

## AD-25 Appendix:

Continuation of Narratives, Charts, and Graphs

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## Executive Summary

### Data

Data in this Consolidated Plan is based primarily upon the 2011-2015 American Community Survey (ACS) five-year data set. This data provides the most detailed and reliable information available on income, poverty, housing, housing cost burden, and other data that is no longer collected by the decennial census. The 2011-2015 Comprehensive Housing Affordability Strategy (CHAS) data set, developed for HUD by the U.S. Census Bureau based on the ACS, was also utilized particularly in the Needs Assessment.

The United Way ALICE Project measures the population described as “ALICE” – an acronym for Asset-limited, Income-Constrained, Employed. ALICE is the percentage of households in the community that is employed and above the Federal Poverty Level yet do not earn enough to afford necessities such as housing, food, transportation, childcare, and healthcare.

HUD Fair Market Rents (FMRs) are used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy Program (Mod Rehab), rent ceilings for rental units in both the HOME Investment Partnerships program.

HUD HOME Rents are the maximum amount that may be charged for rent in HOME-assisted rental units and apply to new HOME leases and lease renewals after that date. The maximum HOME rent limits are established in Section 215 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended. The High HOME Rent Limit for an area is the lesser of the Section 8 Fair Market Rent (FMR) for the area or a rent equal to 30 percent of the annual income of a family whose income equals 65 percent of the area median income, as determined by HUD. The Low HOME Rent Limit for an area is 30 percent of the annual income of a family whose income equals 50 percent of the area median income, as determined by HUD, capped by the High HOME Rent Limit. HUD’s Economic and Market Analysis Division calculates the HOME rents each year using the FMRs and the Section 8 Income Limits.

The Bureau of Labor Statistics is an arm of the U.S. Department of Labor, and its primary purpose is to research, assemble and publish a range of statistical data on the labor market, prices, and productivity.

The National Coalition for the Homeless is a national network of people who are currently experiencing or who have experienced homelessness, activists and advocates, community-based and faith-based service providers, and others committed to end and prevent homelessness while ensuring the immediate needs of those experiencing homelessness are met and their civil rights are respected and protected.

The Eviction Lab at Princeton University has built the first nationwide database of evictions. The Eviction Lab is a team of researchers, students, and website architects who believe that a stable, affordable home is central to human flourishing and economic mobility. Derived of tens of millions of records, the Eviction Lab at Princeton University has published the first ever dataset of evictions in America, going back to 2000.

Identifying Racially/Ethnically Concentrated Area of Poverty (R/ECAPs), HUD has developed a census tract-based definition of R/ECAPs. The definition involves a racial/ethnic concentration threshold and a poverty test. R/ECAPs must have a non-white population of 50 percent or more. Regarding the poverty threshold, Wilson (1980) defines neighborhoods of extreme poverty as census tracts with 40 percent or more of individuals living at or below the poverty line. Because overall poverty levels are substantially lower in many parts of the country, HUD supplements this with an alternate criterion. Thus, a neighborhood can be a R/ECAP if it has a poverty rate that exceeds 40 percent or is three or more times the average tract poverty rate for the metropolitan/micropolitan area, whichever threshold is lower. Census tracts with this extreme poverty that satisfy the racial/ethnic concentration threshold are deemed R/ECAPs.

The role of the Office of Public and Indian Housing (PIH) is to ensure safe, decent, and affordable housing; create opportunities for residents' self-sufficiency and economic independence; and assure fiscal integrity by all program participants. HUD has many online systems available for its business partners and citizens. PIH Information Center (PIC) and the Inventory Management System is responsible for maintaining and gathering data for Housing Authorities. The Housing Authority sub-module stores the total number of developments and units under management of the Housing Authority as well as general information about the Housing Authority. The database includes overall unit inventory information and historical information.

Kentucky Balance of State Continuum of Care is a US Department of Housing and Urban Development (HUD) Program designed to promote community-wide commitments to the goal of ending homelessness. The Continuum of Care disperses HUD funds to numerous programs in Lane County to accomplish this goal through Rapid Rehousing, Permanent Supportive Housing, and Transitional Housing.

Zillow Research aims to be the most open, authoritative source for timely and accurate housing data and unbiased insight. Our goal is to empower consumers, industry professionals, policymakers and researchers to better understand the housing market.

The Urban Institute (UI) is the trusted source for unbiased, authoritative insights that inform consequential choices about the well-being of people and places in the United States. UI experts diagnose current challenges and look ahead to identify opportunities for change. UI uses research findings to help stakeholders craft relevant solutions and strategies that address concerns, as well as share insights in real time.

A Homeless Management Information System (HMIS) is a local information technology system used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness. Each Continuum of Care (CoC) is responsible for selecting an HMIS software solution that complies with HUD's data collection, management, and reporting standards.

The Longitudinal Employer-Household Dynamics (LEHD) program is part of the Center for Economic Studies at the U.S. Census Bureau. The LEHD program produces new, cost effective, public-use information combining federal, state and Census Bureau data on employers and employees under the Local Employment Dynamics (LED) Partnership. Under the LED Partnership, states agree to share Unemployment Insurance earnings data and the Quarterly Census of Employment and Wages (QCEW) data with the Census Bureau. The LEHD program combines these administrative data, additional administrative data, and data from censuses and surveys. From these data, the program creates statistics on employment, earnings, and job flows at detailed levels of geography and industry and for different demographic groups. Also, the LEHD program uses these data to create partially synthetic data on workers' residential patterns.

Low/Moderate Income Summary Data is provided by the Office of Community Planning and Development (CPD). CPD estimates of the number of persons that can be considered Low-, Low- to Moderate-, and Low, Moderate, and Medium-income persons based on special tabulations of data from the 2011-2015 ACS 5-Year Estimates.

### Needs and Market Conditions

The Commonwealth of Kentucky is home to 4,424,376 people, comprised of 1,724,514 households. The needs assessment and market analysis include a comprehensive review of the non-entitlement areas of the state of Kentucky. The housing portion of the needs assessment focuses largely on households experiencing a housing problem.

Each of the housing and community development entitlement programs including CDBG, HOME, HOPWA and HTF, operates under federally established income limits. These limits are based on median family income, with adjustments based on family size for the Commonwealth. According to the ALICE Report, approximately 1,003,014 households in Kentucky live above the bare minimum economic survival level that is based on the local cost of living. Alice is defined as at risk of poverty due to being asset limited, income constrained and employed. The count revealed 24.5 percent (or 415, 040) households are at risk of poverty as they are living at the bare minimum economic survival level.

The Commonwealth's housing market can be categorized as having decent housing as persons can obtain affordable housing. However, as demonstrated in the Needs Assessment, low-income households are at risk of becoming homeless due to rising housing costs. Retaining affordable housing stock and increasing the availability of affordable permanent housing is a priority that is demonstrated throughout the Consolidated Plan. Sixty-seven percent of occupied housing units are occupied by homeowners (1,148,752 households) with a two percent median vacancy rate among owner-occupied housing units. Only 1.9 percent of the Commonwealth's total housing stock was built after 2010, with 47 percent of housing being constructed between 1980 and 2009 and 52 percent being constructed before 1979. Access to decent housing is a part of Kentucky's strategy for effectively performing grant programs that are meant to support adequate housing for low- and moderate-income households. Increasing the supply of supportive housing to enable persons with special needs, particularly those recovering substance

abuse, is also an objective the Commonwealth is pursuing. Overall, accessing economic opportunity and accessible job opportunities is key to the strategy of providing affordable housing. Many households in need of affordable housing are also in need of direct access to job opportunities.

In 2019, the Commonwealth's economy was taking steps to ensure that workers are equipped with the training and skills needed to compete in the global economy. Resources are being aligned to ensure companies and individuals are receiving the assistance needed to be on a trajectory for success. Statewide, initiatives are combining education and workplace experience to create pathways for high-quality education and the development of a productive workforce. There are regional areas such as the Appalachia region that is receiving collaboration and innovation to establish a network of stakeholders who believe in supporting the future in Appalachia Kentucky. Overall there are a variety of regional opportunities and initiatives seeking to improve the quality of life and supporting the goals of Kentuckians. While the economy continues to achieve opportunities for diversity, many residents are faced with challenges in obtaining jobs that are able to cover the cost of high-quality housing costs. Many households are cost-burdened which is putting them at risk of housing instability and increasing the likelihood of experiencing homelessness.

## The Process

Online Survey Results

Across all categories of priority need questions posed to respondents, the following nine community development activities were rated the highest when weighted averages were ranked:

Activity	Average Weight (ranked)	Category
<b>Emergency shelters/homes services/mental health services</b>	2.73	Special Needs & Services
<b>Youth transitioning out of foster care</b>	2.67	Special Needs & Services
<b>Rental assistance</b>	2.64	Housing
<b>Job creation/retention</b>	2.63	Economic Development
<b>Mental health facilities</b>	2.62	Community Facilities
<b>Substance abuse services</b>	2.59	Special Needs & Services
<b>Hunger/nutrition services</b>	2.59	Special Needs & Services
<b>Transportation</b>	2.58	Public Infrastructure
<b>Workforce development programs</b>	2.57	Economic Development

The next three activities, each of which scored 2.56, included residential accessibility improvements for persons with disabilities, foster youth services, and elderly services – also categorized as Special Needs and Services.

Major findings summarized from each section of the survey, applicable to the Consolidated Plan, include the following:

Community Development:

- Housing activities which received the highest weighted averages as identified by respondents included: rental assistance (2.64 out of 3.00), housing for persons with disabilities (2.44), senior housing (2.42), rental housing and energy efficiency improvements (both at 2.38), rental housing new construction (2.35), and housing for larger families (2.30).
- Economic development activities which received the highest weighted averages as identified by respondents included: job creation/retention (2.63), workforce development program (2.57) and literacy programs/GED preparedness (2.54).
- Special needs and service activities which received the highest weighted averages as identified by respondents included: emergency shelters/homeless services/mental health services (2.73), youth transitioning out of foster care (2.67), substance abuse services and

hunger/nutrition services (each at 2.59), residential accessibility improvements for persons with disabilities, foster youth services, and elderly services (each at 2.56), and services for persons with disabilities (2.51).

- Neighborhood / commercial district revitalization activities which received the highest weighted averages as identified by respondents included: street lighting (2.34), sidewalk improvements (2.22), street/alley improvements (2.15), demolition of blighted structures (2.11) and parking improvements (2.05).
- Public infrastructure activities which received the highest weighted averages as identified by respondents included: transportation (2.58), water system improvements/extensions (2.33), sanitary system improvements/extensions (2.32), road reconstruction (2.20) and water/wastewater treatment facilities (2.28).
- Community facilities which received the highest weighted averages as identified by respondents included: mental health facilities (2.62), childcare centers (2.57), substance abuse centers (2.54), employment centers (2.48) and healthcare facilities (2.42).

#### Personal Information:

- The majority (53%) of respondents reported annual incomes of \$60,000 or higher. The next highest group of respondents (13%) have incomes of less than \$15,000.
- 86% of respondents identified as Caucasian/White while 14% identified as African American/Black.
- 25% of respondents reported their household includes a person with a disability.
- 77% of respondents are female.
- 42% of respondents are between the ages of 25-44; another 24% are between 55-64.

#### Regional Public Meetings Responses

- What is the greatest challenge to finding and keeping safe, decent and affordable housing in Kentucky?
  - Limited or lack of funding to build more affordable housing options, including capital funds for public housing
  - Lack of available options for emergency shelter and permanent housing for homeless individuals and families, including youth
  - Lack of housing options in all geographic areas and for people with disabilities
- What is the greatest challenge to creating more affordable housing for Kentuckians?
  - Lack of adequate funding, including funding dedicated to rural areas
  - Lack of understanding for the need for affordable housing, including a lack of land and appropriate zoning for multi-family housing and lack of support from community residents and elected officials

- What other needs are required in your community to improve the quality of life for residents (e.g. better paying jobs, water/sewer services, substance abuse treatment, etc.)
  - Better paying jobs along with workforce development
  - Reliable transportation/quality transit systems operating on weekends and second/third shifts and for veterans and people with disabilities
  - Mental health support services including substance abuse treatment programs
  - Affordable childcare, including availability for second/third shift workers
- Have you or your clients been discriminated against in your/their search for housing or your/their efforts to keep housing? What was the outcome?
  - Discrimination based on familial status
  - Discrimination based on victims of domestic violence
  - Discrimination based on past criminal records
- In your opinion, what is the single most important thing the state should be doing to create more affordable housing across Kentucky?
  - Increase funding for affordable housing
  - Mandate the adoption and implementation of Kentucky's Uniform Residential Landlord-Tenant Act (URLTA)
  - Educate elected and appointed officials about the need for and value of affordable housing

#### Stakeholder Workshops Responses

- What is the greatest challenge to finding and keeping safe, decent and affordable housing in Kentucky?
  - Lack of adequate funding, including for Section 202/811 programs, Housing Choice Voucher/Project-based Rental Assistance
  - Local ordinance banning emergency shelters within city limits
  - Lack of adequate supply of affordable family housing
  - Gentrification displacing lower income households
- What is the greatest challenge to creating more affordable housing for Kentuckians?
  - Increasing land and construction costs
  - Demand for affordable housing exceeds the supply
  - Not-in-my-backyard (NIMBY) opposition
  - Criminal background checks

- Mental illness, including substance abuse
  - Lack of education, affordable childcare, transportation and jobs in most areas
- What other needs are required in your community to improve the quality of life for residents (e.g. better paying jobs, water/sewer service, substance abuse treatment, etc.)
  - Financial literacy classes
  - Substance abuse treatment
  - Affordable childcare, including for second shift workers
  - Intensive case management
  - Public transportation
- In your opinion, what is the single most important thing the state should be doing to create more affordable housing across Kentucky?
  - State legislative appropriation for affordable housing
  - Increase funding for Housing Choice Vouchers and Tenant-based Rental Assistance
  - Fair housing training for elected and appointed officials
  - Run a poverty-simulation program for elected officials
  - Incentivize developers to build new affordable housing in specific neighborhoods

Focus Groups

**Regional Focus Groups**

<b>Focus Group</b>	<b>Date</b>	<b>Number of Participants</b>
<b>Affordable Housing</b>	September 12 – 13 <sup>th</sup>	20
<b>Public Housing Authorities</b>		
<b>Economic Development</b>		
<b>Human Services</b>		
<b>Homeless/Continuum of Care</b>		
<b>Infrastructure and Transportation</b>		

**Jurisdiction-Specific Focus Groups**

<b>Focus Group</b>	<b>Date</b>	<b>Number of Participants</b>
<b>Independence (North)</b>	August 19	6
<b>Hopkinsville (West)</b>	August 20	14
<b>Pikeville (East)</b>	August 21	3

## Needs Assessment

## NA-05, Continued

The Department for Local Government (DLG) administers approximately \$22 million annually from the CDBG program. The CDBG program provides assistance to communities for use in revitalizing neighborhoods, expanding affordable housing and economic opportunities, providing infrastructure and/or improving community facilities and services. Funds were designated for various program areas including Community Projects, Community Emergency Relief Fund, Economic Development, Housing, Public Facilities Public Services (Recovery Kentucky).

The Emergency Solutions Grants (ESG) Program is designed to identify sheltered and unsheltered homeless persons, as well as those at risk of homelessness, and provide the services necessary to help those persons quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. The ESG Program provides funds to: (1) Engage homeless individuals and families living on the street; (2) Improve the number and quality of emergency shelters for homeless individuals and families; (3) Help operate these shelters; (4) Provide essential services to shelter residents; (5) Rapidly re-house homeless individuals and families; (6) Prevent families and individuals from becoming homeless. The program is also intended to lower the increase of homelessness through the funding of preventive programs and services. Eligible applicants include units of local government or private, nonprofit organizations that receive approval by an appropriate unit of local government.

Created by the National Affordable Housing Act of 1990, the HOME Investment Partnerships (HOME) Program provides funding for various types of affordable housing production and rehabilitation. HOME is the largest federal block grant program designed exclusively to create affordable housing for low-income households. HOME funds may be used as low-interest rate loans to provide housing assistance. The program's flexibility empowers people and communities to design and implement programs tailored to their own needs and priorities. The majority of HOME funds are distributed through KHC's competitive funding process to a variety of housing partners across the state – cities, counties, Community Housing Development Organizations (CHDOs), nonprofits, and for-profit private developers.

Kentucky Housing Corporation (KHC) administers the HOPWA grant Program for Kentucky. The Housing Opportunities for Persons with AIDS (HOPWA) Grant Program is funded by the U.S. Department of Housing and Urban Development (HUD) and provides assistance to low-income individuals diagnosed with HIV/AIDS and their family members living with them. HOPWA funding provides housing assistance and related supportive services as part of HUD's Consolidated Planning initiative that works in partnership with communities and neighborhoods in managing federal funds appropriated to HIV/AIDS programs. This focus on providing housing assistance and related support services for HOPWA-eligible clients serves to reduce the risks of homelessness for this population and increase access to appropriate healthcare and other support.

Kentucky Housing Corporation (KHC) administers the Housing Trust Fund (HTF). HTF provides grants to states for the construction, rehabilitation, and preservation of rental homes and homeownership for extremely low- and very low-income families, including homeless families. The goal of the Fund is to create or preserve affordable multifamily housing within the Commonwealth, serving tenants at 30% or lower AMI. The Fund is for gap financing only.

Introduction, Continued

The BoS CoC Advisory board has approved a “No Wrong Door” model for Coordinated Entry access and assessment. “No Wrong Door” describes the experience of accessing the Coordinated Entry System in a Continuum of Care from the client’s perspective and is a system that is designed so that the client only has to go one place for housing referral to the appropriate assistance rather than from agency to agency. This model is client-centric and designed to create universal and easy access to available permanent housing resources for those experiencing homelessness. The “No Wrong Door” approach ensures that access to available permanent housing is easily obtained from program to program and region to region with a universal intake procedure and Common Assessment Tool. In addition to each LPC and its participating agencies serving as access points, the BoS CoC has ensured each United Way 211 call system in the state will have Lead Agency/LPC information for Coordinated Entry/Common Assessment Referral in areas not served by other United Ways.

Discussion, Continued

The Causes and Needs

Regional consultation identified several causes and service needs for Kentucky. In Kentucky, 8 in every 10,000 people were experiencing homelessness. Since 2014, Kentuckians experiencing homelessness has decreased by 28%. However, the needs of the homeless population are ongoing and varied. Below are an overview of homeless causes and services needs:

Veteran Homelessness: There have been very large changes in patterns of homeless Veterans. From 2017-2018 there was a -24.5% (-120 persons) decrease in the number of homeless. Veteran homeless are typically experiencing homelessness in households without children.

Definition of Homeless: HUD definition of Homelessness does not account for the unique nature of homelessness in Rural Kentucky. According to HUD, someone is considered homeless if they’ve lived outdoors or in a shelter for a year or more. Some folks in rural Kentucky during the warmer weather months, create makeshift housing solutions that accommodate a more transitional lifestyle. However, there are many who are utilizing a spare room or space (such as a couch) with friends or relatives. Others are utilizing Salvation Army housing or alternative temporary housing options to meet their housing needs, but these individuals are absolutely homeless. Unfortunately, do not qualify for federal funding due to these unique circumstances.

**Mental Health and Substance Abuse:** Mental health issues or drug or alcohol addiction is a continued concern among the homeless population. The epidemic of marijuana, heroin, and prescription opioid abuse are having a direct impact on individuals and families that are at risk of homeless.

**Youth Homelessness:** The fastest growing segment of the homeless population is 18 -24-year-old. Younger children are also directly impacted by homelessness in Kentucky. Low-income families with children or young adults aged out of the foster care system are a continued subpopulation of homeless in Kentucky. More than 6,000 children reside in households with grandparents because their parents are no longer able to care for them, likely due to an addiction. The number of kids in foster care continues to increase annually. The state is hoping federal funds will be devoted to addressing student, youth, and transitional youth homelessness.

**Lack of Affordable Housing:** Those who are precariously housed currently are at high risk of homelessness. Precariously housed includes doubled-up (sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason), living in substandard housing or at risk of imminent eviction. The rising cost of housing and insufficient supply of affordable housing units are increasing pressures on low-income households.

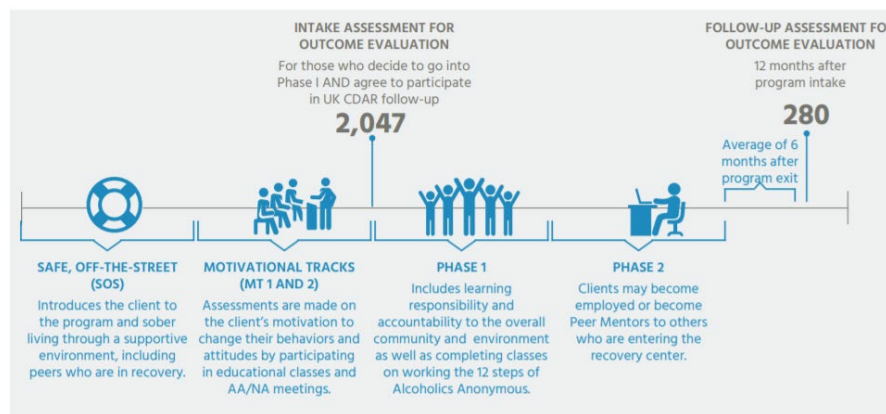
**Support Services:** An adequate amount of support services and access to such services are a rising priority for those experiencing homelessness. Funding for support services will need to be a continued priority. The inability for homeless persons to access mainstream services is a real barrier many face. Limited staffing and a lack of training on implementing types of support services offered by other service providers is also a priority. Continued barriers identified by related services include:

- Lack of transportation – both within counties and cross-county
- Lack of access to medical assistance
- Lack of access to mental health resources that are available in a timely fashion, easily accessible, and well-funded
- Difficulty in supporting access to mainstream service benefits
- Limited knowledge of all available services and resources

**Geographic Specific:** The rural homeless population in the Kentucky Balance of State is difficult to count due to the lack of service providers in the rural areas of the state. Homeless service providers that do serve the rural areas report that many of those homeless are living with friends or family members or are precariously housed, thus not able to be counted as being “homeless.”

## NA-45, Continued

Recovery Kentucky: The Recovery Kentucky centers were designed to reduce the state's drug problem and resolve some of the state's homeless issues. They help people recover from addiction and help them gain control of their lives to eventually reside in permanent housing. As supportive housing projects, each center uses a recovery program model that includes peer support, daily living skills classes, job responsibilities, and establishes new behaviors. Recovery Kentucky was designed to save Kentuckians millions in tax dollars that would have been spent on emergency room visits and jail costs.



Source: Recovery Kentucky- Recovery Center Outcome Study at a Glance

Domestic Violence: KCADV also advocates on domestic violence-related issues at the state and federal levels, coordinates an annual conference with the Kentucky Association of Sexual Assault programs, and provides resources, training, and technical assistance to its member programs. The KCADV mobilizes and supports member programs and allies to end intimate partner violence.

There are fifteen regional domestic violence programs in Kentucky. In addition to providing safe, secure shelter for victim/survivors and their children, these programs offer a variety of support services to both residents and nonresidents. Domestic violence program staff support survivors by:

- Accompanying survivors to court, helping them understand their legal options and connecting them to legal resources.
- Offering individual counseling, support groups and supportive children's services.

- Providing case management, safety planning, self-sufficiency planning/services and referrals to other community resources.

The programs are also working to prevent future domestic violence through community education, increasing public awareness, and prevention programs. Programs are working with schools, local professionals and community groups to increase understanding of domestic violence issues.

In 2018, KCDV reported 22,388 survivors received non-residential services through KCADV’s 15 member programs. KCDV also reported 4,525 women, men, and children provided with emergency shelter and transitional housing. KCDV’s member programs also reported 52,456 services provided to children.

Services Provided by Local Programs	Sept. 13 <sup>th</sup>
Children’s Support or Advocacy	<b>93%</b>
Court Accompaniment or Legal Advocacy	<b>87%</b>
Support/Advocacy Related to Housing/ Landlord	<b>80%</b>
Financial Literacy/Budgeting	<b>60%</b>
Support/Advocacy Related to Substance Abuse	<b>47%</b>

13th Annual Domestic Violence Counts-Kentucky Summary (2018)

On September 13, 2018, 15 out of 15 (100%) identified domestic violence programs in Kentucky participated in the National Census of Domestic Violence Services. The following figures represent the information provided by the 15 participating programs about services provided during the 24-hour survey period. One thousand one hundred eighty-eight victims served in one day. Eight hundred eighteen domestic violence victims found refuge in emergency shelters or transitional housing provided by local domestic violence programs. Three hundred seventy adults and children received no-residential assistance and services, including counseling, legal advocacy, and children’s support groups.

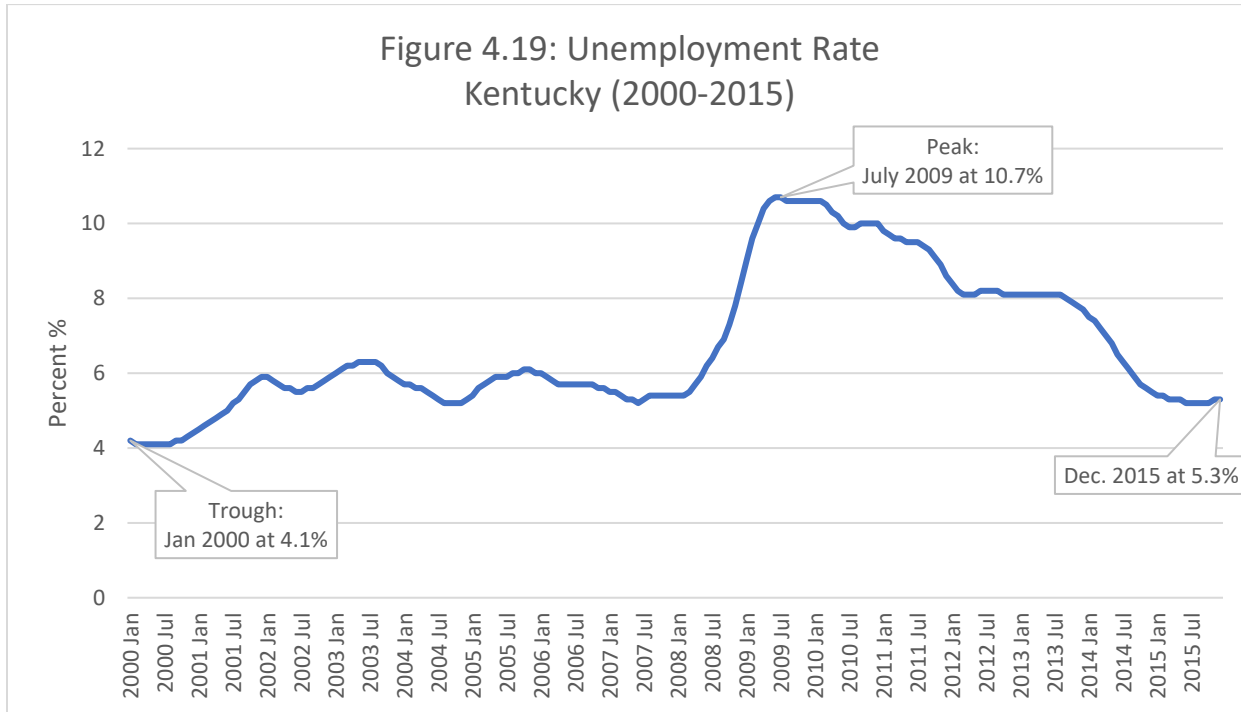
Domestic violence hotlines are a lifeline for victims in danger, providing support, information, safety planning, and resources. In the 24-hour survey period, local and state hotline staff in Kentucky answered, on average 12 hotline calls per hour. Seventy-four unmet requests for services in one day, of which 81% (60) were for Housing. Victims made 74 requests for services – including emergency shelter, housing, transportation, childcare, legal representation, and more – that could not be provided because programs did not have the resources these services. The most frequently requested non-residential services that could not be provided were housing advocacy, legal representation, and financial assistance.

In the past year, local programs in Kentucky were forced to eliminate 12 staff positions. All of these positions (100%) were direct service providers, such as shelter staff or legal advocates. This means that there were fewer advocates to answer calls for help or provide needed services.

It is a priority of the Kentucky Interagency Council on Homelessness (KICH), KHC, and the CoCs to provide survivors of domestic violence access to specialized homeless shelter, housing, and services. Representatives of Victim Services Providers (VSP) serve on the KICH Steering Committee and each CoC Advisory Board. Kentucky Coalition Against Domestic Violence (KCADV) and its funded agencies are key partners in developing policies and procedures that protect clients' confidentiality and recognize their rights under the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). As such, VSPs providing HUD-funded homeless services use a comparable database that adheres to the same technology data standards as the Kentucky HMIS system. VSPs provide aggregate data to participating jurisdictions for reporting purposes.

VAWA 2013 includes McKenney-Veto Homeless Assistance-funded programs (Emergency Solutions Grant and Continuum of Care) as "covered" housing programs. As such, survivors of domestic violence and/or sexual assault served by those programs are granted: basic anti-discrimination rights and limitations; the ability to bifurcate a lease; emergency housing transfers; notice of documentation to claim VAWA housing protections; confidentiality and notice of VAWA rights and VAWA self-certification form. The CoCs and the ESG Participating Jurisdictions are responsible for creating an emergency transfer plan to develop the emergency transfer plan to coordinate emergency transfers that must be used by all recipients and subrecipients in within their geographic area. Additionally, if lease bifurcation due to VAWA results in the eviction of the qualifying member, remaining household members have a right to continued assistance until lease in effect at time of eviction expires. Landlords in Tenant-Based Rental Assistance and leasing programs must be notified about their tenants' VAWA rights.

## Market Analysis



Source: Bureau of Labor Statistics

### Average Employment and Average Annual Wages by Industry

Industry	Average Employment	Average Annual Wages	Average Weekly Wages
All Industries	42,048	\$38,063.01	\$731.98
All Government	6,685	\$37,616.34	\$723.39
Manufacturing	6,597	\$49,362.44	\$949.28
Health Care and Social Assistance	5,703	\$40,214.10	\$773.35
Retail Trade	4,905	\$24,974.27	\$480.27
Accommodation and Food Services	4,157	\$14,154.96	\$272.21
Administrative and Support and Waste Management and Remediation Services	3,124	\$32,779.34	\$630.37
Transportation and Warehousing	2,624	\$46,082.61	\$886.20
Wholesale Trade	1,810	\$51,630.97	\$992.90
Construction	1,779	\$44,869.41	\$862.87
Finance and Insurance	1,726	\$47,790.70	\$919.05
Professional, Scientific, and Technical Services	1,716	\$48,414.14	\$931.04
Management of Companies and Enterprises	1,496	\$77,349.48	\$1,487.49
Other Services (except Public Administration)	1,072	\$28,128.95	\$540.94
Educational Services	962	\$30,318.96	\$583.06
Arts, Entertainment, and Recreation	933	\$18,246.73	\$350.90
Information	736	\$45,639.14	\$877.68
Real Estate and Rental and Leasing	551	\$31,288.85	\$601.71
Mining, Quarrying, and Oil and Gas Extraction	476	\$65,720.40	\$1,263.85
Agriculture, Forestry, Fishing and Hunting	349	\$34,466.16	\$662.81
Utilities	335	\$82,716.00	\$1,590.69

Source: Kentucky Center for Statistics, Labor Market Information, Employment & Wages by Industry (2018)

### Total Population in Civilian Labor Force

<b>Total Population in the Civilian Labor Force</b>	<b>1,979,693</b>
<b>Civilian Employed Population 16 years and over</b>	<b>1,875,072</b>
<b>Unemployment Rate</b>	<b>5.3%</b>

Source: 2015 Bureau of Labor Statistics, Kentucky

### Occupations by Sector

<b>Occupations by Sector</b>	<b># People</b>	<b>% of Labor Force</b>	<b>Median Income</b>
<b>Management, business, science, and arts</b>	<b>622,759</b>	<b>32.9%</b>	<b>\$46,692</b>
<b>Management, business, and finance</b>	236,290	12.5%	\$51,710
<b>Computer, engineering, and science</b>	68,510	3.6%	\$58,683
<b>Education, legal, community service, arts, and media</b>	192,313	10.2%	\$37,545
<b>Healthcare practitioner and technical</b>	125,646	6.6%	\$47,211
<b>Service</b>	<b>318,695</b>	<b>16.8%</b>	<b>\$15,701</b>
<b>Healthcare support</b>	46,094	2.4%	\$21,481
<b>Protective service</b>	36,916	2.0%	\$32,070
<b>Food preparation and serving related</b>	110,249	5.8%	\$11,341
<b>Building and grounds cleaning/maintenance</b>	66,040	3.5%	\$17,299
<b>Personal care and service</b>	59,396	3.1%	\$14,232
<b>Sales and office</b>	<b>451,789</b>	<b>23.9%</b>	<b>\$25,380</b>
<b>Sales and related</b>	190,174	10.1%	\$22,289
<b>Office and administrative support</b>	261,615	13.8%	\$26,215
<b>Natural resources, construction, and maintenance</b>	<b>180,841</b>	<b>9.6%</b>	<b>\$34,540</b>
<b>Farming, fishing, and forestry</b>	13,055	0.7%	\$19,295

<b>Construction and extraction</b>	99,048	5.2%	\$33,005
<b>Installation, maintenance, and repair</b>	68,738	3.6%	\$40,475
<b>Production, transportation, and material moving</b>	<b>317,297</b>	<b>16.8%</b>	<b>\$30,466</b>
<b>Production</b>	170,136	9.0%	\$32,354
<b>Transportation</b>	77,019	4.1%	\$31,994
<b>Material moving</b>	70,142	3.7%	\$22,116
<b>Total Employed Civilian Population Age 16+</b>	<b>1,891,381</b>	<b>100.0%</b>	<b>\$30,666</b>

Source: 2011-2015 ACS

### Travel Time

Travel Time	Number	Percentage
<b>&lt; 30 Minutes</b>	1,290,568	70%
<b>30-59 Minutes</b>	449,886	24%
<b>60 or More Minutes</b>	101,409	5%
<b>Total</b>	1,843,797	

Source: 2011-2015 ACS

### Educational Attainment

Education Level	In Labor Force		Not in Labor Force	Unemployment Rate
	Civilian Employed	Unemployed		
Less than High School Graduate	109,425	19,786	164,540	15.2%
High School Graduate & Equivalent	466,555	45,493	252,475	8.9%
Some College/Associate's Degree	499,515	36,286	168,450	6.7%
College Degree or Higher	459,555	14,808	77,050	3.1%
<b>TOTAL</b>	1,535,050	116,373	662,515	7.0%

Source: 2011-2015 ACS

### Educational Attainment by Age

Education Level	18-24 Years	25-34 Years	35-44 Years	45-64 Years	65+ Years	TOTAL
Less Than 9th Grade	7,049	16,469	19,466	62,014	99,174	204,172
9th-12th Grade (no diploma)	53,114	44,355	43,814	107,669	74,749	323,701
High School Graduate & Equivalent	144,930	160,440	173,809	431,670	227,934	1,138,783
Some College (no degree)	170,427	141,906	126,454	241,192	103,748	783,727
Associate's Degree	18,308	52,576	52,790	93,661	22,382	239,717
Bachelor's Degree	29,721	101,265	88,723	144,564	52,002	416,275
Graduate/Professional Degree	2,523	48,938	59,288	111,178	52,986	274,913
<b>TOTAL</b>	<b>426,072</b>	<b>565,949</b>	<b>564,344</b>	<b>1,191,948</b>	<b>632,975</b>	<b>3,381,288</b>

Source: 2011 – 2015 ACS

### Educational Attainment – Median Earnings in the Past 12 Months

Educational Attainment	Median Earnings in the Past 12 Months
Less than high school graduate	\$19,565
High school graduate (includes equivalency)	\$26,518
Some college or Associate's degree	\$30,927
Bachelor's degree	\$44,249
Graduate or professional degree	\$54,226

Source: 2011-2015 ACS

MA-50, Continued

Households reported with Multiple Housing Problems				
Census Tract	County	% Reported (w/ mortgage)	% Reported (w/o mortgage)	% Reported Rent cost burdened
9205	Allen County	36.4%	23.6%	36.9%
9503	Barren County	41.8%	22.9%	48.8%
9701	Bath County	22.2%	22.3%	55.2%
703.01	Boone County	42.8%	35.2%	65%
201.02	Bullitt County	27.2%	23.5%	33.9%
505	Campbell County	44.1%	49.6%	62.2%
511.01	Campbell County	36.1%	23.5%	66.5%
9501	Carroll County	31.5%	22.3%	58%
2004	Christian County	28.4%	42.8%	52.4%
9503	Clay County	23.2%	22.5%	60.7%
9504	Clay County	42.5%	24.3%	39.3%
9	Daviess County	28.4%	23.7%	49.2%
1.02	Fayette County	52.2%	52.6%	32.6%
15	Fayette County	29.1%	36.1%	53.1%
37.02	Fayette County	26.1%	39.5%	54.4%
40.01	Fayette County	24.6%	22.6%	43.8%
9201	Floyd County	34.2%	31%	45.6%
710	Franklin County	26.9%	26.1%	32.1%
712	Franklin County	27.9%	28.3%	49.3%
9301	Green County	35.5%	22.1%	44.7%
5	Hardin County	37.7%	24.7%	42.9%
9704	Hopkins County	29.8%	35.2%	40%
9602	Jackson County	25%	22.8%	74.2%
7	Jefferson County	44.1%	31%	67.2%
8	Jefferson County	44.3%	32%	43.2%

<b>9</b>	Jefferson County	47.7%	25.5%	50.2%
<b>12</b>	Jefferson County	46.8%	23.5%	77.6%
<b>17</b>	Jefferson County	67.4%	23%	65.8%
<b>24</b>	Jefferson County	39.7%	21.9%	58.8%
<b>28</b>	Jefferson County	33.2%	34%	58%
<b>37</b>	Jefferson County	42.6%	23.4%	56.4%
<b>50</b>	Jefferson County	61.8%	24.5%	52.5%
<b>62</b>	Jefferson County	24.6%	32.9%	54.3%
<b>63</b>	Jefferson County	35.1%	31%	54.3%
<b>79</b>	Jefferson County	40.4%	31.6%	26.5%
<b>120.03</b>	Jefferson County	22.8%	22.3%	36.8%
<b>609</b>	Kenton County	32.4%	31.2%	72.8%
<b>611</b>	Kenton County	34%	27.9%	27%
<b>651</b>	Kenton County	22.1%	26.4%	35.9%
<b>670</b>	Kenton County	35.4%	42.9%	36.9%
<b>671</b>	Kenton County	51.8%	26.7%	57.5%
<b>9306.02</b>	Knox County	50%	24.3%	37.5%
<b>301</b>	McCracken County	73.3%	24.8%	45.4%
<b>9603</b>	McCreary County	48.8%	30.3%	68.2%
<b>104</b>	Madison County	48.8%	23.9%	51.4%
<b>9704</b>	Magoffin County	50.7%	29.1%	33.3%
<b>9301</b>	Nelson County	23.8%	23.5%	23.6%
<b>9706</b>	Perry County	32.5%	21.9%	37.7%
<b>9317</b>	Pike County	57.2%	31.3%	48.4%
<b>9319</b>	Pike County	55.9%	24.5%	56.3%
<b>9305.01</b>	Pulaski County	27.7%	26%	39.5%
<b>9308</b>	Pulaski County	34%	24.4%	65.2%
<b>9302</b>	Wolfe County	58.1%	22.7%	77.9%

### **Minority Populations, Continued**

The Black/African American population comprises 9.3 percent of the population statewide. Two counties in the non-entitlement jurisdiction covered by this plan are considered to have a concentration of the Black-African American population – Fulton (24.4 percent) and Christian (20.9 percent). Fulton and Christian County data indicates 85.6 percent and 81.8 percent of Black-African Americans had incomes below poverty level. Fulton and Christian County are located in the far western part of the state. Fulton County is considered part of the Mississippi Delta region as it borders the Mississippi River.

The American Indian/Alaskan Native population comprises 0.2 percent of the population statewide. Numerous counties in Kentucky in the non-entitlement jurisdiction covered by this plan are considered to have a concentration of the American Indian/Alaska Native population:

- Christian County (0.66 percent)
- Estill County (0.39 percent)
- McCreary County (0.77 percent)
- Meade County (0.77 percent)
- Trimble County (0.27 percent)

The Asian population comprises 1.7 percent of the population statewide. There are three counties in the non-entitlement jurisdiction covered by this plan is considered to have a concentration of the Asian population – Fayette County (4.5 percent), Jefferson County (3.2 percent), and Warren County (3.33 percent).

The Hispanic population comprises 3.4 percent of Kentucky's total population. The following counties are considered to have a concentration of the Hispanic population – Christian County (7.5 percent), Fayette County (7.0 percent), Jefferson County (5.0 percent), and Warren County (5.1 percent).

Persons reporting two or more races comprise 2.2 percent of the population statewide. Fayette County is comprised of 3.2 percent of persons who report that their race is two or more races combined.

## MA-65, Hazard Mitigation

The Kentucky Emergency Management oversees the Commonwealth of Kentucky Enhanced Hazard Mitigation Plan for 2018. Kentucky maintains a Kentucky Mitigation Council (KYMC) that holds regular meetings. The KYMC is comprised of the following agencies:

- Department for Local Government (DLG)
  - Economic Development Branch Representative
  - Kentucky State Clearinghouse Representative
- Kentucky Transportation Cabinet (KYTC)
- Kentucky Council of Area Development Districts (KCADD)
- Kentucky Office of Homeland Security (KOHS)
- Kentucky Heritage Council (represented by State Historic Preservation Officer)
- National Weather Service (NWS)
- United States Army Corps of Engineers (USACE)
- Kentucky Association of Mitigation Managers (KAMM)
- Local Practitioners
- University and College Emergency Management Representatives
  - University of Kentucky (UK) Representative
  - University of Louisville (UofL) Representative
- Kentucky Division of Water (KDOW)
  - Agency Representative
  - NFIP Coordinator
- Kentucky Emergency Management (KYEM)
  - Division Director
  - Assistant Director of Administration
  - Recovery Branch Manager
  - Area Managers
  - Intergovernmental Liaison
  - State Hazard Mitigation Officer (SHMO)

The KYMC meets regularly throughout any given year. Meetings are devoted to the Commonwealth of Kentucky Enhanced Hazard Mitigation Plan. The members of the KYMC are updated and consulted on points of integration, on the risk assessment, on goals for the Commonwealth in pursuing mitigation, on commonwealth capabilities, and on the mitigation strategy.

Agencies involved with emergency management, economic development, land-use and development, housing, health and social services, infrastructure, and natural and cultural resources were involved in the development of the Commonwealth of Kentucky Enhanced Hazard Mitigation Plan 2018 planning process:

Emergency Management was involved in that Kentucky Emergency Management (KYEM) and the University of Kentucky Hazard Mitigation Grants Program Office (UKHMGP) spearheaded the Commonwealth planning process.

Economic development was involved through the participation primarily through the Kentucky Mitigation Council (KYMC) of Kentucky's Department for Local Government (DLG) that administers federal Economic Development Agency (EDA) rules and funding, and of the Kentucky Council of Area Development Districts (KCADD). The Area Development Districts (ADDs) also are instrumental in economic development planning and implementation for the counties and cities over which they preside. Facilitating commonwealth mitigation plan meetings with ADDs shows Economic Development's inclusion in the Commonwealth of Kentucky Enhanced Hazard Mitigation Plan 2018 (CKEHMP 2018) plan process.

Land-use and development was involved through the development of risk assessments and contribution of risk assessment data by Kentucky's Division of Water (KDOW) and Kentucky's Division of Forestry (KDF) and by Kentucky Geological Survey (KGS) at the University of Kentucky (UK). Again, the inclusion of ADDs in the commonwealth mitigation planning process also was instrumental to include land-use and development input.

Housing was included through the Department for Local Government's (DLG) participation (through the KYMC, primarily) in the CK-EHMP 2018 planning process. Housing also was included through the ADDs' participation. Discussion of building codes and the Building Code Effectiveness Grading Schedule (BCEGS) and subsequent articulation of building code mitigation actions with both Kentucky Division of Housing, Buildings, and Construction (DHBC) and the ADDs also represent Housing's inclusion in the CK-EHMP 2018 planning process.

