

# HOME INVESTMENT PARTNERSHIPS PROGRAM



## COUNTY OF MORRIS HOME TECHNICAL GUIDE

2017

*Department of Human Services, Division of Community & Behavioral  
Services, Office of Community Development, P.O. Box 900, Morristown, NJ  
07963-0900*

# HOME INVESTMENT PARTNERSHIPS PROGRAM

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# HOME INVESTMENT PARTNERSHIPS PROGRAM

## A letter from the Director of Community Development Programs-Timothy J. Tansey

It is my great pleasure to present to you this HOME Program Manual. Our Office of Community Development is fortunate to have the members of the Morris County Community Development Revenue Sharing (CDRS) Committee, whom are dedicated individuals with years of experience and countless hours in reviewing all of our applications and presentations. They have been hard at work for years and the fruit of their labor is seen across all facets in our communities across Morris County.

The HOME Investment Partnerships Loans from HUD allows the communities in Morris County to bring to the constituents' different programs, such as, new homes for the low-income individuals, rehabilitated homes and group homes for the disabled and incapacitated. All the programs funded by HOME are geared toward positive changes to the physical, economical, and social conditions of our County.

The HOME program partners with non-profit organizations, as well as community based organizations to bring quality improvements to our communities in Morris County. Our goal at the Office of Community Development is to build stronger communities in our county and to provide decent, clean, suitable living conditions and affordable housing to our low and moderate-income community members and at the same time expanding economic opportunities. Our HOME recipients must follow many HUD rules and regulations that will be further explained in this Manual.

For this reason, I invite you to carefully read this Manual that will allow you to learn about every aspect of the HOME-HUD process. We keep the communities abreast of our accomplishments, application process, and annual reports, and legal notices on our website at [www.MorrisHumanServices.org/community](http://www.MorrisHumanServices.org/community). Should you have further questions, please do not hesitate to contact me at 973-285-6033 or of our Community Development staff. We will be happy to help you with any questions or concerns you may have.

Sincerely,

Timothy J. Tansey

Technical Guide Prepared by Darsi D. Beauchamp, Ph.D.  
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# HOME INVESTMENT PARTNERSHIPS PROGRAM

## **What is the HOME Investment Partnership Program?**

### HOME

Created by the National Affordable Housing Act of 1990 (NAHA). This in comparison with our other grants, is the largest Federal block grant used to create affordable housing. HOME is designed to provide affordable housing to low-income and very low income families and individuals. There are key restrictions that are designed to foster HUD's commitment to long-term affordable housing, the quality of the units and the reasonableness of the cost of the units. This manual is reflective of the 2013 HOME Final Rule of July 24, 2013 as amended (before this Final Rule, HOME had not been amended in 17 years). Therefore, many changes have occurred in the regulations and are detailed in a concise fashion below.

### PROGRAM INTENT AND OBJECTIVES

- Increase the supply of decent, safe, sanitary, and affordable housing to very low, low income households;
- Increase the capacity of non-profit housing subrecipients that provide housing;
- Allow the local governments to assist with funding to help provide housing for low income families;
- Leverage private sector participation.

### HOME PROGRAM PARTNERS IN MORRIS COUNTY

#### **PJ**

The County of Morris is considered a PJ (Partner Jurisdiction) to administer the direct allocation of HUD HOME funds and program.

#### **COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS**

Another partner in the process are Community Housing Development Organizations (from herein CHDO's). A CHDO is a non-profit that meets a series of qualifications as prescribed in the HOME regulations. Each year, the County of Morris must set aside a minimum of 15 percent of the annual HOME funds for housing that is owned, developed or sponsored by a CHDO. In order to become a CHDO, a non-profit must meet very strict guidelines and qualifications. A CHDO is a developer and not a subrecipient. Although the possibility of a CHDO being a subrecipient exists, the 15 percent of annual budget allocation does not count for when a CHDO is a subrecipient.

#### **SUBRECIPIENTS**

This is a public agency or non-profit organization chosen to administer HOME funds.

#### **DEVELOPERS and OWNERS and SPONSORS and PRIVATE LENDERS**

These agencies may be for-profit or non-profit entities.

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A **Developer** is responsible for putting together the housing deal from beginning to end and bid out the work for the construction to commence. Oversees the construction throughout the entire program.

The **Owner**, which can very well be also the developer, hold the title to the property after the rehabilitation, construction or acquisition occurs.

A **Sponsor** is an entity that works together with the non-profits to assist in the development of the housing and at the end, turn over the title to the non-profit.

A **Private Lender** is an entity that provides project leverage or financing to make the development possible.

## PROGRAM ELIGIBLE ACTIVITIES

All of the 39 municipalities in Morris County, participate in the HOME grant program. Non-profit agencies that serve individuals in those 39 municipalities are also eligible to apply for funding. Non-profit agencies must demonstrate certification as a 501(c) (3) designation from the IRS at the time of application. Many diverse projects may be eligible for funding, as long as the program meets the Program Intent and Objectives and conform to all necessary documentation as required by HUD.

HOME funds may be used for activities which include, but are not limited to:

- Homeowner Rehabilitation
- Homebuyer Activities-new construction
- Rental Housing
- Tenant-based rental assistance (TBRA)
- New Construction-to rent or purchase
- Rehabilitation-alter, improve, modify
- Reconstruction-rebuilding an existing structure such as a foundation
- Conversion-converting an existing structure-same as rehabilitation
- Site Improvements-repair of infrastructure or off-site utility connections
- Acquisition of Property
- Acquisition of vacant land
- Demolition
- Relocation costs for HOME assisted properties under the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 or "URA."
- Project Related soft costs-architectural, engineering and professional services and affirmative marketing

## PROHIBITED ACTIVITIES AND COSTS

- Project reserve accounts
- Tenant-based rental assistance for certain purposes-Section 8 rent subsidies for troubled HUD-insured projects
- Match for other Federal Programs

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- Development, operations, or modernization of public housing- Provide assistance authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds);
- Properties receiving assistance under prepayment of low-income housing mortgages
- Double dipping-During the first year after project completion, the County of Morris may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a HOME assisted project during the relevant period of affordability (exceptions exist).
- Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in 24 CFR 248.101
- Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or (County of Morris does not participate in this capacity).
- Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.

## INCOME ELIGIBILITY AND VERIFICATION

All beneficiaries of the HOME funds, whether homebuyers, tenants must be low or very low income. According to HUD, “low income is defined as an annual income that does not exceed 80 percent of area median income, as adjusted by household size. Very low income is defined as having an annual income that does not exceed 50 percent of area median income, as adjusted by household size.” A household’s income is determined based on the adult household members’ annual income. As per HUD, “the annual income is the gross amount of income anticipated by all adults in the household during the 12 months following the effective date of the determination.” The County of Morris Office of Community Development uses the IRS adjusted gross income to calculate income for determinations. All income must be verified by the developer and CHDO and all necessary documents must be submitted to Morris County Office of Community Development.

In the administration of the program, 90% of rental units must be occupied by persons at 60% of the median income. For rentals the PHA must do a utility comparison study or historical use of utilities at a site or use the HUD Utility calculator to calculate rates for utility allowances. NOTE: The allowances now vary by unit size and/or type. (This is inclusive of TBRA rents as well).

# HOME INVESTMENT PARTNERSHIPS PROGRAM

## APPLICATION PROCESS

### WHAT IS THE MORRIS COUNTY COMMUNITY DEVELOPMENT REVENUE SHARING COMMITTEE (CDRS)?

The Mayor and governing body of each municipality is requested to provide the committee with names and addresses of two representatives (one by Mayor and an alternate appointed by the Mayor and one by governing body) following the annual organizational meeting. Each municipality has two representatives, but can appoint an alternate appointing official (by Mayor). The Committee is headed by a chairperson and a note taker is also elected among the subcommittee members. The Committee is sub-divided into four standing subcommittees, such as *Public Services, Public Improvements, Public Facilities, and Housing*.

Each subcommittee is charged with reviewing applications for projects that fit within their responsibility. A county staff member serves as a facilitator; but because there is a chairperson chosen by the subcommittee members, the facilitator is always available to answer any questions any applicants and participants may have, but cannot be involved in the review of proposed activities, cannot ask questions, and cannot make any recommendations for funding.

The Morris County Community Development Revenue Sharing Committee is bound by written policy and procedures called "Ground Rules" and "By-Laws." The "Ground Rules" are the step by step procedures on how to review the applications that are provided to the committee and for choosing the activities that are recommended for funding. In addition, the staff provides a list of review questions for the subcommittee members to use when reviewing each application before the applicants present their project to the committee. Further, a rubric-scoring tool is used to evaluate the program proposals whereby maximum score for each category is explained. A list of abbreviations are also provided to help the subcommittee members better navigate the HUD program acronyms.

After the presentations, the Regional Coordinators meet to recommend a funding plan for approval by the full CDRS Committee. The County then advertises and holds a Public Hearing attended by the full CDRS at which time the full committee is asked for approval of the recommended activities. The full committee recommendations are forwarded to the Board of Chosen Freeholders for their approval. The Action Plan is then forwarded to HUD for final approval and funding for the grant cycle. Please note that the Office of Community Development does an initial review of the proposed activities for eligibility and to determine that each one meets a national objective and that the information contained therein is complete, otherwise, the application does not move forward to the subcommittee level.

### ELIGIBILITY PROCESS APPLICATION

- Must submit a completed application with all related documentation-see below
- Must fulfill one of the HOME Activity Objectives
- Must service people in the County in order to apply



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- Non-Profit agencies serving individuals residing in the 39 municipalities are also eligible to apply for funding. Non-Profit agencies must possess a 501(c) (3) designation from the IRS at the time of application.
- Must have Mayor's signature and public hearing certification for the jurisdiction where the housing is to be located.

The County of Morris-Office of Community Development, will provide assistance to non-profit and for profit developers.

