Kentucky Housing Corporation

Home Investment Partnership Program

HOME Policies

Version: September 2015

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Published in the United States of America by:

Kentucky Housing Corporation
1231 Louisville Road
Frankfort, KY 40601

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www.kyhousing.org

Notice

This manual serves as a reference for the Kentucky Housing Corporation's administration of the HOME Investment Partnership (HOME) Program.

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Please contact a KHC program representative if you have questions or need additional assistance with materials within this manual.

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Program Definition

Created by Congress in 1990, the HOME Investment Partnerships Program (HOME) provides funding to applicants for various types of affordable housing production and rehabilitation. KHC administers and monitors the program for the U.S. Department of Housing and Urban Development (HUD), awarding funding to eligible applicants, including local governments, housing authorities, private developers, and nonprofit housing providers.

The purpose of the HOME Program is to expand the supply of quality, affordable housing for low- (at or below 80 percent of area median income) and very-low (at or below 60 percent of area median income) families. The HOME Program can be utilized to expand the supply of decent, safe, and sanitary housing through either new construction or rehabilitation of existing structures with forgivable, deferred grants or by providing Tenant Based Rental Assistance (TBRA) to address short-term housing needs. The HOME Program's flexibility empowers local communities to design and implement strategies tailored to their own needs and priorities.

Eligible Applicants

In order to be eligible to participate in the HOME Program, an applicant must be deemed to be in good standing by the Secretary of State of the Commonwealth of Kentucky.

Eligible applicants include private developers, nonprofit organizations, Community Housing Development Organizations (CHDOs), faith-based and community service organizations, and units of local government in Kentucky. Private developers are not eligible to apply for owner-occupied rehabilitation projects.

KHC will utilize a risk assessment tool to determine the relative risk among funded entities and projects. Procedures are in place for monitoring funded entities or projects.

KHC will ensure that government entities and nonprofit organizations are in compliance with the requirements of 24 CFR §92.505; all applicable Mortgagee Letters (*e.g.,* ML 2014-08); and all OMB requirements.

The city of Owensboro; the merged governments of Lexington/Fayette County and Louisville/Jefferson County; and the consortia consisting of the cities of Covington, Ludlow, Bromley, Newport, Bellevue, and Dayton receive a direct allocation of HOME funds from HUD. Projects in these areas are generally not eligible to apply for HOME funds administered by KHC. However, KHC may from time to time allow HOME funds to be allocated for projects in those participating jurisdictions for affordable rental housing. Such exceptions will be detailed in the applicable multifamily guidelines.

Community Housing Development Organizations (CHDO)

Eligible CHDO Set-Aside Applicants

The HOME Program regulations require that participating jurisdictions set aside a minimum of 15 percent of the annual allocation to fund applications submitted by Community Housing Development Organizations on a statewide basis.

CHDO's may apply for home buyer new construction and/or acquisition/rehabilitation/resale projects from the CHDO set-aside. CHDOs acting in the role of sub-recipients may also submit an application for Tenant Based Rental Assistance (TBRA) or homeowner rehabilitation; however, these are not CHDO set-aside eligible activities.

Only non-profit organizations that have received CHDO designation from KHC *prior to the time of application* will be allowed to compete in the CHDO set-aside category. Newly-designated CHDO applicants must have completeda prior successful CHDO-eligible project and completed a successful KHC monitoring of the project with no outstanding findings prior to submitting an application for CHDO set-aside funds. More information on CHDO requirements is available in KHC's CHDO Certification Manual, available at www.kyhousing.org, under the "Production/Single-Family" tab.

CHDO set-aside funds must be committed to specific projects within 24 months of KHC receiving its HOME allocation. Non-specific CHDO reservations do not count toward the 24-month commitment deadline or 24-month CHDO reservation deadline.

CHDOs- Capacity and Roles [24 C.F.R. §§ 92.300- 92.303]

1. **CHDO Staff Capacity.** A CHDO must certify that it has capacity, demonstrated by CHDO having paid staff with demonstrated capacity to perform the role for which CHDO is being funded. CHDO staff can be full-time or part-time and can be contract employees. CHDO cannot count the experience of board members, donated staff, parent organization staff, or volunteers to meet the capacity requirement. A CHDO can only count capacity brought to the table by a consultant in the 1st year of participation. After that, the CHDO must demonstrate capacity based upon paid staff. The staff must have experience/capacity relevant to the specific project and its role as owner, developer or sponsor. If the CHDO is the owner, its staff must have the capacity to act as the owner (this may mean the ability to oversee development). If the CHDO is the developer or sponsor, its staff must have development experience on projects of similar scope or complexity.
2. **CHDO as Owner.** A CHDO can now own and operate rental housing it did not develop. In these cases, the CHDO will be the owner in fee simple or have a long-term ground lease during the development and affordability period. HUD changed the role of a CHDO rental owner so that the CHDO owns the rental property in fee simple during the affordability period, but does not directly undertake development of the property. The CHDO will acquire standard housing, or hire a project manager or contract with a developer to perform rehabilitation or construction. Assistance must be provided to the entity that owns the Project.
3. **CHDO as Developer.** In the developer role, the CHDO must own (in fee simple absolute or via the holding of a long-term ground lease) and directly develop the property. The CHDO, in its role as developer, will arrange financing and be in sole charge of construction or rehabilitation of the Project. In the case of rental projects, the CHDO will own the project during development and throughout the period of affordability, and will perform all development activities. For Homebuyer projects, the CHDO will own, rehabilitate or construct the Project, then will sell the property. The written agreement with the CHDO must specify (1) the actual sales price or method for determining it; and (2) the disposition of proceeds of the sale (*i.e.,* whether it will be

returned to KHC or whether KHC will permit the CHDO to retain it). A nonprofit to which ownership of a rental project is transferred cannot be an organization created by a government entity.

4. **CHDO as Sponsor.** CHDOs can sponsor rental housing in two ways:
    a. It can develop rental housing on behalf of another nonprofit or CHDO and transfer title after construction is complete (title will be conveyed at a pre-determined time to a pre-identified nonprofit/CHDO); or
    b. The rental housing is owned or developed by a (a) for-profit or nonprofit entity that is a wholly-owned subsidiary of the CHDO; (b) limited partnership (LP) of which the CHDO or its subsidiary is the sole general partner; or (c) a limited liability company (LLC) of which the CHDO or its subsidiary is the sole managing member.
        i. The written agreement must be signed by KHC and the entity that will own the project.
        ii. If the partnership agreement permits removal of the CHDO as the sole managing member or partner, removal must only be permitted for cause. The partnership agreement must specify that the CHDO must be replaced with another CHDO.
5. **Organizations that create CHDOs**.
    a. Organizations that create CHDOs may include for-profit and governmental entities. These organizations cannot appoint more than one-third of board members and those appointed board members may not appoint the other two-thirds of the board. In addition, neither officers nor employees of the organization that created the CHDO can serve as officers or employees of the CHDO.
    b. Neither officers nor employees of a governmental or public organization that creates a CHDO may serve as an employee of the CHDO. “Governmental or public organizations” include participating jurisdictions, public housing agencies, HFAs, redevelopment authorities and Indian tribes.
6. **Recertification.** Each time KHC commits HOME funds, it must recertify a nonprofit’s qualifications to be a CHDO and its capacity to own, sponsor or develop housing. The CHDO will be required, with each set-up, to certify that it still qualifies and is eligible to receive funding according to these guidelines. Recertification language will be included on the set-up sheet and will require the signature of the CEO/Executive Director and the CFO.

Commitments

KHC will only commit funds to a specific project when the project has secured all the financing necessary to complete the project, established a budget and schedule for construction, and completed underwriting and subsidy layering (KHC will require a commitment letter for each activity at the time of set-up). The schedule for construction must include timelines for each of the following phases:

New Construction:	Footing (post-excavation and before concrete is poured) Interim (between wall insulation and drywall) Completion (100% complete, prior to move-in)
Rehabilitation:	Under roof/weatherization Interim (between wall insulation and drywall) Completion (100% complete, including waste removal)

KHC cannot commit funds in the form of non-project-specific CHDO reservations. Funds can only be committed to a project if KHC can reasonably expect construction or rehabilitation to begin within 12 months.

Written agreements committing HOME funds must have dated signatures.

While KHC can make preliminary awards of HOME funds for a proposed project, the preliminary agreement will be contingent upon obtaining financing, completing environmental reviews, and specifying the address or legal description of the project property(ies).

Match and Leverage Requirements

All applicants must meet the minimum match requirements if requesting HOME funds for home buyer or homeowner rehabilitation projects.

All applicants requesting HOME or a combination of HOME and AHTF funds for home buyer or homeowner rehabilitation activities are required to contribute HOME-eligible matching funds of at least 10 percent of the total HOME request. HOME applicants may use the AHTF to meet the match requirement. Commitment letters will be required for match funds.

HOME matching funds are permanent, non-federal contributions to the project. All funding sources not HOME-match eligible are considered leverage. Leverage funds include all federal dollars, loaned funds, and owner cash.

Contributions (Match Credit 24 CFR §92.221)

Contribution, such as donated materials, volunteer labor, or donated real property, to be considered match contributions to the **development of homeownership housing** may be credited as a match only to the extent that:

1. It enables the unit to be sold for less than the cost of development (if the development cost of a unit exceeds the market value).
2. The sales price of the housing is reduced by the amount of the contribution or, if the development costs exceed the fair market value of the housing, the contribution may be credited to the extent that the contributions enable the housing to be sold for less than the cost of development.

Eligible Forms of Matching Contributions

Matching contributions must be made from nonfederal sources and may be in the form of one or more of the following:

- **Affordable Housing Trust Fund,** if awardedto a HOME project.
- **Cash contributions** not provided by the assisted household.

- Reasonable value of **donated site-preparation and construction materials;**
- **Reasonable rental value of the donated use of site-preparation or construction equipment.**
- **Waived fees and taxes.**
- **Property donation or below-market sale**. A copy of the appraisal and/or purchase contract must be submitted. The donor/seller of the property must also provide a statement certifying that the property was donated or sold for affordable housing purposes and an acknowledgement that the donor/seller received the URA Guide Form Notice Disclosure to Seller, as well as the HUD booklet entitled, "When a Public Agency Acquires Your Property." *If the property was originally acquired with federal funds, the value of the property is not match-eligible.*
- **The direct cost of donated home buyer counseling services provided to families that acquire properties with HOME funds under the provisions of 24 CFR §92.254, including ongoing counseling services provided during the period of affordability.** Counseling may not be valued at more than $40 per hour.
- **Reasonable value of donated or volunteer labor or professional services.** Unskilled volunteer labor may not be valued at more than $10 per hour; skilled volunteer labor may be valued at the documented going rate.
- **Value of sweat equity** may also be eligible **if every assisted household is required to perform sweat equity**. Sweat equity may not be valued at more than $10 per hour.
- **Cost of onsite or off-site infrastructure** that is directly required.
- Proceeds from multifamily and single family affordable housing **project bond financing** issued by a state or local government, or an agency or instrumentality of a state or local government or a political subdivision of a state and repayable with revenues from the affordable housing project.
- Cost of **supportive services** provided to families residing in HOME-assisted units during the period of affordability or receiving HOME tenant-based rental assistance during the term of the tenant-based rental assistance contract.