Health and Social Services was included through early discussions of commonwealth plan development-cum-plan integration with Kentucky's Department for Public Health (KDPH). Again, ADD participation also helped to include Health and Social Services input. Finally, meetings and calls between Kentucky Emergency Management (KYEM), University of Kentucky Hazard Mitigation Grants Program Office (UK-HMGP), and the University of Kentucky's Gatton School of Business solicited input for Health and Social Services. Specifically, the University of Kentucky's Gatton

College of Business is developing a National Security Preparedness Index that is intended to be included in commonwealth mitigation planning documents and heavily emphasizes health and social services and economic development.

Infrastructure was included through the KYMC and the Kentucky Transportation Cabinet's input to the CK-EHMP 2018. KYEM's and UK-HMGP's meetings with the U.S. Department of Homeland Security's Office of Infrastructure Protection's (DHS OIP) Infrastructure Development and Recovery (IDR) program also provided input and integrative elements affecting Infrastructure.

Natural and Cultural Resources were included in the CK-EHMP 2018 planning process through the solicitation of input (primarily through the KYMC) of Kentucky's State Historic Preservation Officer (SHPO). The risk assessment conducted by Kentucky's Division of Water (KDOW) and elicited from Kentucky Division of Forestry (KDF) also signifies input into the CK-EHMP 2018 from Natural and Cultural Resources.

## Strategic Plan

**Describe the extent to which services targeted to homeless person and persons with HIV and mainstream services, such as health, mental health and employment services are made available to and used by homeless persons (particularly chronically homeless individuals and families, families with children, veterans and their families and unaccompanied youth) and persons with HIV within the jurisdiction:**

In the most two recent CoC competitions, the KY BoS CoC was awarded funding through the Domestic Violence (DV) Bonus set-aside for two new projects. These projects are specifically for individuals and families with children that are victims of domestic violence, dating violence, and sexual violence and who are experiencing homelessness.

KHC, through its Housing Choice Voucher program available in 87 counties, created the Kentucky Moving On initiative in 2017. The program is a partnership with the Kentucky Balance of State Continuum of Care whereby persons currently in CoC-funded permanent supportive housing units who are no longer in need of intensive case management and supportive services may transition out of the PSH-funded resource into a Housing Choice Voucher within the community. The program allows people who have achieved housing stability to transition into community-based housing and frees up limited PSH resources for persons with more severe needs, such as those experiencing chronic homelessness. Additionally, in 2019, KHC was also awarded 200 Mainstream Vouchers that can serve households with a non-elderly member with a disability. It is anticipated these vouchers can serve many persons experiencing or who have experienced homelessness in need of a permanent housing subsidy.

In addition to coordinating the KY BoS CoC KHC works with the state Cabinet for Health and Family Services to manage programs that assist homeless veterans and persons with persistent mental illness, both populations that are at high risk.

KHC is a member of the Kentucky Interagency Council on Homelessness (KICH). KICH is composed of representation from state government, nonprofit agencies, and advocacy agencies that collaborate and perform duties related to serving special needs populations, including the homeless. Representatives of state cabinets and nonprofit organizations (including, but limited to, those who serve veterans, homeless, families with children and youth aging out of foster care) are active participants on the executive committee and subcommittees.

KHC partners with the state Division of Behavioral Health to promote their online SOAR (SSI/SSDI, Outreach, Access, and Recovery) program. SOAR teaches case managers how to thoroughly complete disability applications. With techniques from these trainings, more disability applications will be approved upon the first submission. Although SSI/SSDI will not lift households above the poverty line, it certainly can help households sustain an income and medical insurance, and with housing assistance, can be as sufficient as the individual has capacity to be.

The Kentucky Cabinet for Health and Family Services is responsible for planning and distribution of state and federal funds for youth programs. The Chafee Room and Board program includes services to youth aging out of foster care and those in the juvenile justice system.

Agencies in five care coordinator regions administer HOPWA funds for housing and services in addition to Ryan White funding to assist persons affected by HIV/AIDS. HOPWA is currently funding the following project sponsors: AIDS Volunteer, Inc. (AVOL), Heartland Cares, Inc., Matthew 25 Aids Services, and Volunteers of America Mid-States.

**Provide a summary of the strategy for overcoming gaps in the institutional structure and service delivery system for carrying out a strategy to address priority needs**

The Recovery Kentucky Task Force provides oversight and direction for a network of 100-bed Recovery Kentucky Centers - drug and alcohol-free housing for persons who are homeless or at risk for homelessness due to their continued dependence on alcohol and drugs. These housing centers provide a safe and secure environment for men and women to begin a process of “self-help” and “peer-led” education that leads to long term sobriety. The Recovery Kentucky program model is designed to help the recovering alcoholic/addict regain a life of sobriety and to begin a journey toward permanent housing and self-sufficiency.

The FSS Provider Coordinating Committee (PCC) is established to assist KHC with planning and implementing the FSS Program. Members are representatives from state, local and private groups who have resources to assist low-income families and have a commitment to family self-sufficiency.

**Addressing the emergency shelter and transitional housing needs of homeless persons.**

In recent years, the KY BoS CoC has created four new Joint Transitional Housing-Rapid Rehousing (Joint TH-RRH) projects, including a large project funded through the HUD's CoC Domestic Violence Bonus allocation (DV Bonus). These projects provide short-term transitional housing while participants are assisted in locating housing subsidized with RRH rental assistance or other support if needed. The transitional housing portion of these Joint TH-RRH projects operates as low-barrier crisis housing to provide a safe shelter while housing is identified. Following Housing First principles, participants are not required to participate in any programs (e.g., life skills classes, substance use recovery programs, etc.) in order to stay in the transitional housing units. Through KHC's annual CoC competition, Joint TH-RRH projects were selected from areas where no or insufficient emergency shelter existed.

In addition, through the Youth Homelessness Demonstration Program (YHDP), two transitional housing projects were funded in the Southeastern Kentucky region of the KY BoS CoC. Also funded through YHDP is a large Supportive Services Only (SSO) project that provides assistance to Host Homes for youth needing crisis housing, especially in areas where emergency shelter or transitional housing units do not exist. The KY BoS CoC routinely provides letters or support for funding opportunities and on-going collaboration with transitional housing projects funded through the VA's Grant Per Diem Program and HHS RHY projects.

Lastly, through the provision of CARES funding (ESG-CV), KHC has awarded \$1.5 million for emergency shelter activities provided through September 30, 2021 specifically to prepare, prevent, and respond to coronavirus. Shelters, including many not already funded with annual ESG funds, are using funds to for such things as expanding hours, personal protection equipment (PPE) to participants and staff, hotel/motel rooms to quarantine people who are COVID+ or who have been exposed to the virus and for those who otherwise would be unsheltered without regular access to sanitization/hygiene facilities to practice regular handwashing and other CDC recommendations to socially distance from others.

**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again.**

KHC has dedicated housing assistance for 100 homeless Kentucky veterans through the Veterans Emerging Towards Transition (VETT) Program. Through the VETT program, KHC has a preference for 100 Housing Choice Vouchers (HCV) for qualified homeless veterans in the 87 counties KHC serves under the HCV program. This special assistance will help qualified veterans pay for housing and ultimately reduce the number of homeless veterans in Kentucky.

KHC has also created the Kentucky Moving On initiative in 2017. The program is a partnership with the Kentucky Balance of State Continuum of Care whereby persons currently in CoC-funded permanent supportive housing units who are no longer in need of intensive case management and supportive services may transition out of the PSH-funded resource into a Housing Choice Voucher within the community. The program allows people who have achieved housing stability to transition into community-based housing and frees up limited PSH resources for persons with more severe needs, such as those experiencing chronic homelessness.

Additionally, in 2019, KHC was also awarded 200 Mainstream Vouchers and an additional 100 in 2020 that can serve households with a non-elderly member with a disability. Referrals for this program are made by KY BoS CoC partners across the 118-county CoC. KHC has worked closely with CoC and ESG-funded agencies to refer participants in RRH programs so that those RRH limited resources can be used for people in experiencing unsheltered homelessness and those in emergency shelter so as to shorten the length of time people remain homeless. →

In partnership with the KY BoS CoC, KHC's PHA program, and the state Cabinet for Health and Family Services (CHFS), KHC was awarded 100 Family Unification Program (FUP) vouchers. These vouchers are specifically for families in which the lack of housing is the reason why children are removed from the parents or are about to be, as well as unaccompanied youth who are homeless that aged out of the foster system. Services for these families and youth are provided by CHFS.

Unaccompanied and parenting youth also have access to crisis and permanent housing, as well as ongoing youth-specific supportive services through 5 Youth Homelessness Demonstration Program (YHDP) projects in Southeastern Kentucky. Lessons learned from the YHDP project will be implemented in other projects across the KY BoS CoC over the coming years, including emphasis on connecting youth to peer support, opportunities for community involvement, and focus on the social/emotional well-being of youth in addition to immediate housing needs.

For all ESG and CoC-funded projects, agencies are required to provide supportive services to help participants obtain and maintain permanent housing. Specially, all RRH projects are required to implement the National Alliance to End Homelessness (NAEH) RRH standards, which includes

assistance in locating housing (e.g., landlord outreach), access to rental assistance consistent with the household's specific needs, and on-going case management to ensure participants are able to maintain housing even when the rental assistance ends. ESG-RRH agencies are required to provide at least 3-months of case management after rental assistance ends to assist participants transition to stable housing.

**Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.**

KHC partners with the Department for Behavioral Health, Developmental and Intellectual Disabilities to serve this population via the Olmstead Housing Initiative (OHI), a 36-month bridge program that enables participants to become leased in permanent housing. Participants who cannot find permanent housing options in the 36-month time frame may continue OHI assistance upon approval of DBHDID until permanent housing can be secured. The goal of this initiative is to address a pressing need for housing for people who are currently in, or at risk of entering, institutions, such as psychiatric hospitals or personal care homes, or who have a history of frequent institutionalizations. By moving individuals from institutional settings to living independently in communities of their choice, Kentucky can better serve this population and implement the mandates of the Olmstead Supreme Court decision. OHI assistance comes in the form of rental assistance, payment of security and utility deposits directly to landlords and utility companies, respectively, for individuals receiving OHI housing vouchers. In December 2019, 129 households were using OHI housing vouchers.

The Department of Corrections discharge policy and procedures ensure every effort to secure safe housing for offenders prior to release. The first option is to determine if the individual can return to his/her home then to consider housing options with family or friends. Many offenders recognize that returning home may not allow them to be successful, and they choose to secure a home placement in a transitional living program. The transitional housing has specific requirements and seeks to assist the offender in his/her reentry process. Offenders typically return to home placements with family or friends. The Department of Corrections works directly with contracted halfway houses and transitional housing placements when a family member or friend is not available to support the offenders' transition into the community. The Recovery Kentucky program assists persons with addictions. The centers are funded by DLG, KHC, the Department of Corrections, and other funds, and are expected to assist more than 2,200 persons this year. CDBG services funding and KHC rental assistance funding support more than 18 centers across the state.

## Action Plan

## **Introduction**

KHC's CoC programs, including those funded through ESG, are for families and individuals who, in addition to safe, decent and affordable housing, need access to supportive services to stay housed permanently. Supportive housing combines permanent, affordable housing with flexible support services to help the tenants stay housed and build the skills to live as independently as possible. The ESG program is used in part to provide emergency services when people experience crises. Through the KY BoS CoC system, emergency shelters work with permanent housing providers to quickly move people out of shelters and into permanent housing. By using a common assessment tool, the CoC can determine which clients have the highest level of need so that the most intensive resource, PSH, can be reserved for those cases. Rapid rehousing is an effective intervention for people needing less supportive services.

The KY BoS CoC, in partnership with Kentucky's other CoCs, are actively working towards meeting the goals set forth in Home, Together: The Federal Strategic Plan to Prevent and End Homelessness. To meet these goals, the KY BoS CoC established the following objectives:

- Increase access to safe and affordable housing units for homeless families, individuals and youth.
- Increase funding for and access to comprehensive supportive services that help assure housing stability and encourage self-sufficiency.
- Increase funding for prevention services to reduce the numbers of persons falling into homelessness.
- Increase scope and quality of data collection through the statewide Homeless Management Information System to document both project and system performance and continuing need.
- Implement a client-centered Coordinated Entry System to move people with the highest needs into permanent housing as quickly as possible.

**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again:**

In 2019, KHC's Housing Choice Voucher program was also awarded 74 new Family Unification Program vouchers to assist transition-age youth and families. The program can assist the following two household types:

- Families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child(ren) in out-of-home care or the delay in returning child(ren) to the family from out-of-home care. (No time limit on assistance for FUP families.)
- Youth 18-24 years of age who left foster care, or will leave foster care within 90 days, in accordance with a transition plan and are homeless or are at risk of becoming homeless. (Maximum of 36 months.)

Case workers with the Cabinet for Health and Family Services refer clients to KHC for Family Unification Program vouchers.

The KY BoS CoC was selected as one of ten communities nationwide out of 130 applicants to participate in the first round of HUD's Youth Homeless Demonstration Program (YHDP). HUD awarded \$1.9 million to create a coordinated community plan to prevent and end homelessness and fund demonstration projects serving youth in the eight-county Southeastern Kentucky Promise Zone. Funded activities include transitional crisis housing, rapid re-housing, and supportive services, including system navigation, with projects launched in late 2018. YHDP activities are guided by the Coordinated Community Plan to Prevent and End Youth Homelessness in the Southeastern Kentucky Promise Zone released on December 21, 2017.

The demonstration will provide important information about how to address the unique challenges of homeless youth through the state and nationally.

# Kentucky Housing Corporation

## ESG Written Standards

Updated May 1, 2020

Kentucky Housing Corporation (KHC) as the State [recipient](#) sets forth the following standard policies and procedures that must be utilized for all [subrecipient](#) when evaluating individuals' and families' eligibility for assistance, coordinating program intake, and providing ongoing services and financial assistance under the Emergency Solutions Grant (ESG) in accordance with [24 CFR §576.400\(e\)\(2\) and §576.400\(e\)\(3\)](#).

### **ESG Recipient Requirements- 24 CFR §576.400(e)**

(2) If the recipient is a state:

(i) The recipient must establish and consistently apply, or require that its subrecipients establish and consistently apply, written standards for providing ESG assistance. If the written standards are established by the subrecipients, the recipient may require these written standards to be:

(A) Established for each area covered by a Continuum of Care or area over which the services are coordinated and followed by each subrecipient providing assistance in that area; or

(B) Established by each subrecipient and applied consistently within the subrecipient's program.

(ii) Written standards developed by the state must be included in the state's Consolidated Plan. If the written standards are developed by its sub recipients, the recipient must describe its requirements for the establishment and implementation of these standards in the state's Consolidated Plan.

(3) At a minimum these written standards must include:

(i) Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under Emergency Solutions Grant (ESG);

(ii) Standards for targeting and providing essential services related to street outreach;

iii) Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;

(iv) Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;

(v) Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see § 576.400(b) and (c) for a list of programs with which ESG-funded activities must be coordinated and integrated to the maximum extent practicable);

(vi) Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance (these policies must include the emergency transfer priority required under § 576.409);

(vii) Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;

(viii) Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and

(ix) Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.

#### ***Area-Wide Systems Coordination Requirements (24 CFR §576.400)***

Under 24 CFR §576.400 ESG Recipients must adhere to are-wide coordination requirements to ensure geographic coverage, system coordination, and targeted resource allocation. Outlined below are KHC’s ESG area-wide coordination requirements for all ESG subrecipients in the KY Balance of State Continuum of Care (KY BoS CoC).

*Consultation with Continuums of Care.* Subrecipients must demonstrate through a biennial Competitive Application process that the proposed project will work with the KY BoS CoC and adhere to established KY BoS CoC priorities as described in the most recent ESG Policy Manual. Due to the COVID-19 Pandemic, HUD issued a “Mega-Waiver” through a memorandum dated March 31, 2020 that sets forth waivers to regulatory requirements set forth in 24 CFR §576. Subrecipients of annual ESG formula grants, in consultation with the Recipient, may apply these waivers during the timeframe in which they apply. The ESG subrecipient of ESG annual formula funds, once awarded, must allocate funds according to these established priorities and policies as detailed in the Competitive Application. ESG subrecipients of funds awarded through the CARES Act must adhere to the priorities and policies established in conjunction with that allocation. ESG subrecipients are eligible and encouraged to be voted onto the KY

BoS CoC Advisory Board and any of its working committees and subcommittees. ESG subrecipients will assist the CoC Advisory Board and KHC in establishing and updating CoC-wide priorities and policies.

*Coordination with other targeted homeless services.* To the maximum extent practicable, subrecipients must coordinate with other existing homeless services programs and other key stakeholders in the KY BoS CoC. They must work to ensure that ESG-funded programs contribute to a strategic, CoC-wide system to prevent and end homelessness as outlined in the most recent [KY BoS CoC Coordinated Entry Policies and Procedures](#).

*System and program coordination with mainstream resources.* Subrecipients must coordinate and integrate ESG-funded activities with mainstream housing, health, social services, employment, education and youth programs for which ESG program participants may be eligible. Subrecipients will ensure ESG program participants are referred to mainstream resources for which they are eligible. When appropriate, subrecipients will work with mainstream resource agencies to establish coordinated case plans that include client goals and measurable outcomes.

*Centralized or Coordinated Assessment.* All subrecipients, including [Victim Service Providers](#) (VSP), must participate within the KY BoS Coordinated Entry System as defined in the most recent version of [KY BoS CoC Coordinated Entry Policies and Procedures](#). KY BoS CoC Coordinated Entry is a universal process, regardless of funding source, that includes triage assessment, permanent housing referral, and program intake.

*Participation in HMIS.* All KHC ESG subrecipients must participate and enter data on all persons served and all activities in the Kentucky Homeless Information Management System (KYHMIS) data collection and reporting system administered and managed by KHC as the HMIS Lead for the Commonwealth of Kentucky. KYHMIS serves as the community-wide [HMIS](#) for the KY BoS CoC in accordance with [US Department of Housing and Urban Development \(HUD\) standards](#) on participation, data collection, and reporting under a local HMIS. If the subrecipient is a VSP it must use a comparable database that collects client-level data over time (*i.e.*, longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a [comparable database](#) must not be entered directly into or provided to a HMIS.

***KHC ESG Written Standards as required by 24 CFR §576.400(e)(3)***

All KHC ESG subrecipients in the KY BoS CoC are required to adhere to the following policies and procedures when operating ESG projects. All required ESG client-level documentation, forms and recordkeeping guidance can be found on the [HCA HelpDesk](#) in the most recent [ESG Program Compliance Toolkit, unless the recordkeeping requirements apply to COVID-19 Pandemic-related waivers from HUD's "Mega Waiver" memorandum dated March 31, 2020, which can be found under the COVID-19 section of the HCA Help Desk](#). Recipient will notify the location of required documents relating to the CARES Act ESG allocation of funds, as applicable.

*Determining Eligibility for ESG Assistance.* All ESG subrecipients will determine individual and household eligibility for ESG assistance by program component as set forth in the most recent KHC Notice of Funding Availability (NOFA), ESG Policy Manual, ESG Compliance Toolkit, HUD COVID-19 “Mega Waiver” (as approved by the Recipient), and the CARES Act, and/or any subsequent HUD regulatory guidance when applicable. At minimum, all ESG subrecipients are required to use the HUD [Homeless Definition](#) and note the difference between categories of homelessness and applicable ESG component requirements. In addition all ESG subrecipients are required to utilize HUD’s guidance on [Determining Homeless Status of Youth](#) when applicable.

*Street Outreach Activities.* ESG subrecipients who are funded through the Street Outreach component are required to provide essential services necessary to reach out to persons experiencing unsheltered homelessness and connect them with emergency shelter, the KY BoS CoC Coordinated Entry System, other housing solutions, and critical services. When appropriate, subrecipients may provide urgent, non-facility-based care to persons experiencing unsheltered homelessness who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. For the purposes of this section, the term “persons experiencing unsheltered homelessness” means individuals and families who qualify as homeless under paragraph (1)(i) of the “homeless” definition. Eligible activities include, engagement, case management, emergency mental health, emergency health services, transportation, and services for special populations as defined [24 CFR §576.101](#). In addition, all subrecipients funded for Street Outreach must adhere to the most recent KHC NOFA, ESG Policy Manual, and ESG Program Toolkit for BoS specific priorities and requirements.

*Diversion, Admission, and Discharge by ESG Emergency Shelters.* All ESG-funded Emergency Shelters are required to adhere to Diversion policies and practices outlined in the KY BoS CoC Coordinated Entry Policies and Procedures. ESG-funded Emergency Shelters must follow required documentation and intake and exit procedures described in the most recent ESG Program Compliance Toolkit, KHC NOFA, and ESG Policy Manual. At minimum, ESG-funded Emergency Shelters must participate in the KY BoS CoC Coordinated Entry System and operate under a low-barrier, housing-focused shelter model.

*Assessment of Need for Essential Services by ESG Emergency Shelters.* All ESG-funded Emergency Shelters are required to follow assessment of need practices described in the most recent ESG Program Toolkit, KHC ESG NOFA, and ESG Policy Manual. At minimum, all subrecipients must ensure essential services are client-driven and catered to the individual or household’s specific needs to assist in accessing, obtaining and maintaining permanent housing.

*Prioritization of Prevention and Rapid ReHousing Assistance.* Subrecipients will prioritize available ESG-funded Prevention and Rapid Rehousing resources in accordance with the most recent KY BoS Diversion and KY BoS Coordinated Entry Policies and Procedures. Subrecipients providing Prevention assistance must adhere to Homeless Prevention Component regulations found at [24 CFR §576.103](#) as well as the most recent ESG Policy Manual. Subrecipients providing Rapid ReHousing assistance must adhere to Rapid ReHousing Component regulations found at [24 CFR §576.104](#) as well as KY BoS Rapid ReHousing

Program Standards. In addition, the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 provides ESG Recipients with one-time additional ESG monies to provide further Prevention and Rapid ReHousing assistance as determined by the Recipient due to the economic fallout from the COVID-19 global pandemic. Subrecipients must adhere to updated prioritization of Prevention and Rapid ReHousing as a result of CARES funding in the KY BoS CoC in order to prevent an onslaught of first time and recurrence of homelessness. The HUD “Mega Waiver” does and the CARES Act may provide flexibility for some ESG regulations as established in 24 CFR §576. Recipient will notify subrecipients if they are permitted to use these waivers and any variations as allowed through the CARES Act or subsequent regulatory guidance from HUD..

*Participant Percentage of Rent and Utilities and Duration of Assistance.* Subrecipients are required to adhere to rent and utility assistance standards, minimum thresholds and reevaluation periods as set forth in the ESG Policy Manual and KY BoS Rapid ReHousing Program Standards. At minimum, ESG Rapid ReHousing providers may not require income for program entry and ongoing rental/utility assistance while Prevention providers must be in compliance with HUD income threshold regulations set forth in [24 CFR §576.103 or those established by the HUD “Mega Waiver,”the CARES Act, and/or any subsequent HUD regulatory guidance](#). All rental assistance programs must operate under a Housing First orientation, be client-centered, and be flexible to the unique needs of individuals and households receiving assistance.

*Determining Housing Stabilization and/or Relocation Services.* Subrecipients are required to adhere to service standards, monthly case management and reassessment of need as set forth in the KHC ESG NOFA, ESG Policy Manual, KY BoS Rapid ReHousing Program Standards, and ESG Program Compliance Toolkit. At minimum, subrecipients are required to conduct monthly housing-focused case management sessions with program participants. All rental assistance programs must operate under a Housing First orientation, be client-centered, and be flexible to the unique needs of individuals and households receiving assistance

## HOME Program Recapture Provisions

HOME funds are administered by Recipient Agencies statewide. Recipient Agencies will advise clients prior to committing HOME funds that Recapture Provisions will apply. KHC requires Recipient Agencies to utilize Recapture Provisions for any application that is received through the competitive funding process. The HOME funding agreement, which is executed with each Recipient Agency, contains the following language:

### Recapture Provisions -

All Recipient Agencies receiving an allocation of HOME funds to undertake homebuyer activities will be required to utilize the recapture provision as described by the HOME regulations at *24 CFR 92.254(a)(ii)(A)(2) - Reduction During the Affordability Period*. This provision will be enforced by including appropriate language in the HOME written agreement with the homebuyer, mortgage documents, and lien documents. The initial homebuyer must reside in the home as his/her principal residence for the duration of the period of affordability.

In the event the homebuyer transfers the property, either voluntarily or involuntarily, during the period of affordability, KHC or the Recipient Agency recaptures all or a portion of the "direct" HOME assistance provided to the homebuyer from the available net proceeds.

The direct HOME assistance is the total amount of HOME assistance that enables the buyer to purchase the unit, including: downpayment and closing cost assistance, interest subsidies, and other assistance provided directly to the homebuyer (e.g., soft second mortgage), and if applicable, the amount that reduces the purchase price from fair market value to an affordable price.

The portion recaptured by KHC or the Recipient Agency will be a pro-rata amount of the direct HOME assistance. The total amount of the loan will be reduced for each year that the owner occupies the unit. For instance, for each year of a five-year affordability period, one-fifth of the amount of the HOME assistance will be forgiven.

To make the determination of what is forgiven:

(Number of years the buyer occupied the home/period of affordability) X total amount of direct HOME assistance originally provided to the homebuyer = amount forgiven.

Total amount of direct HOME assistance – the amount forgiven = Recapture Amount.

In the event net proceeds of the sale are insufficient to repay the amount owed, recaptured funds will be equal to net proceeds, and the loan will be considered satisfied. Net proceeds are defined as the sales price of the home minus superior loan repayment (not including HOME loans) and any closing costs.

The recapture provision is in effect for a period of affordability that is based on the amount of direct HOME assistance to the buyer, as follows:

<b>Amount of Direct Assistance to Buyer</b>	<b>Period of Affordability</b>
Under \$15,000	5 years
\$15,000 to \$40,000	10 years
Over \$40,000	15 years

Recapture Example - Ms. Mary Smith purchases a home for \$105,000 in June of 2011 and received \$20,000 in direct HOME assistance from ABC nonprofit (who is a Recipient Agency using HOME funds from KHC). Ms. Smith sells the house in August 2016, after the fifth year of affordability. As a result, 50 percent of her loan is forgiven and a balance of \$10,000 is to be repaid from the net proceeds. However, if the net proceeds of the sale are insufficient to repay the balance, the amount subject to recapture will be equal to the net proceeds.

### **Noncompliance**

During the affordability period, noncompliance occurs when an owner (1) vacates the property or rents the property to another household, or (2) sells the home without KHC receiving recaptured funds due at time of sale. KHC will monitor its homebuyer properties at least annually to confirm that owners continue to reside in the units as their principal residence. In the event of noncompliance, the owner is subject to repay any outstanding HOME funds invested in the housing. This is based on the total amount of HOME funds invested, including both development funds and direct subsidy to the buyer minus any HOME loan repayments.

# Multifamily Program Guidelines

2021 - 2022



**KHC** | Kentucky  
Housing  
Corporation  
*Investing in quality housing solutions.*

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## Introduction and General Information

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Kentucky Housing Corporation (KHC) offers a competitive funding process to create affordable housing in conjunction with our development partners. Through this process, KHC administers federal and state resources to enable the development and rehabilitation of safe, affordable housing for Kentucky families. These guidelines instruct applicants how to apply for multifamily resources available through KHC's competitive funding application, and explains review processes and program criteria.

### *Application Materials*

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The underwriting model and other KHC-provided forms required to complete the application are located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org). **It is the applicant's responsibility to identify and utilize all KHC-provided forms necessary to submit a complete application.**

### *Information Sharing*

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KHC may share all project-related information, including the application, attachments, technical submission documents, and other pertinent materials with other participating funders participating throughout the life of the project. KHC will not share personally identifiable information unless specifically authorized by the applicant.

**KHC is a state agency subject to the Open Records Act (KRS 61.870 to KRS 61.884). As such, records maintained by KHC are subject to the Open Records Act and KHC must comply with lawful requests to inspect public records.**

### *Program Administration*

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In KHC's administration of the Housing Credit program and other state and federal funding programs, KHC must make decisions and interpretations regarding project applications. KHC is entitled to the full discretion allowed by law in making all such decisions and interpretations, and shall resolve any conflicts, inconsistencies, or ambiguities, if any, in the Multifamily Guidelines, Qualified Allocation Plan (QAP), scoring workbook, or other program documents, that arise in administering, operating, or managing the reservation and/or allocation of the Housing Credit and other KHC multifamily programs. KHC may take all other actions and impose all other conditions which are required by law or which in the opinion of KHC are necessary to ensure the complete, effective, efficient, and lawful allocation and utilization of the Housing Credit and other KHC-administered programs. Such conditions may include imposing more stringent conditions than are required by the Code or other federal laws applicable to each project for receipt of Housing Credits and other funding sources administered by KHC throughout the required compliance period and/or other applicable periods.

As additional guidance, KHC may publish Multifamily Questions and Answers (Q&A). Any such Multifamily Q&A (as may be amended from time to time) are hereby incorporated by reference. Applicants are advised that adherence to all provisions in the Guidelines and QAP, as applicable, is a requirement to participate in KHC's multifamily programs. The Guidelines and QAP are intended to provide sufficient information to prospective applicants; however, due to the complexity of the program and the housing development process in general, not every potential circumstance can be covered. Applicants are strongly encouraged to seek input from KHC's Multifamily Programs staff regarding any situation not explicitly addressed in the Guidelines or QAP prior to submitting an application. However, KHC staff can only provide general review – applicants remain solely responsible for the contents of their applications. **All questions regarding these Guidelines, the QAP, application, underwriting, or scoring workbook should be emailed to [multifamily@kyhousing.org](mailto:multifamily@kyhousing.org).**

To accurately underwrite a project, KHC must determine that proposed costs are reasonable based on an examination of all building construction hard costs, soft costs, and land costs identified in the underwriting model, regardless of how or by whom the costs are proposed to be paid. KHC may require additional explanation, documentation or information pertaining to any portion of the application and/or underwriting model even if the Guidelines and/or QAP do not specifically require such information, explanation, or documents. All information submitted pursuant to the QAP and Guidelines must be satisfactory to KHC. If KHC requests additional information from an applicant, such information must be promptly submitted within the appropriate timeline(s).

If appropriate for the project, KHC will redirect applicants away from the 9% LIHTC round and into the Tax-Exempt Bond financing + 4% Housing Credits route (TEB route) which may be accompanied with KHC debt financing sources. If a project is redirected to the TEB route, it will not continue through the 9% review and scoring process.

KHC's decision to allocate Housing Credit and/or other resources to a project in no way warrants or represents to any sponsor, investor, lender, or other person or entity that a project is, in fact, viable. KHC makes no representations to the owner or anyone else regarding adherence to the Code, Treasury Regulations, or any other laws or regulations governing the Housing Credit program. No member, officer, agent or employee of Kentucky Housing Corporation shall be held personally liable concerning any matters arising out of, or in relation to, the allocation of Housing Credit or other KHC resources.

### *Amendments to the Guidelines or QAP*

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KHC may amend the Guidelines or QAP as needed on a case-by-case basis for the purpose of clarification, ensuring compliance with the Code or regulations, or any change necessary to affect the spirit and intent of KHC's multifamily programs as determined by KHC. Amendments may reflect changes, additions, deletions, interpretations, or other matters necessary to comply with the Code or other program regulations. Amendments are not limited to, but may perform such acts as cure ambiguities, supply information on omissions, correct inconsistencies, or facilitate the allocation of Housing Credits or other KHC resources that would not otherwise be allocated. All amendments will be effective immediately.

### *Environmental Review*

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Applicants for HOME or NHTF funds must contract with a KHC-approved person or firm to perform the required environmental review. A list of [approved environmental review preparers](#) is on KHC's website.

**Once the funding application has been submitted to KHC, applicants cannot proceed with the purchase of the property, start any part of the construction, or disturb the soil in any way until the environmental review is complete and an environmental clearance has been issued.**

Applicants will be required to provide to KHC and the selected environmental contractor certain documents related to the environmental review, which are outlined in [Chapter 5: Technical Submission Stage](#). The environmental contractor will use these documents to determine a project's impact on the environment. As the responsible entity, KHC is required to maintain copies of all documents relative to the completion of the environmental review; therefore, when the environmental review is complete and full environmental clearance has been achieved, the environmental contractor who performed the review must forward the entire package of all documents utilized during the review to KHC.

For questions regarding environmental reviews or the review process, contact KHC's Compliance Department at [mfcreviews@kyhousing.org](mailto:mfcreviews@kyhousing.org). More information regarding environmental review requirements can be found on [HUD's website](#).

## Eligible Project Types

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Multifamily projects of any size are eligible to apply for one or more sources of KHC financing available through the funding process. The following are examples of eligible project types:

- Family Housing
- Elderly Housing
- Special Needs Housing
- Permanent Supportive Housing

Applicants **proposing to serve special needs populations** must submit a supportive housing service plan, along with letters of service commitment from service providers and letters of referral commitment from agencies making referrals to the project.

## Funding Sources Available

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The following funding sources are available for multifamily housing production for the **2021** funding process. Refer to the QAP for Housing Credit pools and set-asides.

### 9 PERCENT HOUSING CREDIT PROJECTS

Funding Source	Projected Amount Available
HOME Investment Partnerships (HOME) Program	\$1,000,000
Affordable Housing Trust Fund (AHTF)	\$1,500,000

### NON-HOUSING CREDIT PROJECTS

Funding Source	Projected Amount Available
HOME Investment Partnerships (HOME) Program	\$1,000,000
Affordable Housing Trust Fund (AHTF)	\$1,000,000
Small Multifamily Affordable Loan (SMAL) Program	\$1,000,000

***\*KHC reserves the right to reallocate funds between the Housing Credit and Non-Housing Credit set-asides in order to fund the maximum number of projects possible.***

## Funding Request Limitations

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Projects requesting 9 percent Housing Credits are limited to a combined amount of HOME and/or AHTF in an amount equal to the lesser of \$35,000 per unit or \$500,000 per project. Furthermore, the maximum allocation of AHTF per project may not exceed \$300,000.

For non-Housing Credit projects **(11 units or less)**, KHC will limit the amount of **HOME funds** to no more than the applicable HOME maximum subsidy limit for a one-bedroom unit multiplied by four. Projects may have more than four units; however, the HOME request may not exceed the HOME maximum subsidy one-bedroom limit multiplied by four. **The maximum request for AHTF funds is \$300,000 per project, whether used in conjunction with other KHC resources or as the sole source of KHC funds.**

Program	Eligible Applicants & Activities	Summary of Program Requirements
<b>Housing Credit (Low Income Housing Tax Credit)</b>	<ul style="list-style-type: none"> <li>• Housing Credit is not a source of funds; it is an allocation of federal tax credits the project owner sells to an investor.</li> <li>• Eligible applicants are nonprofits, for-profit entities and local governments. However, for-profit involvement is required to access credits.</li> <li>• Eligible activities are new construction, rehabilitation and/or preservation of low-income rental housing.</li> </ul>	<ul style="list-style-type: none"> <li>• An investor purchases the Housing Credits, which they claim against their federal income tax liability for ten years. The resulting equity from the purchase of credits is used to finance the project.</li> <li>• The property must remain affordable for a minimum of 33 years.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>
<b>Affordable Housing Trust Fund (AHTF)</b>	<ul style="list-style-type: none"> <li>• AHTF is for gap financing only.</li> <li>• Eligible applicants are nonprofit organizations. The nonprofit must be a part of the ownership entity and materially participate in the project for the term of the loan.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• AHTF requests can be in the form of an amortizing or deferred due-at-maturity loan.</li> <li>• AHTF loans are <b>non-recourse</b>.</li> <li>• The minimum affordability period will not be less than 30 years; however, the term of the loan shall not exceed 30 years.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>
<b>HOME Investment Partnerships (HOME) Program</b>	<ul style="list-style-type: none"> <li>• HOME is for gap financing only.</li> <li>• Eligible applicants are nonprofit organizations and for-profit entities.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> <li>• HOME is a federal program and all federal cross-cutting regulations apply (24 CFR, 92.350 – 92.358).</li> </ul>	<ul style="list-style-type: none"> <li>• HOME funds can be used for construction and permanent loans. HOME cannot be used for refinancing.</li> <li>• HOME is a <b>recourse</b> loan.</li> <li>• HOME funds must be secured with a mortgage and may be structured as an amortizing loan or deferred due-at-maturity loan.</li> <li>• The affordability period and loan term shall not exceed 30 years.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>

<p><b>National Housing Trust Fund (NHTF)</b></p>	<ul style="list-style-type: none"> <li>• NHTF is for gap financing only.</li> <li>• Eligible applicants are nonprofit organizations and for-profit entities.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> <li>• NHTF is a federal program and is subject to all the same federal cross-cutting regulations as the HOME program, except for Davis-Bacon wage rate requirements.</li> <li>• Any project seeking to utilize NHTF must have project-based rental assistance.</li> </ul>	<ul style="list-style-type: none"> <li>• NHTF funds can be used for construction and permanent loans. NHTF funds cannot be used for refinancing.</li> <li>• NHTF is a <b>recourse</b> loan.</li> <li>• NHTF funds must be secured with a mortgage and may be structured as an amortizing loan or deferred due-at-maturity loan.</li> <li>• The minimum affordability period will not be less than 30 years; however, the term of the loan shall not exceed 30 years.</li> <li>• Eligible households must have incomes at or below 30% of the area median.</li> </ul>
<p><b>Small Multifamily Affordable Loan (SMAL) Program</b></p>	<ul style="list-style-type: none"> <li>• Eligible applicants are nonprofit organizations, for-profit entities and units of local government.</li> <li>• Eligible properties must have eleven units or less.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• SMAL can be used for construction loans and permanent mortgage loans. SMAL cannot be used for refinancing.</li> <li>• The interest rate will not be lower than 3.5% and the maximum LTV is 90%. There is a 1% origination fee.</li> <li>• The term of the loan shall not exceed 30 years. SMAL is a <b>recourse</b> loan.</li> <li>• Eligible households must have incomes at or below 120% of the area median.</li> </ul>
<p><b>Tax-Exempt Bonds Utilizing 4% Housing Credits</b></p>	<ul style="list-style-type: none"> <li>• KHC is the designated bond issuing authority for all housing projects within the Commonwealth of Kentucky.</li> <li>• Eligible applicants are for-profit and nonprofit developers; however, a member of the development team must have prior experience with KHC's Tax-Exempt Bond program to apply.</li> <li>• KHC issues the bonds with proceeds going to a developer for the purpose of constructing affordable housing.</li> <li>• Repayment of the bond financing comes from revenue generated by the project.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• Because bonds are tax-exempt, developers can obtain an interest rate that is typically lower than market rate.</li> <li>• Bonds can be short term (24 months) or long term (up to 40 years).</li> <li>• Bond projects utilizing at least 51% of bond proceeds to fund eligible project costs are eligible for 4% Housing Credits to generate equity for the project.</li> <li>• Tax-Exempt Bond projects are subject to payment of additional fees. Refer to <a href="#">Chapter 1: Project Timelines and Fees</a> for additional fee requirements.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> <li>• The Tax-Exempt Bond program utilizes the IRS Section 142 rent and income limits, which can be found in the <a href="#">Novogradac Rent &amp; Income Calculator</a>.</li> </ul>

## Maximum Credit Cap Requirements

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All users are restricted to a maximum of **\$1,500,000** in annual Housing Credit based on their involvement in projects as the applicant/developer, general partner, guarantor, or any other party receiving 25 percent or more of the developer fee as evidenced in the application, developer/consultant certifications and final cost certifications.

**“Users,”** to which the credit cap applies, are general partners, parent organizations of general partner entities, affiliates of the general partner, or managing members of entities to which Housing Credits have been awarded. **“Affiliate”** is any entity that directly or indirectly controls another entity or has a controlling interest in the entity.

**“Controlling Interest”** is defined as the possession – direct or indirect – of the power to direct, or cause the direction of, the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise. In addition, **“controlling”** means the possession – direct or indirect – of the power to direct, or cause the direction of, the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise. These definitions do not include the relationship of syndicator or limited partner.

- Organizations acting as users, general partners, or developers are limited to a maximum of \$1,500,000 in annual Housing Credits based on the determination made by KHC in the capacity of Development Team review.

An **“organization,”** to which this cap applies, is defined as the actual entity indicated in the application and any parent organization or affiliate of such entity (see the preceding paragraph for definitions of affiliate and other applicable terms). This restriction includes any applications in which such organization is indicated as a general partner or developer. If a developer enters any additional projects after reservation agreements are issued, these will count against their cap for the following year. Full disclosure of relationships between all Development Team members must be included in the application.

At the time of reservation and allocation, each general partner and developer must execute a certification that their participation in Housing Credit projects is limited to the maximum credit cap amounts. **If an entity does not fully disclose all participation, then such entity may be suspended from participating in the Housing Credit program for one year from the date of discovery by KHC, as noted in KHC’s suspension and debarment policy.**

KHC reserves the right to determine to which entities the maximum credit cap may apply. Any such determinations shall apply only to the applications received in the current funding round and shall not be bound or limited by any determinations made by KHC for any previous year. The annual credit amount for each project will be applied to each general partner, developer, guarantor, or consultant (earning 25 percent of the developer fee or more) regardless of ownership interest. Thus, a 51 percent general partner will have the entire project credit amount applied toward its cap, rather than 51 percent of the credit amount. **However, Tax-Exempt Bond projects are not restricted to this cap.**

## Project Funding Stages

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All applications for resources administered by the KHC Multifamily Programs department will proceed in the following stages. These stages, along with documentation requirements, are discussed in greater detail throughout this manual.

1. Initial Contact/Technical Assistance
2. [Development Team Capacity Application Stage](#)
3. [Application Submission and Scoring Review Stage](#)
4. [Technical Submission Stage](#)
5. [Pre-Construction/Pre-Closing Stage](#)
6. [Closing and Construction Stage](#)
7. [Construction Completion/Placed-In-Service Stage](#)
8. [Land Use Restriction Agreement and 8609 Stage](#)

### 1. Initial Contact/Technical Assistance (TA)

To submit an application, a member of the development team must have developed, operated, and completed a project that is now in the affordability stage with compliance and has developed at least four rental units with KHC. However, if no member of the development team meets this qualification, then a member **must** request application technical assistance (TA). **Applicants must have completed a technical assistance meeting before requesting access to the Universal Funding Application (UFA) system.** If more than three years has elapsed since its last KHC-funded multifamily project, the applicant/developer is strongly encouraged to attend a TA meeting. KHC may require a TA meeting prior to application submission for any developer. Developers new to KHC who are resubmitting an unsuccessful application from a previous funding round must contact KHC to determine if a TA meeting is required.

A representative of the development entity, as well as the person on the development team who is responsible for the preparation and submission of the application and consultant (if applicable) must attend the TA meeting. Because KHC's design and construction requirements will be discussed at the meeting, it is highly recommended that the architect also attends.

To schedule a TA meeting, a written request must be submitted to [multifamily@kyhousing.org](mailto:multifamily@kyhousing.org), including a brief description of the potential project. **All TA meetings must occur no less than 60 days prior to the application submission deadline.** *NOTE: Requesting or attending technical assistance training does not guarantee the project will be awarded funds.*

**KHC will be unable to answer application-related questions within the seven (7) day period prior to the application submission deadline, except for technical issues related to the UFA system.**

### 2. Development Team Capacity Application Stage

KHC will conduct a review of the experience and capacity of development team members prior to making the UFA system available. The result of the [development team capacity review](#) will determine whether an organization may participate in the upcoming program year and/or if any scoring issues may be present. Parties participating in the project must resolve outstanding fees or other payments due to KHC prior to KHC issuing a capacity approval.

In determining whether to approve the Development Team Capacity Application, KHC will consider all issues relevant to the development team member's ability to successfully develop or manage the project or to properly expend KHC resources.

KHC may solicit feedback from other states where the applicant or other members of the development team developed or managed projects, as well as confirming through the System for Award Management website at [www.sam.gov](http://www.sam.gov) that no member of the development team has been debarred or suspended from doing business with the federal government.

### **3. Application Submission and Scoring Review Stage**

KHC will score applications in accordance with the applicable scoring workbook based on the information contained within the application and the submitted attachments, including the underwriting model. Refer to [Chapter 3: Application Process, Review, and Requirements](#) for more information.

