converting stocks to cash); and/or

   b. Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property, and any legal fees associated with the sale of real property are deducted from the market value to determine equity in the real estate.

   c. Under Section 8 rules, only the cash value (rather than market value) of an item is counted as an asset.

C. **INCOME FROM ASSETS -** The income counted is the actual income generated by the asset (e.g., interest on a savings or checking account.) The income is counted even if the household elects not to receive it. For example, although a household may elect to reinvest the interest of dividends from an asset, the interest or dividends is still counted as income.

1. The income from assets included in Annual Gross Income is the income that is anticipated to be received during the coming 12 months.

   a. To obtain the anticipated interest on a savings account, the current account balance can be multiplied by the current interest rate applicable to the account; or

   b. If the value of the account is not anticipated to change in the near future and interest rates have been stable, a copy of the IRS 1099 form showing past interest earned can be used.

   c. Checking account balances (as well as savings account balances) are considered an asset. This is a recognition that some households keep assets in their checking accounts, and is not intended to count monthly income as an asset. Grantees should use the average monthly balance over a 6-month period as the cash value of the checking account.

2. When an Asset Produces Little or No Income:

   a. If the family's assets are $5,000 or less, actual income from assets (e.g., interest on a checking account) is not counted as annual income. For example, if a family has $600 in a non-interest bearing checking account, no actual income would be counted because the family has no actual income from assets and the total amount of all assets is less than $5,000.

   b. If the family's assets are greater than $5,000, income from assets is computed as the greater of:

      i. actual income from assets, or

      ii. imputed income from assets based on a passbook rate applied to the cash value of all assets. For example, if a family has $3,000 in a non-interest bearing checking account and $5,500 in an interest-bearing savings account, the two amounts are added together. Use the standard passbook rate to determine the annual income from assets for this family.

3. Applicants who dispose of assets for less than fair market value (i.e., value on the open market in an "arm's length" transaction) have, in essence, voluntarily reduced their ability to afford housing. Section 8 rules require, therefore, that any asset disposed of for less than fair market value during the 2 years preceding the income determination be counted as if the household still owned the asset.

   a. The value to be included as an asset is the difference between the cash value of the asset and the amount that was actually received (if any) in the disposition of the asset (less any fees associated with disposal of property, such as a brokerage fee).

   b. Each applicant must certify whether an asset has been disposed of for less than fair market value. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce or separation is not included in this calculation.

   c. These procedures are followed to eliminate the need for an assets limitation and to penalize people who give away assets for the purpose of receiving assistance or paying a lower rent.

D. **ASSETS INCLUDE:**

1. Amounts in savings accounts and six month average balance for checking accounts.

2. Stocks, bonds, savings certificates, money market funds and other investment accounts.

3. Equity in real property or other capital investments. Equity if the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

4. The cash value of trusts that are available to the household.

5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would

result in penalty.

6. Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.

7. Assets which, although owned by more than one person, allow unrestricted access by the applicant.

8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.

9. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.

10. Cash value of life insurance policies.

11. Assets disposed of for less than fair market value during two years preceding certification or recertification.

E. **ASSETS DO NOT INCLUDE:**

1. Necessary personal property, except as noted under paragraph 6.5(9) (Assets Include) above

2. Interest in Indian Trust lands

3. Assets that are part of an active business or farming operation.

   NOTE: Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant/tenant's main occupation.

4. Assets not accessible to the family and which provide no income to the family.

5. Vehicles especially equipped for the handicapped.

6. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

F. **INCOME INCLUSIONS -** The following are used to determine the annual income (gross income) of an applicant's household for purposes of eligibility:

1. The full amount, before any payroll deductions, of wages and salaries, over-time pay, commissions, fees, tips and bonuses, and other compensation for personal services;

2. The net income for operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in

paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the family has net family assets in excess of $5,000, Annual Income shall include the greater of the actual income derived from net family assets or a percentage of the value of such Assets based on the current passbook saving rate, as determined by HUD.

4. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except Supplemental Security Income (SSI) or Social Security).

5. Payments in lieu of earnings, such as unemployment, worker's compensation and severance pay (but see paragraph (3) under Income Exclusions).

6. Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

    a. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

    b. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

8. All regular pay, special pay and allowances of a member of the Armed Forces. (See paragraph (8) under Income Exclusions).

G. **INCOME EXCLUSIONS -** The following are excluded from a household's income for purposes of determining eligibility:

1. Income from employment of children (including foster children) under the age of 18 years;

2. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family), who are unable to live alone;

3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except for payments in lieu of earnings – see paragraph (5) of Income Inclusions).