## HOW TO APPLY?

- Complete application with fulfillment of the HOME application checklist items documentation and information as requested.
- Send in application by the deadline and no later.
- You can receive an application by calling, emailing, or visiting us and by acquiring it at: <http://morriscountynj.gov/hs/community/>
- A complete budget should detail the purpose for which HOME funds will be expended. NOTE: If you are adding professional services under HOME, then an RFP or an RFQ must be done. If the subrecipient is paying for the professional services with other funds, then an RFP or RFQ is not necessary. (Not applicable to TBRA)
- Materials can be purchased from a consortium approved by the state, but not labor.
- All cost estimates should be derived from professional sources, and submitted with the application as an attachment. Cost estimates may be derived from architects, engineers, vendors, construction companies or appropriate personnel trained in cost estimation. Applicants must follow all Federal guidelines (inclusive of Federal procurement guidelines) and state contracting laws.
- Non-profit applications must include their certification of 501(c) (3) status, a copy of their annual 990, and a listing of the members of their Board of Directors or equivalent.
- HUD maps narrative, detailing area where project will be taken place with detailed narrative as to how very low, low and moderate-income people will be serviced with percentages and numbers of those who will be serviced.
- Your DUNS, FEIN and SAM's numbers must be listed on the application. These federal numbers are required for us to comply with federal reporting on a monthly, bi-annually, and annual basis.
- The application MUST include the following documents:
  - Sources and uses of funds statement for project
  - Must include Subsidy Layering Home Analysis
  - Market demand analysis and study
  - Budget with long term needs:
    - Development budget
    - Operating budget

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- Pro-Forma (**operating expenses for over 15 years**)
- Expenses
- **\*\*Projected rents and utilities<sup>1</sup>** - the Fair Market Rent (FMR) is adjusted by tenant paid utilities.
- Written financial commitments
- Resumes and qualifications of developers
- Resumes and qualifications of cost estimators
- Mortgages, grants, subordination agreements, investments tax credits
- Financial capacity information of developer
- Partnerships agreements if applicable showing cash contributions of partners
- Construction cost estimates and contracts and preliminary bids
- Appraisal
- Environmental Review Record
- Affirmative Fair Housing Marketing Plan
- Commitment letters of match funds with terms and conditions
- Sources of funding-i.e. tax credit, banks, equity, grants
- For 12 units or more All Davis-Bacon Labor Standards must be adhered to for projects in excess of \$2,000 or more with evidence of Federal wages and certified payrolls

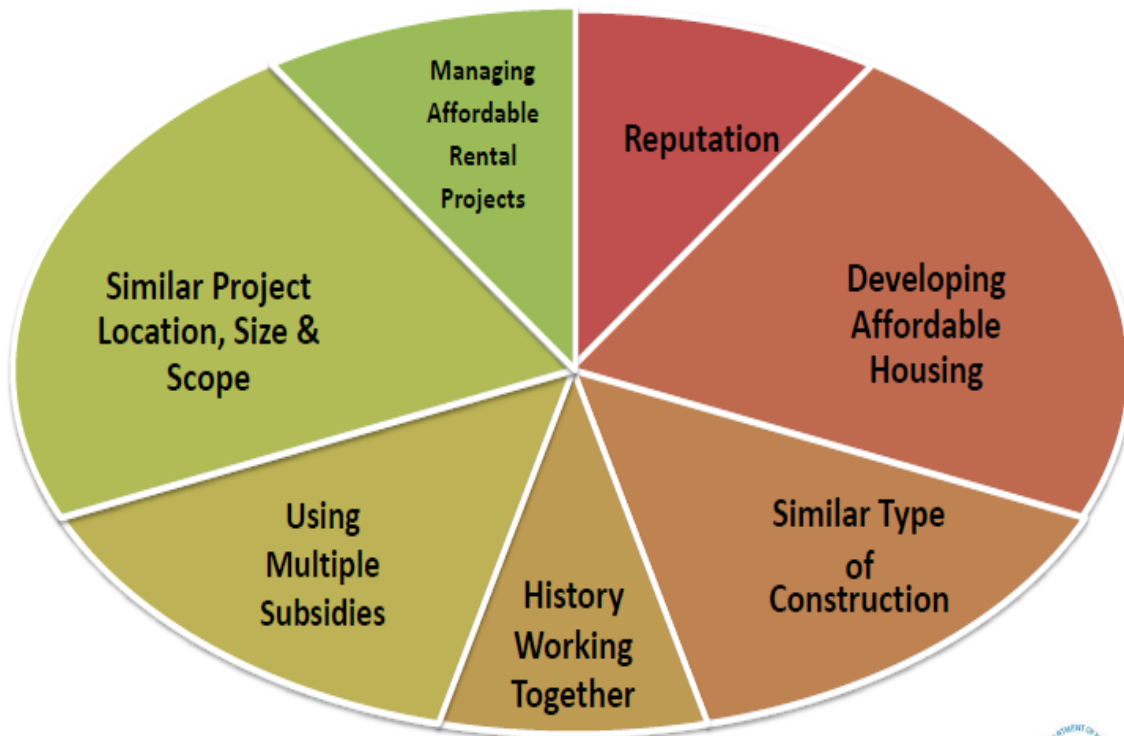
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<sup>1</sup> \*\* Gross rent is the sum of the rent paid to the owner plus, if the tenant pays separately for utilities, the monthly allowance for utilities established by the public housing authority for the area in which the housing is located. For purposes of calculating the FMR, utilities include electricity, gas, water and sewer, and trash removal services but not cable or satellite television service, or internet service. If the owner pays for all utilities, then gross rent equals the rent paid to the owner. The rent must be reasonable when compared to other units of similar location, type, size, and amenities within the community. The PHA must do a utility comparison study or historical use of utilities at a site or use the HUD Utility calculator to calculate rates for utility allowances. NOTE: The allowances now vary by unit size and/or type. (This is inclusive of TBRA rents as well).

# HOME INVESTMENT PARTNERSHIPS PROGRAM

WHAT WE CONSIDER:

- ***Experience -- consider:***

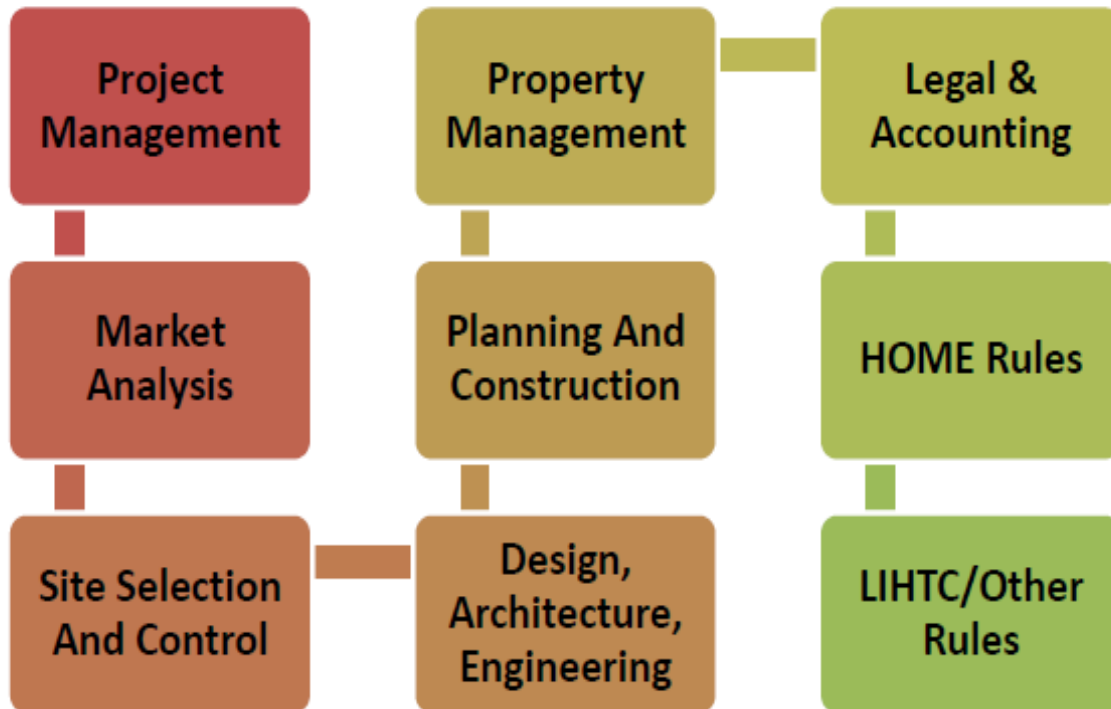


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- ***Skills -- consider:***



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## ELIGIBLE COSTS INCLUDE:

- Hard costs-all underwriting costs must be reasonable
- Soft costs-professional services-contracts must all be reasonable
- Marketing costs
- All associated costs, inclusive of: construction loan interest, developer fees<sup>2</sup>, real estate fees, insurance, loan fees, building permits, relocation and commercial fees
- All operating expenses
- Costs of comparable project in Morris County

<sup>2</sup> A developer is allowed to count 8% of their total cost of project as a developer fee.

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- Minimum property standards must be adhered to and performed by quality professional
- All newly constructed units must meet the Model Energy Code
- Must meet all applicable state and local housing quality standards and code requirements
- Must meet all Manufactured safety standards
- All housing for homeownership that will be rehabilitated after transfer of ownership must meet the following before the transfer can occur:
  - All housing must be inspected for any defects that pose a danger to health
  - Prospective purchasers must be notified in writing of any work that must be done to cure any defects and the time it took to cure the defects and that all property standards were met
  - The housing must be free of all health and safety defects before occupancy and no later than 6 months after the transfer occurs
- All property standards of the Act must be met no later than 2 years after transfer of ownership
- All HOME rentals must meet the HOME maximum rental limits
- The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- The County of Morris will assure to employ a third party to conduct all inspections to assure property standards are being met and to inspect all major housing systems for repair or replacement.
- A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

## APPLICATION REVIEW

### MATCHING

- There are matching requirements that are mandated with this grant. All matching commitment letters demonstrating the terms and conditions for the matchings funds of 25% **must** be submitted with the application. See 24 CFR 92.218, 219, 220, 221, and 222. The percent (percentage-%) of the match used must be provided with each voucher.

The HOME matching requirements do not apply to:

- HOME administrative funds (24 CFR 92.207)
- CHDO operating expenses (24 CFR 92.208)
- CHDO capacity building funds (24 CFR 92.208)

To be counted as a match, a contribution must be made to housing that qualifies as affordable under Section 215 of NAHA. Such housing may be either:

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- A) housing that is assisted with HOME funds; or
- B) housing that is not HOME-assisted but meets the HOME affordability requirements (hereafter referred to as HOME match-eligible housing).

## **Eligible forms of match are:**

### **A. Cash Contributions**

Cash contributions must be made from nonfederal sources and be **permanently** contributed to the HOME project or to the HOME match-eligible housing. Cash contributions may include donations made by individuals (except for owners or developers or prospective owners or developers of HOME projects), private entities, the PJ or other public entities for the express purpose of providing affordable housing.

#### **Cash contributions may include, but are not limited to:**

- State appropriations
- State or local general revenues
- Housing trust funds
- Foundation grants and private donations
- Housing finance agency reserves that are not federal funds
- Program income from a Housing Development Action Grant (HODAG) or Urban Development Action Grant (UDAG) after grant closeout
- Program income from Rental Rehabilitation Program (RRP) grants after program closeout (i.e., closeout of all program year grants)
- Below-market interest rate loans from private lending institutions

#### **Non-Cash Contributions may include, but are not limited to:**

- Forgone taxes, fees and charges
- Donated Land or Other Real Property
- On-site and Off-site infrastructure
- Proceeds from affordable housing bonds
- Donated Site preparation and construction materials
- Donated use of site preparation and construction equipment
- Donated or voluntary labor and professional services
- Sweat equity
- Supportive services provided to families residing in HOME assisted units during affordability period
- Homebuyer counseling services

#### **The following are not eligible match contributions:**

- Contributions made with or derived from federal resources or funds, regardless of when the federal resources or funds were received or expended.
- The HOME statute prohibits the use of CDBG funds for HOME match.