### **4. Technical Submission Stage**

Once an applicant receives a preliminary approval letter from KHC, the project will then enter the [technical submission stage](#) and additional evidentiary documentation must be submitted. The required technical submission documents are grouped into categories which may be uploaded independent of each other.

### **5. Pre-Construction and Pre-Closing Stage**

When the technical submission stage is complete, all documents have been reviewed and approved, and final underwriting is complete, the project is ready to proceed to the [pre-construction and pre-closing stages](#). There are two separate checklists of items that must be received and approved prior to the loan/equity closing and start of construction; the items on these two checklists may be uploaded independent of each other. A pre-construction conference will be required to discuss the inspection and draw request process. The developer should include their assigned KHC project representative or specialist when regularly-scheduled closing conference calls begin to occur between the owner, equity investor, and other partners in the project so that KHC can stay abreast of the project status as it moves toward the closing date.

### **6. Closing and Construction Stage**

Once the project has had its applicable loan and equity closings and all required pre-construction and pre-closing items have been submitted and approved, the project will be transferred from the project specialist to KHC's post-closing staff. During the [closing and construction stage](#), all executed closing documents will be submitted to and reviewed by KHC's Legal Department for accuracy and completeness. Post-closing staff will oversee the project throughout the construction phase, monitor construction inspections, and process draw requests for KHC funds.

### **7. Construction Completion/Placed-In-Service Stage**

Upon completion of the project's construction or rehabilitation and issuance of the certificate(s) of occupancy, the project will be in the [construction completion/placed-in-service stage](#). At that time, additional completion documents must be submitted to KHC and a final inspection will be conducted. Upon KHC's approval of the documents required on the construction completion/placed-in-service checklist, as well as the final inspection and resolution of any punch list items, the final 10 percent retainage of KHC funds may be requested.

## 8. Land Use Restriction Agreement and 8609 Stage

Once the construction of a Housing Credit project has been completed and all the Construction Completion/Placed-In-Service documentation has been received and approved, Housing Credit projects may request the Land Use Restriction Agreement (LURA) – or extended use agreement – and the IRS Form(s) 8609 for the project. The [LURA and 8609 documentation](#) must be submitted to KHC no later than 6 months from the project's completion date, as evidenced by a certificate of occupancy or an architect's certification of substantial completion.

### *Administrative Waivers*

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Applicants seeking a waiver to any KHC policy or requirement must submit a waiver request and pay a fee. A separate waiver must be submitted for each KHC policy or requirement for which a waiver is being requested – two or more waivers may not be combined into a single waiver request form. Waivers requested prior to application submission must utilize the [Waiver Request Form](#) and must be submitted no less than seven (7) days prior to the application submission deadline to receive consideration. Any waivers requested after application submission must be submitted via the UFA system. **Multiple waiver requests for the same project or by the same developer for multiple projects may be considered a capacity violation and affect scoring in future funding rounds.**

## CHAPTER 1: Project Timeline and Fees

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All projects are held to the timeline outlined below. All times noted are Eastern time zone. If the timeline dates are not met, the applicant will incur penalties or lose the funding associated with the project.

### *Project Timeline*

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#### Development Team Capacity Application

Applicants must submit the Development Team Capacity Application in the same calendar year as the funding application but not less than **60 days** prior to the funding application submission deadline, or 60 days prior to preapplication submission for Tax-Exempt Bond projects. Previously-approved development team members are not required to complete the Development Team Capacity Application during the applicable approval period.

#### Application Submission

The dates for the Universal Funding Application (UFA) for 9% Housing Credit applications are as follows:

- **Opens: Friday, May 15, 2020**
- **Closes: Thursday, August 20, 2020, 12 noon, ET (submission deadline)**

#### Technical Submission

Technical submission items are due approximately **90 days** from the date of the preliminary approval letter – the actual date will be noted in the preliminary approval letter. Firm commitments as noted in [Chapter 5: Technical Submission](#), must be submitted by the technical submission deadline given in the preliminary approval letter. No extensions will be granted for submission of firm commitments for non-KHC resources.

#### Carryover Submission

Carryover documentation for Housing Credit projects must be submitted no later than the Thursday before Thanksgiving each year. Late submissions will incur a one-time fee of \$1,000.

#### Project Closing

Applicants have **one year** from the date of KHC's preliminary approval letter to close with their equity investor and on all KHC loans associated with the project. If the project does not close by this date, KHC's preliminary award to the project shall expire and be null and void and of no further force and effect.

### *Project Fees*

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**All fees outlined below are non-refundable, whether in whole or in part.** All fee payments must be submitted electronically via the UFA system. For fees that represent a percentage of the Housing Credit allocation, the fee amount should be rounded to the nearest whole dollar, using standard rounding rules.

## Development Team Capacity Application Fee

The development team capacity application fee must be submitted for each entity on the development team for which approval is being requested (owner, developer, co-developer, management company, consultant). Each member must complete a separate development team capacity application and pay the applicable fee as outlined below:

- \$250 per each nonprofit entity
- \$1,000 per each for-profit entity

## Application Fee

- \$2,500 per pool for nonprofit applicants (Housing Credit only)
- \$3,500 per pool for all for-profit applicants (Housing Credit only)
- \$3,500 per property for Tax-Exempt Bond projects. Portfolio projects must pay an application fee for each property.
- \$250 for non-credit project submissions from nonprofit developers
- \$500 for non-credit project submissions from for-profit developers

The application fee is charged for each project submitted. If applying for two different Housing Credit pools with the same application, two fees will be required. Application fees will not be returned for incomplete applications or applications that do not meet minimum threshold.

## Initial Inspection Fee

Projects proposing the rehabilitation of existing rental housing, whether in the New Supply or the Existing Supply pools, must pay an initial inspection fee of \$250 per property for non-credit projects, and \$1,000 per property for Housing Credit projects. KHC will conduct an initial inspection of the property to determine if the level of rehabilitation proposed is required or sufficient to keep the property viable.

## Market Analysis Review Fee

A market analysis review fee of \$1,000 must accompany each Housing Credit application. If applying in more than one pool with the same application, only one market analysis review fee is required. Portfolio transactions will require a separate market study and market analysis review fee for each property.

## Housing Credit Reservation Fee

A reservation fee of 9 percent of the amount of Housing Credit reserved for a project is due to KHC within two weeks from the date of the preliminary award letter. Failure to pay the reservation fee within this time frame will result in the Housing Credit award being recaptured. **No extensions will be granted for the reservation fee.**

## SMAL Origination Fee

All SMAL loans will be charged an origination fee of 1 percent of the mortgage amount and is due at the loan closing.

## Technical Submission Extension Fee

Projects may request a maximum of three, 30-day extensions. The first extension fee is \$500, the second extension fee is \$1,000, and the third extension fee is \$2,000. There is no fee for projects only receiving HOME funding (no other KHC resources). Extension fees must be paid prior to the expiration of the deadline. **All requested extensions may be considered in the Capacity/Performance Scorecard for future funding applications to KHC.**

## Closing Extension Fee

KHC may consider a request for a 30-day extension to the closing deadline, and if approved, an extension fee shall be payable to KHC on or before the expiration of the current conditional award. **All requested extensions may be considered in the Capacity/Performance Scorecard for future funding applications to KHC.**

- Housing Credit Projects (4% and 9%) and Tax-Exempt Bond Projects: The closing extension fee will be 1 percent of the preliminary credit award. The extension fee doubles for each additional extension request (2 percent for the second request, 4 percent for the third request, etc.).
- Non-Credit Projects: The closing extension fee is \$500 per extension. Projects receiving only HOME funds (no other KHC resources), will not be charged this fee due to HOME regulations.

## Failure to Meet Deadline Fee

Any project that fails to meet a KHC-imposed deadline without requesting an available extension (as applicable) will incur a \$5,000 penalty fee, in addition to the extension fee.

## Unauthorized Early Closing Fee

Any project that proceeds with the closing of any property acquisition, loan, and/or equity prior to KHC issuing its final underwriting approval and issuance of the final credit reservation letter (if applicable) must pay an Unauthorized Early Closing Fee of \$7,500 *in addition* to any other fees applicable to and associated with such closing. **The owner/developer will be subject to a capacity score reduction for future funding rounds if the early closing was not authorized by KHC via a waiver request.**

On a case-by-case basis, KHC may, at its sole discretion, consider allowing an applicant to close on **property acquisition only** prior to final underwriting approval with written notification to KHC and compelling justification that it is in the best interest of the project to allow the early acquisition of the property. If federal funds are involved, the site must have environmental clearance prior to acquisition.

## Early Start Fee

Any project that requests and receives approval from KHC to begin construction activities prior to receiving a Notice to Proceed from KHC must pay an Early Start Fee of \$5,000. Refer to KHC's [Early Start of Construction policy](#).

## Unauthorized Early Start Fee

Any project that begins construction activities of any type prior to receiving a Notice to Proceed or a signed Early Start authorization from KHC must pay an Unauthorized Early Start Fee of \$7,500. Unauthorized early starts of construction will also result in a capacity violation for future funding rounds.

## Construction Inspection Fee

KHC will charge a one-time 1.25% construction inspection fee for all Housing Credit projects. The fee will be based on the credit allocation amount awarded to a project. This fee is due and payable before the start of any construction activities and must be incorporated into the project budget.

## Re-inspection Fee

KHC will charge a re-inspection fee of \$500 under the following circumstances:

- Units for which a KHC inspector must perform more than one final inspection due to the project not being 100% complete.
- Failure to have work ready for inspection at the scheduled site visit appointment time.
- Failure to have a Development Team representative on the project site during the inspection.
- Unsuccessful attempts due to the Development Team not coordinating the inspection with tenants, or other involved parties, which renders the unit inaccessible for inspection.
- A hazard exists at the project site which endangers the welfare of the inspector. Examples: bed bug infestation, poisonous snake infestation, uncontrolled animals, etc.

KHC will not charge a re-inspection fee if the owner provides the KHC construction analyst a minimum 48-hour written cancellation or reschedule notice, or for follow up inspections to verify correction of deficiencies observed during any previous interim inspection.

All re-inspection fees must be paid prior to KHC signing future draw requests or issuance of the IRS Form(s) 8609.

## Administrative Waiver Fee

KHC will charge a \$500 fee for each waiver requested to any policy or requirement contained in the QAP or the Multifamily Guidelines. The fee is due at the time the waiver is requested; no waiver will be considered until the waiver fee has been received by KHC.

## Changes to Project Design Fee

Owners must notify KHC in writing in advance of making changes to the project design during development (e.g., site plan or location, pledged amenities, revisions to scope of work or materials, number of affordable units, substitution of one pledged amenity for another, etc.). **KHC will charge \$500 for each change request.** There will be no fee for non-Housing Credit projects; however, KHC still requires written notification of such changes.

## Credit Exchange (Swap) Fee

Owners exchanging an allocation of credit must pay a \$6,000 fee in addition to a new reservation fee as identified in the QAP for the year of the exchange.

## Carryover Extension Fee

Owners who do not submit the required carryover documentation by the deadline as outlined in the [Housing Credit Carryover](#) section must pay a one-time fee of \$1,000.

## Late Submission of 8609 Application Fee

Owners who do not submit the 8609 application and all required attachments within 6 months of project completion must pay a one-time fee of \$1,000. The completion date is evidenced by a certificate of occupancy or an architect's certificate of substantial completion (if rehabilitation).

## Reissuance of 8609 Fee

Owners must pay \$1,000 for each instance of correcting and reissuing an IRS Form 8609 (unless made necessary due to KHC error). The 8609(s) will not be reissued until the fee is paid.

## Compliance Annual Report/Monitoring Fee

An annual fee will be assessed for KHC's compliance monitoring. Applicable fees must be submitted with the compliance monitoring annual report. The annual fee for projects to be examined by KHC is determined by KHC's Compliance Department and the [fee schedule](#) is on KHC's Asset Management web page. A late filing fee will be assessed as specified in the fee schedule. Compliance monitoring fees are subject to periodic adjustment and will apply to all projects participating in the Housing Credit program. KHC may implement a compliance monitoring fee on other KHC-financed projects as program regulations allow.

## Tax-Exempt Bond Fees

In addition to the fees outlined above, Tax-Exempt Bond projects are also subject to the following fees:

- Pre-Application Fee: \$1,000 per project (regardless of number of properties in the project).
- Credit Allocation Fee: 9% of the requested 4% credit allocation. Owners will pay additional fees if the amount of 4% Housing Credit increases prior to issuance of Form(s) 8609. The credit allocation fee is due at closing of the partnership.
- Issuer Fees: Fee shall be based on the initial inducement amount at \$3.50/\$1,000 of bond principal amount for all bond issues rated "A" or better (private placement or publicly offered) and \$6.00/\$1,000 of bond principal amount for unrated private placement of bonds. Half of the initial issuer's fee is due within two weeks of inducement resolution, with the remaining balance due at the bond closing. **No extensions will be granted for the issuer fees.**
- Annual Issuer Fees: \$1.25/\$1,000 face value of the original bond issuance amount or an eighth point (covers annual compliance and financial reviews). The first year's Annual Issuer Fee based on the full bond amount shall be due and payable at the bond closing with annual payments thereafter as long as bonds are outstanding.
- Issuer's Counsel: \$1.00 per \$1,000 of principal amount of bonds, with a minimum of \$12,500 (one-time fee paid at closing).
- KHC Administrative Fee: \$5,000 one-time fee. The administrative fee is due at closing; however, in the event the project fails to close, this fee will remain due.
- Updated Resolution Fee: If a project must be reinduced or have the final board resolution extended, a fee of \$2,500 for the first updated resolution and \$5,000 for each subsequent update will be charged.
- Inducement Agreement Extension Fee: A \$1,000 fee per inducement extension will be charged. *The Inducement Agreement shall be extended until the date specified on the timeline submitted by the project owner.*

## Recovery Kentucky Fees

Recovery Kentucky projects will be charged an annual project oversight administrative fee by KHC.

- The annual fee is \$14,000 for projects with KHC-administered vouchers
- The annual fee is \$7,500 for projects with non-KHC administered vouchers

## Modifications to Legal Documents

If modifications are necessary to a project's KHC legal documents at any time after loan and/or equity closing and for any reason other than an error by KHC, the following fee structure will apply:

- First modification occurrence: \$1,000 fee
- Second modification occurrence: \$2,000 fee
- All subsequent modifications: \$4,000 fee each occurrence

For projects only receiving HOME funding (no other KHC resources), no modification fees will be charged due to HOME regulations; however, modifications to KHC legal documents may be considered in future capacity scoring on all projects.

## CHAPTER 2: Development Team Capacity Application

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KHC will conduct a capacity review on all development team members (owner, developer, co-developer, consultant, and management company) prior to the submission of an application for funding. Each member of the development team must complete the Development Team Capacity Application within the [Universal Funding Application \(UFA\)](#). Approved development team members will receive a certification of their approval to participate in KHC-assisted multifamily projects, which will be valid for one to four years, at KHC's discretion. Any changes to approved development team members, including officers, management, or key staff members with whom KHC has direct contact, must be disclosed in writing to KHC at the time the change occurs. At KHC's discretion, the capacity approval may be modified or rescinded based upon its assessment of the significance of the change(s).

### Development Team Capacity Application Timeframe

The capacity application is not tied to a specific funding application; however, the capacity application must be completed in the same calendar year as the funding application. Development team members previously provided with an approved capacity certification are not required to complete the Development Team Capacity Application; however, a copy of the approval certification for each member must be uploaded with the UFA. Any development team member who has not received a capacity approval letter must complete the Development Team Capacity Application, which must be submitted to KHC no later than **60 days** prior to the funding application submission due date. **KHC reserves the right to require a capacity review of any development team member at any time.**

### Eligible Applicants

To submit an application, a member of the development team must have either:

- Developed, operated, and completed a project that is now in the affordability stage with compliance and has developed at least four (4) rental units with KHC; or
- Attended a technical assistance meeting with KHC.

KHC limits new applicant/developers or applicant/developers new to Kentucky to one funded project for the current funding cycle. Unless otherwise approved by KHC, new applicant/developers will be limited to one outstanding award until the initial awarded project has achieved 100 percent construction completion and IRS Form(s) 8609 have been issued before a subsequent application may be submitted.

Applicant/developers who have previous experience with KHC's Housing Credit program are restricted only by the Housing Credit cap. For an applicant/developer to be considered experienced with KHC, they must have constructed and placed in service a KHC multifamily property within the past 5 years.

### Suspended/Debarred Parties

**Any parties suspended or debarred pursuant to KHC's [suspension and debarment policy](#) shall be ineligible to participate in any project that receives KHC resources.** If an entity is determined to be ineligible to participate in a KHC-assisted project, any related-party entity will also be ineligible.

### Organizational and Credit Review Documents

All members of the development team must submit the following documentation based on its organizational structure. Development team members acting solely in the role of consultant are only required to submit organizational documents; credit review documents are not required.

## **Corporation:**

### ***Organizational Documents***

- Articles of Incorporation, and any amendments
- Bylaws, and any amendments
- Kentucky Secretary of State Certificate of Existence
- Corporation's Tax Identification Number

### ***Credit Review Documents***

- Current Financial Statements – 2 years' Balance Sheet, Profit & Loss and Cash Flow Statements
- Business Credit Report Authorization
- Most recent one-year business tax return

## **Nonprofit Corporation:**

### ***Organizational Documents***

- Articles of Incorporation, and any amendments
- Bylaws, and any amendments
- Kentucky Secretary of State Certificate of Existence
- IRS 501(c)(3) status letter (must be the final status determination letter, if one has been issued)
- A current listing of the Board of Directors and their current occupations.

### ***Credit Review Documents***

- Current financial statements – 2 years' Balance Sheet, Profit & Loss and Cash Flow Statements
- Business Credit Report Authorization
- Most recent IRS Form 990

## **Limited Liability Company:**

### ***Organizational Documents***

- Operating Agreement, and any amendments
- Articles of Organization, and any amendments
- Manager Managed or Member Managed (indicate where in Articles or attach)
- Kentucky Secretary of State Certificate of Existence
- LLC's Tax Identification Number

### ***Credit Review Documents***

- Current Financial Statements – 2 years' Balance Sheet, Profit/Loss & Cash Flow Statements
- Business Credit Report Authorization
- Most recent one-year business tax return

**Note: A new LLC will require individual members' financial reports and credit reports**

## **Government Entity:**

### ***Organizational Documents***

- Resolution from Appointing Authority
- Bylaws, and any amendments

### ***Credit Review Documents***

- Current financial statements – 2 years' Balance Sheet, Profit & Loss and Cash Flow Statements

## Partnership:

### **Organizational Documents**

- Partnership Agreement (General and/or Limited) and any amendments (need Certificate of Limited Partnership for LPs)
- Kentucky Secretary of State Certificate of Existence
- Partnership's Tax Identification Number

### **Credit Review Documents**

- Current credit report(s) for general partner(s) reflecting recent transactions
- Current financial statements (2 years' Balance Sheet, Profit & Loss and Cash Flow Statements)
- Business Credit Report Authorization
- Personal Credit Report Authorization

**Note: A new Partnership will require individual partners' financials and credit reports**

**Foreign Entity:** In addition to the above, all foreign entities must provide copies of their qualification to do business in the Commonwealth of Kentucky.

## Full Disclosure

Applicants must complete and submit KHC's Full Disclosure Form for all entities and individuals in the Development Team organizational structure. Following are the required disclosures:

1. A statement concerning all criminal convictions, indictments, and pending criminal investigations of all members of the development team, including dates and details of each circumstance, unless otherwise prohibited by court order, statute or regulation. KHC may perform a full criminal, employment, and credit investigation of all development team participants to verify credit and criminal history.
2. Any relationship between individuals or entities of the development team that could constitute a conflict of interest or identity of interest between the parties.
3. Complete organizational charts must be submitted for the owner and developer entity that clearly show all principals down to individuals involved in the ownership and development of the project. No change to the project owner/developer structure can be made without the express consent of KHC.
4. All development fee sharing arrangements. KHC considers all individuals or entities that receive a portion of the development fee to be part of the development structure.
5. All guarantor agreements. KHC may determine that a guarantor is actually a real party in interest to either the General Partner and/or Developer entities.
6. All consulting agreements, whether direct or indirect, paid or unpaid. KHC will determine if a consultant is a real party in interest to either the general partner and/or developer entities.
7. All pending litigation that could result in suspension or debarment as defined in KHC's policy.
8. Significant non-performance in a government housing program (including Fannie Mae, Freddie Mac, and Federal Home Loan Bank programs).
9. Any development team member that has an adverse credit history including but not limited to a default in the payment of any commercial or personal loan.

## Development Team Capacity Application Attachments

All required KHC-provided forms are located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org). It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*. The following items must be uploaded with the online application for KHC to complete the capacity and credit review:

### **1. Capacity Application Fee**

Evidence of electronic payment of the capacity application fee for each entity on the development team for which approval is being requested (owner, developer, co-developer, management company, consultant) must be submitted. Each member must complete a separate development team capacity application and pay the applicable fee as outlined in [Chapter 1: Project Timeline and Fees](#).

### **2. Organizational Documents**

All members of the development team must submit the organizational documents outlined above based on their respective organizational structure. Newly-formed general partner entities and guarantors are required to provide this information at the application stage. Nonprofit organizations participating in the development, ownership or management of the project must also provide a copy of their final IRS 501(c)(3) determination letter.

### **3. Credit Review Documents**

All members of the development team, except members acting solely in the role of consultant, must submit the credit review documents outlined above based on their respective organizational structure. Newly-formed general partner entities and guarantors must provide this information at the application stage.

KHC will order a business credit report on development team members as applicable. The credit documentation is reviewed to demonstrate creditworthiness. Other than for cash pledged or guarantees provided, the review is to find a track record that the proposed development team member has a history of managing finances in an efficient manner and is an acceptable risk to KHC to develop and manage a project. KHC may request additional financial information as needed. KHC may perform a subsequent credit review of the developer when a funding application requesting a KHC loan is submitted.

All business financial statements must be compilation statements or audited financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP). If submitting compilation statements, there must be a certification contained with the statements certifying that they meet the requirements for a compilation statement.

### **4. Spreadsheet Summary of All Projects Under Construction**

Developers must submit a spreadsheet summary of all projects under construction in any state (in any stage of completion), including their status and expected completion date.

### **5. Development Team Resumés and Organizational Chart(s)**

Each member of the development team must submit a full organizational chart, staff roster, and resumés of principal officers/members within the organization, focusing on their affordable housing development experience. Newly-formed general partner entities are required to provide this information at the application stage.

**6. Out-of-State Experience Certification (Developers and Management Companies)\***

All applicants/developers and management companies who have not done business with KHC in the last five (5) years must submit a copy of the Housing Finance Agency (HFA) review for projects financed with HFA resources in other states. There is a separate form for developers and management companies. KHC may contact a state HFA directly to obtain additional information, as well as request additional information from a developer or management company regarding their activities in another state.

**7. Full Disclosure Documentation\***

KHC's Full Disclosure Form, as described in this chapter, must be completed and signed by each member of the development team, accompanied by any supporting documentation.

## CHAPTER 3: Application Process, Review, and Requirements

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KHC offers a competitive application for Housing Credit, AHTF, HOME, NHTF, and SMAL funds. **KHC will fully review and score only those applications for which the self-scores and any applicable tie-breaker criteria indicate the projects are likely to be awarded.** Applications will be reviewed in accordance with required thresholds, capacity of the development team, project design, and financial feasibility, as well as adherence to the Multifamily Guidelines. Any issues that could delay the project must be resolved before submitting an application.

It is the applicant's responsibility to submit all required documentation to adequately support its application. Any material deficiency in the application or omission from the mandatory submissions, not cured pursuant hereto, will result in an immediate rejection of the application. In addition, the application must meet all eligibility requirements set forth in the Code. KHC may reject or return any application at any time during the allocation process. Applicant's failure to: i) provide complete and/or accurate information during the application process; ii) pay compliance fees; iii) adhere to project attributes pledged on the original application; or, iv) resolve any outstanding issues with any other KHC programs may impact scoring or result in the rejection of the application and being barred from further participation in KHC programs. Failure to follow all required procedures throughout the allocation process could jeopardize the final allocation or result in Housing Credit or other KHC resources being recaptured.

**Throughout the period beginning with the date of application submission and the date upon which KHC publicly announces the awarded projects, applicants must immediately notify KHC of any material change to a project and/or any issue(s) that may affect the applicant's willingness to proceed with such project. Failure to notify KHC in a timely manner of any such changes and/or issues, may result in the denial of the application, a three-year reduction in capacity scoring of all parties involved, and/or any other penalties KHC deems appropriate.**

### Guarantors

KHC may require a guarantor for projects allocated KHC resources (excluding Housing Credit only projects). The guarantor may be any entity or individual, other than the borrower (if the borrower is a single asset entity) and general partner(s)/managing member of the ownership entity, which has adequate financial resources and capacity to accept liability for completion of the project or repayment of all KHC resources in the event of default or termination of the project. Guarantees to KHC must be effective for the life of the loan. Guarantors must submit the documentation identified in the capacity and credit review attachment checklist in Chapter 2 at full application submission.

If the applicant is applying for funds that require a guarantee, the appropriate financial documents will be reviewed to confirm the ability to guarantee the level of funding requested. If funds are being pledged to the project, bank statements must be provided to verify adequate funds are currently available.

### *Application Preparation*

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The application is created and submitted through KHC's online [Universal Funding Application](#) (UFA) system. Step-by-step instructions for completing the application can be found in the Frequently Asked Questions (FAQ) tab in the UFA. A complete application must be transmitted to KHC. KHC will send an email notification to the applicant once the application has been transmitted successfully.

Applicants must adhere to the following:

- All questions within the UFA that are applicable to the project type and resources requested must be **fully answered**. It is not acceptable to simply reference another document or another section of the application to obtain the answer.
- Applicants must list within their application the project amenities that will be included in the project. All amenities provided must be appropriate for the tenant population served.
- Applications must be submitted in the current version for the type of KHC resources requested.
- Each application must be for an eligible project type and propose an eligible activity.
- Current versions of all application attachments must be uploaded to KHC's online system as part of the application submittal. **To ensure that the most current versions of KHC-provided forms are used, applicants should always download them from KHC's website. The image quality of the uploaded documents must be clearly legible.**
- **All application attachments may not be dated more than six (6) months prior to the application submission deadline, unless otherwise specified in these Guidelines.**
- **Any documents provided by third parties should be submitted in their original state; handwritten notes or other alterations by the applicant are not acceptable. Applicants may include a supplemental memo if additional explanation is required.**
- All applicants must request all KHC funds required for the project in one application. Previously-funded projects cannot access additional funds, including Housing Credits, through the competitive application process.
- Only one application and one underwriting model will be accepted per project. Applicants cannot present different scenarios of a project's development budget in the same application submission. However, Housing Credit applicants may apply in up to two (2) pools within the same application. An application fee is required for each pool if applying in more than one pool.
- Applicants requesting HOME and/or NHTF funds must also submit to the Kentucky State Clearinghouse through the Department for Local Government's online system at [https://kydlgweb.ky.gov/eClearinghouse/16\\_echHome.cfm](https://kydlgweb.ky.gov/eClearinghouse/16_echHome.cfm). Successful submission to the Clearinghouse system will generate a confirmation that includes the State Application Identification (SAI) number. A copy of this confirmation is a required UFA checklist attachment.
- New construction and rehabilitation projects must meet the requirements of the latest edition of the Kentucky Building and/or Residential Code. The developer and/or builder must comply with local zoning, rules, regulations, ordinances, Universal Design and Minimum Design Standards as adopted by KHC, Housing Quality Standards (HQS) and all applicable federal rules and regulations, including the Fair Housing Act.

### Uploading Documents:

Applicants must upload all required application documentation through the UFA system by **12 noon ET on Thursday, August 20, 2020**. Any flash drive containing documents that cannot be uploaded due to the file size being greater than 150 megabytes must be identified with the project name and developer name. The flash drive must be received by **5 p.m. ET on Friday, August 21, 2020** at:

**Kentucky Housing Corporation  
Multifamily Programs Department  
1231 Louisville Road, Frankfort, KY 40601**

Documents that will be shared among multiple funding applications (e.g., financial statements, organizational documents, etc.) can be stored in the Document Repository. Documents held in the Repository can be attached to any application by a team member.

- Naming the document files:
  - Name the file exactly as it appears on the attachment list in the UFA; e.g., “Application Fee.pdf”. If you wish to add the project name, you may add it at the end of the file name.
- Uploading document files:
  - Each required checklist item must have a document uploaded, except for those documents that are not applicable to the project, which you may mark as “N/A.”
  - All documents must be clearly and easily legible.
  - If you upload multiple versions of the same checklist item, be sure to delete all of them except for the most current version. Otherwise, multiple copies will upload and KHC will be unable to determine the most current version.
  - Developers submitting multiple applications are only required to submit one copy of their financial information; however, the developer must clearly identify within each application that the financials have been submitted.
  - The maximum file size for attachments is 150 megabytes. If an attachment exceeds 150 megabytes, it may be provided solely on the flash drive; however, a statement must be uploaded to the UFA system indicating the attachment is located on the flash drive.
    - Examples of attachments that may exceed the file size limit are building plans, specifications, PCNA, appraisals, market studies, and environmental reviews.
    - **Each document, including building plans, must have all pages contained in a single file per document type and should not be broken into smaller files for the purpose of uploading to the UFA.** For example, all pages of the plans must be in one document, all pages of the PCNA must be in one document, etc.
- Cover sheets are not necessary; do not upload cover sheets with your documents.
- Underwriting Model (UM) – be sure that you complete and upload the most current UM version from KHC’s website and submit in Excel format. **Do not add any formulas to the UM!**
- After all checklist items have been uploaded and the application has been submitted, the user will receive an email that the items have been successfully transmitted.
- To mitigate any potential problems with uploading documents due to system overload or other technical issues, it is recommended that you do not wait until the last day to upload the application attachments.
- For additional assistance with the online application, contact KHC’s Terry Helton at [thelton@kyhousing.org](mailto:thelton@kyhousing.org) or Diane Beidleman at [dbeidleman@kyhousing.org](mailto:dbeidleman@kyhousing.org).

**The online application will close at 12 noon, ET, on Thursday, August 20, 2020.** Time is of the essence for application submission, and applicants are encouraged to not wait until the last few minutes to upload documents or to submit their application. KHC’s systems experience a high volume of activity as the application due date and time nears, which may cause for slower submission times.

**For the application to be complete, all required documentation must be provided; otherwise, the application will fail threshold requirements.**

## Application Thresholds

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KHC has established the following project requirements that must be met as a threshold to submit an application for funding. If any of the threshold requirements are not met, the application will not be reviewed or scored and will not be eligible for funding. KHC will notify the applicant if one or more of the thresholds are not met and the applicant will have three (3) days to appeal; however, no changes or additions to the original submission can be made to cure threshold deficiencies.

### **Thresholds for All Projects**

#### **Capacity/Performance Scorecard and Capacity & Credit Review**

Applicant and development team must pass KHC's Capacity/Performance Scorecard Review and Capacity & Credit Review processes.

#### **Complete Application**

The project must meet all application and checklist attachment requirements in accordance with the QAP and Multifamily Guidelines. The application must be fully completed with thorough responses to all questions that are applicable to the project type and KHC resources requested. Current versions of all required attachments must be uploaded to KHC's Universal Funding Application and all attachments must be clearly legible. **All application attachments may not be dated more than six (6) months prior to the application submission deadline, unless otherwise specified in these Guidelines.**

#### **No Single-Family Homes**

Single-family detached homes are not eligible. This does not include attached townhomes, duplexes, triplexes, or other attached dwellings.

#### **Compliance with IRS Code, QAP and Multifamily Guidelines**

All applications must be consistent with the IRS Code Section 42, and KHC's QAP and Multifamily Guidelines, whether or not the specific provision is identified elsewhere as a threshold. If a waiver to any QAP or Guidelines provision has been secured in advance, the approved waiver must also be uploaded with the application.

#### **Notification of Public Officials**

**No less than thirty (30) days prior to the application submission deadline**, all applicants must send, by certified mail or equivalent, with signed return receipt requested, the Notification of Application for Funding form to the local mayor/county judge executive or other applicable chief executive officer, Kentucky state representative, and Kentucky state senator of the community where the project will be located. A searchable database of Kentucky state legislators is available on the [Kentucky Legislative Research Commission's website](#).

#### ***Required Documents:***

A copy of the completed Notification of Application for Funding form sent via an acceptable delivery method, as described above, to the mayor/county judge executive/other applicable chief executive officer, state representative, and state senator (or their designees) must be uploaded with the application documents. In addition, **signed proof of receipt dated no less than 30 days prior** to application submission must be uploaded with the application documents. **Methods of delivery other than those requiring a signed receipt will not be accepted.**

## Fair Housing

Applicants must identify within the UFA how the project will address at least one impediment to fair housing as identified in KHC's Analysis of Impediments to Fair Housing (AI).

## Sufficient Market and Minimal Impact on KHC Portfolio

When multiple projects are awarded in one jurisdiction, KHC may require an update of any of the projects' market studies to recognize and consider the other project(s) funded in that jurisdiction and any impact on the market's need for the units proposed. See *KHC's Market Study Guidelines*.

## Qualified Contract

By submitting an application for 9 percent and/or 4 percent Low-Income Housing Tax Credits, applicants agree to waive the option of requesting to utilize the qualified contract process in perpetuity.

## Compliant Underwriting Model (UM)

The UM, as submitted with the application, must comply with the QAP provisions (if requesting Housing Credits) and Multifamily Guidelines. The UM must meet KHC's cash flow and debt service ratio requirements, the Sources and Uses must balance with no funding gaps, and all applicable hard and soft costs must be itemized regardless of how the cost is paid. The amounts budgeted for developer fee, general requirements, profit, and overhead must not exceed KHC's maximum limits. After its analysis, KHC must approve the UM and all associated attachments for the project to be scored.

## Firm Non-KHC Funding Commitments

Applicants must submit a firm commitment letter from **all non-KHC funding sources identified in the KHC application and underwriting model**, with the exception of deferred developer fee. All letters must:

- Be specific as to the project seeking KHC funding **and identify the project name**;
- Identify the amount and terms of funding, including rate (actual and effective rate, if applicable).
- **Be on the funding source's letterhead and signed by an authorized representative; and**
- Be dated within the **3 months** preceding the KHC application submission date.

Other non-KHC funds may include, but are not limited to, private bank loans, developer or GP contributions, reserve transfers, assumed debt (such as HUD or RD), Federal Home Loan Bank (FHLB), HUD Choice Neighborhoods, HOME or CDBG funds from a local government, donations of land, cash, materials, goods or services, waived fees/taxes, etc.

KHC may make exceptions to the firm commitment requirement for funds proposed from FHLB, Rural Development (RD), CDBG, HOME, and other HUD loans provided a letter of conditional commitment or intent to fund is submitted on the funding agency's letterhead. KHC may also make exceptions to the firm commitment requirement for other funds provided by local, state or federal jurisdictions, if the applicant submits evidence of an application for these funds and a written guarantee from the applicant that if the funds are not awarded, the applicant will contribute the amount of funds for which it applied and evidence its financial ability to do so.

For secured debt that is to be **assumed** by the applicant, a firm commitment letter from the lender, indicating that the lender consents to the assumption of the secured debt, shall be required. If the secured debt to be assumed is governmentally-insured, e.g. HUD, RD, etc. and will be assumed pursuant to a refinancing program offered by the insuring agency, documentation from the applicable agency that the applicant has begun the assumption approval process may be substituted for a firm commitment letter.

## Firm Equity Commitment

Equity commitments must be specific to the project seeking Housing Credits from KHC and must:

- Contain the specific terms, including:
  - Credit pricing;
  - Amount of annual credit anticipated;
  - Total equity investment;
  - Pay-in schedule;
  - Equity investor's required amounts for replacement reserve, operating deficit reserve, and any other reserve accounts required by the investor; and,
  - Amounts of required fees and whether they are guaranteed or subject to cash flow, etc.
- Be on the equity provider's letterhead;
- Identify the project name; and,
- Be signed and dated within **3 months** of the KHC application submission due date.

Projects utilizing Federal and/or State Historic Tax Credits must provide a letter of intent from an investor to purchase the credits. If the letter is for both Federal and State Historic Credits and/or Housing Credits, **the letter must identify each credit separately, along with the applicable pricing and equity investment for each.** For State Historic Tax Credits, if the owner plans to retain the State Historic Credit themselves, a statement must be provided to this effect.

## Flood Issues

For new construction, all portions of the project site(s) essential to the use of tenants (i.e. buildings, parking lots, entrance to the development, recreational areas, etc.) must not be in a floodplain. If any portion of the project site is located in a floodplain, flood insurance (as described below) will be required on the property. To avoid the flood insurance requirement, the project site may be divided and a new plat or deed recorded to remove the portion of the property in the floodplain from the project site.

For rehabilitation of currently occupied rental housing where any portion of the property is located in a floodplain, the property must have federal flood insurance. If a portion of the project that is not essential to the tenants is located in the floodplain, then in order to avoid the flood insurance requirement, the project site may be divided and a new plat or deed recorded to remove the portion of the property in the floodplain from the project site. **Rehabilitation of vacant structures in a floodplain is not eligible.**

Flood insurance means insurance through the National Flood Insurance Program (NFIP). Projects not located in an NFIP area are ineligible. KHC requires an amount of at least the total KHC funds invested in the project, if KHC is in first lien position. If KHC is not in first lien position, then KHC requires an amount equal to the full replacement value of the property. KHC must be named as an insured on the policy.

## Capital Needs

**All applicants for projects involving the rehabilitation or adaptive reuse of an existing structure(s) must submit a completed copy of KHC's Capital Reserve Replacement Schedule (CRRS) from a qualified preparer, and must also submit a physical capital needs assessment (PCNA), which must incorporate or be consistent with the CRRS. Qualified CRRS preparers include:**

- The project's architect
- Any firm/person that would meet KHC's qualification requirements for a PCNA

## **Building Plans**

Applications must include preliminary building plans. Submitting a copy of KHC's Minimum Design and Universal Design requirements will not satisfy this threshold.

## **Scattered Site Projects**

Scattered site projects must be of similar building design and unit type and be within a defined footprint or neighborhood. Urban and rural (as defined by RD) scattered sites may not be intermingled in one project. Sites located in multiple counties are not permitted except for Tax-Exempt Bond projects.

## **Tenant Ownership / Lease-Purchase**

Projects proposing lease-purchase must be 100 percent lease-purchase units and all units must be single-family dwellings on individual lots. The applicant must have ownership of all project sites; long-term leases are not allowed.

## **Thresholds for Preservation/Existing Supply Pool**

### **Existing Supply**

The project must propose to preserve existing income-restricted affordable multifamily project(s). The rehabilitation of non-income restricted units is not eligible.

### **Documented Need for Rehabilitation**

The scope of necessary rehabilitation must be evidenced in the physical capital needs assessment.

### **Age**

The property shall not have placed in service or undergone substantial rehabilitation in the last 20 years.

## **Thresholds for New Construction/New Supply Pool (Including Historic Adaptive Reuse)**

### **New Supply**

Projects in this pool must create new income-restricted multifamily units, either through new construction, the acquisition/rehab of existing unassisted/unrestricted (market) units, and/or the adaptive reuse of non-residential structures.

### **Serving Families**

Applicants that choose "family" as the population to be served in the application must designate a minimum of 25% of the units with two or more bedrooms.

### **Serving The Elderly**

Applicants that choose "elderly" as the population to be served in the application must designate a percentage of units, consistent with the elderly selection (i.e., 80% 55 and older, 100% 62 and older or as defined by another federal or state housing program used in this project), that are garden style apartments, are located on the first floor, or higher floor units accessible by an elevator. The targeted population(s) must meet the applicable elderly definition.

### **Serving Persons With Disabilities**

Applicants must provide the lesser of 4 units or 10 percent of the project's total units targeted to persons with disabilities and the units must be fully accessible in accordance with the building plans. This does not include any required visual/hearing impaired units.

## **Thresholds for Projects Serving Special Needs Populations**

### **Service Plan for Target Residents**

Applicants proposing permanent supportive housing to serve special needs populations must provide a supportive service plan. The plan must thoroughly address all of the following:

1. The supportive service needs of the targeted population and the experience of the service provider with providing these services to this special needs population. A description of the agency's ability to provide case management services.
2. An explanation of how the services provided meet the target population's service needs.

### **Application Review Components**

Funding is based on a three-step process. Applications must pass all three steps before funding can be determined. Failure to meet the requirements of any step will result in the rejection of the application.

**Scoring Criteria** – Applications will be scored as submitted, based on the criteria noted in the current scoring workbook. KHC will review and score each application based on the information presented and may contact applicants only to clarify information submitted with the application. Except as provided in the [Cure of Application Errors](#) provision of this section, KHC will not accept additional documentation or revisions to the application or underwriting model after application submission. Applications will be ranked according to their assigned score and those with the greater number of points receive priority in the award process. Although funds will be awarded to the highest scoring projects, KHC will make every effort to ensure funds are distributed geographically across the state. KHC may award funding to a lower-scoring project located in a congressional district where no other funds have been allocated. If KHC will contact the applicant if it experiences difficulties retrieving attachments that were uploaded to the UFA system.

**Financial Feasibility** – A project is financially feasible if viable under **all** (including federal, state, local, and/or KHC) program guidelines. **The application, underwriting model, and supporting documentation must all agree.** If a contradiction exists between the underwriting model and the application, the information in the underwriting model will be used to determine the financial feasibility. However, any discrepancies between the application, underwriting model, and supporting documentation may constitute an error in the scoring of the application.

**Market Need** – A [market study](#) must be submitted with the application and will be reviewed in accordance with KHC's [market study requirements](#). If the market study demonstrates an acceptable market, then the project will continue to move forward. However, if the study is not acceptable, funds will not be allocated and the application will be denied. Market studies will only be accepted by firms that are on KHC's approved list and are only valid **six months** from the date of the study.

### ***Application Scoring and Review Process***

Incomplete applications will not be reviewed or scored, unless cured, following KHC policies. **In addition, project applications wherein the applicant's self-score and/or tiebreakers would not qualify the application for funding will not be reviewed or scored.** KHC must comply with federal or state regulatory and programmatic requirements of all resources administered; therefore, as new or updated guidance or requirements become available, KHC may from time to time alter the review process to comply.

## Cure of Application Errors and Omissions

Applicants will be allowed to remedy no more than two (2) errors contained in the application or in any application attachment (excluding the KHC underwriting model) or required document including up to one (1) omission of any document (excluding the KHC underwriting model). If more than two errors – including up to one omission – must be addressed, the application will be rejected for not meeting threshold. The correction of any omission must be made within 24 hours of the time that KHC transmits the notification of such omission. The correction of any error, not an omission, must be made within 48 hours of the time that KHC transmits the notification of such omission. For example, if KHC sends an email at 10 a.m. on Tuesday notifying the applicant of an omitted document and the document is not uploaded into the UFA or received by KHC by 10 a.m. on Wednesday, the application will be rejected for not meeting threshold. This cure period is not intended to be an extension of time for the applicant to procure a required document. If the document submitted to cure the omission is dated after the date of the application or KHC determines that the document was not in the applicant's possession at the time the application was submitted, the cure will be deemed ineffective and the application rejected for not meeting threshold.

Any comments or revisions resulting from the review of the underwriting model will not be considered errors; however, applications with underwriting models completed incorrectly and/or with discrepancies that result in KHC's inability to complete the underwriting for the project, will be considered to be an incomplete application submission and will not meet threshold.

**Note:** *In determining whether to award resources and how to score applications, KHC will consider all issues relevant to the applicant's ability to successfully complete the project or to properly expend funds. These issues may or may not be addressed in the application.*

## Tax-Exempt Bond Pre-Application

Projects requesting Tax-Exempt Bonds either through the open window submission or a Notification of Funding Availability (NOFA) response will have a pre-application stage to provide the information and documents necessary for the project to be presented to KHC's Board of Directors for an inducement resolution. If approved, the applicant will complete the full application and follow the same timeline as other KHC-financed projects (9% Housing Credit and non-credit). KHC will not consider a deal with unrated bonds in a public offering. For portfolio transactions, all properties must be submitted individually and may not be combined within one or more full applications.