All match and leverage funds must be expended before completion of the project (i.e., submission of the project completion reports).

Recognition of Matching Contribution (24 CFR §92.219)

KHC will monitor HOME match-eligible housing to ensure continued compliance with the requirements of §§92.203 (income determinations), 92.252 (Qualification as affordable housing: rental housing), 92.253(a) and (b) (tenant protections) and 92.254 (qualification as affordable housing: homeownership).

State Clearinghouse Review

The Kentucky State Clearinghouse has been designated as the state Single Point of Contact (SPOC) and is charged with providing state and local input to the appropriate federal agency. At the state level, this task is accomplished by identifying those state agencies that should be involved in the planning and development of activities by Executive Order 12372 and providing these agencies with the opportunity to evaluate proposals in a timely, effective fashion.

For the Clearinghouse review, go to https://kydlgweb.ky.gov/FederalGrants/eClearinghouse.cfm then print and follow the directions. If you need help or have questions, please call Lee Nalley at (502) 573-2382 or e-mail Lee.Nalley@ky.gov.

Eligible Activities

Homeownership

HUD allows a wide variety of activities under the HOME Program. KHC strives to maintain a great deal of flexibility in how the funds can be utilized in order to maximize the opportunities to create or maintain affordable housing of all types across Kentucky. The following project types may be eligible for HOME funding as identified in KHC's Consolidated Plan and Annual Action Plan:

- New construction.
- Acquisition, rehabilitation, and re-sale of existing single-family dwellings.
- Site development combined with new construction.
- Construction financing.
- Minor rehabilitation of owner-occupied units ($1,000 to $9,999 per unit).
- Moderate rehabilitation of owner-occupied units ($10,000 to $24,999 per unit).
- Substantial rehabilitation of owner-occupied units ($25,000 or more per unit).
- Demolition and reconstruction of owner-occupied units.
- Tenant-Based Rental Assistance (TBRA).
- Relocation expenses, when combined with other HOME-eligible expenses.
- Reasonable administrative and planning costs.
- Conversion of existing affordable housing.
- Manufactured housing.
    - HOME funds may be used to purchase and/or rehabilitate a manufactured housing unit or purchase the land where a manufactured housing unit is located. Except for existing, owner-occupied manufactured housing that is rehabilitated with HOME funds, the manufactured unit must, at project completion, be on a permanent foundation, be connected to permanent utility hook-ups, and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equivalent to the applicable period of affordability.
    - Manufactured housing must meet all applicable state and local construction standards. The real property on which the manufactured home is located must also meet all zoning requirements.
    - Manufactured housing may qualify as an eligible CHDO activity, provided the CHDO is acting as the owner, developer, or sponsor of a project in accordance with all HOME Program requirements. To be a CHDO-eligible activity, the CHDO must undertake the final development of the housing unit by removing the drawbar and coupling mechanism, running gear assembly, tires, and lights. Additionally, the CHDO must install the unit on a permanent foundation, finish the interior, install the flooring systems, HVAC systems, plumbing system, and roofing system, as well as adhere to all of KHC's Minimum Design Standards.
      A manufactured home that is built on a chassis (as opposed to modular, which is constructed off site and delivered by truck) is issued a motor vehicle title. Recording a mortgage against the real property to secure a loan does not automatically secure the home in these cases. Recording a mortgage and a motor vehicle lien perfects the lien. Alternatively, provided the manufactured home is permanently attached to a foundation (with axles and towing gear removed), the applicant and homeowner may

surrender the Kentucky Certificate of Title and file an Affidavit of Conversion to Real Estate with the county clerk in the county where the property is located. By doing this, a mortgage is the only lien required. The manufactured home becomes "real property" instead of "personal property."

- Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing. Note: the use of HOME/AHTF funds must result in a unit of affordable housing. Land acquisition or demolition that does not result in a unit of affordable housing is ineligible.

- Replacing existing housing with *like* housing is considered an eligible **homeowner rehabilitation activity per 24 CFR §92.205.** For example, replacing a manufactured housing unit with another manufactured housing unit or replacing a stick-built unit with another stick-built unit becomes a homeowner rehabilitation activity.

- Replacing existing housing with *un*like housing is considered an eligible **home buyer activity per 24 CFR §92.205.** An example would be replacing a manufactured housing unit with a stick-built unit.

- If the project proposes demolition and reconstruction, the dilapidated structure must be demolished. In the event of a mobile home replacement, the dilapidated mobile home must be demolished or salvaged (a salvage title must be obtained) and the salvage value should be reinvested into the new unit. For all demolition and reconstruction projects, a demolition agreement must be executed with the property owner.

- Applicants are responsible for ensuring that HOME units are properly insured during the construction and/or rehab process. Applicants must also ensure that the assisted property remains insured throughout the affordability period.

- For all properties assisted with HOME and/or AHTF funds, the homeowner must maintain all risk, fire and extended coverage, in form and with companies acceptable to Applicant for each homeowner or homebuyer activity in an amount not less than the HOME or AHTF investment in the property. Each policy must include appropriate loss payable clauses in favor of the Applicant agency, as beneficiary, and without right of cancellation or change except upon thirty (30) days' written notice to Applicant. Homeowner will deliver proof of all insurance to the Applicant agency prior to the investment of HOME or AHTF funds in the property.

The minimum HOME permanent investment per project is $1,000 (not applicable for TBRA).

HOME CHDO Set-Aside

For organizations to utilize CHDO set-aside funds, the activity must include one of the following:

- Acquisition ***and*** moderate-to-substantial rehabilitation of existing home (minimum of $5,000 in rehabilitation); or
- New construction of home buyer property.

HOME CHDO set-aside funds **must** be used during the construction or rehabilitation.

All CHDO set-aside funds must be expended within 5 years of the date KHC receives its formula allocation.

Ineligible Activities

In addition to the activities that are prohibited by the HOME regulations, KHC considers the following activities **ineligible** for HOME funding:

- Finished basements. Partial unfinished basements may be permitted on a case-by-case basis if the existing topography of the site would yield a sub-surface area large enough to be usable by the assisted household. This activity would require prior approval.
- Luxury items including but not limited to:
    - Swimming pools.
    - Garages, unless required by a neighborhood or subdivision covenant, or are an existing attached structure.
    - Fences (other than those required for security).
    - Television satellite dishes.
    - Upgrades to surfaces, furnishings, fixtures, appliances, etc.
- Non-essential landscaping (unless installed as part of a green building design) and other yard or nonstructural improvements, except fences.
- Rehabilitation of accessory structures, unless specifically authorized by KHC for health and safety reasons.
- Additional rooms, except to comply with Kentucky Residential Code.
- Rehabilitation damaging to the historical character or value of a structure as determined by the State Historic Preservation Office of the Kentucky Heritage Commission.
- Refinancing of existing debt.
- HOME assistance of less than $1,000.
- Down payment, closing costs and/or principal reduction **without** construction financing.
- Reconstruction of a unit that was not standing at least 12 months prior to the commitment of HOME funds.

New Construction

Construction Standards

All construction must comply with appropriate design and construction standards and building and residential codes adopted by the Commonwealth of Kentucky. Information for purchasing adopted codes and standards is available through the Kentucky Department of Housing, Buildings, and Construction web site at http://dhbc.ky.gov/bce/bc/Pages/default.aspx.

Applicants may not begin construction on any unit until the project has been approved by KHC program staff. Any unit started (defined as any on-site construction activity) before approval by KHC may make the unit ineligible for KHC assistance.

Construction Management

- Applicants must develop construction management procedures that outline contract provisions for the contractor and subcontractors, payment requests, forms to be completed, inspection procedures, and project completion procedures.

- Applicants must establish and maintain a current listing of qualified contractors based on experience (unless the applicant utilizes only in-house crews) who are interested in doing new construction and/or rehabilitation work financed through the HOME Program. At a minimum, agencies should annually advertise a request for qualifications. Every effort must be made to ensure that the bidding is fair and open. *(Not applicable to private developers.)*

- Applicants must maintain documentation of the bid opening, bid award (unless the applicant utilizes only in-house crews), and pre-construction conference. Documentation must be maintained in the files, according to the requirements of 24 CFR Part 92.508. *(Not applicable to private developers.)*

- A full work write-up with line item cost estimates must be submitted to KHC prior to project set up. KHC will determine the feasibility and cost reasonableness of the project.

- All variances from KHC's design and construction standards must be submitted to KHC prior to project set up. KHC will determine the feasibility of the variance and issue a written response to any variance request.

- Rehabilitation projects must comply with applicable building and residential codes along with KHC's Minimum Design for Rehabilitated Single Family structures, which may be located on KHC's website, www.kyhousing.org.

- For owner-occupied rehabilitation, there must be a written contract between the contractor and the owner/applicant. The contract should reference and include the work write-up, specifications, drawings, and appropriate code references.

- Contractors must submit a request for payment that is signed by the homeowner/buyer, along with lien waivers and affidavits to the applicant with each pay request. The applicant must inspect the property to determine that the work completed is valued at an amount equal to the progress payment requested. If the work completed is not in compliance, it is the responsibility of applicant agency staff to obtain appropriate corrective action from the contractor before requesting payment from KHC. The contractor must be notified at the time of the inspection of any necessary corrective action to enable the agency to make a progress payment. This notification must be included in the case file.

- To notify KHC when construction will begin on a unit, the applicant must submit a construction start-up notice to their assigned program representative/specialist **at least three weeks prior to the start of construction**. A notice must be submitted for each unit. Failure to submit this notice in a timely manner may result in delays in accessing funds.

- Housing that is newly constructed with HOME or AHTF funds must be constructed as to mitigate the impact of potential disasters (e.g., earthquakes, floods, wildfires) in accordance with state and local laws.

Change Orders

Any changes in the approved plans and scope of work must be approved by a KHC construction specialist before the change of work scope occurs. Proposed changes should be submitted to KHC in the form of a detailed Change Order submitted on proper forms and executed by all parties. Change Orders must be approved by KHC prior to beginning the work and include the Change Order amount in the Draw Request.

Construction Contingency

KHC will allow applicants to incorporate up to 10 percent of the total development cost to be used as a construction contingency. However, if a construction contingency is added to the cost estimate, it should not be considered an automatic project cost. Construction contingency is designed to help applicants pay for unforeseen cost overages.

If KHC funds are budgeted for construction contingency, the applicant must seek approval from their assigned project representative prior to accessing these funds. If the amount budgeted for construction contingency on a particular unit is insufficient to meet the cost overage, **the applicant must then use their developer fee to meet these costs before requesting additional funds from KHC.** For rehabilitation projects that are ineligible to receive a HOME developer fee, if the amount budgeted for construction contingency on a particular unit is insufficient to meet the cost overage, the applicant must then use funds from other sources to meet these costs.

Inspections

Recipients of HOME and AHTF funds are required to have 100 percent of their units inspected by qualified staff or a third-party inspector. All units are to be inspected for code compliance as well as reviewed to meet all KHC design requirements. Inspection reports for all project units must be kept on file by the recipient. Recipients shall provide to KHC representatives the final inspection report with the close-out documentation.