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- The interest rate subsidy attributable to the federal tax-exemption on financing (e.g., bonds issued by States or local governments) or the value attributable to federal tax credits (e.g., Low Income Housing Tax Credits).
- Owner equity or investment in the project, except for sweat equity. This is not a permanent contribution to the affordable housing project, but rather value contributed by and accruing to the owner.
- Cash or other forms of contributions from applicants for or recipient of HOME assistance or contracts, or investors who own, are working on, or are proposing to apply for, assistance under the HOME Program. (This provision does not prohibit contractors who do not own any HOME project from contributing professional services in accordance with 92.220(a)(8) or prohibit persons from contributing sweat equity in accordance with 92.220(a)(9).)
- A PJ's cost of administering HOME-assisted or HOME match-eligible affordable housing projects or rental assistance.
- Contributions counted as a matching contribution toward any other federally-funded program may not also be counted as a matching contribution for the HOME Program.

## WHAT IS A CHDO?

A CHDO is a specific type of nonprofit organization as defined in Sect. 92.2 of the HOME final rule, 24 CFR part 92, published in the Federal Register on September 16, 1996. The CHDO must meet the following guidelines:

- (1) Is organized under State or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:
  - (i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
  - (ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members; and
  - (iii) The community housing development organization must be free to contract for goods and services from vendors of its own choosing;
- (4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c) (3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c) (3)-1);
- (5) Does not include a public body (including the participating jurisdiction). An organization that is State or locally chartered may qualify as a community housing development organization; however, the State or local government may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of the participating jurisdiction or State recipient. Board members appointed by the State or local government may not appoint the remaining two-thirds of the board members;
- (6) Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems;"

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- (7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
- (8) Maintains accountability to low-income community residents by:
- (i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, County of Morris, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
  - (ii) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
- (9) Has a demonstrated capacity for carrying out activities assisted with HOME funds. An organization may satisfy this requirement by hiring experienced key staff members who have successfully completed similar projects, or a consultant with the same type of experience and plan to train appropriate key staff members of the organization; and
- (10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

## WHAT ARE CHDO CERTIFICATION AND RECERTIFICATION?

### *Certification Procedure*

The 2013 HOME Final Rule requires that the County of Morris must certify an organization as meeting the definition of "community housing development organization" and must document that the organization has capacity to own, develop, or sponsor housing each time it commits funds to the organization. To meet this requirement, the County of Morris will conduct certifications as part of the solicitation process for selecting CHDO set-aside activities. A CHDO must be certified as an Owner, Sponsor or Developer based on the project that is presented for funding. The following is the process for obtaining CHDO certification.

#### **CHDO Certification Process:**

- 1) Complete the appropriate CHDO Application (**Attachment I, II, or III**) and the required supporting materials.
- 2) Submit the application to the County of Morris-Office of Community Development in accordance with the instructions provided in the RFQ/RFP solicitation.
- 3) The application submitted with the solicitation proposal will be evaluated to ensure the agency meets the criteria for qualifying as a CHDO.
- 4) If the application is not complete or if the organization does not meet the requirements for CHDO certification, the solicitation may be deemed non-responsive.  
The County of Morris also recognizes there may be situations whereby an organization may wish to receive a "CHDO Certification" without submitting a specific project. The County of Morris will accept a voluntary CHDO Application whereby if the organization meets the criteria set forth; can receive "CHDO Acknowledgement" from the County of Morris that the organization "meets the criteria to be considered a CHDO".
- 5) **New Certification** is provided to those organizations not previously certified within the past 18 months. (See attached application)



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- 6) **Re-certification** is done after an application is received from organizations that had received a certification in the previous 3 to 18 months. (See attached application)
- 7) New CHDO's must follow all procurement procedures.

## CHDO PROCEEDS AND RECORDING REQUIREMENTS

The County of Morris will allow CHDO's to retain proceeds from the sale of the housing, if the non-profit is acting as owner or developer and is using set-aside funds. Examples of affordable housing activities which may be funded with CHDO proceeds include: emergency repairs, project operating costs and reserves, housing refinancing costs, CHDO operating expenses and homebuyer counseling. CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations. Thus, the Davis-Bacon Act, National Environmental Policies Act and Uniform Relocation Assistance and Real Property Acquisition Policies Act do not apply to the use of CHDO proceeds. **CHDO proceeds may not be contributed as a match.**

CHDO's and the County of Morris are responsible for tracing the ultimate distribution of HOME funds in a CHDO homebuyer project.

- 1.) **CHDO shall determine the total HOME investment**, which is a combination of any HOME funds provided to the CHDO to be used in the development phase of the project for acquisition, construction/rehab and soft costs.
- 2.) **CHDO shall determine if the project had costs in excess of sales prices**, and therefore is eligible to write off part or all of the HOME development funds as "Development Subsidy" that does not have to be mortgaged to the buyer(s). The Development Subsidy write-off is eligible only using the resale method, and not the recapture method.
- 3.) **CHDO calculates the total HOME Buyer Subsidies**
  - a. Rollover purchase subsidies from CHDO development funds (in essence, this is the portion of the HOME development funds that are not written off as Development Subsidy, which can be in the form of down payment assistance or purchase assistance, and must be mortgaged to the home buyer)
  - b. Closing Cost Assistance – which does not have to be secured by a mortgage as it falls outside of the sales price/fair market value of the property; and/or
  - c. New buyer assistance funds that are made available to the buyer at closing and were not originally invested as development funds in the CHDO project

Note: Down payment assistance is limited to 10% of the funds initially invested in the CHDO unit
- 4.) **CHDO determine HOME funds to be repaid**
  - a. When CHDO funds are invested in the development phase of the project (e.g., as a construction loan), some of these funds may be repaid from net sales proceeds. They may also be retained by the CHDO as CHDO proceeds –it is the local policy and at the County's option. This step is designed to calculate what funds are available for repayment, or to be retained by the CHDO as proceeds. Any such repayments are considered program income to the County.

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**b.** If repayment is mandated, then it is appropriate to allow the CHDO to draw any remaining developer fees due from the unit, after paying closing costs (realtor, legal and recording costs, etc.) and other construction loans. Then any net proceeds are available or repayment, if required by the County.

5.) **CHDO shall reconcile HOME Funds & CHDO Proceeds**

**a.** The final step in the process is to take the four previous calculations to reconcile the ultimate allocation of all HOME funds invested in that unit.

**b.** Take the total HOME investment in the unit, and subtract funds allocated as Development Subsidies, Buyer Subsidies, and any Repayments from Sales Proceeds.

**c.** The net result is any CHDO funds that are to be retained by the CHDO as CHDO proceeds.

**d.** Again, CHDO proceeds are the option of the County to permit them to be retained or to be repaid as program income to the County. If CHDO proceeds are permitted, they must be reinvested as required by 92.300(a) (2) –it is the local Morris County policy to reinvest- either to be used for HOME-eligible or other housing activities to benefit low-income families. The County is responsible for monitoring the reuse of CHDO proceeds.

**e.** CHDO proceeds must be documented in reports for next project and the audit must reflect how funds were used.

**Under the eligible activities-**

Using the 15% set-aside, a CHDO acting as an owner, sponsor, or developer may undertake any of the following activities:

1. Acquisition and/or rehabilitation of rental property;
2. New construction of rental housing;
3. Acquisition, rehabilitation and resale of existing, vacant homebuyer property;
4. New construction of homebuyer property;
5. Direct financial assistance to purchasers of HOME-assisted housing developed by a CHDO with HOME CHDO set-aside funds.

Please note that to be considered a CHDO-eligible project, CHDO set-aside HOME funds must be used during the construction or rehabilitation of the project.

Using the 15% set-aside, a **CHDO may not** undertake any of the following activities:

1. Rehabilitation of existing homeowners' properties;
2. Tenant-based rental assistance (TBRA); or
3. Down payment and/or closing cost assistance to purchasers of housing not developed with HOME CHDO set-aside funds.
4. Or administrative costs

# HOME INVESTMENT PARTNERSHIPS PROGRAM

**From time to time**, funds **may** be available to provide general operating assistance to CHDOs receiving CHDO set-aside funds for activities. When funds are available, certified CHDOs that are administering an eligible project funded from the CHDO set-aside may be eligible to receive funds to be used for operating expenses. The regulations require that Morris County allocate no more than 5 percent of its HOME allocation for CHDO operating expenses, **if the budget permits it**. However, Morris County reserves the right to further restrict the amount of funds an entity may receive for CHDO operating funds. This allocation does not count toward the required 15 percent CHDO set-aside funds that are to be used by CHDOs for projects. A separate application for the CHDO administrative funds must be made. Keep in mind that the 15% cannot be used for administrative expenses. No administrative fees may be retained on repaid or recaptured funds. A CHDO may retain 10 percent of realized program income as administrative fees, except in the event of repayment or recapture, as noted above. As a sponsor, another entity owns the property and as a developer, you need not own the property. If you are a sponsor, developing for another non-profit, then you are treated as a subrecipient.

If a CHDO applies for and receives two awards of CHDO HOME funds in the same year, (homebuyer and rental), it would receive one allocation of operating funds, if funds are available. The disbursement of CHDO operating funds is not tied directly to the draw -down of the CHDO project funds, a separate application and grant agreement must be rendered and if available would be disbursed only if it is evident that the CHDO project is not experiencing excessive delays. In addition, the costs are first paid for by the CHDO and then will be reimbursed.

The amount of operating funds awarded will be based on, but not limited to, the following factors:

1. The total amount of HOME funds Morris County has available to allocate for reimbursable CHDO operating expenses;
2. The anticipated completion date and size of your current CHDO set-aside project(s); and
3. The CHDO's past performance as a CHDO developer.
4. The CHDO's capacity to complete the project in a timely manner.
5. The ability of the CHDO to retain CHDO proceeds.

**Eligible operating expenses** for which CHDOs may use operating funds include:

1. Salaries, wages, benefits, and other employee compensation
2. Employee education, training and travel
3. Rent and utilities
4. Communication costs
5. Taxes and insurance
6. Equipment, materials and supplies

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**To be eligible to request to retain CHDO proceeds**, a CHDO must meet, at a minimum, **all** of the following criteria. Morris County reserves the right to require additional information to be submitted for review and for analysis.