## Capacity/Performance Scorecard

All applicants must complete the Capacity/Performance Scorecard contained within the Universal Funding Application (UFA), even if a capacity approval certification has been previously issued by KHC. The scorecard will assess monitoring history, financial management, and past performance. KHC will review the applicant's responses and will complete its own capacity assessment, taking into consideration any capacity deductions assessed by KHC against any member of the development team.

### I. Overview of Capacity/Performance Scorecard

The scorecard is used to determine the overall capacity of the Entity or Development Team member(s). The scorecard is divided into three (3) sections:

1. Capacity/Performance Scorecard Threshold Requirements
2. Capacity/Performance Scorecard Self-Certifications
3. Capacity/Performance Scorecard Overall Performance

The first section of the scorecard consists of Capacity/Performance Scorecard thresholds that must be achieved. All “yes” answers require an explanation regarding the circumstances of the infraction.

Capacity/Performance Scorecard Threshold Requirements will be verified at both the submission of the application and reviewed again prior to announcement of any funding award. If the status of a Capacity/Performance Scorecard Threshold Requirement changes prior to announcement of funding, an Entity may be asked to correct the outstanding issue prior to a funding award.

## II. Capacity/Performance Scorecard Self-Certification

The Capacity/Performance Scorecard Self-Certification section is a series of statements to which the applicant preparer must certify. There is a response section in the self-certification section that can be used to provide additional information to any of the self-certification questions.

The Entity will need to complete the certification acknowledgement that states the responses to the self-certification statements are true and accurate, to the best of their knowledge. Falsification of these statements could result in a recapture of funds or suspension/debarment from KHC.

## III. Capacity/Performance Scorecard Overall Performance

The [Capacity/Performance Scorecard Overall Performance](#) section is where KHC staff will indicate if a capacity deduction will be applied. Guidance on the type of infractions that KHC will consider for possible capacity deductions is listed on KHC’s website at [www.kyhousing.org](http://www.kyhousing.org), under Asset Mgmt, Capacity/Performance Scorecard Overall Performance Questions. A capacity deduction can be determined at any time throughout the administration of a project, including the affordability/compliance period. The capacity deduction can apply to the Entity or any member of the Development Team.

When a capacity deduction is issued, the agency or organization will receive a written notice from KHC explaining the reason for the capacity deduction and the amount of time the deduction will be applicable. Capacity deductions will be applied to the overall score for the Capacity Section of the full application.

## Organizational and Credit Review Documents

Any previously-approved development team member who has had changes in their organizational structure, and any newly-formed ownership entity, must submit their organizational documents via the UFA at the preclosing stage. Any development team member with new principal officers/members must also provide resumes for those individuals.

For projects requesting KHC funds, credit review documents must be submitted for the developer, general partner, and guarantor (if applicable) at the application stage. Guarantors must also provide their organizational documents. KHC may request additional documentation on any project entity.

Refer to [Chapter 2: Development Team Capacity Application](#), for a complete list of required documents.

## Scoring Response Period

KHC will notify applicants whose projects do not receive a full review and scoring based upon their self-score and/or tiebreakers. For projects that receive a full review and score, KHC will make the preliminary project score sheet available to the appropriate contact. Applicants will not be made aware of how other applications have scored. KHC will establish a timeframe during which applicants may review their preliminary scores and offer written feedback if any applicant disagrees with the preliminary score.

Applicants may request a reconsideration of KHC's preliminary score ONLY for applications in which they have an ownership interest. Requests must be sent in writing via electronic mail, hand delivery or overnight mail to the Managing Director of Multifamily Programs.

Reconsideration requests must specifically identify the grounds for the reconsideration request. Only the application and documents then existing in KHC's file will be considered. No additional documentation or revisions to existing documents will be accepted. The burden is on the applicant to demonstrate any errors in the review and/or scoring process.

## Final Scoring Determination

After applicants have had the opportunity to review and appeal the preliminary score during the scoring response period, KHC will determine final scores and make funding decisions. **All funding decisions will be final and not subject to further appeal.**

## Communications with Executive Management Team

Applicants, members of applicants' Development Teams, or other persons operating on behalf of Development Teams are expressly prohibited from having communications with any member of KHC's executive management team regarding any reconsideration or review requests or any related topic, from the issuance of the preliminary scoring decision until KHC renders its final determination. Any violation of this prohibition may result in disqualification of the pending application and suspension from participation in the next competitive funding cycle for the applicant and all of its Development Team members, regardless of which team member initiated the prohibited contact.

## Preliminary Approval Letter

KHC will send each successful applicant a preliminary approval letter indicating the initial reservation of Housing Credits and/or other KHC resources awarded. **The final amount of credit or other resources allocated to each successful applicant may be less than the amount requested in the application, the amount specified in the preliminary approval letter, or the amount reflected in a Housing Credit carryover allocation.**

## CHAPTER 4: Application Attachment Requirements

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Based on the KHC funding source(s) requested, related documentation is required at application submission as indicated on the application checklist. Not all attachments are applicable to all application types; refer to the document list below for the specific attachment requirements for your application type.

Applicants must upload all attachments and each document must be identified separately with the item name as it appears below. The KHC-provided forms required to complete the application are located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org). **It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\***. For your reference, the UFA identifies documents that are KHC-provided forms. If a document does not apply, mark the "N/A" button in the UFA. **All application documents must be current and may not be dated more than six (6) months from the application submission deadline date, unless otherwise specified.**

### *Tax-Exempt Bond Pre-Application Documents (Inducement Resolution)*

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#### **1. Pre-Application Fee**

Evidence of electronic payment of the \$1,000 per project pre-application fee must be provided.

#### **2. Engagement Letters**

Provide engagement letter(s) with the applicable underwriter, placement agent, or bond purchaser. The letter(s) should state the project name and their experience, including bond transaction history. The underwriter letter should also outline the bond structure and all steps required, including a timeline, for closing the financing on the project.

#### **3. Engagement Letter with Bond Counsel**

This letter should include the attorney's bond transaction history, their resume or qualifications. This will be required on each attorney working on the project.

#### **4. Supporting Documentation for Competitive Points (if applicable)**

*(NOFA submissions only)*

If responding to a Notification of Funding Availability (NOFA) with selection criteria, upload all supporting documentation required per the NOFA.

### *Application Attachments*

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#### **Capacity Documents**

##### **1. Capacity Approval Letter(s)\***

A copy of the capacity approval for the applicable development team member(s) must be provided. Any member not previously approved must complete the [Development Team Capacity Application](#) process before submitting an application for funding.

##### **2. Technical Assistance Certification Form\***

Required for any applicant who has not previously used KHC resources to construct or rehabilitate a rental project or for applicants as determined by KHC. Refer to the [Introduction and General Information](#) section for technical assistance requirements.

### **3. Credit Review Documents**

Credit review documents are only required at application stage if requesting KHC funds. If credit review documents were previously submitted with a capacity application within the past six months, it is not necessary to resubmit them. Dependent on the organizational structure, credit review documents must be provided for all developers, general partners, and guarantors (other than individual guarantors). **Guarantors are also required to submit their organizational documents.** Developers submitting multiple applications requesting KHC loan funds are only required to provide credit review documentation with one of the funding applications; however, each application submitted must clearly identify where the submitted documentation can be located if included with a different application.

### **4. Owner and General Partner Entity Organizational Charts**

A full organizational chart must be provided which shows the membership structure for the project owner and general partner entities.

## **General Documents**

### **1. Application Fee**

Evidence of electronic payment of the applicable application fee must accompany each project submitted. If applying for two different Housing Credit pools within the same application, two fees are required. Refer to [Chapter 1: Project Timeline and Fees](#) for additional information.

### **2. Market Analysis Review Fee**

A market analysis review fee must accompany each Housing Credit project submitted. Refer to [Chapter 1: Project Timeline and Fees](#) for additional information.

### **3. Initial Inspection Fee**

*(Projects involving rehabilitation of an existing structure, both Existing Supply and New Supply)*

An initial inspection fee for each project site (property) must accompany **each application submitted which involves the rehabilitation of an existing structure.** Refer to [Chapter 1: Project Timeline and Fees](#) for additional information.

### **4. Scoring Workbook\***

Submit an Excel version (not PDF) of the scoring workbook applicable to the current funding round completed with the developer's self-score.

### **5. Notification of Application for Funding\***

*(Required for projects of 12 or more units)*

A copy of the completed Notification of Application for Funding form as sent to the appropriate local and state officials must be provided **along with a copy of the signed returned receipt** from the certified mail or other signed acknowledgement of receipt by the mayor or county judge executive or other applicable chief executive officer, state representative, and state senator (or their designees), **dated no less than 30 days prior to application submission.** The appropriate state officials for the project location may be found on the Kentucky Legislative Research Commission [website](#).

## **6. Nonprofit Questionnaire\***

This form must be completed by all nonprofits with any ownership interest in the development and that wish to compete in the nonprofit set-aside. **The provision of affordable housing must be listed as one of the designated purposes in the Articles of Incorporation and/or Bylaws.**

## **7. Nonprofit Board Resolution**

Nonprofit organizations that have any ownership interest in the development must provide a resolution from the nonprofit's Board of Directors that authorizes:

- The application being made for specific KHC funding (e.g. Tax-Exempt Bonds, Housing Credits, HOME, AHTF, NHTF, or other KHC resources that may be available),
- The amount of ownership interest the nonprofit has in the venture;
- The nonprofit's specific liabilities in the development; and
- The anticipated percentage of the developer fee the nonprofit will receive and the percentage that will be shared with another entity.

## **8. CHDO Documentation**

Nonprofits applying for HOME funds from the Community Housing Development Organization (CHDO) set-aside must provide verification of the current CHDO designation or recertification.

## **9. Consultant and/or Administrative Contract**

If a consultant or administrator is part of the development team, an executed copy of the contract is required and must detail the services provided, the consultant's role in the project, and how they will be compensated.

## **10. Proof the Compliance Period Ended**

*(Required for rehabilitation projects previously awarded Housing Credits)*

Evidence may be in the form of a letter from KHC's Compliance Department, with the original KY#, stating the initial compliance period ending date; or a copy of the original 8609s indicating the buildings' placed-in-service dates; or a copy of the original LURA.

## **11. Rural Development (RD) Property Eligibility Determination**

A copy of the project location's determination as being either urban or rural from the [RD Property Eligibility website](#) must be provided. Click "Multi Family Housing" and enter the property address.

## **12. Kentucky Intergovernmental Review Process**

*(Required if requesting HOME, NHTF, or new KHC project-based vouchers)*

Applicants requesting HOME and/or NHTF funds must submit to the State Clearinghouse through the Department for Local Government's online system at [http://kydlgweb.ky.gov/FederalGrants/16\\_eClearinghouse.cfm](http://kydlgweb.ky.gov/FederalGrants/16_eClearinghouse.cfm). Successful submission to the online Clearinghouse system will generate a confirmation that includes the SAI number. A copy of this confirmation is a required checklist attachment.

### **13. Guideform Notice Disclosure to Seller\***

*(Required for all HOME, NHTF, or new KHC project-based vouchers)*

A copy of the Guideform Notice Disclosure to Seller with Voluntary, Arm's Length Purchase Offer must be given to all sellers disclosing that the purchase offer is voluntary and an arm's length transaction, in addition to disclosing the estimated fair market value of the property and that the purchaser does not have the power of eminent domain.

### **14. Guideform General Information Notice (GIN)**

*(Required for all HOME, NHTF, or new KHC-provided project-based voucher projects with current occupants)*

The Guideform General Information Notice (GIN) is required to be given to all current occupants advising them of the impending federally-assisted acquisition or rehabilitation of their unit and of their rights under the Uniform Relocation Act. Tenants who move in to the property after submission of the application must be provided with the **Move-In Notice**. Refer to [HUD Handbook 1378](#) for more information and sample notices. All relocation notices must have documentation of proof of receipt by the tenants and be maintained in the tenant file.

### **15. Community Revitalization Plan**

*(Required for projects seeking points for new units in a QCT – urban only)*

Urban projects seeking points for creating new units in a QCT must submit a copy of the local jurisdiction's overall plan for revitalization, community development, and/or economic development. Local jurisdiction consolidated plans or action plans as required by HUD do not qualify. The section(s) of the plan that specifically identifies the community need for lease-purchase units or new multifamily units in an urban QCT must be clearly marked within the plan. The community revitalization plan must also:

- Be formally adopted by the jurisdiction and created or updated within the last 10 years;
- Be geographically specific;
- Identify goals for outcomes;
- Include a strategy to secure commitments to support non-housing infrastructure, amenities, and services; and
- Demonstrate the need for community revitalization.

### **16. Community Revitalization Plan Certification\***

*(Required for projects seeking points for new units in a QCT – urban only)*

The certification must be completed for the community revitalization plan, providing detail of the plan area, funding sources, goals of the plan and how the proposed project supports the need for lease-purchase units or new multifamily units in an urban QCT.

### **17. Tenant Selection Plan Preferences**

Applicants seeking scoring points for providing a preference for individuals on the local public housing agency (PHA) waiting list must provide a signed statement that it has committed to the preference and agrees to notify the PHA of property vacancies. All preferences must be reflected in the Tenant Selection Plan, which is required at the Technical Submission Stage.

## **18. Certification of Disadvantaged Business Entities**

Certification is required for development team members or companies pledged in the application that are participating in the project and are qualified as a minority- or women-owned business enterprise (MBE/WBE), disadvantaged business enterprise (DBE), veteran-owned small business (VOSB), or service-disabled veteran-owned small business (SDVOSB). The certification must be current through the date of technical submission.

## **19. Letter of Service Commitment**

*(Required for projects serving populations with special needs)*

Each agency providing services for special needs housing, permanent supportive housing, and transitional housing must provide a letter on agency letterhead and signed by the executive director or their designee stating the agency's knowledge of and support for the specific project and that the agency will provide supportive services of appropriate type and quantity to eligible project residents. The letter must state the agency's commitment to provide case management services to project residents. A requirement to participate in these services **cannot** be a condition of the lease. **This letter can be combined with the Letter of Referral Commitment (below).**

## **20. Letter of Referral Commitment**

*(Required for projects serving populations with special needs)*

Each agency providing tenant referrals for special needs housing, permanent supportive housing, and transitional housing must provide a letter on agency letterhead and signed by the executive director or their designee stating that 1) eligible individuals in the special needs population targeted by the proposed project will be referred to the project, and 2) provide an estimate of the number of referrals on an annual basis.

## **21. Supportive Housing Service Plan**

*(Required for projects serving populations with special needs)*

The service plan must contain the following information:

1. The supportive service needs of the targeted population and the experience of the service provider with providing these services to this special needs population. A description of the agency's ability to provide case management services.
2. An explanation of how the services provided meet the target population's service needs.

## **22. Evidence of No Substantial Rehabilitation**

Projects seeking points for rent-restricted units most in need of rehabilitation must provide documentation that the proposed project has not received substantial rehabilitation within the past 20 years. For all projects, a minimum of 20 years must have passed since the last substantial rehabilitation to qualify for points. For scoring purposes, substantial rehabilitation is defined in IRC Section 42 as \$6,000 per unit or 20% of adjusted basis. This proof may be evidenced by either:

- a. a copy of the last recorded restrictive covenant of record which restricts the use of the property to affordable rental housing executed at the time of the last substantial rehabilitation. In addition, **a copy of a full title exam confirming such restrictive covenant is the most recent of record** must be provided.

-- OR --

- b. a letter from the provider of an existing project-based rental assistance contract, i.e. the HUD or RD which states whether there has been any substantial rehabilitation on the property within the last 20 years and if so, the date of the rehabilitation.

In either case, the number of years since the last substantial rehabilitation will be determined based upon the effective date of the most recent restrictive covenant as of the application due date, or the date identified in the letter from the rental assistance provider.

### **23. Evidence of Risk of Loss Due to Ownership Capacity**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a troubled asset by an applicant with no identity of interest that is at risk of loss due to ownership capacity must submit a narrative describing the troubled asset and evidence of the existing conditions created by the current owner that put the asset at risk. Existing conditions may include bankruptcy, insolvency, default, foreclosure action, unpaid taxes and assessments, ongoing lack of compliance with lenders or housing program administrators, or a capacity score reduction by KHC. **Properties recently acquired by the applicant (not more than one year prior to the application submission date) must provide documentation to evidence the acquisition date.** Exceptions will be made for properties that were acquired more than one year prior to the application submission date for which the applicant is reapplying for LIHTC after an unsuccessful application in the prior year.

### **24. Narrative for Financially Troubled Assets**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a financially troubled asset by an applicant with no identity of interest must provide a detailed narrative describing the troubled asset and the steps that will be taken to put it back into productive use.

### **25. Evidence of History of Good Ownership and/or Management**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a financially troubled asset by an applicant with no identity of interest must provide a list of the name and address of all tax credit properties owned and/or managed within the past five years in Kentucky. **Properties recently acquired by the applicant (not more than one year prior to the application submission date) must provide documentation to evidence the acquisition date.** Exceptions will be made for properties that were acquired more than one year prior to the application submission date for which the applicant is reapplying for LIHTC after an unsuccessful application in the prior year.

### **26. Financial Statements**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a financially troubled asset by an applicant with no identity of interest must provide financial statements for the past three years. **Projects subject to the Single Audit Act must provide audited financials.** If the project is out of its LIHTC or RD compliance period, then CPA performed reviews may be substituted for years without full audits.

### **27. Rent Roll**

*(Existing Supply/Preservation projects only)*

Projects seeking points for average physical occupancy rate must provide a copy of the rent roll for the 12-month **calendar year** prior to application submission.

## **28. Opportunity 360 Report**

*(New Supply projects only)*

Projects seeking points in the Housing Stability, Education, and Economic Security scoring category must provide a copy of the Opportunity 360 report for the project's address to document the scores for each of the three criteria. Applicants should use the state index score for all outcome measures. Visit the Opportunity 360 page of the [Enterprise Community website](#).

## **Underwriting Documents**

### **1. Underwriting Model\***

*(Required for all projects)*

KHC's underwriting model must be completed in Excel using the most current version for that year's funding round. The underwriting model can be found on KHC's website under Development; Multifamily; [Underwriting Resources](#).

The yellow input cells of the model are the only areas in which the applicant may enter information. **Do not add formulas to any of the cells as this may interfere with KHC's underwriting of the project.** If an additional formula or other modifications to the model become necessary, you may contact a KHC multifamily staff member.

**Applicants are strongly encouraged to use the "Applicant Underwriting Notes to KHC" section** on the summary sheet of the underwriting model to provide any necessary explanations or additional information that will be helpful during the underwriting review.

### **2. Developer Underwriting Guidance Checklist\***

*(Required only for developers who have not had a KHC multifamily project in the last 3 years)*

KHC has developed a guidance checklist to ensure that project developers have considered most of the major underwriting factors that will be reviewed by KHC. A copy of the completed checklist must be provided with the application as evidence that the developer has exercised due diligence in completing the underwriting model.

### **3. Novogradac Rent and Income Calculator**

*(Required for all Housing Credit and Tax-Exempt Bond projects; optional for non-Credit projects)*

Print and submit the completed [Novogradac Rent and Income Calculator](#). Urban and rural designations must adhere to the RD definition in effect at the time of application. To obtain the applicable limits for the Tax-Exempt Bond program, applicants should select "IRS Section 142 Tax-Exempt Bond" and change the imputed persons per bedroom to 1.5 persons.

### **4. Utility Allowance Chart (KHC-provided form or local document)\***

Projects proposing full or partial tenant-paid utilities must include a utility allowance chart from KHC or the local PHA (in counties where KHC does not administer the Section 8 program). KHC's utility charts are online under Development; Multifamily; [Underwriting Resources](#). Projects with Project-Based Section 8 or RD-assisted properties must provide the current utility allowance from KHC, HUD, local PHA, or RD as applicable (the agency providing the rental assistance). **Historical utility usage data or base rate letters from the utility providers are not acceptable.** When the project is placed in service, KHC's Asset Management department may require the owner to complete the [HUD utility schedule model](#) on projects receiving HUD funding (e.g., HOME, NHTF, or other HUD loans).

## **5. Market Study / Needs Analysis**

KHC maintains an [Approved Market Analyst List](#) from which developers must select an appropriate firm or individual.

A market study/needs analysis is only valid for **six months** from the date of the study/analysis. All market studies must adhere to [KHC's market study requirements](#). If reports are received that are not acceptable, the applicant/developer will be informed by KHC such report is unacceptable and the project will fail to meet the market threshold.

A market study is required for all projects (or each property in a portfolio transaction); however, projects of four units or less may submit a market needs analysis instead of a full market study. **Regardless of project size, a rent comparison study must be included in all market studies/analyses to determine market rents.**

KHC may request a market study or additional market information on **any project** or waive the market analysis requirement for projects of four units or less if other supporting documentation, such as a waiting list, can be provided.

The market study must provide the required information for the scoring categories applicable to the project and identify the supporting information as indicated in the current scoring workbook. Refer to [Chapter 11: Underwriting Requirements](#) for additional market study information.

## **6. Part 1, Evaluation of National Register Status**

*(For projects proposing federal or state historic rehabilitation credit only)*

Provide a copy of the completed Part 1 of the preliminary application, "Evaluation of National Register Status" for both the Federal and State Historic Credits as evidence of submission to the [State Historic Preservation Office \(SHPO\)](#) and/or National Park Service.

## **7. Current Approved Rent Schedule**

*(For rehabilitation projects with Project-Based Section 8, RD, or other rental assistance)*

Rehabilitation projects currently receiving any type of Project-Based Rental Assistance must provide the current approved rent schedule. The schedule must clearly identify the effective dates of the rents, as well as the agency providing the rental assistance. If the rents listed on the underwriting model are different from those in the rent schedule, an explanation and justification for the inconsistency must be provided on the summary page of the underwriting model.

## **8. Project-Based Rental Assistance Agreement or Commitment Letter**

*(Required for project-based rental assistance, i.e., Project-Based Section 8, RD, etc.)*

Projects proposing existing Project-Based Section 8, RD, or other project-based rental assistance must provide a copy of the original rental assistance contract or agreement and the most recent renewal, if applicable. The contract or agreement (with renewals) may not be expired and must be currently in effect. Projects proposing new project-based rental assistance must submit a copy of the commitment letter from the rental assistance provider that identifies the proposed contract rents and utility allowances. The contract, agreement, or commitment letter must specify the number of rental assisted units.

## **9. Operating Subsidy Agreement or Commitment Letter(s)**

Commitment letter(s) or agreements for operating subsidies must be currently in effect and provide assurance of continuation through the applicable affordability or deed restriction period. If operating subsidies are temporary or subject to renewal, applicant must explain how operations will be funded if the subsidy is not renewed.

## **10. Commitment Letters for HOME Match**

All projects requesting HOME funds must have written commitments of **HOME-eligible** matching funds of at least 5 percent of the HOME request. Commitment letters must meet the standards identified in the [Application Thresholds](#).

## **11. Firm Commitments for All Non-KHC Resources**

Refer to [Application Thresholds](#) section for requirements for firm commitment letters. **If the funding commitment is only valid for a limited time and has an expiration date, this must be clearly stated in the letter.**

## **12. Guarantor's Evidence for Non-Committed Non-KHC Funds**

KHC will accept evidence of an application for non-KHC resources with a written guarantee from the owner/developer that if the funds for which they have applied are not awarded, the owner/developer will contribute the same amount to the project. A bank statement will be required if a guarantor provides a guaranty for non-KHC funding that it has applied for, but has not received, at the time of application. The bank statement must demonstrate sufficient liquidity to cover the guaranty of the full amount of funds for which the guarantor does not have a firm commitment.

## **Legal Review Documents**

### **1. Evidence of Site Control**

*(Required for all projects)*

All projects must have site control on 100 percent of the project sites, including scattered sites. Documents submitted for evidence of site control must be fully executed and sufficiently identify the subject property. Real property conveyances must be recorded with the appropriate clerk, and leasehold estates must meet IRS requirements and exceed KHC's affordability and mortgage periods. Acceptable forms of site control are:

- Property Deed
- Current Purchase Contract (**The contract cannot contain seller's right of first refusal language.** If the contract expires prior to closing, then proof must be provided evidencing the means to purchase the property prior to closing).
- Current Option to Purchase (**The option cannot contain seller's right of first refusal language.** It must be extended through announcement period and contain a clause for renewal. If no renewal clause, then proof must be provided evidencing the means to purchase the property prior to closing).
- Current Lease Agreement/Option to Lease (the lease period must be through the entire applicable affordability period).

**Note:** For federally-funded projects (HOME or NHTF), the new owner may not take legal possession of the property until after environmental clearance, unless the deed transfer or lease was executed prior to submission of the KHC funding application.

KHC will evaluate the legal interest directly owned or controlled by the applicant at the time of application. An applicant capable of causing possession and control to vest in their favor for the duration of the mortgage and affordability periods will be deemed to have site control. KHC reserves discretion to make this determination.

## 2. Deed Restrictions/Subdivision Restrictions

Provide a copy of any deed restrictions or subdivision restrictions currently on the property **or**, if no restrictions, a letter stating there are no deed restrictions. The letter must reference the project name and property address and must be from the **seller**, city/county official, or attorney.

## Design and Construction Documents

### 1. Location Map and Directions

A location map for every project must clearly show the site location and all major streets and highways, nearby airports, railroad tracks, interstates, and rivers, etc., that may have an adverse effect on the proposed site. For Housing Credit projects, the map must identify the location within the qualified census tract (QCT), or metropolitan Difficult Development Area (DDA), if applicable. Provide detailed directions from Frankfort, Kentucky to the site.

### 2. Preliminary Plans

Refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's preliminary building plan requirements.

Building plans must be uploaded as one single PDF document. All plans must clearly show the number of units.

**Applications of 11 units or less:** For new construction or rehabilitation, projects are required to submit building plans at 1/8-inch scale and typical unit plans at 1/4-inch scale. The plans must include building floor plans, elevations, and site plan.

**Applications of 12 units or more:** For new construction or rehabilitation, projects are required to submit building plans at 1/8-inch scale and typical unit plans at 1/4-inch scale. The plans must include a site plan and a building floor plan, as well as corresponding elevation drawings compiled by an architect licensed in the Commonwealth of Kentucky.

**Applications for scattered site projects:** Site plans must be submitted for at least 35 percent of the sites and **complete** preliminary plans must be submitted for **each applicable unit type**.

*Example:* If the project consists of 20 units, comprised of 5 one-bedroom units; 10 two-bedroom units; and 5 three-bedroom units, complete preliminary plans must be submitted for a one-bedroom unit, a two-bedroom unit, and a three-bedroom unit.

### 3. Work Write-Up Description

*(Required for all rehabilitation projects of 11 units or less)*

Projects that are 11 units or less can submit a work write-up in lieu of specifications, providing the work write-up is detailed and provides enough basic information to determine the quality and quantity of items that are specified. It should define the scope of work and provide a basis for what type of material or product that is to be used. Refer to [Chapter 13: Design and Construction Review](#) for more information about work write-up requirements.

#### **4. Site Plan**

*(Required for all projects types)*

Refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's site plan requirements.

#### **5. Floodplain Map**

*(Required for all projects)*

Refer to [Application Thresholds](#) for more information about floodplain requirements.

Applicants must submit one of the following to demonstrate that the project structures and other portions of the site essential to the use of the tenants are not located in a floodplain:

1. A Federal Emergency Management Agency (FEMA) map showing that project structures and other essential portions of the site are not located in the 100-year floodplain and structure locations are clearly marked on the map.
  - Projects in which any portion of the property is located in the floodplain must additionally submit a survey certified to KHC that is signed, stamped, and dated and which shows the location of the floodplain and all existing building structures.
  - Information or maps generated from a local jurisdiction database or similar alternative will not be accepted.
2. Flood determination certificate from a FEMA-approved [Flood Zone Determination Company](#) indicating that project structures are not located in the 100-year floodplain.
3. A signed, stamped, and dated letter from a licensed surveyor stating the project structures are not located within a 100-year floodplain.
4. A licensed surveyor's report of reclassification and FEMA Letter of Map Alteration must be attached if the property was previously located in the floodplain but has been built up and is no longer in the floodplain. The report must clearly state all land to be utilized for project structures has been raised at least one foot above the floodplain.

#### **6. Lead-Based Paint Determination Form\***

*(Required for rehabilitation projects built prior to 1978)*

Rehabilitation and adaptive reuse projects with buildings built prior to 1978 must complete the Lead-Based Paint Determination form to identify the level of lead treatment required. Any anticipated expenditures related to lead-based paint assessment, abatement, and/or clearance must be budgeted in the underwriting model.

#### **7. Physical/Capital Needs Assessment (PCNA)**

*(Required for all rehabilitation projects of 12 or more units and adaptive reuse projects)*

Refer to [Chapter 13: Design and Construction Review](#) for more information on PCNA requirements.

Projects that were unsuccessful in the most recent previous funding round may resubmit the PCNA that was provided in the previous funding round with a letter or memo indicating that it is a resubmission. However, if funded, the PCNA must be updated at technical submission. KHC reserves the right to ask for an updated PCNA on any project at its discretion.

## 8. **Capital Reserve Replacement Schedule (CRRS)\***

*(Required for all Housing Credit and Tax-Exempt Bond projects proposing the rehabilitation or adaptive reuse of an existing structure)*

The CRRS is a projection of the anticipated capital needs of the property.

### ***CRRS Report Requirements:***

*(These specific items must be addressed in each report)*

- The projection must use KHC's current version of the Excel spreadsheet "Capital Reserve Replacement Schedule."
- The CRRS report must identify the preparer's name, company name, qualifications, professional license number, and state in which the license was issued.
- The schedule must list individual sets of major components that are anticipated to require replacement using the reserve account during the projection term.
- The CRRS must utilize the Fannie Mae Expected Useful Life (EUL) tables when inputting the EUL into the projection.
- CRRS projections are valid for a term of one year before an update is required.
- Future draw requests from the reserve account will be compared to the CRRS projection to verify it is an item planned to be covered by the schedule.
- Additional requirements are in the instructions tab of the CRRS spreadsheet.

## 9. **Proof of Proper Zoning**

*(Required for all projects)*

The applicant must submit evidence that the proposed site is properly zoned for the proposed intended use. The following documents are required:

- A letter from the local zoning board or governing authority indicating the type of zoning in place, or a letter from the county judge or mayor indicating that no zoning is present.
- All zoning requirements and/or restrictions that affect the design or building location.
- A local zoning map that shows the classification of the proposed site and neighboring sites. **The site location must be clearly indicated on the map.**

**If the property is not currently zoned appropriately for the proposed project, the applicant may submit evidence that a rezoning application has been submitted to the applicable jurisdiction. Evidence of the zone change and confirmation that the proposed project is allowed at the site location must be submitted no later than the technical submission deadline.**

## CHAPTER 5: Technical Submission Stage

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Once an applicant receives a preliminary award letter from KHC, the application will then enter the technical submission stage. At this stage, applicants are required to address any underwriting issues and other conditions or comments that resulted from the initial application review process.

### *Technical Submission Document Requirements*

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Owners must upload additional due diligence documentation through the Universal Funding Application (UFA) system. If a checklist item does not apply, you may check the “N/A” button. For documents that exceed the file size limit and are too large to upload as a single document, place those documents on a flash drive and mail to your assigned program specialist by the technical submission deadline. **Do not break large documents into several smaller files for the purposes of uploading to the UFA.**

Below is a description documents that will be required during the technical submission stage. This is not an all-inclusive list of items; your assigned program specialist may request additional documentation. The technical submission documents identified below are grouped in categories which may be uploaded independent of each other; however, ALL technical submission documents must be submitted by the applicable due date. **It is the applicant’s responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

To mitigate any potential problems with uploading documents due to system overload or other technical issues, it is recommended that you do not wait until the last day to submit the technical submission documents. **All projects that do not successfully complete technical submission by 5:00 p.m. ET on the deadline date are subject to payment of a \$5,000 penalty fee in addition to the applicable extension fee.**

### Underwriting Documents

#### **1. Updated Underwriting Model\***

*(Required for all projects)*

An Excel version of the project’s updated underwriting model, using the version returned to the applicant after funding announcements, must be uploaded to the online application system. If any terms of non-KHC funding or financial projections (sources of funds, construction costs, rents, annual expenses, etc.) have changed since the initial application submission, the underwriting model must reflect these changes and supporting documentation must be provided. Responses must also be provided on the underwriting model to all comments or issues identified by KHC.

#### **2. Draft Partnership Agreement or Updated Firm Equity Commitment**

Provide a copy of the draft partnership agreement (preferred) or an updated firm equity commitment. Equity commitments must be current, on the provider’s letterhead, contain the specific terms for the purchase of credit (credit pricing, amount of annual credit anticipated, total equity investment, pay-in schedule, required fees, reserve account requirements, etc.), identify income elections, including the income averaging option if elected by the owner, identify the project name, and be dated and signed. If the project is utilizing a KHC bridge loan, the commitment must recognize the bridge loan and state the benefit of the delayed equity pay-in to the pricing structure and total equity investment.

**3. Firm Commitment Letters for Match and Other Non-KHC Funding Sources**  
*(Required only if original funding commitments submitted with application have changed or expired. Must be submitted by the technical submission deadline, no extensions)*

KHC's HOME and AHTF funds require a 5 percent match of other funds. Any non-KHC financing source may be eligible; KHC funds may not be used as match for other KHC funds. Firm commitment letters for all match and other funding sources identified in the application and underwriting model must be provided. Refer to [Chapter 11: Underwriting Requirements](#) for additional information regarding match requirements.

Firm commitment letters for all non-KHC sources must:

- 1) Be specific as to the terms of the funding, including:
  - a. The interest rate and term (if loan proceeds are involved).
  - b. The collateral for the project (if a loan is involved).
- 2) Be on the funding source's letterhead.
- 3) Be dated and signed by an authorized representative of the entity providing the funds.
- 4) Identify the project name and description for which the commitment of funds is being made.

Commitment letters must be current and relative to the project seeking funding from KHC. The firm commitment letters may contain normal and customary contingencies for equity and loan commitments, including but not limited to: approval of appraisal, closing of other sources of financing, environmental and title review, financial condition of the developer, and satisfactory negotiation of partnership and/or loan documents. Final underwriting will not be completed until all firm commitments are received.

If the firm commitment letters have not been submitted by the original technical submission deadline, the conditional commitment will expire automatically, and KHC will recapture all associated funding. **No extensions of the technical submission deadline for firm commitments will be granted.** Firm commitments from RD or HUD loan financing are not required within this timeframe, but must be provided to KHC as soon as they are available. Time is of the essence with respect to the conditional commitment and all time limitations therein.

Applicants applying to RD for resources or assistance must provide a complete application and all required documents to the RD office as soon as possible after receipt of the preliminary award letter. KHC will not grant extensions to the closing deadline due to an applicant's delay in providing RD with the required application and supporting documentation.

Applications for HUD resources must complete the pre-approval application process within the original technical submission deadline.

**4. Appraisal**

An appraisal is required on projects/properties where KHC's total loan amount (including due at maturity and forgivable at maturity loans) is \$250,000 or more or for projects requesting Housing Credit for acquisition. KHC may request an appraisal on any project utilizing KHC funds. **Appraisals may not be more than one year old as of the date of technical submission.**

Applicants with a KHC loan of \$250,000 or more **must** choose an appraisal firm or individual listed on [KHC's approved list](#) and the appraisal must meet [KHC's appraisal standards](#). The list of

KHC-approved appraisers is available on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; Underwriting Resources; [Appraisals](#).

Housing Credit projects not requesting KHC loan funds but are requesting acquisition credit must provide an appraisal supporting the building basis for purposes of determining the proper amount of Housing Credit reserved. The appraisal must provide at a minimum the "as-is" market value of the building and a separate site value for the land. Eligible basis will be limited to the basis determined by the final cost certification. These appraisals do not need to meet KHC's appraisal guidelines or need to be ordered from KHC's contract appraisers; however, the appraisal must still provide a separate value for the land and KHC must be named as an intended user.

Refer to [Chapter 11: Underwriting Requirements](#) for additional guidance on appraisals.

## Design and Construction Documents

### 1. **Proof of Proper Zoning**

*(Required for projects without zoning approval at application)*

If the project site was not properly zoned at the time of application submission, the applicant must submit evidence that the proposed site has been rezoned for the proposed intended use. The following documents are required:

- A letter from the local zoning board or governing authority indicating the type of zoning in place and that the proposed development is now allowed at the project site.
- All zoning requirements and/or restrictions that affect the design or building location.
- A local zoning map that shows the classification of the proposed site and neighboring sites. **The site location must be clearly indicated on the map.**

### 2. **Owner and Architect Agreement**

*(Required for projects that have an architect involved and all projects of 12 units or more)*

The architect's documents must be prepared in accordance with the HUD Minimum Property Standards, Uniform Federal Accessibility Standards, the Kentucky Building Code, and/or Kentucky Residential Code, Universal Design, Minimum Design Standards as adopted by KHC, applicable state and federal Fair Housing laws, and meet all HQS.

- The architect and owner must submit an executed copy of their agreement using the most recent and up-to-date AIA documents.
- The most commonly used agreement is the lump sum contract, which is B141 Standard Form of Agreement between the owner and architect with the standard form of architect's services.
- KHC cannot approve an open-ended contract that does not specify the total contract amount.

### 3. **Final Construction Plans**

*(Required for all projects)*

Refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's final building plan requirements.

#### **4. Final Specifications / Work Write-Up**

*(Required for all projects, except rehabilitation projects of 11 units or less may submit a work write-up in lieu of specifications)*

KHC will review the final specifications in conjunction with the final plans. All modifications or corrections will be made during the technical submission stage. If changes occur during the review of the final plans that may cause a change in the specifications, the applicant will be notified of any additional changes or corrections that need to be made. Refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's final specifications and work write-up requirements.

#### **5. Evidence of Plan Submission to Local Building Permit Authority or Kentucky Department of Housing, Buildings, and Construction**

*(Required for all projects; attach with plans)*

If no local authority exists in which plans were reviewed by a licensed local code enforcement official, a letter of approval from the Kentucky Department of Housing, Buildings, and Construction will be required.

The local Department of Housing, Buildings and Construction (HBC) or other local jurisdiction in the county where the project is located must review and approve the plans and specifications. If the local jurisdiction has no authority or building inspector, the developer should obtain approvals from the State Department of Housing Building and Construction in Frankfort if the project consists of two or more attached units (subject to change by policies of HBC).

Any changes made by local or state officials must be reflected on the final plans and or an addendum will need to be submitted to KHC for final approval.

#### **6. REScheck/COMcheck Documentation**

Applicants for new construction and adaptive reuse projects must submit a [REScheck](#) or [COMcheck](#) calculation indicating the proposed design exceeds the 2012 Kentucky Energy Code. For rehabilitation only projects, the architect or developer must provide documentation explaining how the design of the development will provide the most efficient insulation and heating system.

#### **7. Certification of Accessibility\***

*(Required for all projects)*

The project architect, general contractor, and project owner must certify that the project design complies with all applicable accessibility requirements of the Fair Housing Act of 1988, KHC Minimum and Universal Design Standards, Uniform Federal Accessibility Standards, Section 504 of the Rehabilitation Act of 1973, 2010 Americans with Disabilities Act Accessibility Guidelines, and any other applicable state or local code. This form is located on KHC's website under Development; Multifamily; [Technical Submission](#); Design and Construction.

#### **8. EPA Lead Compliance Certification\***

*(Required for projects with buildings built prior to 1978)*

Applicants proposing the rehabilitation or adaptive reuse of buildings constructed prior to 1978 must submit the EPA Lead Compliance Certification form to comply with the Renovation, Repair and Painting (RRP) Rule. This form is located on KHC's website under Development; Multifamily; [Technical Submission](#); Design and Construction.

Effective April 22, 2010, the Environmental Protection Agency (EPA) implemented a lead-based paint rule that affects every type of rehabilitation work, whether funded privately or federally. The rule requires contractors and construction professionals that work in pre-1978 housing or child-occupied facilities to follow lead-safe work practice standards and be certified. Essentially, anyone receiving compensation for renovating, repairing, and painting work in residences built before 1978 that disturbs painted surfaces is subject to the Renovation, Repair, and Painting Rule (RRP). No paid job can disturb painted surfaces in pre-1978 homes or childcare facilities unless the firm that is undertaking the work is certified by the EPA or a state, and the renovator has completed training and is a certified renovator. KHC requires a self-certification regarding the project's compliance.

The requirements under the rule apply to maintenance as well as rehabilitation and renovations. The following are benchmarks for work:

- Inside – Renovation or repair activities where six square feet (about the size of a poster) or more of a painted surface is disturbed.
- Exterior – Renovation or repair where 20 square feet or more of painted surface (about the size of a door) is disturbed on the exterior.
- Window replacement.
- The only exceptions are where paint is proven lead-free or the job is smaller than six square feet.
- Safe work practices include:
  - Posting a warning sign.
  - Spreading plastic to pick up debris.
  - Refraining from sanders or other machines without a filter to prevent the spread of dust.
  - Cleaning up thoroughly.
  - Checking the work area.

## **9. Davis-Bacon Wage Rate Request\***

KHC is the responsible entity for ensuring compliance with Davis-Bacon wage rates for the following project types:

- KHC HOME-funded projects of 12 or more HOME-assisted units
- Projects in which 9 or more units have KHC project-based Section 8 voucher assistance; not applicable to projects that received rental assistance through the Performance-Based Contract Administration (PBCA) program

The Davis-Bacon Act requires that laborers be paid an amount not less than the prevailing wage of the locality as predetermined by the U.S. Secretary of Labor. A project may not be split into more than one contract for the sole purpose of avoiding Davis-Bacon requirements. The Davis-Bacon Wage Rate Request form is located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Davis-Bacon Wage Rate Requirements.

## **10. Utility Letter(s)**

For new construction projects, or rehabilitation projects with newly constructed units, letters from the local utility companies indicating the availability and the available capacity of utilities to the proposed site must be provided. The cost of all connection fees, tap fees, and/or relocation cost, if any, should be included in the development cost. If off-site utilities are being brought to the site by local municipalities, the letter should include the date the work will begin and the anticipated cost. Evidence should be provided that the work will be done by a specific time. Proof that the work will be paid for by local municipalities must be submitted to the satisfaction of KHC's Legal Department. If the developer is extending the utilities to the site, they must have the utility extension completed before KHC funds can be accessed or the funds must be placed in escrow to assure completion of the utility extension.

## **11. Subsurface Soils Investigation Report**

Required for:

- New construction projects of 12 or more units or rehabilitation projects with new construction;
- As deemed necessary by KHC.

A soils engineer must perform the report, including a site plan with the soil boring locations, testing results, footing designs, and recommendations. Test borings must be performed in critical areas where buildings are proposed.

## **Environmental Review Documents**

If applicable, submit items 1–7 below to your environmental contractor and upload via the UFA system immediately upon receipt, even if prior to submitting the rest of the Technical Submission items. Not providing these documents in a timely manner could delay the project, since you cannot proceed with the purchase of the property, start any part of the construction or disturb the soil in any way until the environmental review is complete and an environmental clearance has been issued. **The completed Environmental Review Record (ERR) must be uploaded at the pre-closing stage.**

### **1. Lead-Based Paint Inspection and Assessment – OR – Proof of Abatement**

*(Rehabilitation projects constructed prior to 1978 and receiving NHTF, HOME, or Project-Based Section 8 are subject to the lead-based paint regulations of 24 CFR 35)*

Projects built prior to 1978 must provide the lead-based paint inspection and assessment conducted by a certified lead hazard inspector. Proof of prior abatement must be provided if the project has had prior abatement of lead-based paint.

### **2. A-95 Clearinghouse Letter**

*(Required for HOME and/or NHTF projects)*

If applicable, applicants must submit the Clearinghouse letter provided by the Kentucky Department for Local Government (DLG) stating the project has gone through the process to ensure there will be no negative impacts on any part of the environment and has received clearance to move forward with the environmental review. This letter is received after application has been made to the DLG State Clearinghouse through the Kentucky Intergovernmental Review Process during the application stage and will provide information regarding further inspections or documentation that may be required.

The Kentucky Intergovernmental Review process is located on the Kentucky Department of Local Government's website at <https://kydlgweb.ky.gov/FederalGrants/eClearinghouse.cfm>. The environmental review cannot be completed until the Clearinghouse letter has been submitted.

**Note:** It is very important you read the comments received from Clearinghouse. This letter serves as the opportunity for many state and federal agencies to identify any additional requirements they may have for your project. For example, the comments from State Historic Preservation Office/Kentucky Heritage Council may require you to send them additional information and failure to do so can cause project delays.