Additionally, KHC will inspect approximately 20 percent of the total units in the project. However, KHC reserves the right to inspect fewer units. Examples of the criteria which might dictate that KHC inspect at least 20 percent of the units will include, but not be limited to:

- Investment of $10,000 or more of KHC funds in the project;
- A new recipient of KHC funding;
- A new contractor with whom KHC has no previous experience;
- A history of deficiencies or other compliance issues.

The program representative will determine whether the unit is subject to inspection by KHC. Each program representative/specialist will contact the applicant to give notification of upcoming projects requiring inspections. KHC may require more units to be inspected as a quality control measure.

New construction units selected by KHC for inspection will be inspected a minimum of three times each. For new construction these inspections will be at the following stages:

- Footing (after excavation of footings and before footing concrete is poured)
- Interim (any time between completion of wall insulation and hanging of drywall)
- Completion (100% complete including landscaping and site work and before move in)

Rehabilitation units selected for inspection will be inspected a minimum of one time each. Rehabilitation project units will, based on the work scope of the project, be inspected at the following stages as applicable: (Contact your KHC Construction Specialist for guidance)

- Under-roof/weatherization
- Interim (any time between completion of wall insulation and hanging of drywall)
- Completion (100% complete, including removal of waste materials)

Please note: The inspection stages and percentage of work completed may not directly correspond to the percentage of KHC funds that may be requested.

Units selected for inspection must have a representative from the applicant agency attend each inspection. .

KHC will charge a "re-inspection fee" of $200 under the following circumstances:

- Units that a KHC inspector must perform more than one final inspection due to the project not being 100% complete.
- Failure by the agency to provide an agency representative on the project site during the inspection to provide access.
- Unsuccessful attempts due to the agency not coordinating the inspection with homeowners or other involved parties which renders the unit inaccessible for inspection.
- A hazard exists on the project site at the time of inspection which endangers the welfare of the inspector. Examples: bed bug infestation, poisonous snake infestation, uncontrolled animals, etc.

The fee must be paid to KHC prior to any additional funds being drawn from KHC. This fee cannot be paid using HOME and/or AHTF funds. A re-inspection fee will not be charged for follow-up inspections to verify correction of deficiencies observed during any inspection.

Draw Requests

KHC will allow a maximum of three draw requests per unit for home buyer and homeowner rehabilitation projects. In extenuating circumstances, KHC may allow additional draws. For units inspected by KHC, each draw request must be approved by KHC's construction specialist.

Draw amounts should be proportionate to the percentage of completion of the unit. KHC reserves the right to reduce any draw that is requesting excessive funds compared to the percentage of construction completed at the unit.

At completion of each unit, the agency may submit a final draw to KHC. No funds will be paid by KHC on a unit deemed non-compliant of any applicable code or KHC standard by KHC's construction specialist.

The final draw request must also include required closeout documentation. This includes a deed restriction or agreement for AHTF projects and a project completion report for HOME projects. Inspection reports generated by qualified staff or other qualified third party inspectors must also be included for all HOME and/or AHTF project units

Universal Design Standards

Universal Design is a building concept that incorporates products, general design layouts, and characteristics into residences to:

- Make the residence usable by the greatest number of people.
- Respond to the changing needs of the resident.
- Improve marketability of the residence.

Universal Design is applicable to all single-family units whenever KHC is providing 50 percent or more of the funding based on the total construction cost per unit, including all hard and soft costs. It is also applicable to all modular and manufactured homes.

The goal of Universal Design is to build housing that meets the needs of the greatest possible portion of a community's population. It differs from Accessible Design, which is primarily intended to meet the needs of persons with disabilities. It is, however, inclusive of adaptable design as it strives to incorporate structural features that will allow a residence to be adapted to an individual or household's changing needs.

KHC's Universal Design Standards are available on KHC's Web site, under Housing Production, Design and Construction, Universal Design Standards.

Minimum Design Standards

Minimum Design Standards apply to new construction and reconstruction of homes built with funds from the HOME Program or AHTF.

Minimum Design Standards are required when funding from KHC is 10 percent or more of the cost per unit. *Please Note: KHC's Minimum Design Standards are to be used as a guideline to meet and exceed all local, state, and national codes.*

Minimum Design Standards also provide a way to enforce above-average construction and design for builders, contractors, and design professionals who wish to use KHC funding. Other methods of construction and design may be acceptable on a case-by-case basis. KHC's Minimum Design Standards are available on the KHC web site under Development, Design, and Construction, Minimum Design Standards. Select the appropriate type of housing.

Construction Code Standards

All construction will comply with appropriate construction standards adopted by the State of Kentucky. Information for purchasing adopted codes and standards is available through the Kentucky Department of Housing, Buildings, and Construction website at http://dhbc.ky.gov.

New Construction and Reconstruction

All newly-constructed or reconstructed units must meet the requirements of the most current version of the Kentucky Residential Code.

Construction contracts and other documents must describe the work in adequate detail so that inspections can be conducted.

Cost estimates for construction must be reasonable.

Rehabilitation

In the case of homeowner rehabilitation, KHC will provide HOME assistance in the following situations which do not meet the §92.2 definition of "homeownership":

1. Inherited property with multiple owners;
2. Life estates;
3. Intervivos trusts or living trusts; and
4. Beneficiary deeds.

For all rehabilitation projects, construction contracts and other documentation must provide sufficient detail of the work being completed that inspections can be completed.

Cost estimates must be reasonable for the type and extent of the work to be performed.

Minimum Design Standards for Rehabilitation

KHC's Minimum Design Standards for Rehabilitation of Single-Family Detached Dwelling Units are to be used as a guideline to assist in meeting or exceeding all local, state, and national codes. These standards also provide a way to enforce above-average construction and design for builders, contractors, and design professionals who wish to use KHC funding.

Units Receiving Less Than $10,000: For units receiving less than $10,000 in HOME and/or AHTF funding, the total scope of work must meet the Kentucky Residential Code (KRC) and local zoning, residential, and building ordinances (Local Ordinances) in force at the time of funding, regardless of what funding source is used when other funds are leveraged to complete the scope of work.

KRC regulations shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings.

HOME-funded units: Any HOME- or Trust Fund -funded unit, and units where KHC funding is over $10,000 but less than $30,000 must be constructed in accordance with KHC Minimum Design for Rehabilitation Standards (MDR), the Kentucky Residential Code (KRC), and Local Ordinances, as applicable, regardless of what funding source is used when other funds are leveraged to complete the scope of work.

1. KRC and MDR regulations and Local Ordinances shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings, and all rehabilitated single-family detached housing.
2. Items identified in the work write-up and incorporated in the project shall comply with the correlating sections of the KRC, MDR, and Local Ordinances, and shall not require full compliance of the entire standard(s) unless specifically required by MDR, KRC, or Local Ordinances.
3. Completed units shall not contain Health/Safety or Level 3 issues identified in the Federal Uniform Property Condition Standards, **Unit-Inspectable Items,** available at: http://www.hud.gov/offices/reac/products/pass/PDFs/appendix2-finaldictionary.pdf.

*See website: http://www.kyhousing.org

Rehab projects exceeding $30,000 in rehab costs (from all KHC funding sources), excluding acquisition costs, must ensure that the completed unit(s) meet the requirements of the Kentucky Residential Code (KRC) and Local Ordinances.

1. Any structure requiring more than $40,000 of total rehab construction costs in order to comply with MDR, or the adopted KRC, are encouraged to consider demolition/rebuild.
2. KRC regulations shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings.
3. Completed units shall not contain Health/Safety or Level 3 issues identified in the Federal Uniform Property Condition Standards, **Unit Inspectable Items, available at:** http://www.hud.gov/offices/reac/products/pass/PDFs/appendix2-finaldictionary.pdf

*See website: http://www.kyhousing.org

Green Building Techniques

The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ is the nationally-accepted benchmark for the design, construction, and operation of high performance green buildings. LEED gives building owners the tools they need to have an immediate and measurable impact on their building's performance. LEED recognizes performance in five key areas of human and environmental health: (1) sustainable site development, (2) water savings, (3) energy efficiency, (4) materials selection, and (5) indoor environmental quality. For additional information, please visit http://www.usgbc.org/.

- Projects proposing new construction or demolition/reconstruction must incorporate at least seven of the LEED Green Building criteria in the specifications.

- Projects proposing owner-occupied rehabilitation or acquisition/rehabilitation/resale must incorporate at least three of the LEED Green Building criteria in the work write-up.

The LEED Green Building criteria:

a) All adhesives, sealants and primers used on the interior of the building shall comply with South Coast Air Quality Management District Rule #1168. Acceptable volatile organic compound (VOC) limits are listed in the table at http://www.arb.ca.gov/DRDB/SC/CURHTML/R1168.PDF.

b) Use of 50 percent of wood-based materials and products that are certified in accordance with the Forest Stewardship Council's (FSC) Principles and Criteria for wood building components.

c) Open space. Provide vegetated open space area equal to 1) 20 percent of the project site area or 2) the building foot print. Vegetated open space is defined as gardens, plant beds, and fish ponds with plants, shrubs, or trees.

d) Install compact fluorescent light bulbs (CFLs) or LED bulbs throughout the units.

e) Utilize rapidly-renewable materials, such as bamboo flooring, cork, or soy-based insulation.

f) Provide an easily accessible area that meets minimum size requirements and is dedicated to the collection and storage of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, and metals. Homeowners are responsible for disposal and removal of recyclables.

g) Install a programmable thermostat. Please note: If a heat pump is installed in the unit, a programmable thermostat specifically designed for heat pump systems must be utilized.

h) Develop and implement a construction and demolition waste management plan that establishes waste diversion goals for the project by identifying at least 5 materials (both structural and nonstructural) targeted for diversion and specifies whether materials will be separated or comingled and describes diversion strategies that identify where materials will be taken and how they will be processed by a recycling facility.

i) Install a tankless or energy-efficient, hybrid water heater. Please note: Proper installation requires that the heating unit satisfies demand capacity and that the manufacturer's energy requirements be followed.

j) Use recycled, salvaged, refurbished, or reused materials such that the sum of these materials constitutes at least 10 percent of the total value of the project materials.

k) Use building materials that have been extracted, harvested, recovered or manufactured within 500 miles of the project site for a minimum of 10 percent of the total material costs.

l) Use carpeting that meets the product testing requirements of the Carpet and Rug Institute's Green Label Plus program, which can be found at: http://www.carpet-rug.org/CRI-Testing-Programs/Green-Label-Plus.aspx. Use carpet pads that meet the requirements of the Carpet and Rug Institute Green Label Program, and carpet adhesives that meet the VOC limit of 50 g/L.

m) Install all lavatory faucets with an average flow rate of $\leq$ 2.0 gallons per minute.

n) Install all showers with an average flow rate of $\leq$ 2.0 gallons per minute.

o) Install all toilets that have one or more of the following (counts as **one** feature):

- Average flow rate of $\leq$ 1.3 gallons per flush.
- Dual-flush and meet the requirements of ASME A112.19.14.
- Meet the U.S. EPA Water Sense specification and be certified and labeled accordingly.

p) Install compact hot water supply line design with no run over 20 feet from water heater (the maximum length depends upon the diameter of the pipe).

q) Install central hot water manifold trunk no more than 6 feet, insulated to R-4, with no branch line exceeding 20 feet.

r) Installation of all domestic hot water piping shall have R-4 insulation. Insulation shall be properly installed on all piping elbows to adequately insulate the 90-degree bend.

s) Prior to construction, create detailed framing plans or scopes of work and accompanying architectural details for use on the job site. Indicate the specific locations, spacing, and sizes of all framing members in the floors, walls, roof, and ceiling (if different from roof). Limit the overall estimated waste factor to 10% or less. If the waste factor on any portion of the framing order exceeds 10%, calculate the overall waste factor.

t) Prior to construction, create a detailed cut list in lumber order that corresponds directly to the framing plans and/or scopes of work.