7. Demonstrate a minimum of three (3) years of experience administering a revolving loan fund in a size and amount similar to the anticipated revolving loan pool to be derived from the use of CHDO proceeds. In its request, the CHDO must describe or provide the following:
8. Type of existing revolving loan fund it administers (housing, economic development, etc.);
9. How many loans it is servicing;
10. Year-to-date balance sheet for the revolving loan fund (must be current within 30 days of submission);
11. Length of time the revolving loan fund has been in place;
12. Source (or seed money) that established the fund and any associated restrictions;
13. Loan servicing mechanism the CHDO utilizes (loan tracking software, manual ledger books, etc.); and
14. Copy of the CHDO's policies and procedures for loss mitigation and loan delinquencies.
15. Employ an on-staff loan servicing department and/or finance officer or contract with a 3rd party to provide this service.
16. Complete a successful HOME monitoring visit with no outstanding concerns or findings. Any other Morris County-financed projects must also be successfully monitored.
17. Complete an audit compliant with 2 CFR 200 and the Single Audit Act Amendments of 1996.
18. Review most recent financial statements.
19. First-time recipients of CHDO HOME funds are not eligible to retain CHDO proceeds. In addition, meeting the above-outlined criteria does not guarantee that the CHDO will be allowed to retain CHDO proceeds. Morris County reserves the right, at its discretion, to make this determination.

The final rule of the HOME regulations created the concept of CHDO proceeds. **Examples of CHDO proceeds are funds resulting from:**

- The permanent financing of a CHDO project used to pay off a CHDO-financed construction loan;
- The sale of CHDO-developed homeownership housing; or
- The principal and interest payments from a loan to a buyer of CHDO-developed homeownership housing.
- Proceeds generated from the investment of CHDO set-aside funds in a HOME-eligible project and that are retained by the CHDO **are not** subject to the requirements of the HOME regulations, ***except in the event of repayment or recapture***. Therefore, CHDO proceeds have no federal identity and are not subject to lead-based paint requirements, the Davis-Bacon Act, Uniform Relocation Act, etc. However, since CHDO proceeds are derived from HOME funds, any activities funded with CHDO proceeds **may not** be counted

# HOME INVESTMENT PARTNERSHIPS PROGRAM

as match for other Morris County-financed projects. However, per CPD Notice 97-09, when the first time proceeds are used, the funds must be used for housing activities to benefit low-income households.

CHDO's allowed to retain CHDO proceeds and/or program income must report annually to Morris County how these proceeds were utilized. Morris County reserves the right to disallow a CHDO to continue to retain CHDO proceeds, if deemed necessary.

Program income never loses its federal identity and is always subject to HOME regulations. HOME funds that are a result of **repayment** or **recapture** are always considered program income, even if originally funded from the CHDO set-aside. **Repayment** occurs when a HOME-funded project, including CHDO set-aside funds, is terminated before completion. **Recapture** occurs when a HOME-funded project, including CHDO set-aside funds, does not continue to be the principal residence of the HOME-assisted home buyer for the full affordability period. No administrative fees may be retained on repaid or recaptured funds.

If a CHDO is acting as a sub-recipient, the funds generated from HOME-assisted activities are program income and are subject to HOME program income requirements.

A CHDO may retain 10 percent of realized program income as administrative fees, except in the event of repayment or recapture, as noted above. All remaining program income must be reinvested into HOME-eligible projects. If the CHDO has an active HOME-funded project, the realized program income must be expended prior to requesting to draw down additional HOME funds from Morris County. The generated program income, as well as any CHDO proceeds being utilized in the active HOME funded project, must be identified on a revised HOME project set-up report.

## CONFLICT OF INTEREST

Each entity that receives HOME funds must have a conflict of interest policy. This policy shall include the following:

No employee, officer, or agent of the CHDO or developer shall participate in the selection or in the award or administration of a contract supported by HOME funds if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for award.

No officer, employee or agent of the CHDO or developer shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

Any alleged violations of these standards of conduct shall be immediately referred to the County of Morris-Office of Community Development. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where

# HOME INVESTMENT PARTNERSHIPS PROGRAM

violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

The federal regulations at 24 CFR Part 92.XX provide a process for addressing even the appearance of a conflict of interest. All HOME participants must contact the county in the event that there are any such concerns.

## MINORITY OUTREACH

Each entity that receives HOME funds must adopt an Affirmative Marketing Policy. This policy shall include the following:

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. A CHDO may have a tenant preference policy, however it must conform within the boundaries of the County's following of HUD regulations as described in "Civil Rights, Affirmatively Furthering Fair Housing and 504/ADA Policy" document.

## THE VIOLENCE AGAINST WOMEN ACT (VAWA)

Pursuant to this regulation from HUD, any woman that is an applicant or tenant and has been the victim of domestic violence, dating violence, sexual assault or stalking cannot be denied or terminated from the assistance or eviction solely because of these reasons. The law is inclusive of TBRA funds as well as any rental housing assisted with HOME funds. The County of Morris will provide a notice and certification form to all owners of HOME assisted rental housing who in turn must provide these forms to the applicants at the time the applicant is either admitted or denied admission to the HOME assisted unit based on the owner's selection policies.

This notice and certification must also be provided to anyone receiving an eviction notice from a HOME assisted unit. Furthermore, the notice and certification must also be provided to all TBRA participants that are approved or denied the assistance and when receiving a notification of eviction.

The County of Morris will provide a VAWA lease term/addendum to all owners or leases under 24 CFR Part 5 Subpart I, that provides the terms required to protect Victims of Domestic Violence. These terms are inclusive of the prohibited basis for eviction and any restrictions on lease terms. In addition, the VAWA lease term/addendum provides for the tenant to terminate the lease without penalty when they have been determined to meet the conditions for an emergency transfer. The VAWA lease term/addendum also requires the owner to notify the County before bifurcating the lease or notifying the program participant of an eviction. If the program participant is only receiving TBRA funds and has no project based assistance, then the VAWA lease term/addendum may have an expiration date geared towards the end of the rental assistance period. The terms and conditions of this regulation shall apply to the owners for the term of the affordability period. For TBRA, the terms and conditions of this regulation shall apply until the end of the rental assistance period.

## SITE AND NEIGHBORHOOD POLICY

The County of Morris must manage its HOME program in a manner that provides housing that is suitable while facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601 et seq.), E.O. 11063 (3 CFR, 1959-1963 Comp., p. 652), and HUD regulations issued pursuant thereto; and thus promotes greater choices of

# HOME INVESTMENT PARTNERSHIPS PROGRAM

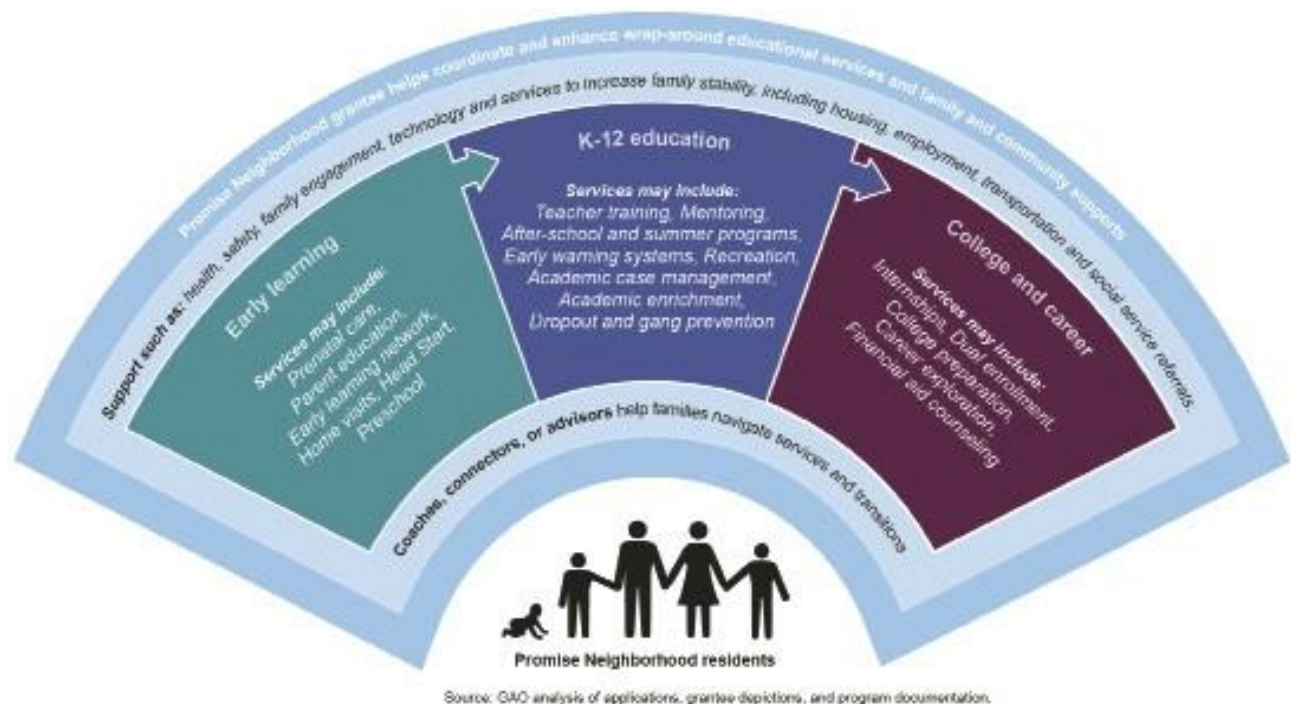
housing opportunities in the County of Morris. Furthermore, this regulation requires that the County of Morris must assure that all new construction sites of rental housing meet the 24 CFR 983.6(b) guidelines. Therefore, the County of Morris must retain records that demonstrate that a site and neighborhood standards review was performed for each project that includes a new construction for rental housing that has been funded with HUD monies by assuring that the site meets the requirements of 24 CFR 983.6(b), and §92.202. These requirements specify that sites that support local policy are consistent with local zoning and planning policies, and support the goals of the Affirmatively Furthering Fair Housing (AFFH)-that are zoned for residential, with good access to roads, stores, schools, jobs, etc.

## NEIGHBORHOOD CHARACTERISTICS

The County of Morris will support development and rehabilitation of housing in areas of opportunities. These are areas with good access to schools, shopping, libraries, hospitals, doctors, street fairs, agencies, restaurants, shops, activities, parks, recreation programs for the entire family, and highways for easy commute for work. The ability of the families to have access to institutions, such as schools, housing assistance, and neighborhood stores, as well as clean, safe, sanitary conditions (free of also mold, mildew, and lead-based paint), and accessible for stability and ownership, play a major part on children's development and well-being. As housing becomes LESS AND LESS affordable for poor and minority families, in specific in Morris County, this impacts the family in a negative fashion and places the family at risk of homelessness as well as living in inadequate housing that poses dangers to the family's health overall. Housing that is not affordable creates other economic problems that add to the burden of the family in distress situations such as less access to food and medicine, a major stress on the well-being of the family. By encouraging housing in areas of opportunity, the County hopes to reduce stresses in the family. Areas of opportunity are those neighborhoods that include a higher priced housing market with less poverty, with better performing schools, a safer environment, lower crime rates, and access to resources available in better neighborhoods. Overall, the County of Morris wants to turn neighborhoods into places of opportunity for low-income families.