4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

5. Income of a live-in aide;

6. Certain increases in income of a disabled member of the family residing in HOME assisted housing or receiving HOME tenant-based rental assistance (see 6.12 (7) under Determining

Whose Income to Count).

7. The full amount of student financial assistance paid directly to the student or to the educational institution;

8. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

9. a. Amounts received under training programs funded by HUD;

   b. Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

   c. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care etc.) which are made solely to allow participation in a specific program;

   d. Amount received under a resident's service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner or manager on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination and serving as a member of the governing board. No resident may receive more than one such stipend during the same period of time.

   e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded must be received under employment training programs with clearly defined goals and objectives, are excluded only for the period during which the family member participates in the employment training program.

10. Temporary, nonrecurring or sporadic income (including gifts);

11. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

12. Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

13. Adoption assistance payments in excess of $480 per adopted child;

14. For public housing only, the earnings and benefits to any family member resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937 Act, or any comparable federal, state or local law during the exclusion period.

15. Deferred periodic amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.

16. Amounts received by the family in the form of refunds or rebates under state or local law from property taxes paid on the dwelling unit.

17. Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.

18. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions apply.

    a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;

    b. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through VISTA; Retired Senior Volunteer Program, Foster Grandparents Program, youthful offenders incarceration alternatives, senior companions);

    c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));

    d. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 259e);

    e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

    f. Payments received under programs funded in whole or in part under the Job Training Partnership Act;

    g. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;

    h. The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117)

    i. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

    j. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).

    k. Any earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;

    l. Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other funds established pursuant to the settlement in the In Re Agent Orange product liability litigation MDL No. 381 (E.D.N.Y.)

    m. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

    n. Payments received under the Maine Indian Claims Settlement Act of 1980.

H. **TIMING OF INCOME CERTIFICATIONS -** All households that receive HOME assistance must be income eligible. At a minimum, income certification must be completed before assistance begins. A preliminary determination of eligibility may be made much earlier in the process.

1. Application processing is labor intensive. Early screening for income eligibility can eliminate excessive work in processing an ineligible applicant.

2. Establishing a deadline for formal eligibility determinations is a challenging part of the planning process. Generally, the HOME Program permits verification dated no earlier than 6 months prior to eligibility.

3. The Grantee must calculate the annual income of the household by projecting the prevailing rate of income of the family at the time the Grantee determines that the family is income eligible. The eligibility of a household must be re-verified if more than six months elapses between the date the Grantee determines that a household is income-eligible and the date HOME assistance is provided.

   a. For homeownership programs, the income eligibility of the families is timed as follows:

      i. In the case of a contract to purchase existing housing, it is the date of the purchase;

      ii. In the case of a lease-purchase agreement for existing housing or for housing to be constructed, it is the date the lease-purchase agreement is signed; and

      iii. In the case of a contract to purchase housing to be constructed, it is the date the contract is signed.

J. **INCOME VERIFICATION -** – Grantees must examine at least two months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement). Grantees must verify and retain documentation of all information collected to determine a household's income. Under the Section 8 Program, there are three forms of verification which are acceptable: third-party, review of documents, and applicant certification.

1. THIRD-PARTY VERIFICATION - Under this form of verification, a third party (e.g., employer, Social Security Administration, or public assistance agency) is contacted to provide information. Although written requests and responses are generally preferred, conversations with a third party are acceptable if documented through a memorandum to the file that notes the contact person and date of the call.

   a. To conduct third party verifications, a Grantee must obtain a written release from the household that authorizes the third party to release required information.

   b. Third-party verifications are helpful because they provide independent verification of information and permit Grantees to determine if any changes to current circumstances are anticipated. Some third-party providers may, however, be unwilling or unable to provide the needed information in a timely manner.

2. REVIEW OF DOCUMENTS - Documents provided by the applicant (such as pay stubs, IRS returns, etc.) may be most appropriate for certain types of income and can be used as an alternative to third-party verifications. Copies of documents should be retained in project files.

   Grantees should be aware that although easier to obtain than third-party verifications, a review of documents often does not provide needed information. For instance, a pay stub may not provide sufficient information about average number of hours worked, overtime, tips and bonuses.

K. CALCULATION METHODOLOGIES - Grantees must calculate the annual income of the family by projecting the prevailing rate of income of the family at the time the family was determined to be eligible. Grantees must establish methodologies that treat all households consistently and avoid confusion.