Single-Family Plan Review

Project set-ups will only be done on pre-approved plans and specifications. For details on the process of obtaining plan approval, please check the procedures listed in "Design and Construction" on KHC's website at www.kyhousing.org.

Archaeological Surveys

Nonprofits and Local Governments

Projects utilizing HOME funds: If an archaeological survey is required, the developer may request reimbursement through HOME administrative funds. These funds are above and beyond the amount of HOME funds originally awarded to the project. KHC reserves the right to refuse to pay for additional surveys if they are required and reserves the right to withdraw the commitment.

Nonprofit organizations must complete a bid process consistent with the applicable procurement policy. The environmental specialist is the contact person and can provide the developer names of agencies that the State Historic Preservation Officer has approved for these services. The developer is responsible for submitting a copy of the bill or invoice to the environmental specialist to receive reimbursement for these services. If for some reason the project fails or KHC decides not to go forward with the development, KHC reserves the right to request a refund of all archaeological-related payments made to the developer by KHC.

For-Profits

Projects with less than 12 units requesting HOME funds: If the proposed project includes HOME funds and contains less than 12 units, the developer may receive reimbursement for the survey costs in the same manner described above. Even though for-profit organizations are not subject to procurement policies like nonprofit organizations, they will still be required to follow a bid process, requesting at least three bids, to demonstrate they received the best possible price.

All projects of 12 or more units and all projects not requesting HOME funds: If an archaeological survey is required, the developer is responsible for payment and cannot receive reimbursement from HOME administration funds. However, payment may be absorbed through soft costs already included in the total project cost.

Phase I Environmental Surveys

KHC's environmental risk management policy requires a Phase I environmental assessment performed to American Society for Testing and Materials standards for the following:

- Projects containing a group of more than four HOME-assisted units within 2,000 feet.
- All land development loans in excess of $200,000.
- All homeownership neighborhood/subdivision development loans in excess of $200,000.

KHC may waive the Phase I requirement when federal funds are not involved and there is sufficient information available to document the nonexistence of hazardous materials.

Units of local government must submit an environmental review record prior to release of funds. KHC will perform the review for nonprofit and for-profit organizations. In either case, this type of program is normally exempt and the environmental review is solely for documentation that the determination has been made that it is, in fact, exempt.

All projects must comply with 24 CFR Part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities).

Energy Efficiency

KHC encourages the incorporation of energy efficiency design, construction, and appliances for all housing projects. Energy efficiency helps homeowners and renters maintain financial stability through reduced monthly utility costs, increased health benefits, and increased value in the property.

For HOME-funded projects, all single-family building envelope designs must exceed the energy efficiency requirements of the 2012 International Energy Conservation Code. Supporting documentation must be provided via REScheck or other approved software that the building envelope exceeds the 2012 code requirements. REScheck software is available as a free download from the U.S. Department of Energy web site at http://www.energycodes.gov/rescheck. A web-based version is also available for use as a free application at this site: https://energycode.pnl.gov/REScheckWeb.

ENERGY STAR

KHC *may* award extra points for projects that are ENERGY-STAR rated. In order to earn ENERGY STAR points, the project must meet guidelines for energy efficiency set by the U.S. Environmental Protection Agency. ENERGY STAR-qualified projects are at least 15 percent more energy efficient than units built to the 2004 International Energy Conservation Code (IECC).

ENERGY STAR-qualified projects can include a variety of energy-efficient features, such as effective insulation, high performance windows, tight construction and ducts, efficient heating and cooling equipment and ENERGY STAR qualified lighting and appliances.

For additional information on ENERGY STAR guidelines, please visit http://www.energystar.gov/.

HOME Funds and Public Housing (24 CFR §92.213)

Generally, HOME Funds may not be used for public housing units. HOME–assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability. There are, however, exceptions to this rule in 24 CFR §92.213.

Rental Properties [24 C.F.R. §92.252]

KHC may designate more than 20% of HOME units as Low HOME Rent units.

KHC will annually review and approve rents for each HOME-assisted rental project to ensure compliance with HOME rent limits and prohibit undue rent increases.

For non-owner occupied properties assisted with HOME funds, those rental units must be occupied within 6 months or HUD will request information about marketing that has taken place on the unit and, if appropriate, for an enhanced marketing plan. If occupancy has not taken place within 18 months of project completion, KHC must recapture the HOME funds for that unit.

HUD Utility Schedule [24 C.F.R. §92.252(d)]

Per 24 CFR §92.252(d), KHC determines an individual utility allowance for each HOME rental project by using either (1) the HUD Utility Schedule Model or (2) the specific utilities used at the project.

The original effective date of this requirement was August 23, 2013. However, HUD has since issued further guidance in the form of a questions and answers document on its website, as well as a response to KHC's question through HUD's website. The following response was received on June 30, 2014:

> *HUD is making a technical correction to the 2013 HOME Final Rule which will delay the effective date of this requirement until January 24, 2015. When it becomes effective, PJs will only have to meet this requirement for projects that it funds on or after January 24, 2015. Also, HUD will issue further guidance on other models that can be used to determine a project's annual utility allowance.*

There has been much discussion about the possibility of HUD eliminating or modifying this requirement. Procedures for documenting and monitoring compliance are contained in KHC's Asset Management

Policies and Procedures and will be updated as updates are made to the HUD rules. Until further notice we will implement the following:

Underwriting Projects

1. During application, HOME projects will be required to submit a complete option 7, HUD Utility Schedule Model, per KHC's tax credit and HOME utility allowance policy. Note that this will not apply to applications coming in during 2014. 2014 applications receiving funding after January 24, 2015, will be required to submit this information during the technical submission phase.

2. Utility allowance requests described above will be routed to Asset Management for review and approval. Approved allowance numbers will be routed back to production staff for underwriting purposes.

3. Prior to final underwriting, production staff should obtain a new utility allowance if the most recent one is more than 1 year old.

Legal Documents

All HOME funding agreements will include language requiring compliance with HUD's and KHC's utility allowance policies as they may be modified from time to time.

Rental – HOME Tenant-Based Rental Assistance (TBRA)

All programs must comply with overall HOME regulations, the Consolidated Plan, and the Action Plan.

Eligible Projects

- Utility deposit assistance may be provided only in conjunction with either a rental assistance or security deposit program.
- Applicants proposing to administer a HOME TBRA program must design their program so that assistance is only transferable under the portability program within the applicant's service area.
- Applicants must establish a minimum tenant contribution to rent.
- TBRA may be conditioned on successful participation in a self-sufficiency program.

Tenant Selection

- HOME TBRA programs must have a written tenant selection policy that clearly specifies how families to be assisted will be selected. This policy must be maintained on file and available to KHC, HUD, and the public upon request. It is required as part of the Technical Submission for all funded applications.

- Local preferences outlined in the tenant selection policy cannot be administered in a manner that limits the opportunities of persons based on race, color, religion, sex, national origin, disability, actual or perceived sexual orientation or gender identity, marital status, or familial status. A person given a preference for the HOME TBRA program may not be prohibited from applying for another program for which he or she might qualify.

- 100 percent of TBRA households must be at or below 60 percent of the area median income. Additionally, 20 percent must serve households at or below 50 percent of the area median income.
- HOME TBRA uses the Section 8, Part 5 Housing Choice Voucher calculation in order to determine the appropriate amount of subsidy for which a tenant is eligible. Additionally, all applicants must use the Section 8 Part 5 income verification to determine eligibility.

- Tenants must be allowed to choose any eligible unit within an applicant's proposed service area. Applicants should clearly identify the service area and should verify that it does not extend beyond the area stated in the agency's by-laws. The applicant's program must be designed to allow portability of the voucher ONLY within the designated service area.

Eligible Uses

HOME may be used to provide Tenant Based Rental Assistance for the following activities:

- To provide rental assistance to help pay the cost of monthly rent and utility costs for up to 24 months.
- To pay security deposits for tenants regardless of whether rental and utility subsidies are being provided.
- To pay security and utility deposits only.
- In conjunction with a lease-purchase program, *except* for down payment and closing costs.
- Funds may be contingent upon successful participation in a self-sufficiency program.

Utility deposit assistance may be provided only in conjunction with rental assistance and/or security deposit assistance. TBRA funds can cover related soft costs for a TBRA project which include unit inspections and income determinations. HOME TBRA funds may be used to pay for reasonable planning and administrative expenses associated with operating a TBRA program. Administrative funds are limited to 10 percent of the project amount.

Ineligible Uses

HOME TBRA funds may NOT be used for the following activities:

- Application fees for housing units.
- Applicant background checks.
- Telephone and cable deposits.
- Landlord vacancy and/or damage claims.
- Down payment and/or closing costs in conjunction with a lease-purchase program.
- To make commitments to specific owners for specific projects. Tenants must be free to use the assistance in any eligible unit.

- To assist resident owners of cooperative housing that qualifies as homeownership housing. Cooperative and mutual housing may qualify as either rental or owner-occupied housing, depending on the provisions of the agreement applying to the unit.
- To prevent displacement of or provide relocation assistance to tenants as a result of activities other than the HOME Program.
- To provide TBRA to homeless persons for overnight shelter. Any HOME TBRA subsidy must be sufficient to enable a homeless person to rent a transitional or permanent housing unit that meets Housing Quality Standards (HQS).
- To provide assistance for more than 24 months.
- To provide assistance to a person who is already receiving rental assistance under another program (for example, a client receiving Project-Based Rental Assistance cannot receive TBRA).
- Funds may NOT be contingent upon participation in medical- or disability-related services, and cannot be administered in a manner that limits opportunities for persons with disabilities.

Tenants may choose any eligible unit within the applicant's proposed service area. Applicants should clearly indicate the service area in their applications and should verify that the proposed service area does not extend beyond any such area stated in the agency's by-laws.

Eligible Units

HOME TBRA voucher holders may select units that are publicly or privately owned. However, if Project-Based Rental Assistance is already provided for that unit, TBRA cannot be used. Only units within the agency's TBRA service area are eligible to be leased.

Units must rent for a reasonable amount compared to rents charged for comparable, unassisted units. The HOME TBRA applicant shall establish a rent-comparable book, and may utilize the information maintained by the local public housing authority, if available.

Eligible units must meet Section 8 Housing Quality Standards. Inspections must be made at the time of initial occupancy and annually thereafter during the length of TBRA subsidy.

All projects must comply with 24 CFR Part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities").