### **3. Historic Preservation Clearance Letter**

*(Required for historic preservation projects)*

Applicants proposing rehabilitation of historic properties must obtain a historic preservation clearance letter from the Kentucky Heritage Council's State Historic Preservation Office (SHPO). Plans and specifications must still meet all KHC Design and Construction requirements.

Owners of federally funded projects must contact SHPO regarding Section 106 requirements if comments have been included in the Clearinghouse letter that an archeological survey is necessary or that the structure to be rehabilitated appears to be over 50 years of age or in an area that is, or is eligible to be, recognized as a Historic District.

### **4. Part 2, Description of Rehabilitation**

*(Required for projects utilizing federal or state historic rehabilitation credit only)*

Provide a copy of the completed and approved Part 2, "Description of Rehabilitation" application for both the Federal and State Historic Credits as evidence of submission to SHPO and/or National Park Service. Refer to the [SHPO website](#) for more information.

### **5. Phase I Environmental Site Assessment**

A Phase I Environmental Site Assessment, which conforms to proper ASTM standards, is **required for all new construction** projects consisting of more than four units with HOME, NHTF, and/or Project-Based Section 8 as **any** portion of funding. KHC may request a Phase I on any project it deems necessary, including those in which an appraisal indicates actual or evidence of possible environmental liability.

The environmental site assessment determines whether a parcel of land or real estate has the presence of any hazardous substances or petroleum products. These conditions could be of an existing release, a past release or a material threat of a release of any products found on the property or into the ground, ground water, or surface water of the property or surrounding properties. The range of contaminants shall be within the scope of Comprehensive Environmental Response, Compensation, and Liability Act. The scope of this practice includes research and reporting requirements that support the user's ability to qualify for the innocent landowner defense. Documentation of all sources, records, and resources utilized in conducting the inquiry required by this practice must be provided in the written report. Individuals or agencies must be experienced in this field of work and have a current knowledge of all related federal and state law requirements. All reports shall be prepared in accordance with the standards set forth in ASTM E1527 and ASTM E1528. For more information, you may refer to [www.astm.org](http://www.astm.org).

## **6. Phase II Environmental Assessment**

*(May be required on projects of 12 units or more)*

The Phase I will indicate if a Phase II environmental assessment is required. A Phase II assessment is only required when there is an item of concern discovered during the Phase I, requiring additional action to further investigate or remedy the problem.

## **7. Archeological Survey**

*(If requested by SHPO)*

If an archeological survey is required as part of the SHPO review, a list of approved surveyors can be provided by SHPO. A copy of the survey must be provided to KHC.

## **Legal Review Documents**

### **1. Tenant Selection Plan**

*(Required for all projects)*

The tenant selection plan must be a written policy to ensure new tenants are selected in adherence to the owner's policies and all applicable federal requirements and must describe the criteria that will be used to identify eligible tenants. The plan must require tenants and management to comply with Uniform Residential Landlord Tenant Act (URLTA) (refer to [Chapter 12: Program Policies](#)) and, if applicable, the process for notifying the local PHA of vacancies to give priority to households on the PHA's waiting list, as well as any other tenant selection preferences for which the applicant received points. Additional guidance can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#).

### **2. Tenant Lease with KHC Lease Addendums\***

*(Required for all projects)*

A sample of the lease that will be executed between the tenant and owner must be submitted for KHC's review. The lease must contain the KHC HOME/National Housing Trust Fund Lease Addendum (for projects receiving HOME or NHTF funds) or the standard KHC Lease Addendum (for all other projects). If governmental approval is required for use of the KHC lease addendums, such as when using a HUD or RD form lease, it is the owner's responsibility to obtain such approval before submission of the lease to KHC. Any special provisions related to a lease-purchase project must also be included in the lease. The KHC lease addendums can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Miscellaneous Material.

### **3. VAWA Emergency Transfer Plan**

*(Required for all projects with Federal funds and/or Housing Credits)*

Developers and management companies must develop an Emergency Transfer Plan that provides tenants who are victims of domestic violence, dating violence, sexual assault, or stalking the ability to request an emergency transfer to another unit. The Emergency Transfer Plan must comply with the requirements of 24 CFR 5.2005(e).

HUD has developed a model Emergency Transfer Plan (HUD-5381), which property managers may adapt for their use. The HUD sample form is available on their website at [https://www.hud.gov/program\\_offices/housing/mfh/violence\\_against\\_women\\_act](https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act). Refer to [Chapter 12: Program Policies](#), for more information about protections and notices required under the Violence Against Women Act (VAWA).

#### **4. Affirmative Fair Housing Marketing (AFHM) Plan\***

*(Federal funds only, five units or more)*

Each applicant is required to carry out an affirmative marketing program to attract prospective tenants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, sexual orientation, national origin, disability, or veteran or familial status. The AFHM plan must describe the activities during advance marketing and the initial rent-up period. The AFHM plan should ensure that any group(s) of persons that are the **least likely** to apply for this housing without special outreach, know about the housing, feel welcome to apply, and have the opportunity to rent. The AFHM form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Fair Housing.

#### **5. Fair Housing Plan**

*(Federal funds only)*

Applicants requesting federal funds must submit a fair housing plan that ensures that all citizens in the service area are aware that affirmatively furthering fair housing is a priority. A sample fair housing plan is located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development, Multifamily, Post Award Resources, [Technical Submission](#), Fair Housing Plan.

#### **6. Title VI Self-Survey and Statement of Assurance\***

*(Federal funds only)*

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin. Applicants requesting federal funds must submit a Title VI Self-Survey and Statement of Assurance. These forms can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Title VI –Self-Survey.

#### **7. Section 504 Self-Evaluation\***

*(Federal funds only)*

Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion from, participation in, denial of the benefits of, or discrimination under any program or activity receiving federal financial assistance of otherwise qualified individuals with disabilities.

A self-evaluation of all aspects of the organization, including all buildings or facilities for physical accessibility, program outreach and communication, eligibility and admission criteria and practice, distribution and occupancy policy and practice, percentage of accessible units, employment, and complaint processing procedures must be prepared by the recipient. **A person with disabilities or a representative from an agency that serves persons with disabilities must assist the applicant in completing the self-evaluation.** It is required that all recipients with 15 or more employees keep the evaluation on file for at least 3 years.

A transition plan is mandatory if structural changes are needed to achieve program accessibility. The plan must be developed with the assistance of individuals with disabilities or organizations representing them. The plan should identify the physical obstacles that limit accessibility, including a detailed description of methods used to make facilities accessible and the schedule for completion. All structural changes must be made within six months of project funding.

Projects with federal funds must submit a Section 504 Self-Evaluation with attachments (and transition plan, if applicable). These forms can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org) under Development; Multifamily; [Technical Submission](#); Section 504.

## 8. **ALTA Survey**

*(Required for all projects with KHC loan funds)*

A surveyor licensed in the Commonwealth of Kentucky must complete an ALTA survey. The survey must be certified to KHC, stamped, sealed, signed by the licensed surveyor, and dated no more than 60 days from the date of submission. All surveys must meet the [2016 Minimum Standard Detail Requirements for ALTA Surveys](#) and include the indicated items on Table A. The survey must also include the following:

- Metes and bounds at a preferred scale of 1-inch equals 20 feet but no smaller than 1-inch equals 40 feet.
- For projects utilizing previously platted properties on record, a legal description referencing the recorded plat. A copy of the plat recording must also be provided.
- For projects with properties not previously platted, a metes and bounds legal description of the property line. All easements and rights-of-way should also have the metes and bounds in the description.
- HOME and NHTF projects must include a metes and bounds legal description.
- All rights-of-way and easements must be indicated and should have a metes and bounds description and a north arrow.
- All roads, encroachments, setback requirements, and natural drainage ways.
- The 100-year flood boundary, any other floodways, and a written flood zone determination.
- All parking, streets, walks, curbs, dumpster pads, playground areas, etc.

**Note: An electronic copy of the survey may be initially accepted, but KHC reserves the right to request a hard copy of the survey at any time. A paper copy of the final survey must be submitted and dated no more than 30 days prior to closing.**

## 9. **Title Commitment**

*(Required for all projects with KHC loan funds)*

A separate title commitment for each KHC funding source must be submitted for review. KHC's Legal Department will communicate with the title insurance company to ensure the title policy exceptions, endorsements, and descriptions are agreed upon. At the pre-closing stage, a revised title commitment or proforma policy with the agreed upon terms must be submitted and dated no more than 30 days prior to the closing date.

## General Documents

### 1. **Drug-Free Workplace Certification\***

*(Required for all projects)*

KHC's policy is to promote a drug-free environment for all individuals acquiring housing using KHC funds. Applicants must sign the Drug-Free Workplace Certification form certifying the project will provide a drug-free workplace. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Fair Housing.

### 2. **Tax Attorney Opinion Letter indicating eligibility for acquisition credit**

*(Required for Housing Credit rehabilitation projects requesting acquisition credit)*

The applicant's tax attorney must provide a letter that the project is eligible for acquisition credits.

### **3. Internal Revenue Service waiver for troubled projects**

*(Required for Housing Credit projects – if applicable)*

If an existing project has been designated a “troubled project” by HUD or RD, the project may request a waiver from the IRS to the ten-year holding period requirement. If a project has received this waiver, a copy of the waiver letter must be submitted to KHC.

### **4. Authorized Signature Form\***

*(Required for all projects with KHC funds)*

This form documents which members of the ownership entity are authorized to submit draw requests to KHC. There are at least two different signatures required on this form; one person who will submit the draw request and another person who will sign the check disbursing the funds. The same person **may not submit the draw and sign for the disbursement of funds.** The signature form must be signed by the top official of the organization (e.g., board chair, CEO, mayor, etc.). This form can be found on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Miscellaneous Material.

### **5. Site and Neighborhood Standards Questionnaire\***

*(HOME and NHTF new construction projects only)*

Each recipient must administer its HOME and/or NHTF funds in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 and promotes greater choice of housing opportunities. The Site and Neighborhood Standards Questionnaire must be completed and submitted to KHC for review and approval prior to release of funds. This form can be found on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); HOME Documents.

### **6. Relocation Plan**

*(Required for all projects involving existing buildings with current occupants)*

A relocation plan must be provided if the project is rehabilitating existing rental units, even if no tenants are anticipated to be relocated. The plan must detail if permanent or temporary relocation will be involved, how the relocation will occur, who will pay for it, and how the tenant will be compensated. Anticipated relocation expenses must be budgeted in the underwriting model. Projects utilizing KHC HOME, NHTF, or newly-issued project-based vouchers are required to follow the Uniform Relocation Act (URA). Projects receiving federal assistance from a local jurisdiction must provide approval of the relocation plan by the local jurisdiction. Projects proposing Housing Credit-only or non-federal KHC funding sources (AHTF or SMAL) only may refer to KHC’s relocation requirements in [Chapter 12: Program Policies](#).

### **7. Guideform Notice of Nondisplacement**

*(Required for HOME, NHTF, or new project-based voucher rehabilitation projects with current tenants)*

This notice must be provided to tenants of properties rehabilitated in conjunction with federal funds. The purpose of this notice is to inform tenants they will not be required to move permanently as a result of the rehabilitation. Tenants who move into the property after submission of the application must be provided with the **Move-In Notice**. Refer to [HUD Handbook 1378](#) for more information and sample notices. All relocation notices must have documentation of proof of receipt by the tenants and be maintained in the tenant file.

## **8. Permanent Housing Plan**

*(Required for all transitional housing projects, non-credit only)*

The plan must detail how tenants will progress from transitional to permanent housing, giving specific examples of housing options available to the participants, such as preference on a Section 8 waiting list, permanent units set aside at other affordable housing properties, etc.

## **9. Tenant Ownership Plan**

*(Required for all lease-purchase projects)*

A tenant ownership plan must be provided that demonstrates a viable homeownership strategy for residents to purchase the units at the end of the 15-year compliance period. The plan must detail the applicant's exit strategy and calculation of the estimated affordable purchase price for the unit and the pre-purchase counseling that will be required of the tenant. In addition, the plan must clearly show how the property will be managed during the compliance period and how the tenant's down payment and closing cost obligation will be handled.

## *Housing Credit Carryover Documentation*

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Projects receiving a reservation of Housing Credit must submit additional documentation to carry over the credit into the following year. Owners must submit carryover documentation to KHC **on or before the Friday prior to Thanksgiving each year; late submission will incur a one-time fee of \$1,000**. This fee must be received by KHC to issue the Carryover Certificate.

### **1. Owner/Recipient Information**

Recipients of Housing Credits must submit the following:

- Owner and general partner federal identification numbers.
- Exact name and address of owner as it will appear on IRS Form 8609.
- Exact street address including zip code for all buildings (include number of buildings).

### **2. Partnership Agreement and Certificate of Limited Partnership**

The Partnership Agreement governs relations between the partners, and the Certificate of Limited Partnership documents the partnership was formed and is a legal entity. This document must be filed with the Secretary of State and a copy of the filed document must be submitted to KHC.

### **3. Estimated project cost breakdown by building**

A breakdown of the estimated cost of each building in the project must be submitted.

### **4. Owner certification of federal, state, or local loans and/or grants\***

KHC is required to ensure that the amount of Housing Credits allocated to a project does not exceed the amount necessary for the financial feasibility of the project. In making this determination, KHC will consider, among other things, the amount of subsidy the project is receiving. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Post-Award Resources](#); Additional Housing Credit Reference Materials.

### **5. Evidence of having incurred more than 10 percent of total project costs or a written request for 10 percent test extension**

Housing Credit projects must place in service by the end of the calendar year the credits were allocated **or** must submit a carryover request. If the project will not place in service before the end

of the allocation calendar year, the owner must submit evidence of having incurred more than 10 percent of the total project cost or submit a written carryover request for an additional 12 months.

## **6. Gross Rent Floor Election\***

The IRS will treat the gross rent floor as taking effect on the date KHC initially allocates tax credits to the building, unless the owner designates the placed-in-service date instead, **informs KHC prior to that date**, and the IRS will make the gross rent floor effective on that date. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Post-Award Resources](#); Additional Housing Credit Reference Materials.

## *Housing Credit Rate Lock*

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Project owners are permitted by IRC Section 42 to “lock-in” the floating credit rates associated with the Low-Income Housing Tax Credit during the month in which a commitment for a future credit allocation is made. This “binding agreement” must meet the requirements of IRC Section 42(b)(2). The monthly credit rate percentages are announced by the IRS in a Revenue Bulletin on their website [www.irs.gov/irb](http://www.irs.gov/irb).

Owners electing to lock in the 4 percent rate must submit to KHC a written binding agreement that:

1. Is signed and dated by the taxpayer and KHC during the month of the intended lock in.
2. Specifies the LIHTC dollar amount to be allocated to the building.
3. Specifies the type(s) of building(s) to which the allocation applies (i.e., new construction, existing building, or substantial rehabilitation).
4. Constitutes a binding contract under state law.
5. Is binding on all successors in interest to the taxpayer.
6. Is notarized.

The credit percentage election must be made no later than the fifth day after the close of the month during which the owner enters into a binding allocation agreement.

### **Housing Credit Rate Lock for Tax-Exempt Bond Projects**

For buildings that do not require a credit allocation, the credit percentage election must be made no later than the fifth day after the close of the month during which the tax-exempt bonds are issued. Also the building must not have been placed in service previously. Once made, this election is irrevocable. Owners wishing to make this rate lock in must submit to KHC a written binding agreement that:

1. References IRC Section 42(b)(1)(A)(ii)(II);
2. Specifies the percentage of the aggregate basis of the building and the land on which the building is located that is financed by tax-exempt bonds subject to the volume cap of Section 146;
3. States the month in which the tax-exempt bonds are issued;
4. States that the month in which the tax-exempt bonds are issued is the month elected for the appropriate percentage with respect to the building;
5. Be signed by the taxpayer;
6. Be notarized by the fifth day following the month in which the bonds are issued (this notarization must be made on the last page of the election statement, not a separate page).

The original notarized document must be received by KHC by the close of the fifth calendar day of the month following the month in which the bonds were issued.

## CHAPTER 6: Pre-Construction and Pre-Closing Stages

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All loan and equity closings and execution of funding agreements occur after successful completion of the technical submission stage and final underwriting. Owners must submit additional documentation noted below for final underwriting and other documents will be required prior to closing and the commencement of construction. Any documentation needed to complete final underwriting must be submitted and approved prior to the project specialist issuing a final reservation of Housing Credits and/or requesting closing documents to be prepared by KHC's legal department.

Projects utilizing KHC funds that are combining multiple contiguous parcels of land into one project site must consolidate the parcels into a single recorded deed or plat. If the developer already owns the sites, this should occur prior to the closing.

**KHC must receive all pre-closing documents no later than 30 days prior to the anticipated closing date and no closings may be scheduled until KHC has issued its final underwriting approval and final credit reservation letter (if applicable).**

**It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

### Organizational Documents

Any previously-approved development team member who has had changes in their organizational structure since receipt of their capacity approval letter must submit their organizational documents via the UFA at the **pre-closing** stage. Any development team member with new principle officers/members must also provide resumes for those individuals.

Refer to [Chapter 2: Development Team Capacity Application](#), for a complete list of required organizational and credit review documents.

### *Documents Required for Final Underwriting and Closing*

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#### **1. Final Underwriting Model**

The project's final underwriting model must reflect all of the final projections for sources and uses, income, expenses, and the operating proforma. All KHC underwriting comments must be resolved and the final model must conform to the terms of the final limited partnership agreement or operating agreement (Housing Credit projects), all other non-KHC funding commitments, and any rental assistance and/or operating subsidy agreements.

#### **2. Final Draft Limited Partnership Agreement or Operating Agreement**

*(Housing Credit projects only)*

KHC will not issue a final credit reservation letter without having first reviewed the final draft of the limited partnership agreement and **all** referenced exhibits and/or attachments. **A fully executed copy of the final limited partnership agreement must be provided to KHC within two weeks of the equity closing.**

### **3. Agreement to Enter Into a HAP Contract (AHAP)**

Projects proposing new project-based voucher rental assistance must provide an executed copy of the Agreement to Enter Into a Housing Assistance Payments (AHAP) contract between the owner and the public housing agency providing the project-based vouchers. This includes the termination of an existing HAP contract and execution of a new contract with the project owner.

### **4. Operating Deficit Reserve/ Reserve for Replacement / Tax & Insurance Escrow Certification\***

All applicants must certify that Operating Deficit Reserve, Reserve for Replacement and tax and insurance escrow accounts have been or will be established, state the amount of the accounts, and identify the financial institution where the accounts will be held.

### **5. Request to Draw Funds at Closing**

Unless otherwise approved by KHC, draw requests for KHC funds at closing for acquisition costs or reimbursement of pre-development soft costs are only allowed for KHC equity bridge loan (EBL) funds in a Tax-Exempt Bond project or for non-credit projects with a nonprofit owner.

The applicant must notify KHC in writing if funds will be requested at closing. **For HOME and/or NHTF funds, KHC's draw system cannot be activated until the executed Funding Agreement has been received at KHC, which must be no less than two (2) weeks prior to the anticipated closing date.** A draw request must be submitted through the draw management system, along with appropriate supporting documentation for the amounts requested, no less than five (5) working days prior to the anticipated closing date. Refer to Chapter 7, [Draw Request Process for Funds at Closing](#), for more information.

### **6. Electronic Funds Transfer/Wiring Authorization Form\***

*(Required for all projects with KHC loan funds)*

KHC only disburses funds electronically. All funds to be disbursed at closing must be deposited into the closing attorney's escrow account by wire for funds to be available on the day of closing.

Electronic Funds Transfer (EFT) authorizations are required if KHC funds will be drawn during construction. To receive funds electronically – either by EFT or wire – the project owner must request an EFT/wire transfer form from KHC's Accounting Department by sending an email to [accountspayable@kyhousing.org](mailto:accountspayable@kyhousing.org). All forms must be original and will be mailed to you upon request. The financial institution information section **must be completed by your financial institution** and a voided check must be attached for the form to be valid. The original completed form, along with the voided check, must be returned by mail to KHC. Applicants requesting more than one funding source from KHC who wish to have the funds deposited into different accounts must complete separate EFT/Wiring Authorization forms for each account.

To evidence that the project has arranged for electronic funds transfer and/or wiring, a scanned copy of the completed EFT/Wiring Authorization form must be uploaded at the pre-closing stage.

### **7. Owner's Employer Identification Number (EIN)**

*(Required for all projects)*

Provide evidence of the ownership entity's employer identification number issued by the IRS.

## **8. Owner's DUNS Number and Proof of Registration**

*(Required for HOME or NHTF projects)*

The project owner must obtain a DUNS number from Dun and Bradstreet at their website, [www.dnb.com](http://www.dnb.com). The DUNS number must be registered on the federal System for Award Management website at [www.sam.gov](http://www.sam.gov) and proof of registration must be provided to KHC. Registration must be kept current and updated annually.

## **9. Organizational Documents**

If the owner/borrower is a newly-formed entity and has not previously provided organizational documents, or has amended its organizational documents after their initial submission to KHC, copies of the organizational documents and any amendments must be provided for the owner/borrowing entity. Refer to the Organizational and Credit Review Documents section in [Chapter 2](#) for the required documentation.

## **10. Incumbency and Signatory Certificate or Resolution of Authorized Signatories**

*(Required for all projects with KHC loan funds)*

This document is required to confirm the identities, titles, and authority of the signing officers of the borrowing entity to execute all necessary legal documents.

## **11. Title Commitment and Insured Closing Letter**

*(Required for all projects with KHC loan funds)*

KHC requires a title commitment or proforma policy for each KHC funding source. The revised title commitment or proforma policy must be submitted and dated no more than 30 days prior to the closing date. If multiple funding sources are being used in the project, KHC requires a proforma policy. If KHC funds will be disbursed at closing, KHC also requires that an Insured Closing Letter and proforma policy be issued in its favor by the title insurance company.

## **12. Final ALTA Survey**

*(Required for all projects with KHC loan funds)*

The survey provided during technical submission will be reviewed by KHC's Legal Department to ensure all requirements are met and there are no issues with the project site. An electronic and a paper copy of the final ALTA survey must be received by KHC **prior to closing**, dated no more than 30 days prior to closing, and include any updates or project site changes as requested.

## **13. Verification of Site Control**

*(Required for all projects with KHC loan funds)*

Proof the borrower still maintains site control of the property must be provided prior to closing.

- For owned property, if the borrower took title to the property by deed prior to the closing of the loan, KHC must be provided with a copy of the recorded deed.
- For leasehold property, if the borrower signed a lease for the property prior to the closing of the loan, KHC must be provided with a copy of the executed lease (and any amendments).

**Note:** For federally-funded projects (HOME and/or NHTF), the new owner may not take legal possession of the property until after environmental clearance has been achieved, unless the deed transfer or lease was executed prior to submission of the application to KHC for funding.

## **14. Environmental Review Record (ERR)**

*(Required for all projects with HOME and/or NHTF)*

When the required environmental review is complete and full environmental clearance has been achieved, a copy of the entire package of all documents utilized by the environmental review contractor must be provided to KHC. Closing may not occur until KHC has reviewed and approved the ERR.

### *Documents Required Prior to the Start of Construction*

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*All required documents must be reviewed and approved prior to construction start.*

#### **1. Owner and Contractor Agreement**

*(Required for all projects)*

The Owner/Contractor agreement can be executed once the final cost is determined. The agreement may be either the AIA document or HUD's Construction Contract Form, and must be signed and dated by the contractor and the owner. The contract must be completely filled out for final review and include the following:

- The contract amount, which must match the total cost on the final cost estimate as well as the hard costs shown on KHC's underwriting model. Cost contingencies may not be included.
- The dates the construction should begin and be completed.
- Any liquidated damages and the amount per day.
- Reference to the plans, specifications, and any addendums that have been issued.
- Davis-Bacon Wage Rate clause (if applicable).
- Section 3 clause (if applicable).

#### **2. Assurance of Completion**

*(Required if KHC funds exceeds \$100,000 or are drawn during construction)*

An assurance of completion will not be required if KHC is only providing permanent financing with funds disbursed at project completion. **KHC will determine the adequacy and sufficiency of assurances of completion.**

Assurances of completion shall be in one of three forms:

- a) Payment/Performance bond (AIA document A-312 or the HUD Form 92452) equal to or greater than 100 percent of the total construction contract amount. Bonds must be issued by an insurance company licensed in Kentucky, signed by an authorized representative of the insurance company, and name KHC as an additional insured on the bond. Payment and performance bonds are required if KHC is providing a bridge or construction loan.
- b) Irrevocable On-Sight Demand Letter of Credit equal to or greater than 30 percent of the total amount of KHC funds. The letter of credit must be valid for the duration of the construction period. If it expires prior to construction completion, a new letter of credit must be submitted extending the term. KHC must be the only named beneficiary of the letter of credit; having multiple beneficiaries to the letter of credit is not acceptable. The Letter of Credit may be drawn upon by KHC in accordance with its terms and conditions.
- c) Cash deposited with KHC equal to or greater than 30 percent of the total KHC funds.

### **3. Evidence of Proper Insurance**

*(Required for all projects with KHC funds)*

The contractor must provide evidence of worker's compensation, builder's risk, and general liability insurance, which must be in effect during the length of the contract. An insurance company binder is not sufficient. **KHC must be listed as the primary additional insured on all builder's risk and general liability insurance certificates when KHC has provided a loan.**

### **4. Building Permit**

*(Required for all projects)*

The contractor must receive a building permit before construction can begin. If the local jurisdiction does not require a building permit, the mayor or county judge executive must provide a letter of verification.

### **5. Approval Letter from the Department of Housing, Buildings, and Construction**

*(If applicable)*

If the local jurisdiction does not issue building permits, plans must be submitted to the Kentucky Department of Housing, Buildings, and Construction, which will issue a letter authorizing the start of construction.

### **6. Construction Inspection Fee**

*(Housing Credit projects only)*

Evidence of online payment of the one-time construction inspection fee of 1.25% of the annual Housing Credit allocation amount must be provided prior to construction start.

### **7. Final Cost Estimate**

*(Required for all projects)*

KHC may require an updated final cost estimate after the technical submission review on final construction plans, outline specifications, and final underwriting is completed. KHC will notify the applicant if an updated final cost estimate is needed.

The cost estimate must indicate the actual amount that will be spent on each line item during construction. This document will be utilized throughout the course of construction for disbursement of funds. The estimate should not include soft costs on any of the line items. The total amount of the final cost breakdown must match the total of all hard costs included in the KHC underwriting model.

The cost estimate can be one of three different forms:

- Construction Cost Breakdown HUD Form 2328
- Schedule of Values, AIA Document G702 and G703
- KHC's Application and Certificate for Payment Form

Owners must apply the correct cost with the line item that best describes the work.

Applicants/owners are also required to enter the construction cost breakdown from the final cost estimate into the UFA system under the "other actions" dropdown menu. Full instructions for completing this requirement can be found in the FAQ section of the UFA.

## **8. Construction Schedule**

The construction schedule must outline the anticipated completion benchmarks and targeted placed-in-service date of the project. Benchmarks should be measured in terms of weeks/months from the date of the loan and/or equity closing (e.g., 25 percent completion within 3 months of loan closing, placed-in-service within 12 months of loan closing, etc.).

## **9. Pre-construction Conference Form\***

*(Required for all projects)*

At the pre-construction conference, the developer will be required to provide the KHC Pre-construction Conference form, which will be signed by the developer, contractor and KHC construction specialist. When all pre-construction documents have been approved and the applicable closings have occurred, the assigned KHC program specialist will execute the bottom of the Pre-construction Conference form, which will constitute the [Notice to Proceed](#) with construction. Refer to [Chapter 13: Design and Construction Review](#) for more information. The Pre-construction Conference Form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Pre-construction/Closing Submission](#).

## **10. KHC Project Review Agreement\***

*(Required for all projects)*

All projects are subject to inspection by KHC. The Project Review Agreement outlines the applicant's and KHC's roles and responsibilities throughout the inspection process. Applicants are required to sign the Project Review Agreement, which can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; [Design and Construction](#).

## CHAPTER 7: Closing and Construction Stage

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No loan and/or equity closings may be scheduled until KHC has approved all the required pre-construction and pre-closing documentation and issued its final underwriting approval. KHC will determine the closing date and timeline for any KHC loan funds. Any costs associated with the closing, including recording and legal fees, are the responsibility of the borrower.

### *Loan Closing Information*

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KHC will prepare a draft of its loan closing documents, which are sent to the owner's counsel, along with information regarding KHC's closing procedures, a Form of Opinion of Borrower's Counsel, and the marked-up title commitment for each KHC funding source.

KHC's legal staff will work with owner's counsel on any revisions to the closing documents that may be needed. Once a final version is agreed upon by all parties and all conditions to closing have been met, KHC's legal staff will request a copy of the updated title insurance commitment and send a closing instruction letter, along with execution drafts of the closing documents, to the owner's counsel.

The closing may not occur until KHC has received and approved a draft of the Opinion of Borrower's Counsel and the agreement of owner's counsel to issue the title policy, or if owner's counsel is not issuing the title policy, the agreement of the title agent issuing the policy that the policy will be issued in conformance with the marked-up title commitment for title insurance provided to owner's counsel.

Construction **cannot commence** until KHC has received the original, signed and recorded closing documents, including a copy of the recorded deed, unless KHC has authorized an "early start."

### **Closing Documents Delivery**

Executed originals of all KHC loan documents and copies of all documents sent for recording must be delivered to KHC **within 48 hours of closing**. Original recorded documents must be delivered to KHC **within two weeks of closing** along with the original of the loan policy of title insurance. KHC will not disburse loan proceeds, other than amounts pre-approved by KHC for property acquisition, until these conditions are met. All post-closing document deliveries should be addressed to:

**Kentucky Housing Corporation**  
**Legal Department, Attn: Post Closing**  
**1231 Louisville Road**  
**Frankfort, KY 40601**

### **Post-Closing Document Submission**

In addition to the document deliveries noted above, the following documents must be uploaded to the Universal Funding Application (UFA) system within **two weeks of the closing**:

**1. Copy of Deed or Lease**  
*(Required for all projects)*

A copy of the executed and recorded deed or executed property lease (as applicable) must be provided after closing and prior to construction start. If the property will transfer ownership, the deed must show the transfer and be executed and recorded.

**Note:** For federally-funded projects (HOME and/or NHTF), the new owner may not take legal possession of the property until after environmental clearance has been achieved, unless the deed transfer or lease was executed prior to submission of the application to KHC for funding.

## **2. Executed Limited Partnership Agreement or Operating Agreement**

*(Required for all Housing Credit projects)*

A copy of the fully executed limited partnership agreement or operating agreement, as well as all exhibits and attachments referenced in the agreement, must be provided. **The executed agreement may not be materially different than the final draft agreement reviewed by KHC, unless previously approved by KHC.**

### *Draw Request Process for Funds at Closing*

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Unless otherwise approved by KHC, draw requests for KHC funds at closing for acquisition costs or reimbursement of pre-development soft costs are only allowed for KHC equity bridge loan (EBL) funds in a Tax-Exempt Bond project or for non-credit projects with a nonprofit owner/developer. Owners must notify the KHC project specialist during the pre-construction/pre-closing stage of the request to draw funds at closing. The closing draw must include all closing fees due to KHC that were not received prior to closing (e.g., loan origination fee, processing fees, etc.).

KHC must receive the executed Funding Agreement and Exhibit A at least two weeks prior to the intended closing date for non-credit projects requesting HOME funds at closing. The project specialist will provide notification when the draw system has been activated and available to submit a [Program Funding Draw Request](#) must be submitted, with the closing attorney's wiring instructions and all documentation supporting the amount(s) requested.

KHC will not release funds requested at loan closing until KHC receives copies of the executed loan documents and has approved the executed closing statement. KHC will not release subsequent draw requests until the original recorded documents have been returned.

### *Construction Stage*

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Once the project has closed on all funding sources and/or Housing Credit equity and all pre-construction documentation has been approved, KHC will issue the Notice to Proceed, which is the developer's authorization to begin construction. Refer to [Chapter 13: Design and Construction Review](#) for more information about the required pre-construction conference, Notice to Proceed, construction inspections, change orders, and the process for requesting funds during construction.

## CHAPTER 8: Construction Completion/Placed-In-Service Stage

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All projects are required to submit final close out documentation, which may include project completion reports, certificates of occupancy, and final draws. When necessary, certain documents may be forwarded to an outside agency (e.g., HUD) for approval before the funds for the final draw can be released.

A final inspection will be conducted by the architect (if applicable), the contractor, and KHC's construction specialist. The final inspection will cover all interior and exterior items. A final punch list of items still needing completion will be submitted by the architect and provided to the construction specialist. A follow-up inspection will be conducted to verify all punch list items have been addressed and completed. KHC will not release the 10 percent retainage held during the construction phase until a final inspection report showing all punch list items have been completed and all project completion documents are received and approved.

### *Required Documents*

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Owners must submit the following items after construction has been completed for KHC to close out the project and release any remaining funds that are held for retainage and/or issue the IRS Form(s) 8609, as applicable. **It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

**1. Certificate of Substantial Completion, Application and Certification for Payment, and Continuation Sheet (AIA G704, G702, and G703)**

*(Required for projects of 12 units or more, or if an architect was involved)*

The architect shall issue a Certificate of Substantial Completion (AIA G704) and executed copies of the final Application and Certificate for Payment (AIA G702) and Continuation Sheet (AIA G703), which breaks the contract sum into portions of work in accordance with a schedule of values utilizing CSI format.

**2. Certificate of Occupancy**

*(Required for all projects)*

Owners must provide a Certificate of Occupancy from the local jurisdiction for each building in the project, or if the jurisdiction does not issue certificates of occupancy, a letter from the Kentucky Department of Housing, Buildings, and Construction.

**3. Termite Certificate**

*(Required for all **new construction** projects)*

A termite certificate issued by a licensed pest control company must be provided as evidence the building(s) and surrounding foundation(s) were treated to prevent termite infestation. Refer to KHC's [Termite Control Services/Commercial Applicator Licensing](#) requirements for more information.

**4. Termite Inspection Report**

*(Required for all **rehabilitation and adaptive reuse** projects)*

A termite inspection report from a licensed pest control company must be provided as evidence the building(s) were inspected for the presence of termites, and if found, that the building(s) were treated for termite infestation. Refer to KHC's [Termite Control Services/Commercial Applicator Licensing](#) requirements for more information.

**5. Proof of Lead-Based Paint Abatement and Clearance**

*(Required for projects built prior to 1978 and funded with HOME, NHTF, and Project-Based Section 8)*

A copy of the Certificate of Clearance provided by the abatement company must be provided as proof that the presence of lead has been remediated.

**6. Project Completion Report (PCR)\***

*(Required for projects funded with HOME and/or NHTF)*

The PCR is required to report project information, performance measures, final sources of funds and use of HOME/NHTF funds, and designation of the fixed or floating HOME units at initial occupancy. Only the HOME/NHTF units are shown on the report. **If all HOME/NHTF units have not leased up at submission, the PCR must be resubmitted until all HOME/NHTF units have been leased.** The total activity cost must match the total project cost on the Final Funds Expenditure Statement.

KHC will not release the final retainage of HOME/NHTF funds until after receipt of the completed PCR and Final Funds Expenditure Statement. All documents needed to complete the PCR can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Construction Completion/Placed-In-Service](#); HOME Project Completion Packet.

**7. Final Funds Expenditure Statement\***

*(Required for projects funded with HOME and/or NHTF)*

The Final Funds Expenditure Statement is a reporting of the final uses of all funding sources. If two different funding sources are used for one line item, the amount allocated to each funding source must be broken out. The total project cost must match the total activity cost on the PCR.

**8. Section 3 Report\***

*(Required for projects funded with HOME and/or NHTF)*

Section 3 reporting is required annually during construction and at project completion regarding any employment, job training, contracting and subcontracting opportunities given to low- and very low-income persons as a result of the HUD funds used for the project. All contracts over \$200,000 and subcontracts over \$100,000 must contain a clause regarding the Section 3 requirement. More information regarding Section 3 requirements can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Construction Completion/Placed-In-Service](#).

**9. Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Report\***

*(Required for projects funded with HOME and/or NHTF)*

The MBE/WBE report identifies the contracts awarded to minority and female businesses. The MBE section reports the racial classification and number of contracts and the associated amount awarded to minority contractors and subcontractors. The WBE section reports the gender classifications and number of contracts and the associated amount awarded to contractors and subcontractors.

**10. Equal Employment Opportunities Commission (EEOC) Certificate\***

*(Required for Housing Credit projects with no KHC HOME or NHTF funds)*

The EEOC certificate is a report certifying the contracts awarded to minority- and female-owned businesses. In addition, developers are required to report their efforts to hire minority- and women-owned businesses.

The MBE (Minority Business Enterprises) section reports the racial classification and the number of contracts and their associated amount awarded to minority contractors and subcontractors. The WBE (Women Business Enterprises) section reports the gender classifications and number of contracts and their associated amount awarded to contractors and subcontractors.

EEOC certificates are not required if a Housing Credit project was required to submit the MBE/WBE report due to KHC HOME or NHTF funds.

**11. Kentucky-Based and Disadvantaged Business Participation Certification\***

Applicants who pledged the participation in the project of Kentucky-based and/or disadvantaged businesses must complete and submit the certification form for each participating business, along with an executed copy of the contract or invoice evidencing their participation was for at least \$1,000 in materials or services. If the business was not previously identified at application, a copy of the appropriate certifications must also be provided with the completed form(s).

**12. Copy of Most Recent Property Tax Bill**

*(Required if KHC will be escrowing for taxes)*

A copy of the most recent property tax bill will be used to establish the amount to be collected and placed in the escrow account for future property tax bills.

**13. Final Property Insurance Declaration Page**

Declaration page from the final property insurance policy is required if KHC has a mortgage on the property or will be escrowing for insurance. The annual premium amount will be used to establish the amount that needs to be collected and placed in the escrow account for future insurance bills. KHC must be listed as an additional insured on the policy. Owners may remove construction insurance from the property once construction is complete and the property insurance is in place.

**14. Copy of Management Contract**

*(For projects utilizing a management company)*

A copy of the management contract between the owner and the management company is required for compliance monitoring purposes.

**15. Operating Deficit Reserve/Reserve for Replacement/Tax and Insurance Escrow Certification\***

Owners must provide the certification if not submitted at the pre-closing stage or if it has changed, an updated copy must be provided. All applicants must certify that Operating Deficit Reserve and Reserve for Replacement accounts have been established and identify the banking institution and amount of the reserve accounts. Owners must also identify where the tax and insurance escrow accounts will be held. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Pre-Construction/Closing Submission](#).

**16. Building Addresses for All Buildings**

The exact street address, city, and zip code is required for each building.

**17. Marketing Quality Photos of the Property**

Photos of property signage, building exteriors, amenities, common space, and interior of a typical unit(s) are required. KHC may use these photos in promotional materials or other documents.

**18. AHTF/SMAL Close Out Form\***

*(Required for projects funded with AHTF or SMAL)*

A separate close out form must be completed to verify the total amounts of AHTF and/or SMAL funds expended for the project.

**19. Executed Housing Assistance Payments (HAP) Contract**

For projects proposing new project-based voucher rental assistance, a copy of the fully executed HAP contract must be provided. This includes the termination of an existing HAP contract for project-based vouchers and execution of a new contract between the public housing agency and the project owner.

## CHAPTER 9: Land Use Restriction Agreement and 8609 Stage

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Owners of Housing Credit projects must submit the following additional documentation to obtain the Land Use Restriction Agreement (LURA) as well as the IRS Form(s) 8609 no later than 6 months from the project's construction completion date, as evidenced by a certificate of occupancy or an architect's certificate of substantial completion (if rehabilitation). Projects that will require issuance of the LURA and 8609 before the end of the calendar year must have all documentation submitted by the Thursday before Thanksgiving.

KHC will prepare the LURA using the information provided and will be mailed to the owner for signature and recording. Once it is returned, the original IRS Form(s) 8609 will be mailed to the owner for both the 4 percent and 9 percent credit allocated to each building. **The LURA/8609 stage will not open in the UFA system until KHC has received and approved all of the required construction completion documents.** Issuance of the 8609s may be delayed if all required project completion documents have not been submitted and approved, and/or if the project has not successfully passed a final inspection by KHC. **At a minimum, owners should anticipate at least 30 days for KHC to complete the LURA and 8609 process. It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

### **1. Final Cost Certifications (Owner and Contractor)**

Upon completion, an independent Certified Public Accounting firm shall submit a cost certification of all final development costs, including a cost breakdown by building, as well as other costs incurred. All costs must be separated between land, syndication activities, and project depreciable costs. Construction hard costs must be based on a schedule of values using CSI format. All cost certifications must be prepared in accordance with KHC's [Cost Certification Guidelines](#).

Applicants/owners are also required to enter the construction cost breakdown from the final cost estimate into the UFA system under the "other actions" dropdown menu. Full instructions for completing this requirement can be found in the FAQ section of the UFA.

### **2. Housing Credit Rate Lock Agreement**

**If the project owner elected to enter into a Housing Credit rate lock agreement, a copy of the executed agreement must be submitted for issuance of the IRS Form(s) 8609.**

### **3. Building Information Grid\***

**Project owners must complete the building information grid with the exact address of each building and the pertinent characteristics of each building, including a breakdown of the acquisition eligible basis and construction/rehabilitation eligible basis attributable to each building.**

### **4. Updated Final KHC Underwriting Model**

An updated version of KHC's final underwriting model that reflects the final sources and uses of funds must be provided. The sources and uses must agree with the final cost certification.

### **5. Owner Certification of Federal, State or Local Subsidy\***

The owner must sign and submit a Certification of Federal, State or Local Subsidy.

**6. Title Insurance Policy**

An owner's or lender's title insurance policy for the property must be submitted. The information in the title policy provided will be used to determine if there are other lenders that will be required to sign the LURA.

**7. Title Endorsement or Attorney Opinion Letter**

An endorsement to the title or a title attorney's opinion letter that updates the title from the time of the policy to the date of the 8609/LURA request must be submitted. The endorsement or attorney's letter must be dated no more than 15 days from the date of the 8609/LURA request.

**8. Tax Information Authorization Form 8821\***

Prior to the issuance of the IRS Form(s) 8609, owners must submit a signed Form 8821, Tax Information Authorization, to the IRS with a copy to KHC.

**9. Certification of Sources & Uses Form\***

A completed Certification of the Sources and Uses form signed by the owner and syndicator/equity provider must be submitted.

**10. Architect's Final Form G702/G703**

An architect must complete the Certificate for Payment (AIA G702) and Continuation Sheet (AIA G703), which breaks the contract sum into portions of work in accordance with a schedule of values utilizing CSI format.

**11. Resolution/Consent Authorizing Execution of the LURA**

Provide a resolution or consent, as appropriate, indicating that the individual executing the LURA has authority to do so. A resolution or consent authorizing the individual to execute all documents relevant to the transaction may be provided, but is subject to review and acceptance by KHC.

**12. Updated Organizational Documents**

If any changes have been made since the **preclosing** stage, the owner must provide an updated organizational chart and governing documents of controlling entities and include the current annual report from the [Kentucky Secretary of State website](#) for each entity within the ownership structure.

## CHAPTER 10: Funding Sources and Requirements

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The following program requirements are not intended to be an all-inclusive list of all requirements of each program, but are intended for guidance and information when selecting a funding source. Contact your program specialist with any questions.

### Special notes applicable to all KHC funding sources:

- All projects involving current tenants (regardless of whether or not the tenants will be relocated) must submit a relocation plan. Documentation that the applicable relocation notices have been provided to the tenants will be required.
- Each KHC funding source may require a separate deed restriction to be recorded against the property. The terms of the deed restriction(s) may vary by funding source.
- KHC funds may not be used to pay any fees, interest, loan balances, or other amounts due to KHC, unless otherwise approved by KHC.

### *HOME Investment Partnerships (HOME) Program*

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**HOME funding is considered gap financing only.** Applications requesting the entire development cost in HOME funds will be considered only as a last resort.