1. It is important to understand the basis on which applicants are paid (hourly, weekly or monthly, and with or without overtime). An applicant who is paid "twice a month" may actually be paid either twice a month (24 times a year) or every two weeks (26 times a year).

2. It is important to clarify whether overtime is sporadic or a predictable component of an applicant's income.

3. Annual salaries are counted as Annual Income regardless of the payment method. For instance a teacher receives an annual salary whether paid on a 9- or 12-month period.

K. **DETERMINING WHOSE INCOME TO COUNT -** Knowing whose income to count is as important as knowing which income to count. Under the Section 8 definition of income, the following income *is not counted*:

1. INCOME OF LIVE-IN AIDES - If a household includes a paid live-in aide (whether paid by the family or a social service program), the income of the live-in aide, regardless of its source, is not counted. (Except under unusual circumstances, a related person can never be considered a live-in aide);

2. INCOME ATTRIBUTABLE TO THE CARE OF FOSTER CHILDREN - Foster children are not counted as family members when determining family size to comparewith the Income Limits. Thus, the income a household receives for the care of foster children is not included; and

3. EARNED INCOME OF MINORS - Earned income of minors (age 18 and under) is not counted. However, unearned income attributable to a minor (e.g., child support, AFDC payments, and other benefits paid on behalf of a minor) is counted.

4 TEMPORARILY ABSENT FAMILY MEMBERS - The income of temporarily absent family members is counted in Annual Income - regardless of the amount the absent family member contributes to the household. For example, a construction worker earns $600/week at a temporary job on the other side of the state. He keeps $200/week for expenses and sends $400/week home to his family. The entire $600/week is counted in the family's income;

5. ADULT STUDENTS LIVING AWAY FROM HOME - If the adult student is counted as a member of the household in determining the Income Limit used for eligibility of the family, the student's income must be counted in the family's income. Note, however, that the $480 limit does not apply to a student who is head of household or spouse (their full income must be counted); and

6. PERMANENTLY ABSENT FAMILY MEMBER - If a family member is permanently absent from the household (e.g., a spouse who is in a nursing home), the head of household has the choice of either counting that person as a member of the household, and including

income attributable to that person as household income, or specifying that the person is no longer a member of the household.

10. PROPERTY ELIGIBILITY REQUIREMENTS

A. The housing must be single-family housing (1-4 family dwelling, condominium or combination of a manufactured home and lot).

B. The house to be purchased must comply with Environmental Review Requirements, including floodplain activities.

C. The housing must be modest. The sales price of the HOME-assisted property to be acquired by a homebuyer may not have a value that exceeds the sales price limits for ________________ County. The sales price limits are posted at www.thda.org under the Community Programs tab. THDA reserves the right to periodically update these limits as they are updated by HUD and will publish current limits on the THDA website.

D. The housing must meet certain written standards:

1. REHABILITATION AND NEW CONSTRUCTION – Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code, HOME assisted new construction must meet the current State-approved edition of International Residential Code for One- and Two-Family Dwellings, and rehabilitation of existing units must meet the current, State-approved edition of the International Existing Building Code. In addition, HOME funded units must also conform to the THDA Design Standards for New Construction and Rehabilitation of Single-Family and Multi-Family Attached Housing Units. New construction projects must also meet the 2006 International Energy Conservation Code, published by the International Code Council.

2. LEAD-BASED PAINT – For housing development under an acquisition and rehabilitation and resale type of homeownership program, the CHDO must comply with Subpart J of the Residential Lead-based paint Hazard Reduction Act of 1992 (24 CFR 35) for the rehabilitation of the dwelling unit.

3. Acquisition of pre-1978 housing by a prospective homebuyer is covered by Subpart K of the Residential Lead-based paint Hazard Reduction Act of 1992. The intent of Subpart K is to eliminate as far as practicable lead-based paint hazards in a residential property that receives federal assistance under certain HUD programs for acquisition, leasing, support services, or operation.

   a. ____ must provide a disclosure form to the prospective buyer noting any known presence of lead-based paint.

   b. ____ shall provide the lead hazard information pamphlet (LBP-1) to the homebuyer.

   c. ____ shall conduct the following activities for the dwelling unit and all common areas servicing the dwelling unit and the exterior surfaces of the building in which the dwelling unit is located:

i. A visual assessment of all painted surfaces in order to identify deteriorated paint;

ii. Paint stabilization of each deteriorated paint surface, including removal of loose paint and application of new paint;

iii. The use of safe work practices by a qualified worker; and

iv. Clearance testing by a certified lead-paint inspector or risk assessor.

d. A copy of the Lead Hazard Clearance Report must be provided to the prospective homebuyer within 15 days of completion of the reduction.