# HOME INVESTMENT PARTNERSHIPS PROGRAM



## HOME MONITORING PLAN

The County of Morris has developed:

- Systems and schedules to ensure compliance with program requirements
- Interagency agreements and agreements with any entity receiving HOME funds
- All progress and compliance having to do with program requirements are monitored
- Monitoring of all matching contributions that are being used for the HOME programs
- Submit reports and supporting documents to HUD in relation to the programs
- Monitor through audits and monitoring findings while reaching resolution within the 30-day afforded time frame
- Evaluate programs and their results to any stated agreement objectives
- Monitor the costs of administering tenant-based rental assistance programs
- Prepare a consolidated plan and have it available for review by the public

## PROPERTY STANDARDS

Any agency or non-profit that has housing that is newly constructed with HOME funds must follow all applicable State and local codes, ordinances, and zoning requirements. In addition, new construction projects that are HOME-assisted must also meet State or local residential and building codes. Furthermore, all new construction projects must also meet the following:

- Accessibility-pursuant Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act.



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- b. Disaster Mitigation-when relevant the construction must be done with the potential disasters in mind (e.g. earthquakes, hurricanes, flooding, and wildfires) and according to State and local codes, ordinances and any State and local requirements and/or any other requirements as HUD may impose.
- c. The County of Morris will obtain written cost estimates, construction contracts and all pertinent construction documents that will detail the construction to be undertaken so that we can determine that costs are reasonable and be able to assure inspections and monitoring can be achieved properly.
- d. The County of Morris will require that all HOME projects employ a third party to conduct all inspections to assure property standards are being met and to inspect all major housing systems for repair or replacement.
- e. For new Commitments made after January 19, 2017 for a new construction housing project of a building with more than 4 rental units, the construction must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the participating jurisdiction determines and, in accordance with §92.508(a)(3)(iv), documents the determination that:
  - 1. The location of the new construction makes installation of broadband infrastructure infeasible; or
  - 2. The costs of installing the infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden.

## HOMEBUYER POLICY

- HUD provides assistance towards the down payment for the purchase of single-family housing by low-income families who are first-time homebuyers. This program may be provided by the non-profits or agencies and not by the County of Morris.
- All HOME-assisted homebuyers are required to participate in a homebuyer-counseling course prior to the purchase of the home. In accordance with 24 CFR 92.254(a)(2)(iii), housing qualifies as affordable housing under the HOME program only if the purchase price of the property does not exceed 95 percent of the median purchase price for the area (as established by HUD). If the information is not available, a survey to obtain the information must be rendered.
- For qualifying for a first mortgage, the ratio between the monthly household income and monthly housing costs, includes the principal, interest, taxes, and insurance which should not exceed 30% of the gross household income.
- The ratio of monthly housing costs and household income should not exceed that of 35% for long-term debt or as set by the individual primary mortgage lender.
- All borrowers of a first mortgage must be credit worthy as established by the primary mortgage lender. In addition, two (2) months of source documentation for all income and provide income documentation for all adult household members.
- The County must review and approve the income documentation prior to the selling the assisted units to each of the homebuyers. Documentation also demonstrating the family qualifies as a first-time homebuyer (has not owned a home during the three-year period prior to the purchase of a home with federal government funds) must also be supplied to the County of Morris.

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- In the case of acquisition of existing housing, the County is responsible to ensure that the buyer informs the seller that Federal funds are being used to acquire the unit, that the buyer does not have eminent domain powers, and that the seller will receive an offer for the property that is commensurate with its fair market value, as established through an appraisal or other determination value. The County of Morris provides a “Notice to Owner” and a “Voluntary Sale” form, offer of sale of real property and purchase agreement, (Uniform Acquisition and Relocation Act) as well as, a mortgage and deed with a 20-year affordability period (new construction) (SEE chart on Page 40).

## HOME RESALE POLICY

To ensure that HOME investments yield affordable housing over the long term, HOME regulations impose occupancy requirements over the length of an affordability period. If a house purchased with HOME funds is sold during the affordability period, the County has elected to use resale provisions as per 24 CFR 92.254 which shall apply to ensure the continued provision of affordable homeownership.

### Resale

This policy applies to anyone who has obtained HOME assisted housing and if the housing does not continue to be the principal residence of the family for the duration of the affordability period; then the housing is made available to purchase only to a buyer whose family qualifies as a low-income family and will use the property as their principal residence. The price at resale must provide the original HOME assisted owner with a fair return on investment (including homeowner’s investment and any capital improvement they have made). The period of affordability continues with the next buyer, given that the housing remains affordable to a reasonable range for low income homebuyers (must use fair housing market analysis). There are however, certain restrictions of the deed and covenants running with the land and other mechanisms imposed at the time of resale. The affordability restrictions may end with the occurrence of any of the following: foreclosure, transfer in lieu of foreclosure, and assignment of an FHA insured mortgage to HUD.

To ensure a fair return to the initial homebuyer, the County will use the guidelines governing the COAH program. The Council on Affordable Housing (COAH) is an agency of the State of New Jersey- Department of Community Affairs that ensures that all 566 municipalities in New Jersey provide their share of low and moderate income Housing. Developers also have access to these grant funds from each municipality. The objective of COAH is Homelessness Prevention, Energy Assistance Programs, Neighborhood Programs, and Section 8 Housing Choice Voucher.

## HOME REHABILITATION STANDARDS AND ENERGY STAR REQUIREMENTS

Rehabilitation standards will be used to address the following areas: health and safety; major house systems (e.g. roof, windows, doors, siding, gutters, plumbing, electrical, heating ventilation, and air conditioning); lead-based paint requirements must be met as per regulations; accessibility under the Section 504 of the Rehabilitation act of 1973 and Titles II and III of the Americans with Disabilities Act and the Fair Housing Act. Rehabilitation may include any types of home improvements that are not required by regulation but that allow a person with disabilities to be able to better access the home.

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Furthermore, disaster mitigation, following State, local codes, ordinances and any zoning requirements; Uniform Physical Condition Standards such as units that are HOME-assisted must be decent, safe, and sanitary and in good repair and any deficiencies must be corrected upon inspection; capital needs assessment of projects that are multi-family of 26 or more units; obtain construction documents and cost estimates; and have frequent inspections before the project commences, during the project and at the conclusion of the project.

The Developer must certify that for units that have been rehabilitated, all major systems will have a minimum remaining life-expectancy of 5 years.

On July 13, 2005, HUD issued a notice detailing the partnership of HUD with Department of Energy and the U.S. Environmental Protection Agency to adopt Energy Star appliances, energy systems, and devices. Energy Star is a government backed program to help businesses and individuals protect the environment. HUD encourages housing authorities, and grantees to purchase Energy Star qualified equipment and in the building of new homes including public and multi-family dwellings and throughout affordable housing to reduce costs by 30% on cooling and heating bills. HUD's notice encourages Energy Star as the standard for public housing agencies, by implementing energy savings activities, inform the recipients of the programs, and provide assistance in implementing energy conservation initiatives.

The County of Morris will assure to employ a third party to conduct all inspections to assure property standards are being met and to inspect all major housing systems for repair or replacement.

## AFFIRMATIVE MARKETING PLAN/POLICY FOR HOMEBUYER PROGRAMS

In accordance with Title 24 CFR Part 92.351, and in furtherance of the County of Morris' commitment to non-discrimination and equal opportunity in housing, the County of Morris has established procedures for the agencies and non-profits to affirmatively market units developed under the NAHA program. These procedures are intended to further the objectives of Title VIII of the Civil Rights Act of 1968, Executive Order 11063. The County of Morris believes that individuals of similar economic levels in the same housing market area should have available to them a like range of housing choices regardless of their race, color, religion, sex, national origin, handicap or familial status. The County of Morris will assure all HOME subrecipients and developers carry out this policy through affirmative marketing procedures designed specifically for the HOME Program in the County of Morris, New Jersey.

All participants are required to utilize affirmative marketing and establish a minority and women business outreach program under code. The affirmative marketing is used for rental and homebuyer projects that contain 5 or more HOME-assisted housing units. The steps to be taken are to be able to provide information to attract eligible persons in the housing market area to the available housing that is HOME-assisted without regard to race, color, national origin, sex, religion, and familial status or disability. NOTE: The affirmative marketing procedures do not apply to families with Section 8 tenant-based rental housing assistance or families with tenant-based rental assistance provided with HOME funds.

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As part of our efforts in affirmative marketing procedures, the County of Morris constantly informs the public, owners, and potential tenants about Federal Fair Housing Laws by providing the Equal Housing Opportunity logo or slogan to all HOME-assisted grant subrecipients and developers, whereby the logo is also used in press releases, in solicitations, written communication to owners, and community groups. Each owner and project subrecipient/developer is required to use the logos and adhere to the County's affirmative marketing procedures and requirements by using commercial media and community contacts. The owners and project recipients inform and solicit applications from low and moderate income people in the housing market who may not know how to apply without this outreach. The use of community organizations, places of worship, employment centers, fair housing groups and the housing counseling agencies outreach to the low and moderate-income people who may not otherwise know of the housing project opportunity. Records are kept of announcements and press releases by the County of Morris for us to assess these affirmative marketing requirements. The County of Morris continues to assess each year the success of the affirmative marketing procedures and if there are any corrective actions that must be taken to rectify and comply with this regulation.

The County of Morris will assure all subrecipients and developers inform the public, potential tenants, owners about its affirmative marketing policy through the following actions:

A. Informing the Public, Owners, and Potential Tenants about the Affirmative Marketing Policy and Fair Housing Laws:

1. Place a public notice in "The Daily Record."
2. Visit tenants in buildings selected for rehabilitation and post signs about the HOME program with the HUD Equal Opportunity logo in each building project, (where appropriate)
3. Meet directly with property owners interested in participating in the program
4. Place the Equal Opportunity logo on all printed materials

B. Requirements for Owners to Affirmatively Market to Persons in the Housing Market Area

At minimum:

1. Shall include Equal Employment Opportunity logo type in all solicitations
2. Shall cooperate with County in complying with Special Outreach procedures
3. Maintain records on action taken

C. Special Outreach: Specific project locations are not known at this time. When locations are known, the County of Morris along with developers and subrecipients will determine which potential classes are least likely to apply. After such a determination is made, methodology for special outreach will include the following:

1. Newspapers advertisements in those papers that are most likely to be read by the particular group(s) targeted for special outreach
2. Advertisements in "The Daily Record" if appropriate

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3. Contacting and supplying information on available units to specific community and/or public service organizations that have a membership or contact with those persons not likely to apply
- D. Record Keeping: The County of Morris, in cooperation with the owner, will keep records of the following:
1. Copies of published advertisements
  2. Copies of letters, dates of meetings attended and copies of all written materials
  3. Maintenance of minority and gender data on beneficiaries
  4. Information on how potential applicants heard of the program
- E. Assessment and Corrective Actions-Effectiveness of our affirmative marketing efforts will be assessed as follows:
1. To determine if good faith efforts have been made: The County of Morris will compare the information contained on the records to be kept, as determined in Procedure 4, with actions that were taken to carry out Procedures 2 and 3. If the required steps were taken, we will determine that good faith efforts have been made.
  2. To determine results:
    - The County of Morris will examine whether or not persons from the variety of protected classes in our area applied for units that were affirmatively marketed. If we find that a variety is represented, we will assume the utilized procedures were effective.
    - If one or more such classes are not represented, the County of Morris will review the procedures to determine what changes, if any, might be made to make the affirmative marketing efforts more effective.
    - The County of Morris will take corrective actions if we find that owners fail to carry out such procedures required of them. If, after discussing with owners' ways to improve procedures the owners continue to fail to meet the affirmative marketing requirements, the County of Morris will consider disqualifying an owner from future participation in the HOME program.
    - The County of Morris will carry out assessment activities and complete a written assessment of affirmative marketing efforts annually. This assessment will cover marketing relative to units made available for occupancy during the year

## LEAD BASED PAINT POLICY

Housing assisted with HOME 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

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implementing regulations at part 35, subparts A, B, J, K, M and R of this title. HUD Lead-Based Paint Regulations pursuant to 24 CFR 35 pertain to all HUD-assisted housing and require that all owners or homebuyers of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning. The CHDO Developer shall be responsible for testing each property assisted under this program. The CHDO Developer shall be responsible for any mitigation measures that must be undertaken to treat identified lead paint hazards. [64 FR 50224, Sept. 15, 1999].