Units of local government must submit an environmental review record prior to release of funds. KHC will perform the review for nonprofit and for-profit organizations. The environmental review record will be solely for the purpose of determining whether the project, because of extraordinary circumstances and conditions at or affecting the location of the project, may have a significant environmental impact. If it is determined that the project may have a significant environmental impact, further steps must be taken in accordance with 24 CFR Part 58.

Payment Standards

Three options are available for setting the payment standard:

- The payment standard may be based upon the Section 8 Existing Housing Fair Market Rent (FMR). Using this method, the payment standard for each unit size may be no less than 80 percent of the published FMR and not more than the published FMR or HUD-approved community-wide exception rent in effect at the time. This method is attractive because it requires little market analysis on the part of the HOME recipient.

- Because HUD's FMR market areas are quite large, the published FMR may be dramatically high or low for a specific jurisdiction within the FMR area. For this reason, the HOME Program offers a second option for establishing the payment standard. The payment standard may be established at any level (higher or lower than the FMR), based upon the applicant's own market analysis. To exercise this option, the applicant must document the results of the market analysis.

- For the counties that KHC's Rental Department serves, the applicant may use KHC's Payment Standards, which are updated in October of each year. Those Payment Standards are available on KHC's Web site, www.kyhousing.org, under Rental. If the applicant is proposing to serve a county outside of KHC's jurisdiction, they may contact the local public housing authority for those counties and use their payment standard.

Deposit Assistance

HOME TBRA funds may be used for security and/or utility deposit assistance provided there is a separate determination of need. HOME regulations allow the security deposit payment to be made to the tenant or the owner and the utility deposit payment to be made to the tenant or the appropriate utility company. KHC recommends that deposit payments be made directly to the owners and utility companies.

The amount of security deposit paid should be based upon local market practice. However, the maximum amount of HOME funds that may be provided for a security deposit is the equivalent of two months' rent for the unit. Only the prospective tenant, not the owner or landlord, may apply for HOME security deposit assistance. Please note: Must be in the form of a grant to, or on behalf of, the tenant.

Utility deposits may be made in conjunction with the provision of rental assistance or security deposit programs, but cannot be operated separately as a "stand alone" program. Utility deposits may be paid for any of the tenant-paid utility services included on the utility allowance schedule. Telephone and cable deposits are ineligible. Please note: The funds must be in the form of a grant to, or on behalf of, the tenant.

Eligible Costs for HOME Funds

1. **Project costs (24 CFR §92.206).** HOME funds may be used to pay development hard costs, refinancing costs, acquisition costs, related soft costs (including architectural, engineering, or related professional services if incurred not more than 24 months before the commitment of HOME Funds if the Funding Agreement expressly permits these costs), CHDO costs set forth in 24 CFR §92.301; relocation costs; and costs relating to payment of loans, all of which are described in 24 CFR §92.206.
2. **Administrative and Planning Costs (24 CFR §92.207).** KHC may provide an allocation of HOME funds to Recipients of no more than 10 percent of the project award. Those funds may be used for reasonable administrative and planning costs in accordance with 24 CFR §92.102(b) to meet or

exceed threshold requirements for that fiscal year. Reasonable administrative and planning costs include:

   a. General management, oversight and coordination costs;
   b. Staff and overhead costs;
   c. Public information costs;
   d. Fair housing costs;
   e. Indirect costs;
   f. Other Federal requirements in subpart H (Environmental review costs may be charged as administration costs or as project costs); and
   g. Costs for preserving affordable housing already assisted with HOME funds.

3. **CHDO Operating Expense and Capacity-Building Costs.** Up to 5 percent of KHC's fiscal year HOME allocation may be used for CHDO operating expenses.
4. **TBRA (24 CFR §92.209).**
   a. Eligible costs include rental assistance, security deposit payments, and utility deposit assistance (if it is provided with TBRA or security deposit payment). Administration of TBRA is eligible only under general management oversight and coordination under §92.207(a), except cost of unit inspections and income determinations are eligible project-related soft costs.
   b. The term of the rental assistance contract may not exceed 24 months, but may be renewed, subject to the availability of HOME funds.
   c. KHC reserves the right to disapprove a lease if the rent is not reasonable, based on rents charged for comparable unassisted rental units.
   d. The tenant's lease must comply with the requirements in §92.253(a) and (b).
   e. The amount of monthly assistance may not exceed the difference between a rent standard for the unit size and 30 percent of the family's monthly adjusted income.
   f. The housing must meet the requirements of 24 CFR §982.401.
   g. The recipient may use HOME funds provided for TBRA to provide security deposits provided the procedures in 24 CFR §92.209(j) are followed.
   h. TBRA may be provided through an assistance contract with an owner that leases a unit to an assisted family or directly to the family. In either case, KHC must approve the lease.
   i. In any case, where Section 8 assistance becomes available, recipients of TBRA will qualify for tenant selection preferences to the same extent as when they received HOME TBRA under this subsection.

Eligible Beneficiaries of HOME Funds

All program beneficiaries must be Kentucky residents.

Each applicant must develop and utilize a standard program application form. Each household must complete the standard application form. If necessary, the agency will provide assistance in preparing the form, especially to the elderly, handicapped, non-English speaking persons, and persons who are unable to read or write. A *Uniform Residential Loan Application* is not considered a program application and cannot be used as such under this program.

All households deemed ineligible for assistance must be notified in writing of such determination and the reasons for such determination. The household should also be notified of other potential resources in rehabilitating or acquiring the property for which the household may be eligible and where to apply for such assistance.

Applicants should document their efforts to ensure clients are complying with the requirements of the mortgage, loan agreement, and promissory note. The HOME Program requires the assisted household occupy the assisted property as its principal residence during the applicable affordability period. KHC has further restricted the principal residency to be the same number of years as the affordability period in written agreements. Applicants should also outline the steps their agency will take to ensure compliance with the requirements set forth in their application and funding agreement.

Applicants must disclose all real, potential, or perceived conflicts of interest to KHC as outlined in 24 CFR Part 35 and 24 CFR Part 84 or 85, as applicable, regarding the receipt of, assistance provided with, or expenditure of KHC funds. All conflicts of interest must be disclosed and resolved prior to providing KHC assistance to the household.

Closing documents must be prepared in compliance with all Dodd-Frank requirements, and given to each household assisted with amortized or forgivable loan funds.

A Right of Rescission statement must be given to all households assisted in home buyer or homeowner rehabilitation projects in which the household owns the lot.

Income Limits

HOME assistance may be provided to households with gross incomes at or below 80 percent of the area median income for the county in which the household resides.

If a non-governmental lending agency is providing both the first mortgage financing and the HOME assistance, KHC will be required to verify the income eligibility of the end-beneficiary and must inspect the housing for compliance with applicable property standards. KHC is currently awaiting additional guidance from HUD, and will provide updates as information is received.

TBRA assistance may be provided to households whose gross annual income does not exceed the Section 8 limit for 60 percent of the area median income. Income of participating tenants must be verified before assistance is provided and re-examined annually thereafter. Income limits are established by household size and revised annually by HUD. If at the annual re-examination the household's income exceeds the Section 8 Low-Income Limit, the household is no longer eligible for HOME TBRA and assistance can no longer be provided.

HUD's income limits are typically updated each spring. The most recent income limits can be found at: www.hudexchange.info/resource/2170/home-program-income-limits.

Income Verification

All households assisted must be income-eligible based on the anticipated gross income as determined by the Section 8 method (24 CFR, Part 5) of income determination. All income and assets must be third-party verified. The income of the applicant includes all household income and the actual or imputed income from assets of all household members. Imputed asset income must be determined using the current passbook savings rate, as published by HUD.

Income and asset verifications are valid for 180 days prior to the execution of the HOME written agreement. If more than 180 days elapse after the verifications are completed, but before the HOME written agreement is executed, the recipient must re-verify all household income and assets using the Section 8 method.

When determining income eligibility, at least 2 months' worth of source documentation must be reviewed.

The income of ALL adult (18 and over) household members must be counted.

Underwriting Criteria

Sustainable Homeownership Program Design and Underwriting [24 C.F.R. §92.254(f)]

HUD has provided specific guidance regarding the manner in which participating jurisdictions must evaluate recipients of HOME funds in order to ensure sustainability for the family while not over-subsidizing. As a result, KHC has adopted the following minimum underwriting criteria to ensure the appropriate amount of HOME assistance.

Each sub-recipient may impose more restrictive underwriting criteria; however, more *lenient* criteria than those outlined below are not acceptable. KHC's underwriting criteria addresses the following requirements:

1. Underwriting homebuyer assistance;
2. Responsible lending; and
3. Re-subordination of HOME debt in the event of private debt refinancing.

In order to determine the sustainability of the homeowner, KHC has established specific underwriting criteria that address:

1. Housing debt and overall debt;
2. Monthly expenses of the family;
3. Assets available to acquire housing; and
4. Financial resources available to sustain housing.

Written Underwriting Standards

Sustainable Homeownership Responsible Lending [24 C.F.R. §92.254(f)]

KHC has developed and implemented written homebuyer procedures that do more to ensure the sustainability of the HOME ownership situation for the low-income buyer over time. These underwriting standards for the homebuyer take into account housing debt, total debt, household's recurring expenses and assets that are available for the purchase. KHC will also require every HOME applicant to have a minimum of $250 in cash reserves at the time the loan is closed. Every applicant will not receive the same amount of down-payment assistance.

KHC adheres to sustainable lending procedures and requires lenders who combine other financing for recipients of HOME funds to provide sustainable lending products as well. KHC will examine the terms of private first mortgages that homebuyers secure (homebuyers who are receiving, for example, down payment assistance or buying a property) to ensure the terms of the loan are reasonable and sustainable. If the private first mortgages contain terms and conditions that are predatory or harmful to the homebuyer or homeowner (such as excessive fees or interest rates, balloon payments, adjustable interest rates, etc.), the homebuyer or homeowner will not be eligible to receive HOME funds from KHC.

KHC will also look at the terms of refinanced/new mortgages to ensure terms that are reasonable, standard for the industry, and not predatory or unsustainable. KHC will not subordinate its existing HOME loan(s) in the event of a refinance.

KHC has also established written underwriting standards for the HOME Program to ensure that HOME investment and developer return are not excessive. The underwriting standards evaluate the home buyer's housing debt, overall debt, monthly household expenses, assets available to acquire housing, and the financial resources available to the household to ensure that the appropriate amount of federal and state assistance being provided is appropriate in order to afford and sustain homeownership.

Limit on Investment

KHC will not invest more HOME funds, alone or in combination with other sources of funding, than is necessary to provide quality affordable housing that is financially viable. To this end, KHC will examine the sources and uses of funds to determine whether costs are reasonable.

In order to limit the amount of HOME investment, KHC will require a minimum front-end ratio (the *minimum* amount of gross monthly income a homeowner must spend toward principal, interest, taxes, and insurance (PITI)) of 20 percent. (For example, if the household income is $2,000 per month, the homeowner must spend at minimum of $400 toward total PITI, including repayment of the HOME loan.)

Capacity

KHC will assess the capacity of the developer to complete the development process and the developer's fiscal soundness to ensure they have adequate resources and liquidity to make it through the development process and get the project completed.