- Eligible applicants for HOME funds are nonprofit and for-profit entities.
- All HOME-funded projects are subject to all requirements of the [HOME Final Rule](#), as amended, at 24 CFR, Part 92.
- The following local jurisdictions receive a direct allocation of HOME funds. Projects located in these areas are not eligible to apply for KHC-administered state HOME funds and should apply to the applicable local jurisdiction for HOME funds.
  - City of Owensboro
  - Merged governments of Lexington/Fayette County
  - Merged governments of Louisville/Jefferson County
  - The consortia of the cities of Bellevue, Covington, Dayton, Ludlow, and Newport.
- **HOME projects must be completed within the time frames outlined in the closing documents.**
- HOME rental units must be leased in a timely manner, within 3 to 6 months of project completion. If the HOME units are not leased within this time frame, the project owner and/or management agent will be required to provide documentation of their marketing efforts to lease the units. Per a HUD mandate, **any HOME units not leased after 18 months will be subject to termination and repayment of all HOME funds invested.**
- Eligible rental activities are limited to new construction, acquisition with new construction, acquisition with rehabilitation, and rehabilitation of existing rental units.
- All HOME-assisted housing must meet KHC, state, and local standards, and the applicable property standards at 24 CFR, 92.251.
- HOME funds can be used for construction and permanent mortgage loans.
- HOME funds cannot be used for refinancing or acquisition only.

- **HOME funds may not be used to fund replacement reserves, operating deficit reserves, administration costs, stand-alone community buildings, or off-site project costs.** HOME funds shall be used for eligible soft costs and/or construction costs only, including developer fees, which are capped at current KHC limits. Refer to [24 CFR, Part 92](#) for additional guidance.
- The minimum affordability period requirements for the HOME program are as follows.
  - Rehabilitation < \$15,000 per HOME unit 5 years
  - Rehabilitation > \$15,000 - \$40,000 per HOME unit 10 years
  - Rehabilitation > \$40,000 per HOME unit 15 years
  - New construction or acquisition 20 years
- A deed restriction securing the affordability period will be recorded against the assisted property. Even if the HOME loan is paid off early, the restriction will remain in effect for the applicable term.
- The HOME maximum per-unit subsidy limits apply to rental units. The actual subsidy provided will be subject to cost containment and subsidy layering analysis.
- All HOME monitoring/reporting requirements apply throughout the affordability period. All HOME-funded developments must comply with 24 CFR, Part 92.
- HOME funds are provided in the form of an amortizing loan, deferred loan (due at maturity), or a forgivable loan (forgiven at maturity). Forgivable loans will only be considered for non-credit projects with nonprofit owners that demonstrate the need for such a loan and cannot support any debt service. For HUD 202/811 projects only, KHC may approve the use of deed restrictions in lieu of a mortgage to secure the HOME loan on a case-by-case basis. Interest rates on loans are flexible and the loan term, at a minimum, must be equal to the required affordability period, but may not be more than 30 years. Interest will not be charged during the construction period.
- HOME-funded projects must adhere to the lease provisions of [24 CFR 92.253](#) and leases cannot contain the prohibited lease terms contained therein nor require tenants to accept supportive services as a condition of tenancy. Owners are required to give tenants a minimum 30-day notice of lease termination or non-renewal, and only for serious or repeated violation of the terms and conditions of the lease; violation of applicable federal, state or local law; or for other good cause.
- **An environmental review is required** and shall be carried out following the National Environmental Policy Act of 1969, and related laws, in accordance with 24 CFR, Part 58. The applicant is responsible for contracting with a KHC-approved [Environmental Compliance Service Provider](#) to perform the environmental review. More information about HOME environmental requirements can be found on [HUD's website](#).
- The federal [Davis-Bacon Act](#) wage rate requirements apply to contracts for the development of 12 or more HOME-assisted/designated units. The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work in the locality. Prevailing wages are computed by the U.S. Department of Labor and are issued in the form of a Federal Wage Determination. The Wage Determination lists each classification of workers who will work on the project and the rates that must be paid to each classification.
- **Section 3 reporting is required** for all recipients of “covered Section 3 financial assistance” (including HOME) exceeding \$200,000 combined from all sources in any one year. The Section 3 report provides information regarding any employment, job training, contracting and subcontracting opportunities given to low- and very low-income persons as a result of the HUD funds used for the project. Reporting is required annually during construction and at project completion. Refer to [HUD's Section 3 webpage](#) for more information and guidance.

## HOME Financial Requirements

- HOME loans (deferred, forgiven, or amortizing) are **recourse** loans.
- For projects of 11 units or less, a vacancy rate of 10% should be projected, and for projects of 12 units or more, a 7% vacancy rate should be projected.
- All proposed developments requesting HOME funds are required to provide a minimum of 5% HOME-eligible match of the total HOME funds requested. Match information can be found in [Chapter 11: Underwriting Requirements](#).
- For units designated as low-HOME that also receive Project-Based Rental Assistance, the maximum rent may be either the low-HOME rent or the rent allowable under the Project-Based Rental Assistance program, provided the tenant pays no more than 30% of their adjusted gross income toward rent. To achieve a greater cash flow, the Project-Based rents may be more advantageous. However, note that this option does **not** apply to high-HOME units or to units receiving **Tenant-Based Rental Assistance**.
- Projects with less than five HOME-assisted units must have all HOME units occupied by households at or below 60% AMI. Projects with five or more HOME-assisted units must have at least 20% of the HOME units occupied by households at or below 50% AMI.
- HOME-assisted projects must designate a proportionate number of units as HOME units based on the percentage of HOME funds compared to total development cost. If the project has five or more HOME units, 20% of the HOME units must be at the low HOME rent/income limit or less. The remainder of the designated HOME units cannot exceed the high HOME rent/income limit.

**Example:**

HOME amount requested:	\$300,000
Divided by total project cost:	÷ \$2,000,000
HOME percentage:	15%
Total rental units	30 units
HOME percentage:	x 15%
HOME units:	= 5 (4.5, but always round up)

If the formula calculates less than five units, then all units may remain at the high HOME rent level. If five or more, 20% of that amount must be rented at the low HOME rent.

Total HOME units	5 units
	x 20%
Total low HOME units:	= 1.00
(Any fraction of one unit must be rounded to one unit)	

In this instance, the project must have **at least one unit** rented at the low-HOME rent. The high and low HOME units must be proportionately distributed by unit type. Using the example above of four units at high HOME rent and one at low HOME rent, the distribution is as follows:

$$\underline{30 \text{ total units:}} \quad 1\text{-BR units} = 12; \quad 3\text{-BR units} = 18$$

The HOME percentage as shown above is 15 percent. This percentage is applied to each bedroom type.

$$12 \times 15\% = 1.8, \text{ therefore two (2) 1-BR units}$$

$$18 \times 15\% = 2.7, \text{ therefore three (3) 3-BR units}$$

- The subsidy per-unit test determines if the amount of HOME requested is within the required limits. Multiply the HOME units by bedroom type by the applicable HOME subsidy limit.

<b><u>Example:</u></b>	<i>HOME subsidy limit:</i>	1-BR	\$161,738
		3-BR	\$254,431
	<i>Requested HOME loan:</i>		\$300,000

***Project located in Frankfort***

2 (1BR) units X \$161,738 =	\$323,476
3 (3BR) units X \$254,431 =	<u>\$763,293</u>
<i>Total allowable subsidy</i>	\$1,086,769

The requested \$300,000 HOME subsidy does not exceed the allowable limit.

- At the time of application, the applicant will be required to select “fixed” or “floating” HOME units.
  - **Fixed:** When HOME units are “fixed,” the specific units that received HOME assistance, and are therefore subject to HOME rent and occupancy requirements, are permanently designated and never change.
  - **Floating:** When HOME units are “floating,” the HOME units may change over time as long as the total number of HOME units remains constant. The floating designation provides flexibility in assigning units and can help avoid stigmatizing the HOME-assisted units.

Refer to KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#) for the HOME maximum [rent](#) and [income](#) limits.

## Conflict of Interest

No owner, developer, or sponsor of HOME-assisted housing, including their officers, employees, agents, or consultants, may occupy a HOME-assisted unit in a development. The provisions do not apply to:

- a. An individual receiving HOME funds to acquire or rehabilitate his/her principal residence.
- b. An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

KHC may grant exceptions to this conflict of interest provision (for governing owners, developers, and sponsors of HOME-assisted housing) on a case-by-case basis based on the following factors:

- Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him or her to receive generally the same interest or benefits as are being made available or provided to the group as a whole.
- Whether the person has withdrawn from his or her functions or responsibilities or the decision-making process with respect to the specific assisted housing in question.
- Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy, and tenant selection) are being observed.
- Whether the affirmative marketing requirements are being observed and followed.
- Any other factor relevant to KHC’s determination, including the timing of the requested exception.

## HOME Compliance Requirements

- If the legal documents between KHC and the project owner require annual financial statements, a compilation of the annual financial statements for the project only (must not include other agency funds/activities, the project would have its own balance sheet, income statement, and cash flow statement) will be required within 120 days of the end of the project's fiscal year. This should be a full disclosure compilation or audit conducted by a certified public accountant. It should include a balance sheet, profit and loss (income statement), and statement of cash flows. If an agency is required to submit an audit under the Single Audit Act, OMB Circular A133, KHC will accept the agency-wide audit but may ask for additional project-specific information if it is necessary to evaluate the stability of the project. Financial statements must be mailed to KHC's Asset Management Department within 120 days of the close of the project's fiscal year end. New projects that have been placed in service must provide monthly reports as required by Asset Management. **Failure to submit the required annual financial statements will be considered by KHC in future funding proposals.**
- Separate from the KHC requirements, nonprofits and local government applicants that have expended \$500,000 or more in aggregate of federal funds, including HOME funds, during its fiscal year must procure and have completed annual audits in the form of CPA-prepared financial statements with management letter within 120 days after the close of the applicant's fiscal year. These financial statements must include a balance sheet, operating statements, source and use of funds statement, Schedule of Expenditures of Federal Awards, and sufficient supporting schedules. Audits must also be conducted in accordance with the provisions of OMB Circular A-133 and the Single Audit Act of 1996. If the applicant has drawn \$500,000 or more of federal funds in their fiscal year, the audit must be submitted to the Audit Clearinghouse. Any agency that has a finding in such audit must submit a copy of that audit to KHC and provide evidence that the finding has been corrected or is being corrected.
- Each HOME unit must remain in compliance with HQS throughout the affordability period. HQS guidelines are outlined in 24 CFR § 982.401. Owners are responsible for inspecting each unit annually and retaining documentation of the inspection in each tenant's file.
- Each HOME-assisted unit must ensure continued affordability to low-income families. It is the owner's responsibility to ensure that the HOME rent limits are not exceeded for the duration of the affordability period. If the project also received funding from Housing Credits, Historic Housing Credits, or any other funding source, the most restrictive of the limitations applies.
- KHC requires that 100 percent of all HOME-assisted rental units serve households at or below 60 percent of the AMI at the time the family moves in. If more than five units are assisted with HOME funds, 80 percent of the units must be reserved for households at or below 60 percent of the AMI and charged the high HOME rent or Fair Market Rent (FMR), whichever is less. The other 20 percent of the units must be reserved for households at or below 50 percent of the AMI and charged the low HOME rent or FMR, whichever is less. KHC will update its Multifamily Programs web page each year with the new releases for rent and income limits.
- In some instances, residents of HOME rental units may be receiving Tenant-Based Section 8 rental assistance. However, the applicable HOME rent limit may be less than the Section 8 FMR. At no time may the gross rent exceed the applicable HOME rent limit unless the unit is receiving Project-Based Section 8 rental assistance, the household makes 50% or less AMI, and is designated a low HOME unit.

- When leasing mixed funding projects, owners/managers must assure:
  - A sufficient number of units are leased or held available for lease to HOME-eligible tenants to meet the low- and very-low income targeting requirements of the program.
  - Rents charged to tenants in the HOME units are within the high and low HOME rent limits published by HUD.
- If a project is utilizing both Housing Credits and HOME, the tenant's rent may never exceed the Housing Credit program limits, regardless of the household's income.
- HOME rents may decrease. While project rent levels are not required to decrease below the HOME rent limits in effect at the time the HOME Funding Agreement is executed, a change in market conditions may force owners to reduce the HOME rents to retain tenants.
- The Annual Performance Report is required yearly for developments utilizing **HOME funds** once all funds have been drawn and construction is completed.
- Owners must maintain records for five years after the project completion date. Records of individual tenant income verifications, project rent, and project inspections must be retained for the most recent five-year period, until five years after expiration of the affordability period.
- Owners must provide periodic reports as required by KHC.

### *National Housing Trust Fund (NHTF)*

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**NHTF funds are considered gap financing and shall only be provided as a recourse loan.** NHTF is a relatively new program and HUD has not yet issued a final rule for program administration; however, interim guidance is available at 24 CFR, Parts 91 and 93. The NHTF program was modeled after the HOME program; therefore, KHC will apply all the HOME regulations to NHTF except for the following:

- **Affordability Period:** NHTF always requires a 30-year affordability period regardless of activity type or amount of NHTF investment.
- **Davis-Bacon Wage Rate Requirements:** Davis-Bacon wage rates do not apply.
- **Incomes to Be Served:** The income of the targeted population cannot exceed 30% AMI.
- **Income and Rent Limits:** NHTF utilizes separate income and rent limits which are available on KHC's website [www.kyhousing.org](http://www.kyhousing.org) under Development, Multifamily, [Underwriting Resources](#).
- **Match Requirement:** NHTF does not have a matching funds requirement.
- **Environmental Review:** The environmental provisions for new construction and rehabilitation that are required for NHTF projects under the Property Standards at 24 CFR § 93.301(f)(1) and (2) are similar to the environmental review requirements under 24 CFR Part 50 and Part 58 for the HOME program. HUD has published [CPD Notice 16-14](#) that provides guidance on how to meet the HTF environmental provisions. The Notice also explains how environmental reviews under 24 CFR Part 50 and Part 58 must meet the NHTF environmental provisions when combining NHTF with other HUD funding sources. **Projects combining NHTF with HOME or other federal funds must complete a separate environmental review process for each source of funds.** More information on environmental requirements for NHTF funds can be found on [HUD's website](#).

## *Affordable Housing Trust Fund (AHTF)*

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### **AHTF funds are considered gap financing only.**

- Eligible applicants are **nonprofit organizations**.
- **The nonprofit organization must be at least 51% of the ownership entity and materially participate in the project for the term of the loan.**
- Nonprofits must be registered and in good standing with the Kentucky Secretary of State.
- Nonprofits may not be affiliated with or controlled by any for-profit entity and one of the exempt purposes of the nonprofit must include the fostering of low-income housing.
- Nonprofits must meet the criteria defined as material participation in IRC Section 469(h) if combining AHTF with Housing Credits.
- Eligible activities include acquisition/new construction, acquisition with rehabilitation, and/or new construction of very low-income rental developments. AHTF funds have three priorities:
  1. New construction projects.
  2. Projects using existing privately-owned housing stock.
  3. Projects using existing publicly-owned housing stock.
- The affordability period for rental projects is **30 years**. A deed restriction will be recorded against the property to secure the affordability period. If the AHTF loan is paid off early, the recorded deed restriction will remain in effect.
- KHC shall require at least 40% of all AHTF funds to be used for rural areas, as defined by the U.S. Department of Agriculture Rural Development (RD). Applicants can determine if the property is in a rural area by accessing the [RD Property Eligibility Site](#), “Multi Family Housing” and then enter the property address.
- In combination with the above activities, owners can use AHTF to fund upfront services to residents, including budgeting and life skills development, homeownership counseling, tenant education, and self-sufficiency development. However, ongoing support services to keep clients in housing are **not** eligible activities.
- AHTF funds are provided in the form of an amortizing loan, deferred loan (due at maturity) or a forgivable loan (forgiven at maturity). KHC will consider forgivable loans only for projects with that demonstrate the need for such a loan and cannot support any debt service.
- Preference will be given to projects serving households below 30% AMI. However, AHTF may serve households up to 60% AMI. Owners can refer to the [AHTF Income Chart](#) to find the maximum income limits used for the AHTF program. This chart can be found on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).
- While there are no published rent limits for AHTF, the proposed rents should be proportionate with the income level being served, unless rental assistance is being provided. Since there are no published AHTF rent limits, the [HOME rent chart](#) should be used as a guide.
- AHTF can be blended with other KHC funds. If AHTF is allocated to a Housing Credit project, the AHTF award must be made to a nonprofit agency who is the majority owner of the partnership. The nonprofit will then loan the AHTF funds to the project with an assignment to KHC. The nonprofit will be responsible for continued compliance as well as the developer.

## AHTF Financial Requirements

- AHTF loans are non-recourse.
- The amount of developer fee (including any fees for consulting services) paid for with AHTF funds cannot exceed 7.5 percent of the total AHTF award for the project.
- Interest rates are flexible and start at zero percent. KHC will not charge interest during the construction period.
- Loan terms shall not exceed 30 years.
- For projects of 11 units or less, a vacancy rate of 10 percent should be projected, and for projects of 12 units or more, a 7 percent vacancy rate should be projected.

## AHTF Compliance Requirements

- If a project is receiving AHTF only, the owner/manager must verify and document the tenant's income at initial move-in and to recertify the tenant's income annually to determine that the rent being charged is affordable as compared to the population being served. (Although not required, the industry norm to define affordability is 30 percent of a household's monthly income). The Section 8 method for verifying income is not required for AHTF-only projects, but the same verification method must be used for all tenants.
- If the legal documents between KHC and the project owner require annual financial statements, the project would be required to submit compiled annual financial statements within 120 days after the end of the project's fiscal year. These statements must be prepared by a third-party certified public accountant and sent to KHC's Asset Management and Compliance Department. Failure to submit the required annual financial statements will be considered by KHC in future funding proposals.
- Owners must provide periodic reports as required by KHC.

## *Small Multifamily Affordable Loan (SMAL) Program*

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- Eligible applicants may be nonprofit organizations, for-profit entities, and units of local government.
- SMAL can be used for construction loans and/or permanent mortgage loans. Interest rates are the same for both construction and permanent financing.
- Projects cannot exceed 11 units. The total number of units on contiguous lots may not exceed 11 units.
- Eligible rental activities are new construction, substantial rehabilitation, acquisition/new construction, and acquisition with rehabilitation.
- SMAL funds cannot be used for refinancing.
- Eligible households must have incomes at or below 120 percent of the Section 8 area median income (AMI) limits.
- Rents for the project should not exceed the lesser of the SMAL rent limit, the project area's market rent, or 30 percent of the income level of the targeted population.
- SMAL funds may be combined with other KHC funds.

- When combining SMAL funds with other KHC loan funds, the amount of the SMAL loan may not be less than the amount of the HOME and/or AHTF loan, as applicable. The maximum HOME and AHTF loan requirements still apply.

## SMAL Program Financial Requirements

- SMAL loans are recourse loans.
- The maximum loan amount requested **cannot** exceed 90 percent loan-to-value or the loan amount supported by a 1.20 DCR in year one (whichever is lower). The DCR must remain at or above a 1.0 throughout the affordability period.
- Applicants may not request an interest rate lower than 3.5 percent. KHC will determine the rate the project can support.
- Interest-only payments will be due during the term of the construction period.
- The term of the loan shall not exceed 30 years.
- A deed restriction will be recorded against the property for the life of the loan. If the SMAL loan is paid off early, the deed restriction will remain in effect for the original term of the loan.
- KHC will charge an origination fee of 1 percent of the mortgage amount to be paid at closing.
- The vacancy rate for this program will be projected at 10 percent.
- Owners must keep supportive services separate from the housing component and income from services cannot be used to pay debt service.
- The pro-rata share of SMAL to the total development costs determines the number of units that must meet the SMAL income and rent requirements.

<b>Example:</b>	SMAL loan:		\$500,000
	Total project cost:	÷	<u>\$800,000</u>
	SMAL percentage:		62.5%
	Total rental units:		11
	<b>SMAL Percentage:</b>	x	<u>62.5%</u>
	SMAL units:	=	6.875 (always round up)

**The number of required SMAL units would be seven (7).**

Refer to the SMAL Rent and Income chart for the maximum rent and income limits for this program. These can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).

## SMAL Compliance Requirements

Owners must submit annual compiled financial statements, on the project only, to KHC within 120 days of the end of the project's fiscal year. The compilation shall be prepared by a third party certified public accountant in accordance with generally accepted auditing standards and government auditing standards. Owners must provide periodic reports as required by KHC. Refer to KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under [Asset Management](#) for additional requirements.

## CHAPTER 11: Underwriting Requirements

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### *Requirements for Underwriting*

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Following is a summary of some of the criteria KHC will consider when underwriting the project. This list is not intended to be all-inclusive and KHC may review and require documentation on any factor from any funding source that may have an impact on the project's budget and financial performance.

1. KHC may modify the amounts and terms of any KHC resources requested based on its analysis of the project's underwriting model and supporting documents.
2. KHC amortizing, permanent loans shall have monthly debt service payments. HOME, NHTF, and AHTF loans do not accrue interest during the construction period.
3. SMAL loans will be amortizing loans.
4. HOME, NHTF, and AHTF loans may be structured as amortizing or deferred, due-at-maturity.
5. Forgivable HOME, NHTF, or AHTF loans will only be considered for projects with nonprofit owners that demonstrate the need for such a loan and cannot support any debt service.
6. KHC funds will be in first lien position unless approved otherwise prior to closing.
7. The maximum combined loan to value (CLTV) ratio may not exceed 100 percent for all permanent loans, as determined in the appraisal.
8. To ensure that governmental assistance is provided only in an amount to make the project financially viable, KHC will conduct a subsidy layering review on all projects when there is a combination of any of the following funding sources: HOME, NHTF, Housing Credits, or new Project-Based Section 8 (including project-based vouchers). Refer to the [Subsidy Layering Review](#) section for more information.
9. The construction contingency may not exceed 10 percent of total construction hard costs, excluding property acquisition. Applicants not requesting a contingency must explain the rationale and is responsible for the cost of any change orders occurring during construction. For new construction projects, contingency should always be less than 10 percent (in most cases, less than 5 percent). For rehabilitation projects, the contingency should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application.
10. **The construction contingency is set aside for unforeseen cost overruns.** To draw contingency funds, a change order must be prepared and approved by both the inspector and plan reviewer at the time the change is deemed necessary. Change orders submitted after the work is complete will not be approved. KHC will recapture any unused contingency funds and modify the loan documents accordingly. **Soft cost contingencies are not allowed.**
11. The required DCR in year one must be a minimum of 1.20. **All projects must maintain a DCR of 1.10 or greater through year 15.** Housing Credit only projects must adhere to the DCR requirements established by an investor or governmental entity if the investor or governmental entity accepts a lower DCR, which must be reflected in either the syndication agreement or documentation from the governmental entity. In addition, the investor or governmental entity must provide its 15-year proforma. **Projects requesting KHC funds must maintain positive cash flow (1.0 or greater) through the applicable term of affordability.**

12. All projects with declining cash flows and DCRs that are approaching a DCR of 1.10 in or before year 15 must provide an explanation and documentation that sufficient funds will be available to support and maintain the project for a minimum of 15 years.
13. For all Housing Credit projects, the maximum amount of credit for which the project is eligible is the lesser of the equity gap test, the credit per unit test, or the qualified basis test, as calculated on the "Housing Credit" tab of the KHC underwriting model.
14. Housing Credit projects proposing a qualified Community Service Facility (CSF) must be located in a Qualified Census Tract (QCT). The eligible basis attributable to the CSF cannot exceed 25 percent of the project's total eligible basis (without any basis boost) and the total project development cost cannot exceed \$15 million. The costs associated with the CSF must be itemized on a separate uses statement contained within KHC's underwriting model and those costs will not be considered in the cost containment calculation.
15. Projects containing commercial space must itemize the associated commercial space costs on a separate uses statement contained within KHC's underwriting model and those costs will not be considered in the cost containment calculation. Owners may not use KHC resources to pay for any costs associated with commercial space.
16. Applicants must allocate any project-related fees or soft costs associated with a CSF or commercial space on a pro-rata basis, or the actual amount of the soft cost, if it is specific to the space. A disproportionate share of fees and soft costs may not be allocated to the CSF or commercial space for the purposes of adhering to the cost containment limits.
17. KHC has published historical operating expense data by county for projects in KHC's portfolio. The proposed operating expenses must be supported and generally should fall between \$2,500 - \$4,500 per unit, per year (including utilities) and fall within \$1,000 +/- of KHC's most current historical per unit, per year calculation (excluding utilities) for the project county. Applicants must provide a justification for expenses outside either of these ranges. If the county does not have historical data, applicants should use the data of a similar neighboring county. Applicants must enter the county utilized and the amount of the most current historical expense data, excluding utilities, on the expenses page of the underwriting model. The operating expense database is located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org).
18. Management fees should be comparable to market fees and should not exceed 8.5 percent of effective gross income. Smaller projects and/or special needs projects, which may require a fee higher than 8.5%, must provide justification for the higher percentage and receive approval from KHC.

### *Housing Credit Per-Unit Limits*

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The maximum annual Housing Credit allocation for all projects, **excluding Tax-Exempt Bond projects with 4% Housing Credit**, cannot exceed the amount as determined by the per-unit limit calculation.

#### **Urban Areas**

The Housing Credit allocation for projects located in urban areas will be limited to **\$13,500** per Housing Credit unit except for projects located in **QCTs** or **DDAs**, as designated by the secretary of the U.S. Department of Housing and Urban Development; Choice Neighborhoods; historic/adaptive reuse projects; new construction projects located in areas of opportunity; or projects located in areas defined by KHC as needing an increase in basis, which will be limited to **\$17,000** per Housing Credit unit.

## **Rural Areas (Any area outside of the urban areas as defined by RD is considered rural)**

The Housing Credit allocation for projects located in rural areas will be limited to \$15,000 per Housing Credit unit except for projects located in QCTs or DDAs, as designated by the U.S. Department of Housing and Urban Development; historic/adaptive reuse projects; projects located in the Promise Zone counties (Bell, Clay, Harlan, Knox, Leslie, Letcher, Perry and part of Whitley); or projects located in areas defined by KHC as needing an increase in basis, which will be limited to \$19,000 per Housing Credit unit.

**Rural Area Example:** Subsidy limit: \$15,000  
\$19,000 (if in a DDA, QCT, or other KHC-defined area)  
40 total units not in any of the bonus areas  
40 x \$15,000 = \$600,000

## *Housing Credit Limit with 130 Percent Basis Boost*

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### **Modifications to Definition of Eligible Basis (130 Percent Rule, Qualified Census Tract, Difficult Development Area and Areas Defined by KHC)**

The IRS stipulates certain areas as QCTs and DDAs. These areas are designated as areas that are difficult to develop or are defined as census tracts in which 50 percent or more of the households are at-or-below 60 percent of the area median income, as well as census tracts with a poverty rate of 25 percent or higher.

The Housing and Economic Recovery Act of 2008, H.R. 3221 (HERA), provides state Housing Credit agencies the ability to enhance the credit to any building needing the enhanced credit to be financially feasible.

KHC will allocate and underwrite Housing Credits at 9.00% and the applicable floating credit factor established by the IRS the month prior to application submittal for 4.00% Housing Credits. All 9 percent Housing Credits projects are eligible for the 30 percent basis boost as deemed necessary in the sole discretion of KHC. However, Tax-Exempt Bond projects with 4 percent Housing Credits must be located in a QCT or DDA to qualify for the basis boost and acquisition basis is not eligible for the boost.

## *Qualified Census Tracts (QCTs) and Difficult Development Areas (DDAs)*

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The current listing of QCTs and DDAs can be found on HUD's website. KHC will utilize the most current listings in effect as published by HUD.

## *Community Service Facility*

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A Community Service Facility (CSF) is a space that can be used for purposes to improve the quality of life for community residents including, but not limited to, child daycare, senior programs, and job training provided such services are appropriate and helpful to low-income individuals in the project area. A CSF is defined as a facility to primarily serve low-income individuals in the community whose income is 60 percent or less of area median income. Use of the CSF may not be limited to project residents only; it must be available to any low-income individual in the community. The CSF must be located on the same tract of land as at least one of the buildings in the project. If fees are charged for services provided, they must be affordable to individuals whose income is 60 percent or less of area median income.

Housing Credit projects utilizing a CSF described under IRS Revenue Ruling 2003-77 may be entitled to include the costs associated with a CSF in the calculation of the project's total eligible basis. The Housing

and Economic Recovery Act of 2008 increased the percentage of the CSF eligible basis with respect to which the Low-Income Housing Tax Credit may be claimed. No additional credit is awarded for the CSF because the eligible basis attributed to the CSF costs is included in the project's total eligible basis.

Housing Credit projects proposing a CSF must be located in a QCT. The eligible basis attributable to the CSF cannot exceed 25 percent of the project's total eligible basis (without any basis boost), and the total project development cost cannot exceed \$15 million. The costs associated with the CSF must be broken out on a separate Uses Statement within KHC's underwriting model and those costs will not be considered when ensuring a project is within KHC's cost containment limits. This provision is limited to buildings located in QCTs only.

## *HOME & AHTF Match*

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Owners must secure a minimum of 5 percent match for KHC HOME and AHTF funds.

For **AHTF funds**, any non-KHC financing source may be eligible, including, but not limited to:

- Private bank financing
- Donated materials, labor, or services
- Waived or reduced fees or taxes
- Gap financing from any non-KHC source
- Owner equity

***KHC funds, or funds administered by KHC, cannot be used to meet the match requirement.***

Eligible match sources for **HOME funds** must be permanent, non-federal contributions as follows:

- ***Cash contributions.*** Excludes proceeds from Housing Credits and any other owner equity.
- ***Donation/below-market sale of real property.*** To document the value of property donated or sold at below market value, it must be appraised by an independent, certified appraiser in conformance with established and generally recognized appraisal practices and procedures. If the property will not be donated but will be sold for below-market value, the match amount is the difference between the appraised value and the sale price of the property and must be documented with a copy of the appraisal and a copy of the purchase contract. A statement must be attached from the owner/seller stating that the property was donated or sold for below-market value as a contribution to affordable housing.
- ***Donated construction materials.*** The letter of commitment must include the method of calculating the value of donated materials and documentation of its actual cost.
- ***Volunteer labor.*** Valued at \$10 per hour unless classified as professional/skilled labor, such as electrical or plumbing, which may be valued at documented market rate. For projects proposing skilled labor, document the current market hourly rate and method of calculation. For projects proposing unskilled volunteer labor, attach a letter from the coordinating volunteer agency (church group, civic group, etc.) stating the commitment, including the number of hours, when volunteer labor will be performed and cost per hour. Note that there is a maximum of 3,500 hours per unit for volunteer labor and actual hours worked must be documented. Volunteer labor from the owner, or related parties of the owner, is not eligible.
- ***Waived fees and taxes.*** If a project participant (other than the developer/owner) or local jurisdiction agrees to waive or reduce a customary fee or tax associated with the project, the developer may secure a letter from the provider that identifies the customary amount of the fee or tax and the amount to be waived or reduced. If a local property valuation assessor (PVA) agrees to reduce the property taxes based on the restricted rents versus the market

value, the net present value of the tax reduction is match eligible. The PVA must provide a letter stating what the market rate taxes would be and what the reduced tax bill will be based on the restricted rents, along with a calculation of the net present value of the tax savings. The net present value of the difference between the tax rates may be counted as match.

### **Ineligible HOME Match Sources**

- Donations of equity, cash, real property, goods, materials, labor, services, fees, or any other contributions that originate from the **project owner, or any entity in which the owner (or any member of the ownership entity) has an identity of interest**.
- Contributions paid for or reimbursed by a federal source.
- Any expenses funded with CHDO proceeds are ineligible because CHDO proceeds are derived from HOME funds.

Refer to HUD CPD Notice 97-03 for more detailed information.

In unique circumstances, KHC may waive the match requirement if no eligible match can be secured and the developer can document their efforts to secure eligible match.

### *Subsidy Layering Review*

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A subsidy layering review (SLR) will be required on all projects that receive, either directly or indirectly, financial assistance from the U.S. Department of Agriculture Rural Development (RD) or the U.S. Department of Housing and Urban Development (HUD). KHC is required to follow guidelines established by RD and HUD with respect to the review of the financial assistance provided to the project.

The subsidy layering review will include a review of the amount of other governmental assistance, the amount of equity capital contributed to a project by investors, and a review of project costs including developer's fees, consultant fees, contractor's profit, syndication costs, etc. Refer to the Compliance Checks tab of the underwriting model for additional subsidy layering requirements.

Projects combining new Project-Based Rental Assistance with other federal funding sources are required by HUD to complete a SLR. The public housing authority (PHA) that provides the rental assistance must complete the SLR; however, if a local PHA wishes to have KHC complete the SLR, the PHA must submit a written request to KHC, along with additional documentation as required by HUD. Projects subject to a HUD subsidy layering review **must meet all the HUD safe harbor limits** (as noted on the Compliance Checks tab of KHC's underwriting model), with no exceptions. The PHA is also responsible for ensuring that the applicable environmental review is completed before submitting the subsidy layering request to KHC. The PHA must also provide to KHC a copy of HUD's approval to enter into the AHAP.

### *Market Studies*

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KHC maintains an [Approved Market Analyst List](#) from which developers must select an appropriate firm or individual.

The market study/needs analysis will be reviewed to determine if a need exists in the proposed market area for the number of units and the unit configuration. This need must exist without adversely affecting other affordable housing in the same market area.

A market study/needs analysis is only valid for **six months** from the date of the study/analysis. All market studies must adhere to [KHC's market study requirements](#). Market analysts submitting a report that

materially fails to comply with KHC's requirements or is otherwise unacceptable may, at the sole discretion of KHC, be removed from the list.

If more than one project in a given jurisdiction is awarded Housing Credits and/or other KHC resources, KHC may require the lower scoring projects to update the project's market study to recognize and take into account the other projects funded in that jurisdiction and any impact on the market's need for the units proposed in their project. Updated market studies must be submitted to KHC within **60 days** of the preliminary award letter.

Applicants/developers will enter into a contract for services directly with the market analyst and, except for questions about KHC standards and/or requirements, the applicant/developer shall be responsible for handling all issues related to the market analysis. Applicants/developers contracting with market analysts for the benefit of KHC shall be responsible for negotiating the price of the contracted work. Although the applicant/developer is responsible for engaging the market analyst, the report shall identify KHC as the intended user to provide KHC a basis for investment and loan underwriting decisions.

The capture rate will be one method of determining market need, but will not be the only factor. Overall vacancy rates in the area will be considered, as well as the rent level being proposed and how it compares to market-achievable rents. The overall recommendation of the market analyst will also be considered. Typically, a capture rate of 30 percent or below is acceptable. If the capture rate is higher, there may be compensating factors that would make the project acceptable. These determinations will be made on a case-by-case basis.

The market study must provide the required information for the scoring categories applicable to the project and identify the supporting information as indicated in the scoring workbook. Portfolio transactions must submit a separate market study for each property.

## *Appraisals*

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Applicants must submit an appraisal from a KHC-approved appraiser when KHC's total loan amount (including due at maturity and forgivable loans) is \$250,000 or more. KHC may request an appraisal on any project utilizing KHC funds. Appraisals must identify KHC as the intended user and adhere to KHC's appraisal requirements, including recognition of the favorable financing value of any below-market subsidy financing; **however, the financing must be an arm's length transaction.** Appraisals ordered for another lender or from a non-KHC approved appraiser are not acceptable; however, the KHC appraisal may authorize another user of the KHC appraisal. **Appraisals may not be more than one year old as of the date of submission to KHC.**

The acquisition cost on the underwriting model cannot exceed the appraised value of sites to be acquired. The appraised value of leased sites cannot be applied to the acquisition cost of purchased sites.

Housing Credit projects requesting acquisition credit must provide an appraisal with the "as-is" market value of the building to support the building basis, and a separate site value for the land. Appraisals for Housing Credit only projects (no KHC funds) do not need to meet KHC's appraisal requirements or be ordered from KHC's contract appraisers; however, KHC must still be named as an intended user.

If a second appraisal is obtained for another funder, KHC must receive a copy of the second appraisal for comparison. The developer will need to have large discrepancies addressed by both appraisers.

KHC's [appraisal requirements](#), and list of [KHC-approved appraisers](#), are available on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).

## Cost Containment

KHC has adopted cost containment guidelines to evaluate the total development cost for all projects. The applicable cost containment limits must be entered in the underwriting model.

The total development cost must not exceed the applicable cost containment limit. For example:

- 11-unit elderly new construction, non-elevator project located in Franklin County
- 5 one-bedroom units and 6 two-bedroom units
- Total development cost of \$1,200,000

Cost containment limits: 1BR = \$157,805; 2BR = \$190,316

Therefore: Five 1-BR X \$157,805 = \$ 789,025  
 Six 2-BR X \$190,316 = \$1,141,896

Maximum cost containment limit: \$1,930,921

The total development cost of \$1,200,000 is below the cost containment limit of \$1,930,921.

**Note:** Costs associated with commercial space or a Community Service Facility in a Housing Credit project located in a Qualified Census Tract will not be considered in the cost containment calculation.

The cost containment limits are on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).

## Maximum Allowable Fees

All fees must be within the limits as shown below. Maximum allowable fees are based on total development cost. The fees are calculated as follows:

**General requirements equal:**

General requirements ÷ (Total Hard Cost - Construction Contingency)  
 Construction management fees are part of General Requirements and must be included with general requirements and cannot exceed the general requirement percentage.

**Builder’s overhead equals:**

Builder’s Overhead ÷ (Total Hard Cost - Construction Contingency)

**Builder’s profit equals:**

Builder’s Profit ÷ (Total Hard Cost - Construction Contingency)

Maximum allowable fees are based on the total development cost as shown below:

Total Development Cost	General Requirements	Builder’s Overhead	Builder’s Profit
\$250,000 and less	6%	7%	12%
\$251,000 - \$750,000	5%	6%	8%
\$751,000 and greater	6%	2%	6%

## Developer Fee

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The allowable developer fee for 9 percent Housing Credit projects and non-credit projects is based on the total number of units created or rehabilitated in the project. Developer fees must be the lesser of the total per unit amount listed below or **\$1,200,000**. Consulting fees are considered part of the developer fee.

	<b>New Construction</b>	<b>Rehabilitation</b>	<b>Adaptive Reuse/ Historic Rehabilitation</b>
First 15 units	\$20,000	\$20,000	\$23,500
Next 30 units	\$17,000	\$15,000	\$22,500
Next 30 units	\$12,000	\$12,000	\$18,500
Units above 75	\$7,000	\$7,000	\$8,000

### Developer Fee – Tax-Exempt Bond Projects

The developer fee on Tax-Exempt Bond projects may not exceed 20 percent of the total development cost **per property**, minus the following deductions:

- a. Developer fee
- b. Consultant fee
- c. Any fees resembling developer or consulting fees

**The developer fee may not be increased if project costs increase after submission of the full application to KHC; however, the developer fee will be reduced if project costs decrease.**

### Deferred Developer Fee

KHC is currently not requiring applicants to defer any developer fee to request KHC HOME, NHTF, or AHTF funds; however, KHC reserves the right to reinstate this policy in future funding rounds.

In Housing Credit projects, if the developer is deferring a portion of the developer fee to be paid from project income after it has been placed-in-service, the deferred portion must be able to be repaid within the first ten years of operation, **except for Tax-Exempt Bond transactions which may extend the repayment term to the full 15 years allowed by the IRS**. The pro forma of KHC's underwriting model will calculate the amount of deferred developer fee to be repaid each year from available project cash flow. Any amount not repaid at the end of the tenth year must be deducted from the project's eligible basis. KHC may consider, on a case-by-case basis, allowing 9% tax credit projects to extend the repayment period for deferred developer fee up to the maximum 15 years allowed by the IRS; **however, the applicant must seek a waiver for this exception prior to application submission.**

### Reserve for Replacement (R4R)

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All applicants are required to establish an R4R account. KHC will hold the account unless otherwise required by the equity provider or another lender in the project with a superior lien position. The R4R annual deposit shall increase at 3 percent annually or as prescribed by KHC.

KHC's minimum required R4R is the greater of \$400 per unit, per year; the amount required by the Physical Capital Needs Assessment (PCNA) or Capital Reserve Replacement Schedule (CRRS); or as

required by an equity provider or another financing source. For projects requesting Housing Credit only, KHC may accept a lower minimum R4R amount if allowed by the equity provider and documented in the partnership agreement.

## Replacement Reserve Analysis

The CRRS projected account balance must, at a minimum, be positive at the beginning of the 15<sup>th</sup> year. Projects requesting Housing Credit only may be allowed a lower minimum R4R per unit amount as described above.

KHC may require owners to make an initial deposit to the R4R account as part of the upfront funding of the project as determined by the PCNA/CRRS. The underwriting model must reflect the upfront deposit.

All PCNA and CRRS studies must provide projections extending to, or beyond, the term of the KHC loan that is being requested. All projects must also include an electronic submission of KHC's Excel spreadsheet "Capital Reserve Replacement Schedule."

KHC may require owners to maintain two years' worth of deposits, require an owner to cover additional expenses from other sources, or require a new PCNA/CRRS and revise the R4R deposit schedule.

KHC will apply any unused R4R balance in accounts it holds to the principal amount(s) of any outstanding KHC HOME, NHTF, AHTF or other loan(s). R4R accounts held by other entities (equity investor or superior lien holder) must be assigned to KHC when the holder no longer has a security interest in the project. For Housing Credit projects, a R4R account not being maintained by KHC must be assigned to KHC at the end of the IRS fifteen (15) year compliance period.

All Housing Credit projects that also have KHC financing will be required to submit a subsequent PCNA in year 15 and the project may be required to adjust its capital reserve replacement schedule accordingly.

## Operating Deficit Reserve Account (ODR)

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The purpose of the ODR is to ensure that adequate funds are on hand should operating costs exceed the project's ability to pay them. In addition to being a safeguard during the initial lease-up phase, the ODR is vital to ensuring the long-term financial stability of the project by increasing the project's ability to absorb or respond to temporary changes in circumstances, such as the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.

KHC calculates the minimum ODR requirement as follows: six (6) months of debt service payments + six (6) months of projected operating expenses = minimum Operating Deficit Reserve required.

**Projects with KHC loan funds must fully fund the reserve account at the greater of KHC's amount or as required by another lender or equity provider no later than the first day of the month following the project's placed-in-service date.**

KHC may waive or modify the ODR requirement on a case-by-case basis.

KHC will hold the ODR escrow unless otherwise required by another lender. Such other lender must notify KHC prior to any disbursements from the ODR account.

**For ODR escrows held by KHC:** During the first two years, the ODR must maintain a minimum balance of 75 percent of the original amount. The owner must make deposits to maintain the required minimum balance as cash flow permits but not more than three months of the shortfall. The owner will make such deposits prior to any disbursements or other payments to any related party

The balance in the ODR may fall below the minimum required balance after the initial two years and will remain in place for the life of the loan, available for eligible disbursements, as needed.

If KHC is financing the ODR, the full amount must be drawn on the final draw. HOME and/or NHTF funds may not be used to fund an ODR.

The owner must submit requests for ODR disbursements to KHC on the appropriate form and include an itemization of the operating expenses and supporting documentation of the actual cost of each expense.

## *Acquisition and Rehabilitation of Commercial Space*

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No KHC funds may be used to assist with the acquisition or rehabilitation costs of commercial space. KHC funds may be used in conjunction with a project that includes acquisition and/or rehabilitation of commercial space by prorating the residential square footage to the commercial space square footage. Any project with commercial space must separate the commercial space costs from the residential costs within the KHC underwriting model. If there is to be commercial space within a project, the commercial space must be deeded separately as a condominium regime.

## *Income Averaging*

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Income averaging is a new minimum set-aside election under Section 42 of the Internal Revenue Code as authorized by the Consolidated Appropriations Act of 2018. Instead of electing the 20/50 or 40/60 minimum set-aside, an owner may instead elect an income averaging set-aside, which allows a property to serve households up to 80% AMI, as long as at least 40% of the total units are rent and income restricted **and** the average income limit for all tax credit units in the project is at or below 60% AMI.