In a Home Buyer Assistance Program, which does not include rehabilitation of the unit; if any unit does not pass the visual assessment of the County, it will not be eligible for assistance under the County's guidelines for eligible properties.

Pursuant to N.J.A.C. 5:17, developers and subrecipients must also follow the Lead Hazard Evaluation and Abatement Code.

HUD's lead based paint regulations at 24 CFR Part 35 will apply. Developers and Subrecipients should be aware that either compliance with the requirements of the State or compliance with the requirements of OSHA, is sufficient to meet HUD's Part 35 requirements. For HUD funded rehabilitation activities, lead hazard evaluation and reduction activities must be carried out for all projects constructed before 1978. In all cases, notification must be made to the homeowner/buyer in the form of the HUD Lead Hazard Information Pamphlet and Disclosure or an acceptable alternative pamphlet. The required evaluation and reduction activity is dependent upon the amount of HUD funding used for the project.

For cases where **less than or equal to \$5,000** will be spent on the rehabilitation:

*Testing:* Paint Testing of surfaces that will be disturbed by the rehabilitation activities must occur.

*Lead Hazard Reduction:* Surfaces, which are disturbed during rehabilitation, must be repaired. Safe work practices must be used. After the rehabilitation activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

For cases where **\$5,001 to \$25,000** will be spent on the rehabilitation:

*Testing:* Paint testing of surfaces to be disturbed by rehabilitation must occur. In addition, a risk assessment must be performed.

*Lead Hazard Reduction:* Interim controls must be used. This means that friction and impact surfaces would be addressed. Interim controls include paint stabilization and cleaning. Safe work practices must be used. After the rehabilitation activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

For cases where **more than \$25,000** will be spent on the rehabilitation:

*Testing:* Paint testing of surfaces to be disturbed by rehabilitation must occur. In addition, a risk assessment must be performed

*Lead Hazard Abatement:* Abatement of hazards is the required approach. Abatement involves permanently removing lead based paint hazards, often through paint and component removal, replacement, encapsulation and enclosure. Interim controls and paint stabilization may be used on

# HOME INVESTMENT PARTNERSHIPS PROGRAM

the home's exterior if it is not involved in the rehabilitation. Safe work practices must be used. After the lead hazard reduction activities are completed, clearance must be performed by a certified professional to ensure that units are safe.

## HOME TBRA POLICY AND PROCEDURES FOR PROGRAM ADMINISTRATION

- The County of Morris will perform on-site inspections of the rental housing that may be occupied by tenants that are receiving HOME-assisted Tenant Based Rental Assistance (TBRA) funds to determine compliance with the property standards as indicated on Page 24 of this manual.
- The TBRA is used to provide rental assistance and security deposits to help low and very low income families prevent homelessness and to acquire adequate housing.
- The County must maintain records which support the County of Morris Consolidated Plan, which includes documenting what the local market conditions are that support the TBRA option, in addition to written selection policies and criteria and documentation for qualifying for the program.
- On an annual basis, the families are reassessed to assure, they still meet the criteria for qualifying. Not less than 90 percent of the families receiving TBRA have incomes at or below 60% of the income limits as published by HUD.
  - The County of Morris has developed tenant preference requirements and rent reasonableness requirements and inspection reports.
  - All TBRA project records must be retained by the sponsoring organization for 5 years after the period of rental assistance ends. TBRA is made available to all persons with special needs or disabilities (inclusive of people with HIV/AIDS or chronic illnesses) who can benefit from the program.
  - The TBRA program funds may be used to assist in the rehabilitated or acquired housing units or other qualified housing. TBRA funds may not exceed 24 months of assistance, but annually reviewed for criteria met guidelines.
  - All lease requirements must be met by the tenant and by the property owners. The TBRA maximum subsidy is determined by the difference between the rent standard (may not be less than the 80 percent of the published Section 8 Existing Housing Fair Market Rent) for the unit size established by the County of Morris and 30 percent of the family's monthly adjusted income.
  - Housing that is TBRA assisted must be inspected before the funds are released and must be inspected annually to meet the requirements under this regulation.
  - For rentals, the PHA must do a utility comparison study or historical use of utilities at a site or use the HUS Utility calculator to calculate rates for utility allowances. NOTE: The allowances now vary by unit size and/or type. (This is inclusive of TBRA rents as well).

## APPLICATION REVIEW

- Once the applications are received, Community Development staff reviews the applications for eligibility. The applications are then distributed to the appropriate members of the CDRS sub-



# HOME INVESTMENT PARTNERSHIPS PROGRAM

committee. On or about February of each year, the Office of Community Development will reach out to the applicants to schedule a time for them to make a presentation to the sub-committee, to further explain the proposal. Presentations should include a detailed explanation of the project. If PowerPoints are to be used, we must be notified in advance for proper set up.

- Following the initial hearing, the sub-committees meet again to make funding recommendations to the entire CDRS Committee. The CDRS Committee will vote preliminary allocations based on the recommendations of each sub-committee. A public hearing (advertised 10 days in advance) is conducted to review the preliminary funding allocations proposed by the CDRS Committee. After the public hearing, the full CDRS Committee votes the final recommendations which are then forwarded to the Freeholder Board for their approval. Upon Freeholder approval, the proposed project is submitted to the HUD field office for final approval. On or about September of each year, the approval is granted and the funding is allocated.
- Once the developer or subrecipient has submitted all required underwriting and approval occurs from the Office of Community Development, then the parties will execute a loan agreement.

## HOME SUBSIDY LAYERING POLICY

This policy is to provide guidance on the utilization of HOME funds. Pursuant to the National Housing Act (12 U.S.C. 17151 (d)(3)(ii) section 221 (d)(3)(ii)), the County of Morris may only invest on a per-unit basis in affordable housing an amount not to exceed the per-unit dollar limitations established under this Act.

Before the County of Morris commits to funding a project-we must evaluate the project in accordance with HUD guidelines in order to provide quality affordable housing that is financially viable. The County of Morris as required by HUD provides a certificate with the Consolidating Plan to approve layering guidelines. We use this certificate to assert that prior to the commitment of funds to a project we will evaluate the project in accordance to the guidelines adopted for this purpose and will not invest more HOME funds in combination with other governmental assistance than is necessary to provide affordable housing. Government assistance includes and is not limited to: any loan, grant (including CDBG), guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal, State, or local government for use, or in connection with, a specific project. Where applicable, we will rely on guidelines developed and evaluations conducted by other agencies pursuant to applicable HUD regulations or the IRS. All results are kept in the project file.

## WHAT IS EXPECTED FROM SUB-RECIPIENT OR DEVELOPER IF FUNDING IS APPROVED?

- NO WORK ON THE PROJECT may begin before the Developer or subrecipient receives a written program agreement from the County.
- Grant subrecipients or developers are expected to comply with the rules and regulations as outlined in the grant Loan Agreement. Subrecipients and developers must document that funds are primarily being used to benefit persons of very low, low and moderate income. This information must be submitted to the Office of Community Development. All updated HOME rules and regulations as per the compliance



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package and the Engineers checklist must be adhered to for every single project (a copy may be obtained by calling or emailing us).

- If receiving federal grant funds: Then all federal provisions and acts also apply, such as the Copeland Anti-Kickback Act, Executive orders 11246/11375, Section 3, MBE/WBE and EEO-Section 503, 504, 103, and 107.
- Each grant loan agreement will have an outlined scope of service. Expenditures must be aligned within that specific scope. If the project changes or the cost of specific parts of the project need to be adjusted, sub-recipients/developers must make a request in writing to the Office of Community Development **PRIOR** to conducting any work outside of the purview of the scope submitted with the application and grant loan agreement.
- An updated actual budget must be submitted with the grant loan agreement.
- Contractors and subcontractors must submit [Attachment G](#) (from the compliance package to be cleared from federal and state debarred lists by the Office of Community Development). NOTE: contracts cannot be awarded until clearance occurs.
- All construction grant agreements must have a Pre-Construction meeting to be held with the Office of Community Development.
- The County of Morris must commit funds within 4 years of the HUD grant award and each project must be completed and expended within the 5 years of the date of commitment. However, to ensure the timely use of funds, the County of Morris will continue to enforce a 2-year commitment period and provide 4-years from the date of commitment for completing the project.
- Developers should be prepared to provide firm financial commitments, site control and be shovel ready within two years of the application to qualify for a loan agreement and be ready to begin construction within one year.<sup>3</sup>
- All construction projects require a monthly update on construction and a quarterly report as outlined in the grant loan agreement. These reports are imperative to ensure each project is on schedule and is being run according to the contract agreement. No payment requests will be processed without the proper reports being submitted. A final direct benefits form must be submitted upon the completion of the project.
- All projects will be reviewed for their potential environmental impact to determine whether it meets federal, state, and local environmental standards. The county will prepare an Environmental Review Record (ERR) for the project prior to issuing the loan agreement.

This program is a reimbursement program. Requests for payment must be submitted with the back-up material such as invoices, receipts, and signed contracts supporting the funds that are being requested and as proof of payment to the vendor or contractor. Once the payment request is received, it is reviewed by the

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<sup>3</sup> To ensure the timely use of funds, the County of Morris will retain the 2-year commitment and 4-year expending of funds despite the new 2016 HUD HOME update to a 4-year commitment and a 5-year expending of funds period.

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Office of Community Development staff to ensure that the request fits within the parameter of the contract and that the work has been completed as inspected by the County Office of Planning and Public Works. Payment requests should be made in a timely manner with any required documents must be up to date and complete.