Market Assessment

KHC will assess the current neighborhood market demand for the project before committing HOME funds.

Financial Commitments

KHC must receive and will assess firm, written financial commitments associated with the Project.

Front- and Back-End Ratios

For **all** applicants, the maximum front-end ratio for principal, interest, taxes, and insurance (PITI) is 29 percent of the assisted household's gross monthly income. The maximum back-end ratio for total long-term debt (six months or longer) plus PITI is 41 percent of the household's gross monthly income.

KHC has established a ***minimum*** front-end ratio of 20 percent (minimum PITI to gross monthly income cannot be less than 20 percent) to ensure the household is only receiving enough KHC assistance to complete the transaction and is not being over-subsidized. Based on its review, KHC may require the applicant to decrease the amount of KHC assistance and increase the amount of borrowed funds. If the review indicates that the household is being provided housing that is excessive in size or amenities, KHC may also require the applicant to reduce the size and scope of the project to provide more suitable housing as it relates to the household's current needs. **The goal of the HOME program is to assist low-income persons to obtain safe, quality, and affordable housing that meets their basic housing needs.**

Income Documentation and Determination (24 CFR §92.203)

1. The census long-form definition of income has been eliminated. KHC requires that the CFR 24, Part 5 method be used to define income eligibility.
2. When KHC, a sub-recipient, or a state recipient project owner does an income determination to use in determining the eligibility of an applicant for HOME assistance, it must look at two months of income documentation.

KHC does not allow "grossing up" non-taxable income for the purpose of determining ratios.

Liquid Assets

All applicants must have a Liquid Asset Policy and must establish a method to evaluate liquid assets and the ability of assisted households to financially contribute to the acquisition, construction, or rehabilitation of their housing to ensure that a minimum amount of KHC funds are used. All households utilizing HOME funds must contribute a minimum of $250.00 to the transaction.

Households applying for rehabilitation only will not be required to contribute a $250 minimum amount to the transaction.

KHC will allow an exception to the minimum $250.00 contribution and the minimum $250.00 liquid asset requirement if the **ONLY** source of household income is SSI or SSDI.

Home Buyer Value Limits

The Final Rule published on July 24, 2013, established new homeownership value limits for the HOME program. These new limits apply to homeownership housing when HOME funds are committed on or after August 23, 2013, and remain in effect until HUD issues new limits.

For newly constructed housing, KHC has further restricted the purchase price value limits to $150,000 for HOME and/or AHTF.

Homeownership Cost Containment

For existing housing for both HOME and/or AHTF, the new homeownership value limit is the greater of:

- 95 percent of the median purchase price for the area based on Federal FHA single-family mortgage program data and other appropriate data that are available nationwide for sale of existing housing in standard condition,
- Or the minimum limit (or floor) based on 95 percent of the statewide, nonmetropolitan area median purchase price using this data. This limit encompasses the total purchase/rehabilitation price, regardless of source of financing.
- The current limits are subject to change annually. Please check HUD's website at www.hudexchange.info/home for the most recent information.

Please note: the purchase/rehabilitation price is the contract purchase price and does **not** include settlement charges.

Cost effectiveness must be considered. KHC, at its discretion, may review work write-ups and cost estimates to ensure cost reasonableness and reserves the right to reduce funding on projects KHC deems not to be cost reasonable. KHC may also require additional supporting documentation for any activity that appears to have unusual or elevated costs.

What Requirements Apply

1. **Owner-Occupied Rehabilitation.** When assistance is provided as an amortizing loan, underwriting analysis and subsidy layering requirements, if applicable, apply.

2. **Homebuyer Assistance (Down Payment Assistance Only).** Underwriting analysis and subsidy layering requirements, if applicable, apply.

3. **Homebuyer and Rental Projects Involving Development.** Underwriting analysis, marketing analysis and plan evaluation of developer, and subsidy layering requirements, if applicable, apply.

Home Buyer Counseling

Home buyer counseling is required for all home buyers receiving HOME assistance or purchasing a unit developed with HOME Funds.

Counseling Costs

Counseling costs may be charged:

1. to HOME administration set-aside;
2. as a project-related soft cost; or
3. to the homebuyer, if the fee is reasonable.

KHC has not set a policy on the number of hours or length of such counseling, but will review each application for reasonableness as a part of the application review.

Provider

KHC may determine the provider (KHC- or HUD- approved counseling agency, or other provider), content and length of the counseling. The counseling curriculum must prepare homebuyers for not only the process of purchasing the home, but also for budgeting, maintaining the home, and everything else during the affordability period.

KHC recommends, but does not require, that all counseling components meet the current National Industry Standards for Homeownership Education and Counseling. In the near future, the Consumer Finance Protection Bureau will be issuing regulations that will apply to HOME Program. Once issued, recipients will be required to comply with the regulation. The current voluntary national standards can be found at www.homeownershipstandards.com.

All housing counselors must comply with the requirements of Subtitle D of Title XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations implementing this Act, including, but not limited to:

- Ensure counseling covers the entire process of homeownership, from the purchase of a home to disposition.
- Ensure homeownership counseling is administered in accordance with procedures established by HUD.
- Require all HUD-related counseling is provided by HUD-certified counselors.

Information about KHC's post-purchase education is available on KHC's website, under Homeownership, Education/Counseling, Post-Purchase Education and Predatory Lending. KHC's post-purchase education guide in both Spanish and English may be downloaded at no cost.

Subsidy Requirements

Subsidy Analysis

Before investing HOME funds in a single-family dwelling, the applicant must assess if other assistance has been, or is expected to be, made available to that unit. In performing this evaluation, the recipient should consider the aggregate amount of assistance from other sources that is necessary **to ensure the feasibility of the assisted project**. Applicants should not provide a standard amount of HOME funds for each assisted unit. Instead, the household's ability to pay and availability of other loan and grant funds should be evaluated on an individual-unit basis. Only enough HOME funds should be used to ensure the housing is affordable to the assisted household. Applicants must develop a written policy for this analysis and apply it uniformly to all clients.

Additionally, applicants should consider the population being served when conducting the subsidy analysis review. For instance, if the targeted population is 60 percent of area median income, that level of assistance would be different than that necessary for a targeted population that is very low-income

Home Buyer Assistance

HOME and/or AHTF funds may be requested to provide 100 percent of the construction financing needed for a project. Up to $40,000 of HOME may be used to assist home buyers in direct subsidy. However, the HUD HOME Final Rule prohibits over-subsidizing a property.

The maximum amount of subsidy per home buyer shall comply with the following:

HOME and/or AHTF funds may be used for development subsidy. However, development subsidy paid by the HOME funds or AHTF funds may not exceed a total of $10,000 on any one unit.

However, if a unit has a HERS rating of 65 or below, the allowable HOME/AHTF development subsidy can be increased to $15,000; for any unit with a HERS rating of 55 or below, the allowable HOME/AHTF development subsidy can be increased to $20,000.

In the event the development subsidy exceeds $10,000 for a unit that does not meet the HERS rating targets, the applicant may use funds from other sources along with HOME or AHTF funds to cover the development subsidy above the $10,000 cap on HOME/AHTF funds.

HOME funds cannot be used solely for development subsidy without some level of direct subsidy to the home buyer. There must be a minimum of $1,000 of HOME funds used as direct subsidy to the end beneficiary.

Please note, for construction projects, KHC-administered funds, with the exception of mortgage revenue bond financing, may not be used to take out another KHC-administered construction source.

Homeowner Rehabilitation Assistance

The maximum amount of rehabilitation/construction financing per unit that can be requested is $60,000 of HOME and/or AHTF **combined**. All or a portion of the HOME and/or AHTF construction financing, up to $60,000, may remain in the unit as direct subsidy to the family.

Direct Subsidy

The total amount of HOME funds that enabled the home buyer to buy the dwelling unit is considered the **direct subsidy.** This includes any HOME assistance that reduces the purchase price from the fair market value to an affordable price but **excludes** development subsidy. All HOME funds that are a direct subsidy to the home buyer must be secured as noted in the “Collateral” section of this document.

Please note: for construction projects, KHC-administered funds, with the exception of mortgage revenue bond financing, may not be used to take out another KHC-administered construction source.

Structure and Repayment of KHC Subsidy

Home Buyer or Homeowner Rehabilitation Programs

Although subject to change, KHC currently permits the HOME subsidy for non-CHDO applicants to be forgivable on a pro-rata basis per year over the term of the applicable affordability period. These funds must still be secured by a mortgage in favor of the recipient with due-on-sale and refinance clauses to ensure repayment to KHC in the event of a transfer of ownership or refinance any time during the affordability period.

Agencies that are permitted to retain CHDO proceeds or program income, and who have the ability to service or contract with a servicer, may retain the proceeds or program income for use in another HOME-eligible activity. Those agencies must establish and comply with the following criteria:

- The maximum interest rate that can be charged is 5 percent per annum.
- The HUD HOME Final Rule prohibits over-subsidizing a property. As a means of determining that too much subsidy has not gone into a property, KHC requires for both HOME and AHTF that a minimum of 20 percent of the homeowner's gross monthly income should go toward the payment of total monthly PITI. (For example, if the household income is $2,000 per month, the homeowner must spend a *minimum* of $400 toward total PITI, including repayment of the HOME loan.)
- Should a homebuyer or homeowner prepay the AHTF funds prior to the end of the affordability period the balance of AHTF funds must be repaid to KHC. The AHTF statute does not allow a Recipient of AHTF to recycle program income.

TBRA Programs

There is no repayment of HOME assistance for HOME TBRA activities by the individual households to the sponsoring agency. All HOME TBRA assistance to individual households will be in the form of a grant. In the event of non-compliance by a sponsoring agency, repayment of HOME TBRA funds to KHC will be required.

Collateral

Excluding administrative fees, environmental fees, TBRA assistance, and development subsidy, all KHC funds invested, regardless of amount or type of activity, must be secured by a first or second mortgage lien. In the case of mobile homes, HOME funds must be secured by a mortgage lien on the property, a title lien on the mobile home. The debt must be evidenced by a promissory note for the full amount of KHC funds. Lien positions other than a first or second must be approved by KHC in writing prior to closing. The lien position of the KHC mortgage must be in direct relation to the amount of KHC funds invested, i.e., if the KHC mortgage is providing the majority of funds, it should be in first-lien position.

KHC requires the incorporation of deed restrictions to ensure the affordability period when HOME funds are in a project. The deed restriction must be recorded in the office of the County Clerk of the county in which the property is located. The deed restriction must remain in place for the entire affordability period as outlined below

All applicants are required to have promissory notes and mortgages executed for the amount of the investment and the duration of the affordability period. All property owners and spouses will be required to execute the mortgage.

Applicants are required to use the KHC-provided mortgages and promissory notes unless otherwise pre-approved in the Funding Agreement to use other legal documents.

If the project includes Community Development Block Grant (CDBG) funds, KHC may remove this requirement if it is an involuntary relocation program.

Furthermore, KHC requires that all recipients of HOME funds have a written agreement with the end beneficiary that meet the requirements of 24 CFR §92.504(c)(5). This agreement must be a standalone agreement. Sample documents are available at www.hud.gov.