- Only properties funded under the 2019-2020 QAP or later are eligible to elect the income averaging set-aside.
- Properties with project-based rental Housing Assistance Payments (HAP) contracts may only elect the income averaging option if the original contract was executed prior to 1981. Properties with HAP contracts executed after 1981 do not have the option to serve incomes above 60% AMI. This provision is not applicable to project-based vouchers (PBV).
- The minimum set-aside election is irrevocable once made on Form 8609. Therefore, existing developments already placed in service with a recorded LIHTC extended use agreement are not eligible to change their minimum set-aside/income election to income averaging.
- Income averaging is only permitted if all residential units are designated low-income; the project may not contain unrestricted or market rate residential units. Manager units are not subject to this restriction and are permitted in income averaging developments.
- All of the units must be affordable to and occupied by persons earning 80% AMI or less. At least 50% of all units must be affordable to and occupied by persons earning 60% AMI or less.
- The average of the imputed income limitations designated cannot exceed 60% AMI.

- Designated income/rent levels may only be set at 10% increments beginning at 20% of AMI. The allowable income/rent designation levels are 20%, 30%, 40%, 50%, 60%, 70%, or 80% of AMI. KHC will not allow more than four of the possible AMI designations to be selected per property.
- The market study must demonstrate sufficient market demand for each income bracket proposed.
- Any clear skewing of unit designations is not allowed. Applicants must provide reasonable parity between different bedroom sizes at each targeted income band utilized on the property.
- All units must be designated with a specific AMI percentage at the time of application.
- Other than as may be limited by future federal guidance or other funding source restrictions, owners may change unit percent designations over time (“float”). However, the rent for tenant households may not increase due to the unit being changed to a higher increment.
- Owners of developments with more than one building will indicate on the Forms 8609 to treat all of them as part of a multiple building project (checking “Yes” on line 8b of the current form).
- Tax-Exempt Bond projects must still meet a 20/50 or 40/60 minimum set-aside; however, for purposes of the 4% credit allocation, the project can elect to do income averaging. Therefore, a bond project with 4% credits can elect an income averaging set-aside for purposes of tax credit compliance, as long as the unit mix selected would also meet either a 20/50 or 40/60 minimum set-aside test for purposes of bond compliance.
- Refer to KHC’s [Income Averaging Compliance policy](#) for additional information.

## CHAPTER 12: Program Policies

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The following policies (or policy excerpts) apply to all projects, unless otherwise noted.

### *Relocation of Displaced Persons (Permanent or Temporary)*

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#### Requirements for Projects Receiving Federal Assistance From KHC

All federally-assisted (HOME, NHTF, and/or new Project-Based Vouchers) projects are subject to the requirements of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** (49 CFR, Part 24 and 42 U.S.C. 4201-4655). KHC requires certain documentation to ensure compliance. Owners of projects with current tenants (regardless of whether or not the tenants will be relocated) must submit a relocation plan and provide documentation that the appropriate notices were provided to the tenants.

Detailed information on complying with the relocation and acquisition requirements can be found on the HUD Real Estate Acquisition Web page at <https://www.hud.gov/relocation>.

#### Requirements for Projects Receiving Non-Federal Assistance from KHC or Housing-Credit Only

Owners of projects financed with non-federal KHC resources (AHTF or SMAL) or receiving Housing Credits only must pay to all persons displaced by the project reasonable relocation expenses as defined by the U.S. Federal Highway Administration's Uniform Relocation Assistance and Real Property Acquisition Policies Act [Fixed Residential Moving Cost Schedule](#), plus a one-time payment of \$300 per unit. Owners are not required to pay additional benefits to persons eligible for federal relocation benefits. Owners of projects with current tenants (regardless of whether or not the tenants will be relocated) must submit a relocation plan.

### *Funding Gaps/Substantial Change*

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KHC will consider increasing its loan funds by up to 10 percent for a funding gap (in excess of the developer fee and construction contingency) due to increases in **hard costs** identified after application approval and prior to closing and the start of construction. Owners must submit the following information:

1. Updated underwriting model
2. Justification for the gap

KHC may consider awarding additional loan funds for gaps identified during construction upon receipt of the following information:

1. Updated underwriting model
2. Justification for the gap
3. Evidence that all other funding opportunities have been exhausted.

A gap of more than 10 percent of KHC's investment (exclusive of Housing Credits) or the number of units changing by 10 percent or more is a **substantial change**. In this case, the owner must either locate other funding or forfeit the reservation.

**Note:** Any time a funding gap is identified, whether before or during construction, developer fee and/or construction contingency must be used to cover all funding shortfalls before additional funds are requested. **KHC will not consider requests for funding gaps due to increases in soft costs.**

## *Identity of Interest*

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An identity of interest relationship exists if any officer, director, board member, or authorized agent of any development team member (developer, consultant, general contractor, architect, attorney, management agent, nonprofit agency, seller of the project real estate, etc.):

1. is also an officer, director, board member, or authorized agent of any other development team member;
2. has any financial interest in any other development team member's firm or corporation;
3. is a business partner of an officer, director, board member, or authorized agent of any other development team member;
4. has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member or company providing services to the project; or
5. advances any funds or items of value to the sponsor/borrower.

**All applications must specifically disclose any identities of interest. Failure to do so will result in disciplinary action per KHC's [suspension and debarment policy](#).**

## *Conflict of Interest*

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A conflict of interest exists in situations in which a public official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual, exploits the relationship for personal benefit.

The appearance of a conflict of interest is present if there is a potential for the personal interests of an individual to clash with fiduciary duties. KHC will not allow individuals or businesses to participate in or provide a service to the project that have a conflict of interest in the project.

## *Suspension and Debarment*

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Any parties found to be in consistent noncompliance with program guidelines or that demonstrate flagrant or serious incident(s) of misuse of funds will not be allowed to participate in KHC programs.

Any person or agency that, except for good cause shown, shall have committed, or failed to perform (as the context may require) an act or omission identified in KHC's Suspension and Debarment Policy, may be subject to suspension and/or debarment by KHC and prohibited from doing further business with or entering into any contractual relationship with KHC. The [Suspension and Debarment Policy](#) is published on KHC's website at [www.kyhousing.org](http://www.kyhousing.org).

## *Financial Statements*

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KHC may require any project for which it holds a mortgage, regardless of lien position, to submit financial statements annually. The financial statement requirements will be detailed in the legal agreements. Generally, the minimum requirement is a compilation prepared by an independent CPA. All other projects

are required to submit financial statements within 120 days of the project's fiscal year end. KHC may impose a late fee if the audit and/or financials are not submitted on a timely basis.

## *Annual Performance Reports*

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Owners of projects receiving any type of funding through KHC's Multifamily Programs Department must submit annual performance report information through the online Tenant Data Collection System, which requires reporting the project's basic income and expense totals for the previous year.

## *Compliance Requirements*

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*(All funding sources – refer to individual program requirements for additional compliance requirements)*

All KHC-assisted projects are required to meet compliance requirements throughout the affordability period. KHC will conduct compliance reviews and will inspect all projects at least every three years. These reviews shall consist of rent restrictions, income restrictions, property conditions, and pledges made in the original application, extended use agreement (if applicable), the HOME and/or NHTF funding agreement (if applicable), and the commitment letter.

KHC will notify the entity, in advance, when inspections will be scheduled. The entity or management agent should adhere to the following to eliminate any possibilities of non-compliance:

- Tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements. For example, rents may not increase until the tenant's lease expires. Documentation of increases must be kept in the tenant's file.
- Owners/Management companies must include the following in the tenant files.
  - ✓ **Rental Application:** The rental application or income survey form used to gather information about household income, composition, and student status.
  - ✓ **Evidence of household eligibility:** Such documentation may vary depending upon the funding source(s) in the project.
  - ✓ **Lease:** The lease must be included, documenting the rent amount and signed by both parties.
  - ✓ **Set-aside documentation:** Evidence to support set-aside selection, as pledged in the project's application and extended low-income housing commitment.
  - ✓ **Income calculation:** Include formula used to calculate income.
- KHC reserves the right to inspect each development for compliance with HQS throughout the term of the loan and Labor Uniform Physical Condition Standards.
- Any development using several sources of financing may have additional compliance requirements. Refer to program specifics for additional compliance requirements.

## *Uniform Residential Landlord Tenant Act*

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The Uniform Residential Landlord Tenant Act (URLTA) was enacted by the Kentucky legislature in 1984 to encourage property owners and tenants to maintain and improve the quality of rental housing and to make uniform residential agreements between property owners and tenants. URLTA is codified at KRS 383.505-.715 and provides for protection of both the property owner and the tenant, as well as corresponding rights and duties of each party.

KHC requires developers who receive funding or Housing Credits to adhere to the requirements of URLTA. Specialized or supportive housing projects will be exempt from this requirement as URLTA does not apply to housing incidental to the “provision of medical, geriatric, educational counseling, religious or similar service.” KRS 383.535(1).

The landlord’s duties are to place any security deposits in a separate account in a regulated financial institution, adhere to building codes affecting health and safety, make required repairs to keep premises fit and habitable, keep the building systems and common areas safe and in good condition, and supply running water at all times and reasonable heat throughout the cold months of the year.

The landlord’s rights are to terminate the lease after 14 days written notice, to collect for damages, to evict from the unit, to enter the rental unit, and a right to know when the tenant will be absent for more than seven days.

Similar to the property owner, the tenant is required to adhere to building codes affecting health and safety and to keep the premises as clean and safe as practical. In addition, tenants are required to: dispose of waste safely, use electrical and all other appliances in a reasonable manner, not deliberately or negligently damage the unit or premises, conduct themselves in a way not to disturb neighbors, and not engage in unlawful activities within the premises.

The tenant has the right to move in once the lease has been signed, to terminate the lease if the landlord fails to comply with its provisions or the URLTA, to deduct from the rent when the landlord fails to comply with the lease or URLTA in a manner which impacts the tenant’s health or safety, have essential services, and to oppose the landlord’s retaliation for complaining about the condition of the unit.

**The lease agreement must include the KHC HOME/National Housing Trust Fund Lease Addendum (for HOME or NHTF projects) or the KHC Lease Addendum (for all other projects), which incorporates the provisions of URLTA into the lease.**

The tenant selection plan must include the following language:

**Uniform Residential Landlord Tenant Act:**

The Kentucky Uniform Residential Landlord Tenant Act (“URLTA”) both preserves the quality of the housing stock and provides for rights for renters across Kentucky. [Management Company] and its tenants comply with URLTA. Tenants and Management are required to comply with provisions of URLTA.

## *Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*

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The Violence Against Women Act (VAWA) was enacted by Congress to provide protections to victims of domestic violence, dating violence, sexual assault, or stalking. These protections include housing protections for tenants in projects receiving funds under the HOME, NHTF, and LIHTC programs.

KHC requires developers who receive funding or Housing Credits to adhere to the requirements of VAWA. The majority of the protections for victims are incorporated into the KHC HOME/Housing Trust Fund Lease Addendum (for HOME or NHTF Projects) or the KHC Lease Addendum (for all other projects), which must be attached to every lease. Developers and management companies are responsible for creating and implementing policies to ensure that they are capable of meeting the requirements of these lease addendum provisions.

In addition, developers must take the following actions to ensure tenants are protected:

### **Notification Requirements**

Developers and management companies must provide to each applicant and tenant the following forms:

1. “Notice of Occupancy Rights under the Violence Against Women Act” form; and
2. Certification form to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault, or stalking that:
  - (i) states that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;
  - (ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under this subpart meets the applicable definitions for such incident (which may be found at 24 CFR 5.2003); and (iii) includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.

The notice and forms required under this section must be provided to the applicant and tenant any time an application is denied, any time an application is accepted, or a tenant begins receiving assistance, and must be included with any notification of eviction or notification of termination of assistance.

### **Emergency Transfer Plan**

Developers and management companies must develop and submit an Emergency Transfer Plan that provides tenants who are victims of domestic violence, dating violence, sexual assault, or stalking the ability to request an emergency transfer to another unit. Such Emergency Transfer Plan must comply with the requirements of 24 CFR 5.2005(e). Developers and management companies are required to submit their Emergency Transfer Plans to KHC during the technical submission stage.

Template forms required by this section, including a model Emergency Transfer Plan, are available on HUD’s website at [https://www.hud.gov/program\\_offices/housing/mfh/violence\\_against\\_women\\_act](https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act).

## CHAPTER 13: Design and Construction Review

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### *Preliminary Plans – Minimum Requirements*

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Developers must provide preliminary building plans at application submission via the UFA system. Following are the minimum requirements:

#### **Building Floor Plan**

- Drawings should be at 1/8" or 1/4" scale depending upon development type.
- Provide overall exterior building dimensions and show the different unit types that exist in each building.
- Show all adjacent walks, stoops, and/or patios.
- Show location of all party and firewalls.
- Wall thickness, exterior finishes, doors, windows, cabinets, plumbing fixtures, closets, etc.
- Complete dimension of each typical unit so room sizes can be determined.

#### **Wall Detail**

- Foundation-to-roof wall detail showing [REScheck](#) values must be included.

#### **Elevations**

Elevations must show all four sides of the building(s) and include the following:

- Exterior wall finishes.
- Window and door openings.
- Roof material and slope of roofs.
- Eave, rake, and fascia conditions to include gutters and downspouts.

*Applicants may submit photographs clearly showing elevations for all sides of the buildings in lieu of elevation drawings. **The minimum acceptable photograph size is 5-inch by 7-inch.** However, elevation drawings **will** be required during the Technical Submission Stage.*

### *Final Plans – Minimum Requirements*

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Developers must provide final building plans at technical submission via the UFA system. Following are the minimum requirements:

#### **Minimum final plan information and requirements:**

- Building floor plans must be 1/8" = 1' scale.
- Individual unit plans must be at 1/4" = 1' scale.
- Completed in accordance with the highest architectural and engineering professional standards.
- Submitted to the appropriate building code officials for their review.
- Comments received during the application stage must be incorporated in the final plans.
- Final comments shall be incorporated into the final drawings or amended by an addendum.
- Meet all applicable accessibility requirements (UFAS, Fair Housing, ANSI A117.1, 2010 ADA or KHC Universal Design, one or more as applicable).

- Address the issues identified in the PCNA (if applicable, for rehabilitation projects).
- **Projects with 12 or more units must have plans prepared by a licensed design professional and dated and sealed with the architect's and engineer's stamp and signature.**

**For projects containing 12 units or more**

The construction plans must contain:

- Site plan
- Earthwork plans
- Landscaping plans
- Floor plans
- Enlarged floor plans
- Foundation plans
- Elevations
- Building sections or wall sections
- Enlarged bathroom and kitchen plans
- Door, window, and room schedules
- Structural drawings (if applicable)
- Mechanical and electrical plans

**For projects with 11 units or less**

The construction plans must contain:

- Site plan
- Earthwork plans
- Floor plans
- Enlarged floor plans
- Elevations
- Building or wall sections
- Mechanical drawings
- Electrical drawings

For technical submission purposes, KHC will accept verification that the plans have been sent to the appropriate building code officials for review. KHC will not complete its final review until final verification of modifications or changes are received from the building code officials.

Corrections to the final plans being done by an addendum must be submitted for review and should contain all necessary corrections.

During the technical submission stage, KHC will review all final plans and developers must make all necessary modifications or corrections. KHC must approve all changes and modifications prior to KHC's commitment and final underwriting.

**All pages must be included in order, under one single attachment.**

**Earthwork Plans**

*(Required for projects of 12 units or more)*

Information requirements for earthwork and grading plans:

- Grading contours existing and new at 2-foot intervals, unless the grade is too steep and it is not feasible.
- Storm drainage piping with manholes, headwalls, and retention areas, or any other miscellaneous structures. Should show top of structure elevation as well as invert elevation.
- Show slopes greater than 3:1 with ground cover.

- Show location of soil boring test, if they apply.
- All finish grade work at buildings shall be a minimum of 8 inches below finish floor elevation and slope away from the building a minimum of 6 inches over a 10-foot run.
- If retaining walls are required, they should be shown and provide a top of wall spot elevation and adjacent grade elevation.
- Walls, curb cuts, access ramps, dumpster pads, etc., must be shown on plans.

### **Site Utility Plan**

*(Required for all projects, except for projects of 11 units or less if the information below is included with the site survey)*

- All existing utilities with size of piping shown.
- New water lines with size indicated and point of connection to the existing water line shown.
- Fire protection lines, vaults, and fire hydrants shown.
- Sewer and gas lines with the size indicated and manholes marked shown. Provide top elevations with invert elevations and direction of flow.
- Overhead or underground electrical service along with telephone and TV cable shown.
- All utility easements and their width must be indicated. Provide utility details, as required, to demonstrate all structures and/or improvements.

### **Existing Utilities**

*(Required for all projects)*

The cost of all connection fees, tap fees, and/or relocation cost, if any, should be included in the development cost.

If off-site utilities are being brought to the site by local municipalities, a letter must be provided including the date the work will begin and be completed, and the anticipated cost. Proof that the work will be paid for by local municipalities must be submitted. If the developer is extending the utilities to the site, they must have the utility extension completed before KHC funds can be accessed or the funds must be placed in escrow to assure completion of the utility extension.

### **Landscaping Plan**

*(Required for 12 units or more)*

All projects should have an adequate number of shrubs, trees, and plantings. The landscaping plan must:

- Provide planting details and show mulch areas.
- Provide trees and shrubs and a legend that gives their size.
- Show areas that need to be seeded or will receive sod.

### **Foundation Plans**

*(Required for 12 units or more)*

- Indicate all footings and the foundation wall as it sits on the footings.
- Provide dimensions to indicate lengths, widths, and the thickness of each type of foundation.
- Indicate footing sizes, wall materials, and wall thickness.

- Indicate the steel reinforcing and grout.
- Show areas that are concrete slab on grade and areas that are located over crawl spaces.
- Provide details that indicate the slab and all associated materials, such as poly vapor barrier, stone base, wire mesh, construction joints, control joints, and expansion joints.

### **Floor Plans**

*(Required for **all** projects)*

Floor plans should include the following, at a minimum:

- The entire building drawn at no less than 1/8-inch scale. Provide a plan for each different building type.
- Indication of all exterior and interior walls and the thickness of the walls.
- All rooms labeled to indicate their use.
- Dimensions applied to drawings to indicate room size. Indicate on the plans if dimensions are to face of stud, center of stud, or to finish face.
- All window and door openings with door swings and a reference to a door and window schedule.
- Exterior wall finishes and section and plan details for each type of wall construction.
- Kitchen cabinets, plumbing fixtures, and bathroom accessories. Larger scale plans may be required to properly indicate these.
- Closet shelving, ceiling access, exterior walkways, porches, etc.
- The complete project even if it is made up of more than one unit and are identical units.
- If a project is a rehabilitation, the existing items that will remain and those that will be demolished.

### **Enlarged Floor Plans**

*(Required for **all** projects)*

Enlarged floor plans at a minimum should indicate the following.

- All dimensions to include those that cannot be shown on the 1/8-inch scale building plan.
- Exterior dimensions and all wall thickness.
- All wall types and describe each type.
- Location of firewalls and party separations walls.
- Walls receiving insulation and the type of insulation.
- Location and sizes of all access panels.
- All doors and windows with their designation as to type.
- Transition line between different floor finishes.
- Where ceilings and soffits are dropped.
- Closet shelving and type.
- Kitchen cabinets, vanities, and toilet fixtures.
- Room description or room number.

## **Elevations**

*(Required for all projects)*

- Elevations required for all sides of the buildings.
- Exterior wall finishes.
- Window and door openings.
- Roof material and the slope of the roof.
- Eave, rake, and fascia conditions to include gutters and downspouts.
- Balconies, breezeways, railings, and exterior steps.

## **Building and Wall Sections**

*(Required for all projects)*

- Construction of exterior walls with footers, floor-to-wall details, and ceiling-to-wall conditions.
- Footing details complete with notes and dimensions.
- Exterior grade to finish floor relationship.
- Floor construction and height to second floor or ceiling structure above.
- Wall structure, thickness, and type of interior and exterior finishes.
- Wall and floor insulation and give R-values.
- Show eave or overhang of roof to wall with materials and heights noted.
- Roof structure and materials with notes and dimensions.

## **Enlarged bathroom and kitchen plans and elevations**

*(Required for 12 units or more)*

- Kitchen cabinets and elevations.
- Bathroom layout with all equipment and bathroom accessories.
- Mounting heights of all bathroom accessories.
- Show location of wood blocking in walls for attachment of accessories.
- Show turning radius and clearances required by the applicable codes in accessible units.

## **Door, window, and room schedules**

*(Required for 12 units or more)*

- Provide room schedule with room designation or number. Indicate floor finish description, base finish, wall finish, ceiling finish, and notes for special finishes.
- Provide door schedule. Indicate door size, thickness, material, and fire rating, if applicable. Provide elevation of each door type.
- Door hardware schedule. Indicate hinges, lock sets, closures, panic push bars, kick plates, and weather stripping.
- Provide window schedule. Indicate window size, type, operation, and glazing. Provide elevations of each type.
- Show all details for windows, doors, and finishes, as necessary.

- Provide windows in bedroom and living rooms that meet egress and emergency escape requirements in the Kentucky Building Code and/or Kentucky Residential Code, and HQS.

### **Plumbing Drawings**

*(Required for **all** project types)*

Exception: For **projects of 11 units or less**, a plumbing contractor licensed in Kentucky may prepare schematic drawings.

- Drawings shall show plumbing supply lines and indicate size of pipe.
- Plumbing waste line and indicate size of pipe and direction of flow.
- Legends shall be drawings indicating all plumbing fixture type and manufacturer model numbers.
- Show riser diagrams for all piping to indicate size and direction of flow.

### **Mechanical Drawings HVAC**

*(Required for **all** project types - exception: for **projects of 11 units or less**, a mechanical contractor licensed in Kentucky may prepare schematic drawings)*

- Provide legends that have equipment sizes, model numbers, and manufacturers' names.
- Show all mechanical supply and return ducts along with equipment. Indicate duct construction, sizes, design capacity, insulation, location of fire and/or smoke dampers (if required), and smoke detectors, (if required).
- Miscellaneous details as necessary.

### **Electrical**

*(Required for **all** project types - exception: for **projects of 11 units or less**, an electrical contractor licensed in Kentucky may prepare schematic drawings)*

- Show locations of all electrical outlets, switches, and circuits for all areas.
- Show location of light fixtures, panel boxes, and switch gear.
- Provide GFI circuits and outlets where required.
- Provide arc-fault protection where required.
- Show exterior lighting if applicable and emergency lighting.
- Provide a legend that describes light fixtures, circuit breakers, and other miscellaneous items.

### **Structural Drawings**

*(Required for 12 units or more, only when larger scale developments may be required to include structural drawings)*

- Floor framing plans, complete with details and sections, fully describing the structural system of the floor.
- Roof and/or ceiling framing systems with details that clearly indicates all details and conditions.
- Foundation systems with associated details for all conditions that exist.
- Miscellaneous details that cover all aspects of the structural system that are involved.

## Site Plans

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- Preferred scale: 1 inch equals 20 feet. Can be no smaller than 1 inch equals 40 feet. Property lines with metes and bounds.
- Buildings should be drawn on the site plan regardless of new construction or rehabilitation. Any other remaining structures should also be indicated.
- All exterior items, such as parking, street walks, curbs, dumpster pads with enclosures, playgrounds, community rooms, and fences should be noted.
- All dimensions, setbacks, easements, and rights-of-way should be shown, with an indicator for North.
- A site detail must be shown on the plan or on a separate site detail sheet. Details should describe the type of walks, curbs, handicapped parking, etc.

## Final Specifications

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Final specifications are required for all projects, except rehabilitation projects of 11 units or less may submit a work write-up in lieu of specifications. During the technical submission stage, KHC's Design and Construction staff will review the final specifications in conjunction with the final plans. If changes occur during the review of the final plans that may cause a change in the specifications, the developer will be notified of any additional changes or corrections that need to be made.

If corrections to specifications are being done by an addendum, they must be submitted for review and should contain all corrections that are necessary.

All specifications shall be written following the standard Construction Specifications Institute (CSI) master format using standard AIA documents. The architect must write the specifications in accordance to accepted standards, rules, and regulations, and include specific products by model number and manufacturer (without limiting the contractor to one or two manufacturers).

KHC must approve all changes and modifications prior to commitment and final underwriting. Any previous review comments during the application stage shall be corrected and incorporated into the final specifications. Final specifications must address the issues identified in the Physical/Capital Needs Assessment if applicable for rehabilitation projects, and include all documents that pertain to the construction contract.

The specifications must include the following **23 divisions**:

Division 01: General Requirements

Division 02: Existing Conditions

Division 03: Concrete

Division 04: Masonry

Division 05: Metals

Division 06: Carpentry

Division 07: Thermal & Moisture Protection

Division 13: Special Construction

Division 14: Conveying Equipment

Division 21: Fire Suppression

Division 22: Plumbing

Division 23: HVAC

Division 26: Electrical

Division 27: Communications

Division 08: Door & Windows

Division 09: Finishes

Division 10: Specialties

Division 11: Equipment

Division 12: Furnishings

Division 28: Electronic Safety & Security

Division 31: Earthwork

Division 32: Exterior Improvements

Division 33: Utilities

The architect must clearly define the following in each section:

- Scope of work
- Products and/or materials
- Quality assurance, testing and quality control
- Execution and/or installation
- Submittals and samples
- Warranties and/or guaranties

The specifications must describe the means and methods to accomplish the work during inclement weather conditions and include the following:

- Project description
- Bidder instructions, if applicable
- Wage scale and Davis-Bacon requirements, if applicable
- Copy of the general contractor's agreement
- General and supplemental conditions

Manufacturer's specifications are required for the following items:

- Heating and cooling products, including programmable thermostats
- Windows
- Clothes washers, dishwashers, refrigerators, and range hoods
- Ceiling fans, light fixtures, and ventilation fans
- Water heaters

## *Work Write-Up Requirements*

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At a minimum, the work write-up must provide lists for:

- New items and materials to be installed in each room of every unit during construction.
- Items to remain, describing any repairs or renovation work to be performed in each room of every unit.
- Items to be salvaged from each room of every unit for re-use in the project.
- Items to be removed and disposed of from each room of every unit and the method of disposition.
- All exterior work to be performed and materials to be used on each building.
- All exterior work to be performed and materials to be used in all outdoor common areas.

If commercial space is involved, all costs associated with its rehabilitation should be itemized separately. Any work required for both commercial and rental shall be prorated on a square-foot basis. For example, if a new roof is installed on a three-story building, where the first floor is commercial and the second and third floors are rental, and all three floors have the same square footage, then 1/3 of the roof cost should be attributed to the commercial space. If the square footage were different, it should be done on a percentage of the total amount.

### **Final Work Write-Up Description**

During the technical submission stage, KHC will review all final plans and developers must make all necessary modifications or corrections. KHC must approve all changes and modifications prior to KHC's commitment and final underwriting.

For rehabilitation projects of 11 units or less, in lieu of specifications, during the technical submission stage KHC will review the final work write-up in conjunction with the final plans and developers must make all necessary modifications or corrections. If changes occur during the review of the final plans that may cause a change in the work write-up, the applicant will be notified of any additional changes or corrections that need to be made.

### *Universal Design*

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Universal design is required for all projects receiving KHC financing equal to 50 percent or more of the total project cost and all Housing Credit projects, for the **purpose of constructing or reconstructing single-family or multifamily housing**, except for rehabilitation projects.

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.

The goal of universal design is to build housing that meets the needs of the greatest portion of a community's population. It differs from accessible design, which is primarily intended to meet the needs of persons with disabilities, but is inclusive of adaptable design as it strives to incorporate structural features that will allow a residence to be adapted to an individual's needs. The Universal Design standards can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development, Design and Construction.

### *Minimum Design Standards*

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Minimum Design Standards apply to new construction, adaptive reuse and reconstruction of all KHC-assisted multifamily projects when funding from KHC is 10 percent or more of the cost per unit based on total development cost.

KHC's Minimum Design Standards are to be used as a guideline to meet and exceed 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 utilize KHC funding. Other methods of construction and design may be acceptable on a case-by-case basis. KHC's Minimum Design Standards can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development, Design and Construction.

## *Federal and State Accessibility Requirements - Section 504*

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**New Construction of Housing Facilities:** If a project is requesting HOME, NHTF, or Project-Based Section 8 (when available), and has **five or more units** under one contract/deed, then 5 percent of the total units or more **must** be accessible to persons with mobility impairments **and** 2 percent of the units (minimum of one unit) **must** be accessible to persons with visual and/or hearing impairments. These accessible units must comply with [Universal Federal Accessibility Standards](#) at 24 CFR 8.22.

**Alterations of Existing Housing Facilities:** If a project is requesting HOME, NHTF, or Project-Based Section 8, has **15 or more units**, and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then 5 percent of the total units or one unit must be accessible to persons with mobility impairments **and** 2 percent of the units or one unit must be accessible to persons with visual or hearing impairments.

## *Fair Housing Design Requirements*

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Fair Housing design requirements apply to new construction and all rehabilitation units occupied after March 13, 1991. Developments must comply with all requirements of the Fair Housing Accessibility Requirements of the Fair Housing Act. For more information about Fair Housing Accessibility, visit the Fair Housing First website at [www.fairhousingfirst.org](http://www.fairhousingfirst.org).

## *Kentucky Building Code*

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Any application for new construction, substantial rehabilitation/alterations to existing structures, or change in occupancy must meet all applicable accessibility requirements of the Kentucky Building Codes.

## *Physical/Capital Needs Assessment (PCNA) Requirements*

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A PCNA is a written report performed by a qualified inspector for the rehabilitation of an existing structure into housing units. The PCNA defines the necessary repairs required to provide safe, quality, and affordable housing. PCNAs are valid for six months; beyond that, KHC requires a signed and dated certification from the licensed professional who compiled the original document attesting to its current accuracy and applicability.

All rehabilitation projects of **12 or more units and** total KHC funding of \$250,000 or more must submit a PCNA as an attachment to the application. **All applications requesting Housing Credit for rehabilitation and adaptive reuse must submit a PCNA, regardless of project size.**

A complete and thorough inspection shall be conducted to all existing structural components, appliances, mechanical, and electrical systems to determine the life expectancy, needed repairs, and/or replacement. The needs assessment inspector and appraiser shall work closely together to ensure consistency concerning areas of square footage, number of buildings, and bedrooms.

### ***Physical/Capital Needs Inspector Qualifications:***

- All inspectors and/or firms must be insured as directed by KHC.
- Inspectors must be experienced and possess sufficient background inspecting multifamily residential housing.

- Inspectors shall be licensed architects and/or engineers qualified to complete the assessment. The inspector may also consult with structural, mechanical, or electrical engineers to provide expert opinions as to the existing condition of a particular item. Outside consultants employed shall also meet all the requirements as set forth for an inspector including insurance.
- All PCNAs must be conducted by independent third parties, defined as completely separate entities, having no other affiliation with the project, and that will not provide any other services for the project. An architect or engineer preparing construction-related documents for the project is not considered an independent third party.

***Physical/Capital Needs Report Requirements:***

*(These specific items must be addressed in each report)*

- The report shall describe, in detail, all rehabilitation work required including all respective related additional work. Separate estimates for both must be provided.
- A minimum of 25 percent of all units and at least one of each type must be inspected prior to preparation of the report.
- A cost estimate of all the repairs and/or replacements must be included.
- All reports should indicate the items and areas in need of immediate repair. A separate analysis should be completed on all components that will need repair or replacement within the next five years.
- Provide a report on all existing conditions or items in violation of applicable building codes, federal and/or state accessibility standards, and/or local ordinances. Corrective measures required to bring all items into compliance must be thoroughly detailed.
- Any visible evidence of hazardous substances, including but not limited to: asbestos containing material, lead-based paint, petroleum bulk storage, polychlorinated biphenyls, and chlorofluorocarbons, must be noted.
- Cost estimates for any items requiring action due to market demand. These will be provided to the inspector by the appraiser or KHC.
- Deferred maintenance not performed on a normal operating basis, including estimates of corrective costs.
- Any repairs needed to nonresidential buildings such as community buildings, management offices, garages, etc.
- Inspectors shall propose a total price to the applicant that will include all costs, including but not limited to: travel, clerical, inspection services, attending meetings at KHC (if applicable), etc.
- In preparing the report, the inspector may choose to utilize the Inspection Form HUD-52580-A. While not required, additional information may also need to be recorded on separate sheets and attached.
- Any corrections required by KHC must be addressed in the report.
- All reports must include an electronic version of KHC's Excel spreadsheet "Capital Reserve Replacement Schedule" as an integrated part of the report or as an addendum.

All reports must be prepared in compliance with all applicable federal and state laws and regulations. KHC requires a projection extending to or beyond the term of KHC's loan, or a 20-year term PCNA if the

project is only requesting Housing Credits. KHC will also require a subsequent PCNA in year 15 and require the project to adjust the capital reserve replacement schedule accordingly for all projects obtaining KHC HOME, NHTF, or AHTF gap financing from KHC.

Adaptive reuse projects in which a complete interior demolition is proposed need only provide a physical/capital needs assessment, which addresses electrical and mechanical systems, building exterior, foundation, window, roof and all remaining structural components.

## *Pre-Construction Conference*

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A pre-construction conference is required on **all projects**. The final review of the technical submission documents and underwriting should be completed prior to the pre-construction conference being scheduled. **The developer is responsible to contact the appropriate KHC construction specialist to schedule the pre-construction conference no later than two weeks before the requested meeting date.** The assigned KHC project specialist must also be copied on the request for the meeting to determine if the project is ready for the pre-construction conference.

The purpose of the pre-construction conference is to outline the basic responsibilities and duties of the various parties throughout the construction and warranty periods. The conference will be conducted by KHC's construction specialist in conjunction with the program specialist assigned to the project.

For developers who have not previously used KHC resources to construct or rehabilitate a rental project, a full pre-construction conference will be required; however, for developers experienced with KHC's multifamily programs, a more limited pre-construction conference may be conducted. The decision to hold a full or limited pre-construction conference will be at the discretion of KHC's construction specialist and project specialist. Dependent on the type of project and the developer's experience with KHC, the pre-construction conference will occur either at KHC's offices or at the project site. At the conclusion of the meeting, the KHC Pre-Construction Conference Form will be signed by the developer, contractor, and KHC construction specialist.

The developer/applicant, contractor, site superintendent, and architect (if applicable) should attend. The following topics will be discussed:

- Construction inspection schedule
- Final cost estimate
- Requirements for safety fencing
- Requirements for job safety
- [Project signage requirements](#)
- Davis-Bacon wage rates, if applicable
- [Draw request process](#)
- [Change order process](#)
- The duties and responsibilities of the owner, architect, and contractor
- The [Notice to Proceed](#)

## *Project Signage Requirements*

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All projects must provide and display signage throughout the construction phase in a prominent location on the site. If display space is not limited, all partner logos should be equally proportioned. If display space is limited, all partners should be named using text of equal size. Smaller developments, such as rehabilitation projects, may request approval to reduce signage to 2- by 4-feet. The Equal Housing logo is required on all signage and cannot be listed as text.

## Termite Control Services/Commercial Applicator Licensing

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**Inspectors:** All persons involved in the commercial and non-commercial application of pesticides must provide proof of a license and certification through the Kentucky Department of Agriculture.

**Companies:** All companies involved in the commercial and non-commercial application of pesticides must provide proof of a license and certification through the Kentucky Department of Agriculture. Additionally, companies providing the above services must also show proof of being registered with the Kentucky Secretary of State as a business in active status and good standing.

## Notice to Proceed

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The developer may indicate their *desired* construction start date on the Pre-Construction Conference Form; however, KHC will notify the developer when all conditions have been satisfied and construction is authorized to begin. This is the developer's Notice to Proceed.

KHC will not issue a Notice to Proceed with construction until the following conditions have been met:

- Pre-construction conference has been conducted.
- All pre-construction and pre-closing documents have been received and approved.
- All applicable loan and equity closings have occurred.
- KHC's final underwriting has been completed and, for Housing Credit projects, the final credit reservation letter has been sent.
- KHC's final project set-up has been reviewed and executed.

Once these conditions have been satisfied, KHC will return the Pre-Construction Conference Form to the developer, signed and dated by the KHC project specialist. **No construction of any kind may begin until the fully executed form is returned to the developer, which serves as the developer's Notice to Proceed.** After receipt of the Notice to Proceed, the developer must notify the KHC construction specialist and the project specialist of the actual date construction will begin.

**Construction may not start on a project before the closing without prior written permission from KHC. Starting construction early without KHC's permission will affect capacity scoring on future applications, incur a \$7,500 penalty fee, and result in withholding of KHC funds from the project.**

## Early Start of Construction

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In **rare, unique circumstances**, KHC may consider, on a case-by-case basis, allowing the developer to begin limited construction activities prior to closing. Repeated requests for an early start of construction may result in a capacity deduction in future funding rounds. **All requests for an early start of construction are subject to the [early start fees](#) outlined in Chapter 1.**

A developer seeking an early start of construction must complete the waiver request form, detailing the unique circumstances that make an early start an unavoidable necessity, as well as the scope of the work planned prior to closing. A pre-construction conference must be conducted prior to the start of any construction. If the early start request is approved, KHC will send an authorization letter to the developer, which must be signed and returned to KHC. Any approval for an early start will be at the owner/developer's **own risk**, independent of any financing commitment by KHC.

KHC must approve the following before considering an early start request:

- Owner/contractor agreement
- Building permits
- Evidence of general liability, worker's compensation and builder's risk insurances, with KHC named as an additional insured
- Assurance of completion (irrevocable letter of credit or payment and performance bond)
- **Projects receiving federal funds must also have full environmental clearance.**

## *Construction Inspections*

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KHC's construction specialist will make regular visits to the project to review progress and ensure the project conforms to all KHC requirements. A copy of all KHC-approved plans and specifications must be available at the project site during inspections. Inspection visits will occur at least once a month, but may take place at any time.

Owners must notify KHC to complete the inspection of the following:

1. All footers prior to pouring.
2. Rough-in on all units when mechanicals are installed and prior to drywall.
3. Project completion when the units are ready for occupancy.

KHC's construction specialist will send the owner an inspection report for each visit detailing the project status and any issues noted during the inspection. The owner is responsible for ensuring all issues and deficiencies are corrected. KHC may conduct a pre-8609 inspection to confirm pledged amenities and/or other non-construction related attributes.

**For Housing Credit only projects, KHC may require and accept an alternative inspection report for the three stages of construction performed on behalf of the investor or other lender.**

## *Construction Draw Requests*

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KHC's construction specialist will review the requested construction costs during the monthly inspection and will electronically sign the KHC [draw request](#) approving only the hard costs. All other costs will be approved by the KHC program staff person reviewing the draw request. KHC will not pay for materials stored off-site. KHC will disburse funds for materials stored on-site if they are insured, invoiced, properly stored, and secure. Draws are limited to one draw per month and must be signed by a KHC inspector.

In projects where KHC has awarded both amortizing and deferred or forgiven loan funds, the amortizing loan funds must be disbursed first, taking priority over deferred or forgiven loan funds.

KHC will disburse up to 40 percent of the developer fee up front and the remaining 60 percent on a percentage basis in line with the percent of work completed. Construction contingency funds will not be disbursed unless change orders have been approved by KHC. KHC will retain 10 percent of the total of all KHC funds until final inspection is complete and all final documents are received and approved.

## Construction Draw Policies

1. KHC will only disburse funds via an Electronic Funds Transfer (EFT) to the account identified on the EFT authorization form submitted during the pre-closing stage.
2. Owners must submit all draw requests electronically on a fully executed and completed [Program Funding Draw Request](#). Owners must certify that all funds will be disbursed within five business days of receipt. The architect (if applicable) must certify that all work, labor, and materials are satisfactory and in accordance with approved plans and specifications.
3. Projects that contain commercial space must submit a separate itemization with any draw request containing commercial space costs. **No KHC resources may be used for reimbursement of commercial space costs.**
4. Each project is limited to one draw request per month.
5. All HOME and/or NHTF projects must submit a draw request for HOME/NHTF funds at a **minimum of once every 12 months**, otherwise the project will be deemed inactive by HUD.
6. A [pre-construction conference](#) must be held prior to the start of any construction activities.
7. KHC construction specialists must approve all construction draw requests. After the draw is submitted, the construction specialist will review all hard costs and may revise amounts based on current inspections. KHC program staff will review all requests for soft costs.
8. Owners must submit the following documentation electronically for each draw request:
  - ✓ KHC [Program Funding Draw Request](#) completed online.
  - ✓ Updated Title Endorsement to Title Policy **for each KHC funding source for which a draw request is submitted**, no more than 30 days old, reflecting the actual amount of the proposed disbursement and the total amount disbursed to date.
  - ✓ Builder's or Contractor's Affidavit of lien waiver (must be submitted with every draw for all major component contractors).
  - ✓ AIA form G-702 and G-703 (if using an architect), or KHC Payment Request Form.
  - ✓ Copies of invoices, receipts, etc., for payment of soft costs (and hard costs if an architect is not involved).

The title endorsement and all updates must include the following language:

*"A disbursement of **\$XX** (amount of current draw) was made under the Insured Mortgage. The title search was duly continued down to **DATE** at **TIME** (should be the same date the draw was submitted) and all encumbrances disclosed by the search were disposed of, except (note any exceptions on Schedule B). Liability under the policy is now increased to **\$XX** (total drawn under the loan), the total amount disbursed to date under the Insured Mortgage."*

**The title endorsement must reference the policy number and the names of the borrower and insured party.**

## Final Draw

Owners may request a final draw after KHC has approved all final completion documentation. The final draw may include construction interest due to KHC, escrows for taxes and insurance, or other amounts due. KHC will not approve the final draw until it has approved the final inspection, project completion reports, and/or final endorsements/modifications to the note.

## Change Orders

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Owners must submit change orders to the approved final plans and specifications to KHC for approval at the time the change is needed. **Change orders submitted after completion of the work to be changed will not be approved, unless prior authorization is given by KHC in writing.** If KHC's inspectors are unable to review the work at the time of the change, or the change order is held and submitted at the end of construction, the change order may not be approved. Change orders must be signed by the construction specialist before submittal to KHC for approval.

**Change orders that include costs for commercial space must provide a separate itemization of change order costs for the commercial space, or a percentage of the cost attributed to the commercial space for items shared by both residential and commercial areas (e.g., roof).**

KHC will not approve draws requesting contingency funds until it has approved the change order. **Unless previously approved, change orders are processed as a draw against the budgeted contingency funds. The balance of any unused contingency funds will be deducted from the final retainage budget and the applicable loan modifications will be prepared.**

## CHAPTER 14: Basic Terms

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**Affiliate:** Any entity that directly or indirectly controls another entity or has a controlling front door interest in the entity.

**Affordability period:** The required period of time the development must continue to remain affordable to the target population.

**Bridge loan:** A short-term loan used to finance an enterprise, investment, or government, pending the receipt of other funds.

**Chronically Homeless Person:** An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more **or** has had at least four episodes of homelessness in the past three years. A disabling condition is defined as "a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions." In defining the chronically homeless, the term "homeless" means "a person sleeping in a place not meant for human habitation (e.g., living on the streets) or in an emergency homeless shelter."

**Community Room:** This is a designated common area specifically for the tenants only. It is separate from other areas such as the office and laundry facility.

**Community Service Facility (CSF):** A space available to the public (including non-tenants) usable for purposes including, but not limited to, child daycare, senior programs, and job training. They are defined as facilities that are designed to primarily serve low-income households (60 percent or less of area median income). **The CSF must be located in a Qualified Census Tract (QCT).**

**Conflict of Interest:** A conflict between the private interests and the official responsibilities of a person in a position of trust.

**Contiguous Sites:** Sites adjacent, bordering, or adjoining each other.

**Construction contingency:** Funds set aside for unanticipated construction expenses or cost over-runs normally calculated as a percentage of total hard cost.

**Controlling Interest:** The possession, directly or indirectly, of and the power to direct or cause the direction of the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise.

**Cost Containment guidelines:** Cost guidelines limiting the amount of total dollars per unit allowed in the development.

**Debt Coverage Ratio (DCR):** Net operating income divided by total debt service (loan payment).

**Debt service:** The payment of principal, interest, and Mortgage Insurance Premium (when applicable) to repay the loan.

**Deed restriction:** A limitation that passes with the real property, regardless of the owner. Usually limits the real estate's type of use or intensity of use. See also: [Restrictive Covenant](#).

**Developer fee:** Fee received by the developer for coordinating and developing the project, including any fees paid for consulting services or any other fees resembling consultant or developer fees.

**Elderly Project:** There are two ways to qualify as an elderly project: All units are occupied solely by persons 62 years of age or older (100 percent elderly) or 80 percent of the units are occupied by at least one person who is 55 years of age or older.