- In order for the project file to be closed, an audit detailing the federal grant funding under the Office of Community Development must be rendered for when expenditures occurred. In other words, the expenditures for HUD are when the County of Morris provides a check to the subrecipients/developers and thereafter, the subrecipient/developer cashes the check. Please note that the audit for HUD does not reflect when the grant was approved or when you expended your own funds. HUD is concerned when the funds were expended by us to reimburse you for the approved project. The Office of Community Development must demonstrate that when the funds were disbursed, an audit can detail the information for the file to be closed. Terms of Affordability Period are:
  - Final Inspection
  - 12 months' inspection (rental)
  - Every 3<sup>rd</sup> year physical inspection
  - Every year-Annual Rental and Occupancy Report
  - Over 15 units-Economic and Viability Report

## **WHAT IS THE DRAW-DOWN PROCESS?**

1. Contractor provides to engineer or clerk of the works an invoice which in turn is provided the developer/subrecipient attached a voucher that is backed with all pertinent documentation to the County of Morris-Office of Community Development
2. County Office of Planning and Public Works must monitor, inspect and verify that all work claimed on voucher has been completed.
3. County of Morris will monitor physical construction and all documentation needed, inclusive of Section 3, Section 504, MBE/WBE, etc.
4. The voucher, all documentation, and confirmation of project is then provided to the County of Morris Treasurer's Office for processing payment.
5. Treasurer's Office must ensure all line items are correct.
6. Director of Community Development Draws Down Funds from HUD.
7. Another Staff member from the Office of Community Development approves in IDIS.
8. Check is approved and mailed by Treasurer's Office to subrecipient or developer.

## **Grant Loan Agreement, Project Year and Requirements**

### **HOME INVESTMENT PARTNERSHIPS LOAN AGREEMENT MUST INCLUDE:**

1. Detailed description of the use of HOME funds Section 1 of the agreement
2. Detailed project description
3. Drug Free Workplace Certification signed

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4. Income Inclusions and Exclusions signed
5. Updated copy of actual Subsidy Layering Analysis with Documentation
6. Updated actual Proforma and complete budget
7. EEO form signed
8. Section 3 requirements addendum if project more than \$100,000 (despite our loan amount)
9. Affirmative Fair Housing Marketing Plan updated in detail with documentation
10. Bidding for Professional Services (RFP/RFQ) and for contractors (subrecipients only-not applicable for Developers)
11. The County of Morris has executed a legally binding written agreement, with a subrecipient or developer, to use a specific amount of HOME funds to produce affordable housing, provide down payment assistance; or has met the requirements to commit to a specific local project that is controlled by the County of Morris.

## Commitment

The County of Morris has executed a legally binding written agreement, a subrecipient/ developer to use a specific amount of HOME funds to produce affordable housing, provide down payment assistance; or has met the requirements to commit to a specific local project.

*Commit to a specific local project means:*

- If the project consists of rehabilitation or new construction (with or without acquisition) the County of Morris and subrecipient/developer have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start after two years of the agreement date. The project has been set up in IDIS, and construction can reasonably be expected to start within the one year of the project set-up date.
- If the project consists of acquisition of standard housing and the subrecipient/developer is acquiring the property with HOME funds, the subrecipient/developer has executed a legally binding contract for sale of an identifiable property and the property title will be transferred to the subrecipient/developer within 6 months of the date of the contract. If the project consists of acquisition of standard housing and the subrecipient/developer is providing HOME funds to a family to acquire single family housing for homeownership or to a purchaser to acquire rental housing, the subrecipient/developer and the family or purchaser have executed a written agreement under which HOME assistance will be provided for the purchase of the single family housing or rental housing and the property title will be transferred to the family or purchaser within six months of the agreement date.

## Developer

*Rental housing* is “developed” by the CHDO/developer. If the CHDO/developer is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and the developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rent to low-income families. To be the “developer,” the CHDO/non-profit must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-

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HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs. At a minimum, the CHDO/developer must own the housing during development and for a period at least equal to the period of affordability. Housing for *homeownership* is “developed” by the CHDO if the CHDO is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income families.

To be the “developer” the CHDO or non-profit, must arrange financing of the project and be in sole charge of construction. The CHDO may provide direct homeownership assistance when it sells the housing to low-income families. The HOME funds for down payment assistance shall not be greater than 10 percent of the amount of HOME funds for development of the housing.

The County of Morris shall determine a rent set forth in its written agreement with the CHDO the actual sales prices of the housing or the method by which the sales prices for the housing will be established.

## **Displaced Person**

A displaced person means a person (family individual, business, nonprofit organization, or farm, including any corporation, partnership or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with HOME funds.

## **Effective Period**

CHDO's must meet the definition of CHDO throughout the period of agreement. For non-CHDO's, the HOME affordability period dictates the compliance period. The affordability period is based on the total direct subsidy to homebuyer and the total HOME investment in the property.

## **Expenditure Deadline**

The County of Morris has 2 years to commit of CHDO set-aside funds will be applicable at the date set forth in the agreement and will be implemented by HUD for all deadlines that occur on or after that date. Consequently, entities receiving a commitment of set aside funds will be expected to expend and complete activities based on a reasonable performance based metric negotiated prior to a commitment of funds.

## **Housing**

Includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farm worker dormitories).

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## **Low-income families**

Families whose annual incomes do not exceed 80% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance.

## **Owner**

Rental housing is “sponsored” by the CHDO if it is rental housing “owned” or “developed” by a subsidiary of a CHDO, an LP of which the CHDO or its subsidiary is the sole general partner, or an LLC of which the CHDO or its subsidiary is the sole managing member.

The subsidiary of the CHDO may be a for-profit or nonprofit organization and must be wholly owned by the CHDO. If the LP or LLC agreement permits the CHDO to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another CHDO.

## **Project**

A site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking under this part. The project includes all the activities associated with the site and building.

## **Project Completion**

All necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the IDIS, except that with respect to rental housing project completion, project completion occurs upon completion of construction and before occupancy. Beneficiaries (rental tenants) must be entered in IDIS within 6 months.

## **Set Aside**

U.S. Department of HUD mandates that a minimum of 15% of the County of Morris’s annual HOME allocation be reserved for use by Community Housing Development Organizations (“CHDO”).

## **Sponsor**

Rental housing is “sponsored” by the CHDO if it is rental housing “owned” or “developed” by a subsidiary of a CHDO, an LP of which the CHDO or its subsidiary is the sole general partner, or an LLC of which the CHDO or its subsidiary is the sole managing member.

The subsidiary of the CHDO may be a for-profit or nonprofit organization and must be wholly owned by the CHDO. If the LP or LLC agreement permits the CHDO to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another community housing development organization.

HOME-assisted rental housing is also “sponsored” by a CHDO if the CHDO “developed” the rental housing project that it agrees to convey to an identified private nonprofit organization at a

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predetermined time after completion of the development of the project. Sponsored rental housing, as provided in this paragraph (a)(5), is subject to the following requirements:

1. The private nonprofit organization may not be created by a governmental entity.
2. The HOME funds must be invested in the project that is owned by the CHDO.
3. Before commitment of HOME funds, the CHDO sponsor must select the nonprofit organization that will obtain ownership of the property.
  - (A) The nonprofit organization assumes the CHDO's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.
  - (B) If the housing is not transferred to the nonprofit organization, the CHDO sponsor remains responsible for the HOME assistance and the HOME project.

## Subrecipient

This is a public agency or non-profit organization chosen to administer HOME funds.

## Very low-income families

Families whose annual incomes do not exceed 50% of the median family income for the area. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

## GRANT TIMETABLE

1. All professional services (i.e. engineer or architect) paid for by HOME funds must be competitively procured as per HUD regulations by the subrecipient. If not paid by HOME, then you can use your existing contracted engineering or architectural firm to proceed with the project (**FOR SUBRECIPIENTS-NOT DEVELOPERS**)
2. The County can provide an award letter upon submission of the project to HUD so that you can proceed with local bonding for the professional services earlier in the process.
3. A letter stating that the award will be made at the time of submission of the grant application to HUD will only allow the architect or engineer to draft the plans and specifications and put together the bid package for our review and publishing. You cannot award a construction contract, until you have received the fully executed grant agreement from the County;
4. Engineering or architect may begin their preparatory work at the same time as the environmental review is occurring,
5. The expedited schedule will allow your engineer to obtain any needed permits prior to receipt of the grant contract and remove another impediment to the completion of your project.
6. Notice to Bidders must contain this language: Wage determinations established under the Davis-Bacon Act will apply to this contract (**if 12 or more units**). The contract documents contain requirements addressing prevailing labor wage rates, labor standards, nondiscrimination in hiring practices, goals for minority and female participation, MBE and WBE participation, (**include if the project cost is more than \$100,000: participation by Section 3 resident and businesses**), and related matters.
7. NOTE: NJ law requires that the contractor pay the HIGHER of State prevailing wages or Davis-Bacon (**if more than 12 units**), for each class of worker (in the Bid package only Davis-Bacon [**if more than 12 units**] is put out for publication, once the contract is awarded, the contractor must look at both lists and choose the highest).
8. The MBE/WBE Solicitation form **MUST** be completed and submitted with the bid. Failure to include this form in the bid will be grounds to disqualify a bid. If the Contractor does not intend to use a

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subcontractor and there are no MBE/WBE material providers in the area, the form must so indicate. Otherwise, attempts to contact MBE/WBE subcontractors and material providers must be documented. MBE/WBE lists can be obtained from the State of New Jersey website:

<http://www.state.nj.us/transportation/business/civilrights/dbe.shtm>

9. Bonds must be obtained from companies listed in OMB Circular 570.  
[http://www.fms.treas.gov/c570/c570\\_a-z.html#n](http://www.fms.treas.gov/c570/c570_a-z.html#n)
10. NEVER bid or start construction on a project before receiving an executed loan grant agreement for the HOME grant funds from Morris County Community Development.
11. All Bid documents shall be reviewed by Morris County Office of Community Development before being bid to determine that the above referenced material is contained in the bid documents.
12. A bid schedule shall be provided to Morris County Community Development indicating the anticipated date of bid opening.
13. Subrecipients/developers shall make every effort to solicit bids from MBE/WBE construction contractors. At a minimum, the notice of the bid shall be mailed to a list of MBE/WBE firms drawn from the State of New Jersey listings. A copy of this listing will be provided to Morris County Community Development.
14. If only one bid is received, the subrecipient (**Not applicable to developers**) must contact Morris County Community Development immediately and table the bid. Generally, awards to a single bidder are not permitted and require HUD approval. We recommend extending the time to receive bids, contacting potential bidders to obtain additional bids or determining why the bid only attracted one bidder. If the scope is found to be too restrictive, then a modification will be required. Morris County Community Development must submit a request to HUD for an exception only if changing the conditions of bidding would not result in a different outcome and the municipal solicitor provides a written opinion that all of the procurement requirements under HUD and State of New Jersey and all federal law have been met.
15. If wage rates change within 5 working days of the bid opening date, a bid addendum must be issued reflecting the new wage rates for the job (only to be used if more than 12 units).
16. Once bids are received, the Bid Tabulation must be sent along with the low bidder's documentation to Morris County Office of Community Development.
17. The engineer shall review the bids and make a recommendation indicating bid reasonableness. A copy shall be provided to Morris County Office of Community Development.
18. The low bidders shall be verified for eligibility to participate in a federal contract using **Attachment G** [www.SAM.gov](http://www.SAM.gov) – we will check federal and state lists. The resulting printout shall be sent by Morris County Office of Community Development.
19. A copy of the legal notice posted in the newspapers (optional-non-profits not required to publish in the newspapers) and in other mediums must be submitted to Morris County Office of Community Development.
20. A representative of Morris County Office of Community Development **must** attend the pre-construction conference.
21. All required forms must be signed before a proceed- to-work order is provided, including Section 3 required forms, if applicable.
22. A copy of the Contract and Notice to proceed must be provided to Morris County Office of Community Development.