SOURCE OF FUNDS	DIRECT SUBSIDY INVESTED	AFFORDABILITY PERIOD
HOME and AHTF	$1,000 - $14,999	5 years
HOME and AHTF	$15,000 - $40,000 (HB or HR)	10 years
HOME and AHTF	$40,001 - $60,000 (HR)	15 years

Insurance

Applicants are responsible for ensuring that HOME and/or AHTF units are properly insured during the construction/rehab process. Applicant's mortgage document must contain provisions that require for assisted property to remain insured throughout the period of affordability. For all properties assisted with HOME and/or AHTF funds, the homeowner must maintain all risk, fire and extended coverage, in form and with companies acceptable to Applicant for each homeowner or homebuyer activity in an amount not less than the HOME or AHTF investment in the property. Each policy must include appropriate loss payable clauses in favor of Applicant, as beneficiary, and without right of cancellation or change except upon thirty (30) days' written notice to Applicant. Homeowner will deliver proof of all insurance to Applicant prior to the investment of HOME or AHTF funds in the property.

Exception: If $10,000 or less of HOME and/or AHTF funds is provided in the unit, and the recipient determines that providing homeowner's insurance would cause an undue hardship to the homeowner, the insurance will not be required. In such situations, the indemnification clause of the funding agreement between KHC and Recipient will ensure that the Recipient would repay funds to KHC for the prorated outstanding balance of HOME and/or AHTF in the event of loss.

Recapture [24 C.F.R. §92.254(a) (5)].

For homeownership activities, KHC requires all HOME funds to be repaid at the time the property is transferred to another owner.

For rehabilitation activities, assumptions of the HOME funds remaining in a project are eligible ONLY in the event of death of the original HOME-assisted occupant and inheritance by an immediate family member. In that situation, the subsequent low-income heir(s) may assume the original HOME loan if no additional HOME assistance is provided. The Applicant is responsible for determining that the subsequent owner (heir) qualifies for HOME assistance.

Furthermore, KHC reserves the right to:

- Withdraw its conditional funding commitment if technical submission items are not submitted by the applicant by the date referenced in the commitment letter.

- Recapture funds if funds are not committed and/or expended and construction completed by the dates referenced in the funding agreement, or if the project substantially changes after funding commitment.

- Periodically review the applicant's progress toward timely commitment and expenditure of the HOME allocation. If KHC determines that the project is no longer feasible or is not progressing timely so that the imposed deadlines will be met, funds may be recaptured.

- KHC **will** recapture funds for any applicant who becomes suspended or debarred in accordance with KHC Suspension and Debarment Policy.

- KHC requires that applicants have all funds committed and expended within 24 months. Commitment means that the applicant must have a signed contract with the builder/contractor and homeowner. A set-up report must be submitted to KHC and entered into the HUD IDIS system. All funds (HOME and AHTF) must be committed in accordance with the deadlines in the funding agreement.

- KHC may recapture funds if the applicant has not met the commitment and expenditure deadlines as referenced in the funding agreement. However, KHC reserves the right to extend the date if extenuating circumstances prevented the commitment. KHC's goal is to avoid any federal recapture of funds and KHC will take the necessary steps to ensure this does not occur.

- In the event that KHC recaptures funds or has funds uncommitted, those funds will be made available through a reallocation process, the design of which will be determined by KHC.

- KHC may award additional funds to applicants who wish to continue projects within the same activity for which they were previously funded and who are using the same project design, provided the applicant has been monitored by KHC and no significant monitoring issues have been identified nor findings made

- If the property is sold, leased, refinanced, or no longer used as the primary residence of the assisted homeowner, KHC may recapture the HOME or AHTF funds. In the event the net proceeds from a sale are insufficient to repay KHC, the HOME investment and the agency, KHC will recapture the **net proceeds**. In the event of foreclosure, if the shared net proceeds are insufficient to repay the HOME funds, the HOME affordability may be terminated, subject to 24CFR Part 92.254(a)(5)(ii)(A).

Other examples of situations that constitute recapture are included in the funding agreement. Applicants are advised to read those requirements carefully to avoid recapture of HOME or AHTF funds

Fees

Administrative Fee

Administrative fees are provided to recipients in the form of a grant and should not be secured in the promissory note with the end beneficiary. Administrative fees are a grant to the administrator. KHC reserves the right to reduce or limit professional fees, developer fees, or any fees that KHC deems excessive.

- The administrative fee requested cannot exceed 10 percent of the total HOME request.

- Administrative fees are allocated for homeowner rehabilitation projects or when a home buyer program is being administered by a third-party administrator. To be eligible for a "developer fee," an applicant must be "developing" housing.

- State recipients, i.e., cities or counties, of HOME funds for a home buyer program will receive administrative funds but are **not** eligible for a developer fee.

- KHC will review proposed administrative or developer fees and may award amounts less than those requested by the applicant. Administrative and developer fee funds must be prorated according to the number of units **stated in the funding agreement**. KHC will hold 10 percent of the funds until receipt of the project completion report packet for each unit. Applicants must draw administrative or developer fees only in direct proportion to the expenditure of project funds. An increase in the number of units due to program income or additional funding sources will **not** increase the amount of administrative or developer fee funds.

- KHC reserves the right to reduce administrative funds or developer fees on a pro rata basis if a project does not complete the number of units as proposed in the application. If a homeownership unit is not complete by the deadline imposed in the funding agreement and the applicant has not requested or received an extension from KHC, all or a portion of the HOME developer fee for that unit or administrative fee may be recaptured.

Developer Fee

For **new construction** (which includes demolition/rehabilitation) projects, the maximum amount of HOME funds that can be requested as developer fee **cannot exceed 15 percent of the total development costs. However, the developer fee cannot exceed the lesser of $15,000 or an amount equal to the direct subsidy provided to the home buyer.** (The minimum direct subsidy to the home buyer is $1,000.)

For multifamily applications, KHC will not allow HOME funds to be retained as developer fee when combined with Low Income Housing Tax Credits.

For **acquisition/rehabilitation/resale** projects, the developer fee is determined as follows:

- $1,000 to $50,000 in rehabilitation costs* – up to 20 percent of total rehabilitation costs;

- More than $50,001 in rehabilitation costs* – up to 20 percent of total rehabilitation costs capped at $15,000.

* For the purposes of determining allowable developer fee in acquisition/rehabilitation/resale projects, “rehabilitation costs” include any necessary and customary development hard and soft costs, but exclude the developer fee, permanent financing fees, and the cost to acquire the unit.

The developer fee is a soft cost (24 CFR §92.206(d)(2)) and is considered part of the total development cost. ***Any increase in project costs must be paid first from developer fee prior to requesting additional funds from KHC.***

Lenders cannot charge fees for HOME dollars.

Development Subsidy

Development subsidy is only permitted for those entities that undertake development activities and are allowed to retain CHDO proceeds assuming the role of developer.

In the event the total development costs exceed the appraised value, the house may not sell for more than the appraised value. The difference between the total development costs and the appraised value is **development subsidy.** KHC is permitting HOME and AHTF funds to be used to cover development subsidy up to $10,000 on any HOME/AHTF unit. However, if a unit has a HERS rating of 65 or below, the allowable development subsidy is increased to $15,000; for any unit with a HERS rating of 55 or below, the allowable development subsidy rating is increased to $20,000. Recipients will be required to submit documentation to KHC to support the necessity of a development subsidy. This may include, but is not limited to an appraisal, a Certified HERS report, and a detailed final cost breakdown.

Direct Subsidy

The total amount of HOME and/or AHTF funds that enabled the home buyer to buy the dwelling unit is considered the **direct subsidy.** This includes any HOME and/or AHTF assistance that reduces the purchase price from the fair market value to an affordable price but **excludes** development subsidy. All funds that are a direct subsidy to the home buyer must be secured as noted in the “Collateral” section above.

Program Income

All program income, whether it’s received directly by KHC or permitted to be retained by a state recipient or a sub-recipient, must be recorded in IDIS.

HOME Property Standards - Monitoring Policy for Multifamily Properties

Property Inspection Requirements

The KHC Asset and Account Management Department monitors each HOME multifamily property to ensure that owners meet programmatic requirements and are in compliance with the grant or loan agreement throughout the term of the affordability period.

In accordance with 24 CFR §92.504(d), inspections for multifamily properties funded with HOME funds are to be conducted on-site at a minimum:

- Once within 12 months after project completion;
- And at least once every 3 years thereafter during the period of affordability.

During the on-site inspection, KHC inspector(s) assigned to the property will complete an inspection of the site, exterior buildings, common areas, building systems, and at least 20 percent of the interior units to ensure that the project is maintained in accordance with HUD Regulations and Uniform Physical Conditions Standards (UPCS). If the property consists of more than one building, at least 20% of the HOME units in each building or no less than 4 units must be inspected. For properties with 4 or less units, each unit will be inspected. KHC has adopted the UPCS as the required HOME physical inspection standard to be consistent with other funding sources. (Note: Multifamily projects funded prior to July 1, 2104 will be inspected to HQS standards.)

Properties originally constructed prior to 1978 may be subject to requirements for assessment, evaluation, and mitigation of lead-based paint, per federal regulation 24 CFR Part 35. Compliance specialists verify, through examination of project documents, if ongoing monitoring for lead-based paint is required for pre-1978 properties, and implement or advise property owners of monitoring requirements.

In addition, KHC requires owners to annually complete the "Owners Annual Certification of Compliance," via the Tenant Data Certification System (TDCS) that HOME assisted units are in compliance with program regulations and property standards.

Health and Safety Deficiencies

Upon conclusion of the property's physical inspection, an Exigent Health and Safety notice will be completed indicating all **Life Threatening Health and Safety deficiencies**. The property management representative will be required to sign the form and will be provided a copy.

All Life Threatening Health and Safety deficiencies must be corrected immediately and documentation must be provided to the compliance specialist within 24 hours certifying the deficiencies have been corrected. A follow-up inspection shall occur within two weeks of the initial inspections to verify all **Life Threatening Health and Safety deficiencies** have been corrected.

Non-Life Threatening Deficiencies

Within approximately 30 days of the physical inspection conclusion, the compliance specialist shall provide a notice containing all **Non-Life Threatening** deficiencies identified during the physical inspection of the property. All **Non-Life Threatening** deficiencies shall be corrected within 30 days of the notice and shall be verified by submitting internal property management repair work orders and/or repair invoices from vendors, accompanied by photos of each corrected item. Work orders and/or invoices shall clearly indicate the date and time the correction/s were completed.

Inspection / Compliance Review Close-Out

The KHC compliance specialist will issue a close out letter after all Health and Safety and Non-Life Threatening corrections have been completed and all other regulatory compliance issues resolved. The project will then be placed into the next applicable compliance year inspection schedule. Depending on the severity of the findings of the physical inspection, an inspection may be scheduled prior to the 3-year review schedule.

If the non-compliant physical inspection and/or tenant review findings are not completed within the prescribed time frame, the review will be closed with an open finding. An owner that receives this type of close-out status may be placed on KHC's Suspended and Debarred list and the repayment of HOME funds could result.