F. All codes and standards must be met at the time of occupancy.

11. PERMANENT MORTGAGE REQUIREMENTS

A. The permanent mortgage must have an interest rate that does not exceed the interest rate of a THDA Great Choice loan by more than one (1%) percentage point. Current THDA mortgage rates can be found at www.tennessee.gov/thda.

B. The permanent mortgage must have a fixed interest rate fully amortizing over the term of the loan. There can be no prepayment penalty.

C. In underwriting the permanent mortgage, the new housing payment must not exceed 29% of gross monthly income, and total household debt, including the new housing payment, must not exceed 41% of the gross monthly income. THDA-funded homebuyers are eligible for a subsidy limited to the amount needed to make the unit affordable. If a homebuyer has liquid assets which exceed the allowable Total Cash Value of $20,000 the homebuyer is required to 10% of the purchase price.

Liquid Assets include:

- Cash;
- Savings accounts;
- Checking accounts;
- Any other bank accounts;

Example 1: Mary requests THDA funds to assists in the purchase of a home which has an appraised value of $90,000. She qualifies for a mortgage in the amount of $75,000. Mary has $25,000 in liquid assets and, therefore, must apply $9,000 (10% of the purchase price) toward the purchase of her home and she can receive $6,000 in a secondary HOME mortgage assistance plus closing costs.

E. Underwriting to determine the amount of eligible assistance must be determined using the THDA Single Family underwriting template provided as Attachment HB-10 and posted at www.thda.org under the Community Programs tab

F. Total closing costs and prepaid items cannot exceed 6% of the purchase price of the home.

12. SOFT SECOND MORTGAGE

A. ____ will provide assistance to an income eligible homebuyer in the form of a soft second mortgage. The soft second mortgage is limited to an amount equal to the *lesser of $14,999* in HOME funds or the amount of HOME funds necessary to qualify the homebuyer household for the permanent loan. The soft second mortgages must be a minimum of $1,000 and up to a maximum of $14,999.

1. The soft second mortgage has an affordability period of five (5) years, and will be forgiven at the end of five (5) years as long as the homebuyer continues to reside in the unit as his/her principal residence.

2. The homebuyer will be required to execute a Grant Note and a Deed of Trust to secure the terms of the HOME affordability period which will be recorded as a lien against the property as part of the closing. The following recapture requirements are specified in the Note and Deed of Trust:

   a. Repayment of *the entire amount*. If the unit does not remain in compliance for the affordability period, i.e., the unit is leased or does not remain the principal residence of the homebuyer, then the *entire amount of direct subsidy must be repaid*. Proration does not apply.

   b. *Reduction during affordability period when the unit is sold*. _____________________________________ may reduce the amount of HOME subsidy to be recaptured on a prorated basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.

   c. *Shared net proceeds when the unit is sold.* If the net proceeds are not sufficient to recapture the full HOME investment (or the reduced amount under paragraph 2-b above) plus enable the homeowner to recover the amount of the homeowner's downpayment and any capital investment made by the owner since purchase,__________________________ may share the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and closing costs. The net proceeds may be shared according the following formula:

   $$\frac{\text{HOME Subsidy}}{\text{HOME Subsidy + Homeowner Investment}} \times \text{Net Proceeds} = \text{HOME Recapture Amount}$$

   $$\frac{\text{Homeowner Investment}}{\text{HOME Subsidy + Homeowner Investment}} \times \text{Net Proceeds} = \text{Homeowner Repayment}$$

4. The net proceeds may be divided proportionately as set forth in the steps:

   a. *Application of Forgiveness Feature*. Once the net proceeds are determined from the sale of the property, the Grantee may reduce the amount due based on the length of time the homebuyer has occupied the home in relation to the affordability period. Soft second mortgages up to $14,999 have a five year affordability period and a forgiveness feature of 20% per year.

   b. *Amount subject to recapture*. The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy).

c. After the full HOME investment has been repaid, any excess profits will belong to the homeowner.

B. Before committing HOME funds, ____ will evaluate a proposal to insure that the homebuyer does not receive any more HOME funds, in combination with other governmental funds, than necessary to provide affordable housing.

13. SUBORDINATION POLICY

A. Refinancing the first mortgage at any time during the five year affordability period will require repayment of the full HOME investment.