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23. The Contractor must provide a copy of the Labor Union statement of contributions or other documentation of the fringe benefits paid on behalf of workers on the job.
24. The contractor must provide weekly payrolls not less than 2 weeks after completion of each workweek. Payrolls should be numbered 1, 2, 3 .... and FINAL and include statements of "no-work week" should there be gaps between weeks. Job classifications must indicate the federal wage decision classification, not the union classification.
25. On-site interviews of workers must be completed. The engineer shall notify Morris County Office of Community Development when the contractor is planning to be on-site (preferably with several days' notice) so that a visit can be scheduled.
26. Any deficiencies between wages paid to workers plus fringe contribution and the federal Davis-Bacon wage rate (**if more than 12 units**) must be corrected before the Morris County Office of Community Development issues payment.
27. All projects must ensure the 2-year commitment is met with all financial accounting.
28. All projects must be completed within 4 years.
29. 90% of all rental units paid for by HOME funds must be rented to people within the 60% HUD median income guidelines.

## AFFORDABILITY PERIODS

Housing Activity	Minimum Period of Affordability in Years
Rehabilitation or acquisition of existing per unit amount of HOME funds: Under \$15,000	5
\$15,000-\$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
Rental only: New Construction or acquisition of newly constructed housing	20

## FUNDING CYCLE

Loan Grant conditional awards are made each year prior to the start of the funding cycle of July 1. Home does not allow additional funding during affordability period.

	Period	Serve Again?
Owner Rehab	None	Local Option
Homebuyer	5-15 yrs.	Same house diff. buyer Same buyer diff. house within one year of completion
Rental	5-20 yrs.	Within 1 yr. of completion of assist tenant to buy
TBRA	None	No affordability period but lease Required and TBRA contract up to 24 months



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## SPECIFICATION PACKAGE FOR PROFESSIONAL SERVICES AND CONTRACTORS FOR SUBRECIPIENTS ONLY

All State of New Jersey bid laws and federal procurement regulations cited at 2 CFR Part 200. 317-343 (effective December 26, 2014)

- (a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
  - (2) Requiring unnecessary experience and excessive bonding;
  - (3) Noncompetitive pricing practices between firms or between affiliated companies;
  - (4) Noncompetitive contracts to consultants that are on retainer contracts;
  - (5) Organizational conflicts of interest;
  - (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
  - (7) Any arbitrary action in the procurement process.
- (b) The non-Federal entity (subrecipient) must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (c) The non-Federal entity (subrecipient) must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features, which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
  - (2) Identify all requirements, which the offerors must fulfill, and all other factors to be used in evaluating bids or proposals.

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(d) The non-Federal entity (subrecipient) must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. In addition, the non-Federal entity (subrecipient) must not preclude potential bidders from qualifying during the solicitation period.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

**BONDING REQUIREMENTS:** Section 200.325 permits the Federal agency to accept the recipient's bonding policy and requirements if the Federal agency has determined that the Federal interest is adequately protected, and if not, the minimum requirements (abbreviated) are as follows:

- a. A Bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. (Note: State of NJ requires ten percent of the bid price).
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- d. Bonding companies must be listed in OMB Circular 570, not just State of NJ.

## SMALL AND MINORITY AND WOMEN'S BUSINESS ENTERPRISES

In order to comply with applicable Federal requirements, subgrantees and prime contractors should take all the necessary affirmative steps to assure that minority firms and women's business enterprises and labor surplus area firms are used to the maximum extent possible. The steps shall include:

- Placing qualified small and minority and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
- Establishing delivery schedules, where the requirements permit, which will encourage participation by small and minority businesses and women's business enterprises.
- Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. This office will provide a New Jersey Commerce list of certified Women and Minority owned companies for your use based on the crafts indicated on you wage request form.
- Requiring the prime contractor, if sub-contracts are to be let, to take the affirmative steps as outlined in this entire section.

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## WHAT IS THE DAVIS-BACON ACT?

- Employee rights for laborers and mechanics employed on Federal or Federally assisted construction project. Must pay not less than the wage rate listed in the Davis-Bacon Wage Decision.
- Must be paid not less than one and one-half times the basic rate of pay for all hours worked over 40 in a workweek, there are exceptions in NJ.
- Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.
- Apprentice rates apply only to apprentices properly registered under approved Federal and State apprenticeship programs.
- Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing pursuant to the Davis-Bacon Act. The contract for construction must contain these wage provisions if HOME funds are used for any eligible project costs.
- When HOME funds are only used to assist homebuyers to acquire single-family housing, and not for any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more housing units to be purchased with HOME assistance. The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units.

**NOTE: *Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.***

All bid and contract documents over 12 units shall contain required labor standards provisions and the appropriate Department of Labor wage determinations;

- 1) Conduct on-site inspections and employee interviews;
- 2) Collect and review certified weekly payroll reports;
- 3) Correct all labor standards violations promptly;
- 4) Maintain documentation of administrative and enforcement activities; and
- 5) Require certification as to compliance with the provisions of this section before making any payment under such contracts.

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## WHAT IS HUD'S SECTION 3?

- Section 3 of the Housing and Urban Development Act of 1968 (Section 3) ensures that HUD-funded jobs, training, and contracts are provided to local low-income residents, particularly those that reside in public housing, and businesses that substantially employ them.
- Projects and Contracts over \$100,000 must contain Section 3 language:
- Each bidder/proposer must include a Section 3 Opportunities Plan, which indicates its commitment to meet resident hiring requirements. If a bidder/proposer fails to submit a Section 3 Opportunities Plan and the related data along with the bid/proposal, such bid/proposal will be declared as “non-responsive.”
- A guarantee on low or very low-income residents to the greatest extent feasible a chance to work on Federal HUD-funded projects.
- Housing Rehab, new construction, utility service, Conduits
- Other public construction, such as street repair, sewage line repair or installation-sidewalk repairs
- Section 3 covered non-construction projects include maintenance contracts, including lawn care, re-painting, routine maintenance, HVAC servicing, and professional service contracts associated with construction (ex.: architectural, engineering, legal services, accounting, marketing, etc.).
- In conformance with the requirements of ***Section 3 of the Housing and Community Development Act of 1968***, to the greatest extent feasible, subrecipients/developers with construction and rehabilitation projects funded by HUD and of \$100,000 or more award contracts (contractors and subcontractors).
- must outreach for work to be performed to eligible ***business concerns located in or owned by residents of the target area*** to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing
- However, those projects, which total more than \$100,000 in overall expenses, and despite getting less than \$100,000 from HOME funds, will also be covered under Section 3. In addition, any SINGLE contract in excess of \$100,000 is subject to Section 3 REGARDLESS of the amount of HOME funds.

### A Section 3 business is one that is:

1. 51% or more owned by residents of public housing or persons whose income does not exceed HUD's local low-income limits (i.e. Section 3 residents); or
2. Comprised of 30% or more full-time employees who are Section 3 residents\*; or
3. Able to provide evidence of a firm commitment to award 25% or more of sub-contracts to businesses that meet 1 or 2.

# HOME INVESTMENT PARTNERSHIPS PROGRAM

\* Low income (80% or below the median income for Morris County) or Very Low at 50% or below the median income for Morris County residents residing in the service area or neighborhood in which the Section 3 project is located. Participants in HUD Youthbuild programs, and other low-income residents (including public housing residents).

Subrecipients/developers and Contractors must comply with:

- MBE-Minority Business Enterprise
- WBE-Woman Business Enterprise
- SBE-Small Business Enterprise
- DBE-Disadvantaged Business Enterprise
- ESBE-Emerging Small Business Enterprise
- For subcontractors and materials
- Must be registered and on directory
- See solicitation form we provide
- Davis-Bacon Wage rates change-expire within 180 days and can change within 5 working days of opening bid and we must issue a new wage rate for project (**subrecipients only and 12 or more units**)

## ADMINISTRATIVE REQUIREMENTS

- In order to inform residents of the County of Morris where Federal tax dollars are being spent in the County, please erect a sign on the site, in a location most visible to the public stating, "Funds for this project are provided from the Morris County HOME program."
- To receive reimbursement of activity of costs: you need to submit a detailed voucher with supporting documentation such as: 1. Certified weekly payrolls, 2. Progress payment worksheet 3. AIA documents, 4. Contractors' invoices, 5. Signed contracts 6. Monthly and Quarterly reports

## 2017 ADJUSTED HOME INCOME LIMITS

FAM SIZE	30%	50%	60%	80%
1	\$19,800	\$33,000	\$39,600	\$47,600
2	\$22,600	\$37,700	\$45,240	\$54,400
3	\$25,450	\$42,400	\$50,880	\$61,200
4	\$28,250	\$47,100	\$56,520	\$68,000
5	\$30,550	\$50,900	\$61,080	\$73,450
6	\$32,800	\$54,650	\$65,580	\$78,900
7	\$35,050	\$58,450	\$70,140	\$84,350
8	\$37,300	\$62,200	\$74,640	\$89,800

# HOME INVESTMENT PARTNERSHIPS PROGRAM

## TIME TABLE\*

ACTIVITY	TIMING
Application available	October 12, 2016
Orientation Meeting	October 20, 2016
Public Hearing & CDRS Meeting	October 20, 2016
Technical Assistance	October 21-December 15, 2016
Applications Due for review	December 16, 2016
Staff Reviews	December 19-February 10, 2016
Final complete Application submission	December 30, 2016
Evening presentations	February 27 and 28, 2017
Regional Coordinator Meeting	March 8, 2017
Publish recommended funding	March 29, 2017
*Public Hearing	April 20, 2017
Freeholder's Meeting to approve plan	May 11, 2017
Five Year Plan and Annual Action Plan Submitted to HUD	May 19, 2017
Anticipated HUD Award	July-September 2017
Legal Notice published for CAPER	1 <sup>st</sup> Week of September with 15 Day Comment Period
90 Days After Close of Program Year, CAPER is due	End of September

- All dates are tentative and may change with notice

\*-Public Hearing is at 5:30 p.m. for the Annual Action Plan-Freeholders Public Meeting Room Location TBD.

CDRS Meeting is at 6:00 p.m.-To approve Activity List-Freeholders Public Meeting Room-Location TBD.

# HOME INVESTMENT PARTNERSHIPS PROGRAM



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