Affirmative Marketing; Minority Outreach Program (24 CFR §92.351)

Affirmative Marketing. KHC must adopt and follow affirmative marketing procedures and requirements for rental and homebuyer projects and will require Sub-recipients to do the same. Affirmative marketing requirements and procedures also apply to all HOME- funded programs, including, but not limited to, TBRA and down payment assistance programs. 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, age, religion, marital status, familial status, disability, and actual or perceived sexual preference or gender identity. If KHC's written agreement with the project owner permits the rental housing project to limit tenant eligibility or to have a tenant preference in accordance with § 92.253(d)(3), KHC must have affirmative marketing procedures and requirements that apply in the context of the limited/preferred tenant eligibility for the project.

The affirmative marketing requirements and procedures must include:

a. methods for informing the public, owners, and potential tenants about Federal fair housing laws and the KHC's affirmative marketing policy;
b. requirements and practices each sub-recipient and owner must adhere to in order to carry out KHC's affirmative marketing procedures and requirements; (3) procedures to be used by sub-recipients and owners to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing program or the housing without special outreach;
c. records that will be kept that describe actions taken by KHC and by sub-recipients and owners to affirmatively market the program and units and records to assess the results of these actions; and

KHC will assess annually the success of the affirmative marketing actions in accordance with its fair housing policy found in in Our Right to Choose Where We Live.

KHC will require each unit of local government to adopt affirmative marketing procedures that meet the requirements of this subsection.

Fair Housing

KHC administers a variety of HUD programs and is required to affirmatively further the purposes and policies of the Fair Housing Act, which is Title VIII of the Civil Rights Act of 1968. The Fair Housing Act not only prohibits discrimination, but in conjunction with other statutes, directs KHC to take steps to proactively overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities for all.

As part of KHC's Consolidated Plan, KHC is required to undertake fair housing planning, which consists of the following: 1) an Analysis of Impediments (AI) to fair housing choice; 2) actions to cover the effects of the identified impediments; and 3) maintenance of records to support the affirmatively furthering fair housing certification.

Analysis of Impediments to Fair Housing Choice (AI)

KHC's AI is a review of impediments or barriers that affect the rights of fair housing choice covering public and private policies, practices, and procedures affecting housing choice. Impediments to fair housing choice are defined as any actions, omissions, or decisions that restrict, or have the effect of restricting, the availability of housing choices, based on race, color, religion, sex, disability, familial status or national origin. Conducting an analysis of impediments is a required component of certification and involves the following:

- An extensive review of a state or entitlement jurisdiction's laws, regulations, and administrative policies, procedures, and practices;
- An assessment of how those laws affect the location, availability, and accessibility of housing;
- An evaluation of conditions, both public and private, affecting fair housing choice for all protected classes,; and
- An assessment of the availability of affordable, accessible housing in a range of unit sizes.

KHC requires that all recipients comply with fair housing requirements as outlined in the Affirmatively Furthering Fair Housing Policy, found in the document entitled Our Right to Choose Where We Live.

Displacement, Relocation and Acquisition

KHC must take all reasonable steps to minimize displacement and follow the requirements for relocation in accordance with the requirements of 24 CFR §92.353.

Written Agreements

Before disbursing HOME funds to any entity, KHC will enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a state recipient, sub-recipient, or contractor which is administering all or a part of the HOME program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement will ensure compliance with the requirements of 24 CFR §92.504.

Financial Oversight [24 C.F.R. §92.504(d) (2)]

During the period of affordability, KHC will annually review the financial condition of rental projects with ten or more HOME units. If a problem is identified, KHC must take actions to correct problems, including:

1. more frequent reporting and monitoring
2. providing technical assistance; and
3. assisting in identifying additional non-federal funding or another appropriate owner

Per the 2013 HOME final rule 24 CFR §92.504(d) (2), at least annually, the PJ must examine the financial condition of HOME-assisted rental projects with 10 or more HOME-assisted units to determine the continued financial viability of the project.

The Section by Section Summary posted on HUD's website states:

> *Effective Date*
> *July 24, 2014 (PJs must conduct physical inspections following the new procedures and evaluate the financial condition of all projects to which funds are committed on or after this date.)*

Other statements in the Section by Section Summary suggest that the PJ might be required to examine all projects, regardless of when funds were committed. On August 8, 2014, KHC requested clarification from HUD and received notification that our question was put on hold. KHC was instructed to look for additional information to come out in the future. Given this situation, KHC will follow date quote listed above and proceed assuming the financial oversight is only required for projects with funds committed on or after July 24, 2014. If further information from HUD clarifies or changes this requirement we will adjust our policy at that time.

Compliance Monitoring

KHC is responsible for conducting monitoring reviews for all projects. KHC conducts on-site visits of funded projects to test for compliance with the applicable program regulations. This includes ensuring funds were used for eligible costs and assisted households meet income eligibility requirements. The compliance staff maintains a tracking system to ensure reviews are completed as required by the program regulations. Each recipient of HOME and AHTF funds is required to make available all documentation requested by KHC monitoring staff.

Troubled Projects (24 C.F.R. §92.210)

Definition. A "troubled project" is one that is inadequately protected by the current paying capacity of the property, and the mortgage loan or repayment agreement is classified as a Substandard Asset. The project has a well-defined weakness or weaknesses that may jeopardize the timely repayment of the indebtedness, such as serious maintenance issues, underfunded reserves for replacements, high vacancies, etc.

Ten or More Units. For projects with ten or more HOME-assisted units, KHC must assess the financial condition of the project at least annually during the affordability period and take, to the extent feasible, actions to correct problems.

No Waiver Required. KHC may ask HUD to put more HOME money into a troubled project (if new and old HOME funds do not exceed the current subsidy limits). A waiver is no longer required. KHC may also ask HUD, without a waiver, whether it can use HOME funds for activities or costs that are not typically eligible (*e.g.,* funding and operating reserve) and reduce the number of HOME units in a project (if the original number of units is higher than the number required under §92.205(d).

Audits (24 CFR §92.506)

Audits of KHC, state recipients and sub-recipients will be conducted in accordance with 24 CFR §§ 84.26 and 85.26.

Recordkeeping (24 CFR §92.508)

Applicants are responsible for ensuring that the required financial records are maintained for all HOME-assisted projects.

General. KHC must maintain sufficient records to enable HUD to determine whether KHC has met the requirements of 24 CFR §92.508. Applicants will be required to also maintain sufficient records in order to comply. At a minimum, the following records will be required:

(a) Records concerning KHC's designation as a participating jurisdiction;
(b) Program records;
(c) Project records;
(d) CHDO records;
(e) Financial records;
(f) Program administration records;
(g) Records concerning other Federal requirements, including (i) equal opportunity and fair housing records; (ii) affirmative marketing and MBE/WBE records; (iii) records demonstrating compliance with environmental review requirements; (iv) records demonstrating compliance with the requirements of 24 CFR §92.353 regarding displacement, relocation, and real property acquisition; (v) records demonstrating compliance with the labor requirements of 24 CFR §92.354, including contract provisions and payroll records; (vi) Records demonstrating compliance with federal lead-based paint requirements; (vii) records supporting exception to the conflict-of-interest prohibition in 24 CFR §92.3546; and (viii) records demonstrating compliance with debarment and suspension requirements.

1. **State Recipients.** KHC will require state recipients to keep the records required by 24 CFR §92.508(b).
2. **Record Retention.** All records pertaining to each fiscal year of HOME funds must be retained for 5 years, with the following exceptions:

(a) For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five year period, until five years after the affordability period terminates.

(b) For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.

(c) For TBRA projects, records must be retained for five years after the period of rental assistance terminates.

(d) Written agreements must be retained for five years after the agreement terminates.

(e) Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR §92.353.

(f) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

Conflict of Interest

All applicants must establish a Conflict of Interest policy that adheres to 24 CFR Part 35 and 24 CFR Part 84 or 85, as applicable.

Potential conflicts of interest may arise from many situations. Some of the more common examples are:

- Requests for program assistance from employees, families of employees or board members, or families of board members of recipients or sub-recipients

- Recipients or sub-recipients contracting with or procuring materials from employees, families of employees or board members, or families of board members of recipients or sub-recipients.

All HOME recipients are responsible for identifying situations in which a conflict of interest, whether real or perceived, may exist. If a conflict of interest is identified, the agency must request an exemption.

Recipients must immediately **report** to KHC any real, potential, or perceived conflict of interest, as outlined in 24 CFR Part 35 and 24 CFR Part 84 and or 85, as applicable, regarding the receipt of, assistance provided with, or expenditure of HOME funds. For example, a potential or perceived conflict of interest may exist when a relative (sibling, cousin, parent, etc.) of the applicant's staff, developer's staff, etc., applies for housing assistance through a HOME-assisted program or in a HOME-assisted property.

Technical Submission

KHC may, from time to time, allow technical submissions, as delineated in the application for funding. Guidelines pertaining to technical submission requirements will be defined at that time.

HOME Definitions and Resources

Homeownership:

- HOME defines homeownership as fee simple title (title must be clear and free from defects) or a 99-year leasehold interest in a one- to four-unit dwelling, or equivalent form of ownership approved by KHC or HUD.

- Inherited property with multiple owners, life estates, inter vivos trust, living trusts, and beneficiary deeds are all considered eligible forms of ownership, even though they do not meet the definition of homeownership in 24 CFR §92.2.

- Ownership must be proven and title searches must be completed prior to the investment of HOME funds. NOTE: Property assisted with HOME funds will not be eligible for additional assistance during the affordability period.

- Land contracts **are not** an eligible form of ownership.

Dependent:

When determining eligibility of the household, please refer to the HOME Final Rule.

Commitment:

For a full definition of commitment, click on the following link: HOME Final Rule.

"Commit to a specific local project" means:

i. If the project consists of rehabilitation or new construction (with or without acquisition) the participating jurisdiction (or State recipient or sub recipient) and project owner 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 within twelve months of the agreement date. If the project is owned by the participating jurisdiction or State recipient, the project has been set up in the disbursement and information system established by HUD and construction can reasonably be expected to start within twelve months of the project set-up date.

ii. If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or sub-recipient) is acquiring the property with HOME funds, the participating jurisdiction (or State recipient or sub-recipient) and the property owner have executed a legally binding contract for sale of an identifiable property and the property title will be transferred to the participating jurisdiction (or State recipient or sub-recipient) within six months of the date of the contract.

iii. If the project consists of acquisition of standard housing and the participating jurisdiction (or State recipient or sub-recipient) is providing HOME funds to a family to acquire single family housing for homeownership or to a purchaser to acquire rental housing, the participating jurisdiction (or State recipient or sub-recipient) 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.

iv. If the project consists of tenant-based rental assistance, the participating jurisdiction (or State recipient, or sub-recipient) has entered into a rental assistance contract with the owner or the tenant in accordance with the provisions of §92.209.

HOME Income Limits

HUD updates income limits annually. The most recent information can be found at: http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/index.cfm

Click on the most current year and then on "Kentucky" to find the applicable income limits.

HOME Homeownership Value

The homeownership value limits are subject to change annually, and can be found at: HOME Maximum Purchase Price/After-Rehab Value - HUD Exchange

Guidelines for ENERGY STAR Qualified New Homes

http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.homes_guidelns

U.S. Green Building Council

http://www.usgbc.org