**Homeless:** A person sleeping in a place not meant for human habitation or in an emergency shelter or a person in transitional housing.

**Identity of Interest:** A financial, familial, or business relationship that permits less than arm's length transactions. This includes but is not limited to: the existence of a reimbursement program or exchange of funds; common financial interests; common officers, directors, or stockholders; or family relationships between officers, directors, or stockholders.

**Leverage:** The degree to which an investor or business is utilizing borrowed money.

**Loan-to-value ratio:** The ratio of a mortgage loan and the value of the security pledged; usually expressed as a percentage.

**Maximum mortgage amount:** The maximum principal amount to be loaned under the applicable programs.

**Maximum subsidy/allocation:** The maximum amount of funding allowed on a per-unit basis.

**Mentally Disabled:** Having either a psychiatric disorder (e.g., psychosis, neurosis, personality, or behavior disorder), a development disorder (e.g., mental retardation), or a neurological disorder that affects cognitive or emotional functions to the extent that capacity for judgment is significantly diminished.

**Mortgage Insurance Premium:** The insurance required to be paid annually for developments utilizing HUD insurance.

**Operating Deficit Reserve Account (Rent-Up Reserve):** Funds set aside in a reserve account to cover operating deficits until the project reaches sustaining occupancy. KHC calculates this reserve during the underwriting stage and must be, at a minimum, sufficient to cover six months of operating expenses and debt service. Refer to KHC's ODR policy in [Chapter 11](#) of this manual.

**Operating expenses:** Both fixed and variable expenses incurred in the day-to-day operation of the project.

**Other funding sources:** Any funding source, not provided by KHC, being used to fund the project.

**Physically Disabled:** Having a physical condition that adversely affects the day-to-day motor functioning, such as cerebral palsy, spina bifida, multiple sclerosis, orthopedic impairments, and other physical disabilities.

**Preservation:** (Minor rehabilitation is NOT included.) Maintaining existing units or the integrity of the original existing unit, as closely as possible. Can include the relocation of certain walls or major components, such as plumbing or electrical systems. However, the existing shell of the building must be maintained. This can include the reduction of units to update or modernize to meet current market needs.

**Pro forma:** A spreadsheet projecting income and expenses (including reserve for replacement) of the development, as well as debt service, debt coverage ratio, and cash flow for each year.

**Project Completion:** All construction is completed, all close out documents have been submitted, final closing has occurred (if applicable), and all funds have been expended and disbursed.

**Reserve for Replacement:** An allowance that provides for the periodic replacement of deteriorating building components that must be replaced during the building's economic life. Funds are set aside in a reserve account.

**Restrictive Covenant:** A private agreement that restricts the use and occupancy of real estate, is part of a conveyance, and is binding on all subsequent purchasers; may involve control of lot size, setback, placement of buildings, architecture, cost of improvements, or use.

**Soft costs:** Service costs and fees that are incurred when developing a project.

**Single Room Occupancy (SRO):** The unit must contain a bedroom and a full bath or an efficiency kitchen (sink, refrigerator, microwave).

**Stabilized occupancy:** The point-in-time when the gross income is sufficient to cover the operating expenses. Net income is \$0 or greater.

**Subsidy Layering Review:** A review required when a development combines Housing Credits with other governmental assistance, including the HOME and NHTF programs.

**Term of loan:** The period of time allowed for repayment of the loan amount and any accruing interest.

**Total Hard Construction Costs:** Total cost to construct the building and other improvements.

**Vacancy Rate:** The percentage of total units that are not occupied.

**COMMONWEALTH OF KENTUCKY**

**2019**

**ANALYSIS OF IMPEDIMENTS TO FAIR  
HOUSING CHOICE**

April 2020

Kentucky Housing Corporation  
Department for Local Government

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# 1. Executive Summary

## Introduction

Kentucky Housing Corporation (KHC) and the Kentucky Department for Local Government (DLG) have collaborated on the development of the Analysis of Impediments to Fair Housing Choice (AI). The AI includes a review of demographic and housing data, an assessment of the progress achieved since the previous AI, analysis of public and private sector policies and programs that impact housing decisions across the Commonwealth, a listing of impediments that restrict fair housing choice for Kentuckians, and a series of recommended actions to remove the identified impediments.

The Housing and Community Development Act of 1974 requires that any state receiving HUD funds affirmatively further fair housing. Entities receiving HUD entitlement funds are required to:

- Examine and attempt to alleviate housing discrimination within their jurisdiction
- Promote fair housing choice for all persons
- Provide opportunities for all persons to reside in any given housing development, regardless of race, color, religion, gender, disability, familial status, or national origin
- Promote housing that is accessible to and usable by persons with disabilities, and
- Comply with the non-discrimination requirements of the Fair Housing Act.

These requirements can be achieved through the preparation of an AI. An AI is a review of a jurisdiction's laws, regulations, and administrative policies, procedures, and practices affecting the location, availability, and accessibility of housing. It is also an assessment of conditions, both public and private, affecting fair housing choice.

An impediment to fair housing choice is defined as any action, omission, or decision that restricts or has the effect of restricting the availability of housing choices to members of the protected classes. The federal Fair Housing Act prohibits discrimination in housing based on race, color, religion, sex, national origin, familial status and disability. These are referred to as protected classes because they are groups of individuals protected by fair housing law. The Kentucky Fair Housing Act includes these same seven protected classes.

This AI serves as the basis for fair housing planning; provides essential information to policy makers, administrative staff, housing providers, lenders, and fair housing advocates; and assists in building public support for fair housing efforts. The State is expected to review and approve the AI and use it for direction, leadership, and resources for future fair housing planning. The AI will serve as a point-in-time baseline against which future progress in implementing fair housing initiatives will be evaluated and recorded.

## Fair Housing Action Plan

The Fair Housing Action Plan includes recommended actions for KHC and DLG separate from several actions recommended for the Commonwealth of Kentucky as a whole. The reason for this categorization is that KHC and DLG, within their own agencies' missions, have many worthwhile programs and initiatives that affirmatively further fair housing, and these must be continued in addition to several new actions recommended. The actions recommended for the Commonwealth reflect instances where a higher level of collaboration among a larger number of State agencies would be necessary for impactful change to occur. While the parties intend to fulfill the efforts below, they recognize that addressing certain impediments require the resources and efforts of parties beyond KHC and DLG's scope of control.

## Recommendations for Actions by KHC

The following recommendations are specific to KHC and its policies and programs.

- Fair Housing Education and Outreach
  - Continue to financially and administratively support bilingual housing counseling and education efforts.
  - Continue to promote and market the "Simply Home" exhibit to municipalities and institutions across Kentucky as a vehicle for fair housing education and outreach.
  - Continue to collaborate with the Kentucky Commission on Human Rights and Lexington Fair Housing Council, Inc. to expand education and outreach efforts and to identify gaps in need of additional efforts.
  - Continue the marketing, outreach and engagement activities with multicultural populations across Kentucky via the Multicultural Customer Service and Outreach Coordinator.
- Expansion and Preservation of Affordable Housing in a Variety of Locations

- Continue to allocate LIHTC funding to projects that prioritize higher opportunity areas and avoid concentrations of affordable housing.
- Continue the Down Payment Closing Cost Assistance Program and the Homebuyer Loan Program for income-eligible homebuyers. Evaluate a preference for low- and moderate homeowners in neighborhoods at risk for displacement due to gentrification.
- Continue the Homeowner Rehab Program and the Weatherization Assistance Program to preserve the existing affordable housing inventory and lower homeowner costs. Evaluate a preference for low- and moderate-income homeowners in neighborhoods at risk for displacement due to gentrification.
- Continue to advocate for affordable housing resources among local, State and Congressional delegations.
- Continue the Tenant-based and Project-based Rental Assistance Programs to ensure affordable rental assistance for protected classes across the Commonwealth, including assistance to individuals with disabilities and/or recovering from substance abuse.
- Continue to seek Continuum of Care funding for rapid-rehousing and permanent supportive housing developments that provide affordable housing options and related services for protected classes.
- Evaluate tools and methods to connect people to housing, such as housing service locator tools.
- Enforcement of Design and Construction Requirements
  - Expand the *Certification of Compliance with Design Requirements for Accessible Housing* to require that general contractors involved in the design and construction of new multifamily residential properties sign the certification form, in addition to owners/developers and architects.
  - Continue allocation of funding to projects that include accessibility design features such as aging-in-place, Universal Design, ADA and UFAS construction standards.
- Ensure Access to Programs and Services for LEP Populations
  - Annually update the Language Access Plan to reflect a review of any demographic changes statewide and for each county, and the results of monitoring for the effectiveness of the plan's implementation.

- Evaluate collecting preferred language data at time of single family loan origination to provide improved loan servicing to LEP populations.

## Recommendations for Actions by DLG

The following recommendations are specific to DLG and its policies and programs.

- Fair Housing Education and Outreach
  - Continue to collaborate with the Kentucky Commission on Human Rights and Lexington Fair Housing Council, Inc. to expand education and outreach efforts.
- Expansion and Preservation of Affordable Housing in a Variety of Locations
  - Continue to fund eligible applications for housing rehabilitation to preserve the existing affordable housing inventory in Kentucky's smaller communities.
  - Continue to fund eligible applications for public infrastructure and public facility projects to improve the quality of life for low- and moderate-income households in Kentucky's smaller communities.
  - Continue to advocate for affordable housing resources among local, State and Congressional delegations.
  - Continue to fund eligible applications for local economic development projects to improve economic mobility and the quality of life for low- and moderate-income households in Kentucky's smaller communities.
- Ensure Access to Programs and Services for LEP Populations
  - Annually update the Language Access Plan to reflect a review of any demographic shifts statewide and for each county, and the results of monitoring for the effectiveness of the plan's implementation.
- Ensure Subrecipient Units of Government Comply with their Obligation to Affirmatively Further Fair Housing
  - Continue the fair housing compliance and monitoring initiatives as part of the CDBG Program.
  - Adopt a policy to consider denying or withholding funding from applicants that have engaged in discriminatory behavior. For example, if a local unit of government has a pending public infrastructure funding application with DLG but has recently denied the

approval of an affordable housing project based on discrimination of the potential tenants, then DLG should consider denying or withholding approval of the pending application until the discriminatory matter is resolved. Although the pending application may not involve or be related to the proposed affordable housing project, DLG has a legal obligation to affirmatively further fair housing by not investing federal funds such as CDBG resources in a community that engages in discriminatory behavior such as denying an affordable housing project for members of the protected classes for reasons that are not related to objective land use and development standards.

### Recommendations for Actions by Kentucky

KHC and DLG are recipients of HUD funding that is administered throughout Kentucky; however, other State agencies also have a role in Kentucky's efforts to affirmatively further fair housing. To ensure that there is a concerted level across State agencies, the following recommendations are made.

- Collaborate with other State agencies and community partners to affirmatively further fair housing
  - Seek opportunities to align policies and funding to expand affordable housing opportunities and explore avenues for practical fair housing solutions between various State agencies and community partners.
- Engage with stakeholders to explore possible legislative solutions to impediments to fair housing
  - Review State regulations regarding compliance with federal fair housing laws and regulations.
  - Continue to support efforts to expand the list of protected classes in the Kentucky Fair Housing Act.

### Recommendations for Actions by Municipalities and Counties

Municipalities and counties play a central role in ensuring that Kentuckians have access to housing in a variety of locations. Although the State and its agencies may not be able to require compliance with the recommended actions listed below, they are worthy initiatives that would affirmatively further fair housing through local administrative decisions, planning documents and municipal ordinances.

- Expansion of affordable housing in a variety of locations

- Identify developable land within the municipality for developers of affordable housing
- Participate in regional planning efforts to ensure that there is affordable housing in a variety of locations
- Support funding applications, zoning decisions and other administrative functions to expand the inventory of affordable housing options for protected classes
- Fair Housing Education and Outreach
  - Engage the Kentucky Commission on Human Rights and/or Lexington Fair Housing Council, Inc. to provide fair housing education and outreach at the local or regional level with topics appropriate for residents, landlords, appointed boards and commissions, elected officials, real estate professionals, architects, etc.

## 2. Introduction

### Background

Equal and unimpeded access to residential housing is a fundamental civil right that enables members of protected classes, as defined in the federal Fair Housing Act, to pursue personal, educational, employment, or other goals. Because housing choice is so critical to personal development, fair housing is a goal that government, public officials, and private citizens must embrace if social equity is to become a reality.

The federal Fair Housing Act prohibits discrimination in housing based on a person's race, color, religion, gender, disability, familial status, or national origin. In addition, the U.S. Department of Housing and Urban Development (HUD) issued a Final Rule on February 3, 2012 that prohibits entitlement communities, public housing authorities, and other recipients of federal housing resources from discriminating on the basis of actual or perceived sexual orientation, gender identity, or marital status. Persons who are protected from discrimination by fair housing laws are referred to as members of the protected classes.

HUD awards funds from the Community Development Block Grant (CDBG), HOME Investment Partnership, Housing Opportunities for Persons with AIDS (HOPWA), and Emergency Solutions Grant (ESG) programs directly to eligible municipalities of a certain size. Administration of these programs for places other than these large entitlement communities is given to the state, since states are in the best position to know, and to respond to, the needs of local governments.

As administrators of HUD funding, Kentucky Housing Corporation and the Department for Local Government have specific fair housing planning responsibilities including:

- conducting an Analysis of Impediments to Fair Housing Choice;
- developing actions to overcome the effects of identified impediments to fair housing; and
- maintaining records to support initiatives to affirmatively further fair housing.

HUD interprets these three certifying elements to include:

- analyzing housing discrimination in a jurisdiction and working toward its elimination;
- promoting fair housing choice for all people;
- providing racially and ethnically inclusive patterns of housing occupancy;
- promoting housing that is physically accessible to and usable by all people, particularly individuals with disabilities; and
- fostering compliance with the nondiscrimination provisions of the Fair Housing Act.

Since the State allocates HUD funding to subrecipients and does not undertake community development projects itself, its available direct actions for furthering fair housing choice are limited. The State must fulfill its responsibilities through incentivizing desired outcomes and discouraging or disallowing inappropriate activities. It cannot mandate that communities or developers submit certain projects for funding.

### Purpose of the Analysis of Impediments

The Housing and Community Development Act of 1974 requires that any community receiving HUD funds affirmatively further fair housing. Communities receiving HUD entitlement funds are required to:

- examine and attempt to alleviate housing discrimination within their jurisdiction;
- promote fair housing choice for all persons;
- provide opportunities for all persons to reside in any given housing development, regardless of race, color, religion, gender, disability, familial status, or national origin;
- promote housing that is accessible to and usable by persons with disabilities; and
- comply with the non-discrimination requirements of the Fair Housing Act.

These requirements can be achieved through the preparation of an Analysis of Impediments to Fair Housing Choice (AI).

An AI is a review of a jurisdiction's laws, regulations, and administrative policies, procedures, and practices affecting the location, availability, and accessibility of housing. It is also an assessment of conditions, both public and private, affecting fair housing choice.

This AI will:

- evaluate population, household, income, and housing characteristics by protected classes;
- evaluate public and private sector policies that impact fair housing choice;
- identify blatant or de facto impediments to fair housing choice where any may exist; and
- recommend specific strategies to overcome the effects of any identified impediments.

An impediment to fair housing choice is defined as any action, omission, or decision that restricts or has the effect of restricting the availability of housing choices to members of the protected classes.

This AI serves as the basis for fair housing planning; provides essential information to policy makers, administrative staff, housing providers, lenders, and fair housing advocates; and assists in building public support for fair housing efforts. The State is expected to review and approve the AI and use it for direction, leadership, and resources for future fair housing planning. The AI will serve as a point-in-time baseline against which future progress in implementing fair housing initiatives will be evaluated and recorded.

## The Relationship between Fair Housing and Affordable Housing

To the extent that members of the protected classes tend to have lower incomes, then access to fair housing is related to affordable housing. In many areas across the U.S., a primary impediment to fair housing is a relative absence of affordable housing. Often, the public policies implemented in towns and cities can contribute to the lack of affordable housing in these communities, thereby disproportionately affecting housing choice for members of the protected classes.

## The Federal Fair Housing Act

The Federal Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

In the sale and rental of housing, no one may take any of the following actions based on race, color, religion, gender, disability, familial status, or national origin:

- refuse to rent or sell housing;
- refuse to negotiate for housing;
- make housing unavailable;
- deny a dwelling;
- set different terms, conditions, or privileges for the sale or rental of a dwelling;
- provide different housing services or facilities;
- falsely deny that housing is available for inspection, sale, or rental;
- persuade owners to sell or rent at a loss (“blockbusting”); and/or
- deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

In mortgage lending, no one may take any of the following actions based on race, color, religion, gender, disability, familial status, or national origin:

- refuse to make a mortgage loan;
- refuse to provide information regarding loans;
- impose different terms or conditions on a loan, such as different interest rates, points, or fees;
- discriminate in appraising property;
- refuse to purchase a loan; and/or
- set different terms or conditions for purchasing a loan.

The Fair Housing Act also includes other prohibitions. It is illegal for anyone to:

- Threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right.
- Advertise or make any statement that indicates a limitation or preference based on race, color, religion, gender, disability, familial status, or national origin. This prohibition against discriminatory advertising applies to single family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Additional protections for persons with disabilities are provided. If someone has a disability (including but not limited to: hearing; mobility and visual impairments; chronic alcoholism; chronic mental illness; HIV/AIDS, AIDS-related complex; and intellectual disability) that substantially limits one or more major life activities, has a record of such a disability, or is regarded as having such a disability, a landlord may not:

- Refuse to let the person with a disability make reasonable modifications to a dwelling or common use areas at the person's expense, if necessary for the person to use the housing. Where reasonable, the landlord may permit changes only if the person agrees to restore the property to its original condition when that person moves.
- Refuse to make reasonable accommodations in rules, policies, practices, or services if necessary for the person with a disability to use the housing.

Housing opportunities for families with children are protected. Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under the age 18 live with a parent, a legal custodian, or a designee of the parent or legal custodian with written permission. Familial status protection also applies to pregnant women and anyone securing legal custody of a child under age 18.

Housing for older persons is exempt from the prohibition against familial status discrimination if:

- the HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a federal, state, or local government program;
- it is occupied solely by persons who are 62 or older; or
- it houses at least one person who is 55 or older in at least 80% of the occupied units and adheres to a policy that demonstrates the intent to house persons who are 55 or older, as previously described.

## Recent Changes to HUD Program Regulations

On March 5, 2012, HUD implemented policies to ensure that its core programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. In response to evidence suggesting that lesbian, gay, bisexual, and transgender individuals and families were being arbitrarily excluded from housing opportunities in the private sector, HUD's aim was to ensure that its own

programs do not allow for discrimination against any eligible person or household, and that HUD's own programs serve as models for equal housing opportunity.

This change to HUD program regulations does not amend the Fair Housing Act to prohibit all discrimination in the private market on the basis of sexual orientation, gender identity, or marital status. However, it prohibits discrimination of those types by any housing provider who receives HUD funding, including public housing agencies, those who are insured by the Federal Housing Administration (including lenders), and those who participate in federal entitlement grant programs through HUD.

### Methodology used for the AI

A comprehensive approach was used to complete the Analysis of Impediments to Fair Housing Choice for the Commonwealth of Kentucky. The following sources were utilized:

- the most recently available demographic data regarding population, household, housing, income, and employment at the census tract and municipal level;
- public policies affecting the siting and development of housing;
- administrative policies concerning housing and community development;
- financial lending institution data from the Home Mortgage Disclosure Act (HMDA) database;
- agencies that provide housing and housing related services to members of the protected classes;
- fair housing complaints filed with HUD and the Kentucky Human Rights Commission; and
- interviews and workshop sessions conducted with agencies and organizations that provide housing and housing related services to members of the protected classes.

### Use and Presentation of Data

The data used for the tables and maps in the AI covers the entire Commonwealth and are presented as collective statewide conditions at the county level. There are nine cities in Kentucky that receive funding directly from HUD, however, and are responsible for completing and submitting their own AIs. These cities (Ashland, Bowling Green, Covington, Elizabethtown, Henderson, Hopkinsville, Lexington, Louisville, Owensboro) are included in the AI because of their importance in driving regional trends

across Kentucky. They are also included because KHC invests several of its housing resources (HOME, LIHTC, HTF, etc.) in these cities.

To ensure that the AI is as current as possible, most of the census data used in this report is American Community Survey (ACS) sample data rather than 2010 Census data. To make the best of sample-based ACS data and reduce sampling error, data compiled at five-year increments between 2013 and 2017 were used. Census 2010 Summary File 1 data were used as the most recent data source when 2013-2017 ACS data were unavailable. Census tracts were used as the smallest unit of geographic analysis, aggregated up to the county in some cases, and form the basis of most maps.

## Public Engagement

An extensive Outreach Plan was carried out jointly for the Commonwealth's Analysis of Impediments to Fair Housing Choice, the Consolidated Plan and the Annual Action Plan. Across all outreach initiatives, the most frequently cited needs include the following:

- Affordable housing
  - Adequate funding at federal and state levels to develop more affordable housing and provide more rental assistance
  - Adequate supply of affordable housing to meet the demand in urban and rural areas
  - Support for affordable housing from local, regional and state officials
  - Affordable housing accessible to people with disabilities
- Fair housing
  - Support from local officials for all types of affordable housing, including emergency housing and permanent housing
  - Education for landlords
  - Education for tenants on rights and responsibilities
  - Education for the public
  - Fair housing enforcement
- Community development

- Affordable transportation, including public transit with frequent service and service for second and third shift workers
- Workforce development
- Other supportive services to keep individuals and families housed—substance abuse treatment, case management, childcare

Details of the outreach materials are included in Appendix.

### 3. Progress Achieved since the 2015 AI

Kentucky's last Analysis of Impediments was completed in 2014 and identified a total of 49 impediments to fair housing choice across 23 categories. Each impediment and associated recommendation(s) from the 2014 AI are listed below, along with a brief summary of the progress the Commonwealth has made. Progress achieved since the 2014 AI was provided by KHC and DLG.

2014 Impediment	Progress Achieved since 2014
<p><b>1. CREDIT</b></p> <p>a. Emphasis on credit scores has an adverse and disproportionately negative impact upon minorities and protected classes.</p> <p>b. Credit scores are inflexible and fail to reflect the full economic reality of each individual. For example, penalties for failure to pay rent but no credit enhancements for making rent payments.</p> <p>c. Increased reliance and importance of credit scores will continue to disproportionately impact minorities and protected classes and exclude them from both rental and purchased home options.</p>	<p>Generally speaking, KHC does not have authority over credit scores in any aspect; however, to the extent that KHC can support housing counseling and education efforts, the following initiatives were undertaken.</p> <p>a. KHC supports housing counseling and education efforts across the Commonwealth by providing grants to a network of non-profit agencies. In the past 5 years, KHC has applied for and acted as intermediary for HUD's Comprehensive Counseling Grants, receiving a total of \$1,417,914 in support of housing education and counseling. Additionally, KHC has sub-granted \$410,000 of its Housing Assistance Funds in the past 5 years for the same purpose. Certain counseling and education outreach efforts are performed in foreign languages to reach non-English speaking populations. The counseling and education efforts can include ways to improve credit scores. See Appendix B for attached lists detailing events, attendees, and additional information, and a sampling of event flyers, agendas/speakers, and sign-in sheets for such events.</p> <p>b. Credit scores, in terms of how they are generated, interpreted by reviewers and used by landlords, are not under the authority of KHC.</p> <p>c. Credit scores, in terms of how they are generated, interpreted by reviewers and used by landlords, are not under the authority of KHC.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>2. APPRAISALS</b></p> <p>a. Changes in the appraisal process, including outsourcing of the services, have contributed to increased devaluation of minority neighborhoods.</p>	<p>Though KHC and DLG cannot directly impact the appraisal process, KHC has offered down payment assistance, homeownership counseling, and educational materials that assist minority populations. An outcome of these efforts can be to stabilize neighborhoods and improve property values. Additionally, KHC’s single-family homebuyer development program, in an effort to sustain and increase home equity in Kentucky communities, requires that assisted homes be sold at appraised value, with homebuyer subsidy filling the gap between sales price and buyer borrowing capacity. This policy works to increase comparable home sales that can sustain or increase home values in some disinvested neighborhoods.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>3. LENDING</b></p> <p>a. The problem of sub-prime lending has been replaced by the fact that many minority and protected classes are excluded from being eligible for any home mortgage lending.</p> <p>b. When any loans still remain a possibility, minorities are excluded or steered away from the best lending terms.</p>	<p>a. KHC’s housing counseling and education efforts strive to educate the community, including minorities, on lending terms, their rights, and financial management, among other things. See Appendix B for attached lists detailing events, attendees, and additional information, and a sampling of event flyers, agendas/speakers, and sign-in sheets for such events.</p> <p>b. KHC’s housing counseling and education efforts strive to educate the community, including minorities, on lending terms, their rights, and financial management, among other things. See Appendix B for attached lists detailing events, attendees, and additional information, and a sampling of event flyers, agendas/speakers, and sign-in sheets for such events.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>4. PREDATORY PRACTICES</b></p> <p>Fast cash for home programs often leaves the home borrower still owing on a mortgage, after the house has already been sold.</p>	<p>This recommendation is beyond the authority of KHC to remedy within the confines of its programs and services. However, the topic of predatory lending is covered in its counseling and education initiatives. In addition to KHC’s counseling and education efforts, KHC’s loan servicing team works with clients to discuss options, such as loss mitigation, in the event of loan defaults in order to avoid foreclosure procedures. Additionally, KHC offers programs that relieve financial strains for homeowners, including down payment assistance, weatherization and home repair programs.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>5. ENVIRONMENTAL</b></p> <p>a. Building codes do not currently take into account internal chemical hazards and risks faced by occupants.</p> <p>b. Housing often ends up being placed in environmentally hazardous areas, particularly where minorities and other protected classes are concerned.</p>	<p>a./b. KHC’s Multifamily department requires that a Phase I Environmental Site Assessment be provided for all new construction projects consisting of more than four units and requesting HOME, NHTF, Risk-sharing and/ or Project-Based Section 8 as any portion of funding. The environmental site assessment evaluates whether a parcel of land or real estate potentially has the presence of any hazardous substances or petroleum products. KHC also requires a Lead-Based Paint Inspection and Assessment and/ or proof of abatement on any property constructed prior to 1978. If an inspection and assessment is completed and lead-based paint is detected, then the developer is required to abate the lead-based paint and provide proof of the completed abatement as part of the normal due diligence documentation.</p> <p>KHC has also re-introduced low VOC (Volatile Organic Compound) paint requirements into the 2020 revision of its Minimum Design Standards.</p> <p>Additionally, if KHC’s excavation and footing inspections reveal environmental/hazardous substance issues, KHC mandates all issues be resolved before proceeding.</p> <p>DLG will not rehab or construct housing in environmentally hazardous areas. All CDBG projects must have environmental clearance before funding. DLG must follow all Lead-based regulation before rehabilitation of housing units.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>6. ZONING</b></p> <p>a. Particularly in urban areas, zoning has resulted in separating residential development according to class or economic status and has perpetrated segregation by race and class.</p>	<p>Zoning authority is under the authority of local jurisdictions in Kentucky.</p> <p>In addition to the efforts discussed in LIHTC Projects section below (#8), KHC curated a “Simply Home” exhibit to showcase the faces of affordable housing and how affordable housing creates good neighbors. Organizations serving partner and public audiences may request this exhibit for showings in an accessible place by the public. Civic organizations, libraries, museums, and other places that can accommodate the floor space for the 24-foot by 34-foot exhibit and consider the 4-foot accessibility for compliance with ADA are great showcases for the exhibit. KHC staff will deliver and set up the exhibit onsite, free of charge, as a service to the Commonwealth. This educational effort serves in part to reduce resistance to affordable housing.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>7. INSURANCE</b></p> <p>a. Insurance rates continue to remain high, with no reduction in the rates even after potential homeowners complete homeownership counseling or other programs, such as Habitat for Humanity.</p>	<p>This recommendation is beyond the authority of KHC to remedy within the confines of its programs and services. Although KHC cannot address this issue directly, KHC offers programs that relieve financial strains for homeowners, including down payment assistance, weatherization and home repair programs. KHC also allows borrowers to review their mortgage escrow account with the possibility of making affordable adjustments if needed.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>8. TAX CREDIT PROJECTS</b></p> <p>a. Tax credit projects have historically not been administered through a fair housing lens, although steps recently taken by KHC have begun to rectify this problem.</p>	<p>KHC’s Multifamily department requires all applicants requesting federal funding, including Low Income Housing Tax Credits, to submit an Affirmative Fair Housing Marketing Plan (properties with five or more units), Fair Housing Plan, Title VI Self-Survey and Statement of Assurance, and a Section 504 Self-Evaluation. All Multifamily applicants requesting any type of KHC funding must provide a Tenant Selection Plan and a sample of their Tenant Lease.</p> <p>As a way to help deconcentrate areas of low-income housing, KHC, through its competitive application scoring process, incentivizes new construction of multifamily properties that are located in areas with strong performing schools and areas of greatest job growth.</p> <p>There is also scoring preference for properties located in areas with a poverty rate of at least 1% below the state average. Properties located in a QCT are only given a scoring preference if the property is located in a defined target area for which the local jurisdiction has formally adopted a plan for revitalization, community development and/or economic development. In 2019, KHC approved eight projects in QCTs. Additionally, one project was approved in an area with strong schools.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>9. FORECLOSURES</b></p> <p>a. Maintenance on foreclosed properties often varies depending on whether a property is in a poor minority area or a wealthier predominantly white area.</p>	<p>For servicing and preservation, KHC does not differentiate among property locations, whether a property is in a poor minority area or a wealthier predominantly white area. Preservation is driven by insurer guidelines and often local municipal ordinances regarding blighted properties. Additionally, KHC maintains foreclosed properties to minimize potential negative impact of a vacant property in area neighborhoods and communities.</p> <p>Although, previous lack of preservation by other servicers in Kentucky may have been practiced, preservation improvements have been made through the proactive steps being taken within the local communities through development and implementation of property vacancy guidelines including vacant property registrations, maintenance ordinances, and judgment liens/fines being assessed.</p> <p>DLG does not provide foreclosure counseling on CDBG-financed housing.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>10. MISCELLANEOUS</b></p> <p>a. While discriminatory provisions and restrictions in deeds are now legally invalid in that they cannot be enforced, the language still remains in hundreds or thousands of deeds, sending an unwelcoming message to those groups targeted by that language.</p> <p>b. The current land bank system is somewhat ineffective and rather archaic.</p> <p>c. Utilities are part of housing costs, but LIHEAP gives increased funding to rural areas over urban areas.</p>	<p>a. This recommendation is beyond the authority of KHC to remedy within the confines of its programs and services.</p> <p>b. This recommendation is beyond the authority of KHC to remedy within the confines of its programs and services.</p> <p>c. This recommendation is beyond the authority of KHC to remedy within the confines of its programs and services.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>11. INADEQUATE STATE AND LOCAL LAWS</b></p> <p>a. The Kentucky Fair Housing Act is not sufficiently broad and leaves out LGBT, elderly, and those receiving government benefits as protected classes.</p> <p>b. Uniform Residential Landlord Tenant Act (URLTA) is of limited impact, as it is in effect in only a few communities.</p> <p>c. Immigrants feel both unwelcome and at risk of having their homes taken away by virtue of the escheat provisions of Kentucky law under KRS 381.300.</p> <p>d. Legislative involvement or interest in affordable housing has diminished in the past 40 years.</p>	<p>a. KHC will continue to support efforts to expand the protected classes at the state level.</p> <p>b. KHC’s Multifamily Program Guidelines require that developers who receive funding or housing credits adhere to the requirements of URLTA.</p> <p>c. See Appendix B for attached lists detailing events, attendees, and additional information, and a sampling of event flyers, agendas/speakers, and sign-in sheets for such events.</p> <p>d. In fiscal year 2018, KHC staff and Board of Director members met, in person, with all members of our federal delegation at least once and have met with most members over five times. Kentucky’s effort was built around a series of visits to Congressional offices on Capitol Hill on three separate occasions. In June of 2017, KHC’s new executive director and general counsel, along with a key Board member of KHC, visited congressional offices in Washington, D.C. During this visit, KHC officials discussed the importance of maintaining HUD’s HOME Investment Partnerships Program and expanding and strengthening the Low Income Housing Tax Credit (LIHTC) program. They also discussed concerns with HUD’s Project-Based Contract administering rental assistance vouchers. This messaging focused specifically on the impact of losing the PBCA contract on critical programs offered in Kentucky. This visit included meetings with Senators Mitch McConnell and Rand Paul, Congressmen Hal Rogers, Brett Guthrie, John Yarmuth, Andy Barr, and the staff of Congressman James Comer.</p> <p>Later in the year KHC’s executive director again traveled to Washington, D.C., for meetings with legislators during the mark-up of tax reform legislation. This was a critical time to be on Capitol Hill, as the House version of the tax reform bill eliminated private activity bonds for housing, thereby eliminating the 4 percent LIHTC. KHC engaged NCSHA during these visits as a national partner and to offer perspective from other states. This visit included meetings with Congressmen Andy Barr, Brett</p>

Guthrie, Thomas Massie, the staff of Senators Mitch McConnell and Rand Paul, and the staff of Congressmen Hal Rogers and John Yarmuth.

KHC staff also took advantage of the opportunity afforded by NCSHA's Legislative Conference. Activities during this time included direct meetings with several Kentucky legislators, including Senators Mitch McConnell and Rand Paul, Congressmen Brett Guthrie, Andy Barr, and John Yarmuth. In addition, KHC staff conducted personal meetings with Senator Joe Manchin of West Virginia and Representative Trey Hollingsworth of Indiana.

The meetings listed above are in addition to several meetings with legislators at home in Kentucky.

In August 2018, KHC's Executive Director testified before the House Subcommittee on Housing and Insurance regarding the importance of housing in addressing the opioid crisis at a field hearing in Lexington, KY.

In March 2019, a board member and KHC Executive Director met with the following legislators while attending the 2019 NCSHA Legislative Conference in Washington: Senator Joe Manchin, West Virginia; Senator Todd Young, Indiana; Congressman Trey Hollingsworth, Indiana; Senator Rand Paul, Kentucky; Congressman Brett Guthrie, Kentucky; Senator Rand Paul, Kentucky; and Congressman John Yarmuth, Kentucky. KHC's Executive Director also met with Congressman Andy Barr, Kentucky.

2014 Impediment	Progress Achieved since 2014
<p><b>12. CRIMINAL JUSTICE SYSTEM</b></p> <p>a. As the criminal justice system moves to increasing use of diversion, early release, and lighter sentences, the prison population is reentering back into the community at a faster rate, and often re-enters into segregated areas.</p> <p>b. Past criminal convictions limit housing options, are treated differently by different housing jurisdictions, and often result in those with convictions being funneled into certain areas.</p>	<p>a./b. KHC has changed its Section 8 program policy. Instead of a blanket denial for applicants with certain types of criminal records within a 3-year period, KHC now conducts a case-by-case determination for each applicant with a criminal history, factoring in the nature and severity of the conviction as well as any mitigating actions taken by the applicant after conviction. This change is in accordance with the HUD General Counsel memo describing the application of the Fair Housing Act to the use of criminal records. At KHC's annual conference in 2018, representatives from the Lexington Fair Housing Council presented and discussed to the conference attendees regarding criminal history and how it relates to discrimination.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>13. FAIR HOUSING</b></p> <p>a. Housing discrimination complaints are handled by both federal and local Agencies, creating confusion, rigidity, and overlap.</p> <p>b. Fair Housing Reports (known as the Analysis of Impediments, or AIs) have historically been reviewed only ever 5 years and each jurisdiction's AI has tended to be viewed in isolation.</p>	<p>a./b. The manner in which housing discrimination complaints are regulated is under the authority of HUD; however, KHC collaborates with Lexington Fair Housing Council and the Kentucky Commission on Human Rights by engaging these organizations with fair housing questions and referring calls to them, when appropriate.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>14. CONNECTIVITY: TRANSPORTATION AND INTERNET</b></p> <p>a. Housing must be linked to other resources, but with inadequate or no means of transportation in rural areas, rural renters and homeowners are separated from needed resources, such as Employment, healthcare, or in the case of domestic violence victims, forced to continue to live with an abusive spouse or partner.</p> <p>b. Kentucky ranks 40th in residential access to high-speed Internet, which tends to be most highly concentrated in the center, more urban area of the state, known as the Golden Triangle. Even among those with access to high-speed Internet, many do not know how to use it. In today's economy, internet access can prove a substitute for poor or nonexistent roads.</p>	<p>a. KHC, as Collaborative Applicant for the Kentucky Balance of State Continuum of Care, has secured CoC funding for rapid rehousing for survivors of domestic violence, including newly awarded "DV Bonus" projects that will serve the entirety of the Balance of State. KHC also supports domestic violence shelters via Emergency Solutions Grant funding and provides HOME Tenant-Based Rental Assistance funding to shelters to serve victims in need of new housing.</p> <p>b. KHC's Minimum Design Standards mandate that all dwelling units shall have the ability to connect to the internet by telephone connection, cable modem, or a secured wireless connection provided by the property. All dwellings units shall be supplied with signal strength adequate for connection to the internet, and common areas accessible by the residents shall be supplied with signal strength adequate for connection to the internet.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>15. INADEQUATE AFFORDABLE HOUSING STOCK</b></p> <p>a. The overall housing vacancy rate is so low that protected classes are at an increased risk for being rejected.</p>	<p>KHC creates overarching strategies for its fiscal years. A key overarching strategy for KHC has been to provide holistic housing solutions in an effort to provide optimal impact. Through enhanced utilization of data and analytics, KHC hopes to improve policies and decision making to this end.</p> <p>KHC’s mission is to invest in quality housing solutions for families and communities across Kentucky. KHC strives to increase the supply of affordable housing in the Commonwealth by investing in the creation and rehabilitation of affordable multi-family and single-family units. KHC provides tenant and/or project-based rental assistance that increases housing availability for low-income residents in protected classes via the following programs: HCV, HOME, CoC, ESG, HOPWA and the Olmstead Housing Initiative.</p> <p>In program 2016, DLG assisted 56 households with rehabilitation, 3 of which were Black/African American. In PY 2017, of the 138 households assisted, 13 (10%) were Black/African American, 1 was Asian and 8 were Hispanic. In PY 2018, of the 242 households assisted, 34 were Black/African American, 10 were multi-racial and 6 were Hispanic.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>16. MOBILE HOMES</b></p> <p>a. Individuals and families living in mobile home parks are particularly vulnerable to eviction, sometimes being evicted in one day.</p> <p>b. Energy costs for mobile homes are excessive.</p>	<p>a. Eviction law is beyond the authority of KHC to remedy within the confines of its programs and services.</p> <p>b. KHC’s Weatherization Assistance Program serves people in mobile homes. Program eligibility is based on income at or below 200% of the poverty level. Approximately 40% of the homes addressed in the program statewide are mobile homes. KHC weatherized the following number of mobile homes: FY2017 – 265, FY2018 – 208, FY2019 – 204.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>17. LGBT</b></p> <p>a. Except for those communities which have passed fairness ordinances and for housing funded by HUD, the LGBT community has no legal protection from discrimination in housing access or evictions.</p>	<p>KHC has adopted the protections afforded under the HUD Equal Access Rule and requires any partner applying for KHC funding to adhere to them, whether they originate from HUD or from some other source. KHC reviews documentation from its partners to ensure that they prohibit the denial of access to housing based on actual or perceived sexual orientation, gender identity, or marital status.</p> <p>KHC will continue to support efforts to expand the protected classes, including LGBTQ+ persons, at the State level.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>18. ELDERLY</b></p> <p>a. There has been little to no work done on helping aging Kentuckians age-in-place in their homes.</p> <p>b. Kentucky's lack of sufficient accessible housing will only get worse in time, as Kentucky's population ages.</p>	<p>a./b. To encourage aging in place design features in multifamily senior housing, KHC has included a scoring preference for applicants requesting funding who include such features in its competitive applications.</p> <p>Additionally, KHC utilizes a Universal Design construction standard. This standard incorporates features such as wider doorways and hallways, lower thresholds, shorter reach ranges, blocking for grab bars, lever faucets and doors. By making these features inherent to the construction, it allows people stay in their homes (single family and rental units) when mobility issues force the use of a wheelchair.</p> <p>In 2019, KHC funding resulted in:</p> <ul style="list-style-type: none"> <li>- 353 newly created units for the elderly</li> <li>- 179 rehabilitated units for the elderly</li> <li>- 130 units created/adapted with ADA standards</li> <li>- 130 units created/adapted to be fully accessible</li> </ul>

2014 Impediment	Progress Achieved since 2014
<p><b>19. INDIVIDUALS WITH DISABILITIES</b></p> <p>a. There is insufficient accessible housing for full time residential use by individuals with disabilities.</p> <p>b. There is insufficient “visitable” housing to permit individuals with disabilities to visit others.</p> <p>c. After Olmstead, individuals with disabilities are being released at an increasing rate into communities, with those communities being unprepared and having insufficient and/or inadequate housing to meet the need. As a result, individuals with disabilities are being segregated into certain neighborhoods.</p> <p>d. New housing construction must be built according to the design and construction requirements of the Fair Housing Act, and the building permit process must ensure that accessibility requirements are met.</p> <p>e. Lack of “visitability” features in homes results in increased social isolation: individuals with disabilities find it difficult to access homes or certain areas of the homes for social calls, and those residing in non-visitable homes find it</p>	<p>a./b. To encourage accessibility for individuals with disabilities, KHC has included a scoring preference in its competitive application for properties proposing to serve disabled tenants where at least 10% of the units will be fully accessible. KHC’s minimum design guidelines for both multifamily and single-family units also address certain features relevant to individuals with disabilities. In 2019, KHC multifamily funding resulted in:</p> <p style="padding-left: 40px;">130 units created/adapted with ADA standards 130 units created/adapted to be fully accessible</p> <p>c. With respect to Olmstead, KHC staff strive to achieve optimal outcomes for participants. KHC conducts housing quality standards inspections to ensure adequacy of housing for individuals participating in the program.</p> <p>d. KHC’s Multifamily Guidelines require submission prior to construction of an “Architect’s Certification of Compliance with Design Requirements for Accessible Housing” form and a signed G704 (Certificate of Substantial Completion) from the project architect at the completion of a project that certifies that the project was built in accordance with the contract documents.</p> <p>e. All units created under KHC’s single-family development program are inspected by KHC to ensure compliance with KHC’s <i>Minimum Design Standards: New Construction of Single-Family Dwelling Units, Minimum Design Standards: Rehabilitation of Single-Family Dwelling Units, and Universal Design Standards</i> (as applicable).</p>

<p>difficult to invite individuals with disabilities when their residences might have staircases at entrances, etc. Visitability is achieved when residences have one zero-step entrance, doors with 32-inch clear passages of space, and one bathroom on the main floor which is wheelchair accessible. The visitability problem is one which also impacts the elderly.</p>	
<p>2014 Impediment</p>	<p>Progress Achieved since 2014</p>
<p><b>20. DOMESTIC VIOLENCE VICTIMS</b></p> <p>a. Lack of rental housing in rural areas has a disproportionate impact upon domestic violence victims, who often find they have no safe or available housing alternative to that of living with an abuser.</p> <p>b. Domestic violence victims have the legal ability to be able to be released from rental leases when necessary, but this right is not clear to most in the community.</p>	<p>a./b. KHC has provided funding to Victim Services Providers (VSPs) via Continuum of Care programs supporting transitional and rapid re-housing totaling \$4,108,426 awarded through the Continuum of Care 2016, 2017, and 2018 funding rounds (note: CoC years do not align with fiscal years). KHC has funded VSPs using Emergency Solutions Grants (ESG) funds totaling \$2,424,752 in KHC fiscal Years 2017, 2018, and 2019, which can support shelter operations, homelessness prevention, and rapid re-housing. KHC has also provide a total of \$546,089 in HOME Tenant-Based Rental Assistance (TBRA) funding in KHC fiscal Years 2017, 2018, and 2019 to VSPs.</p> <p>KHC’s multi-family development program has also supported the new construction of 12 permanent supportive housing units in Hazard, KY for survivors of domestic violence that were occupied in November 2019.</p> <p>DLG has funded two domestic violence shelters in recent history: one in McCracken County and one in Hardin County.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>21. IMMIGRANTS</b></p> <p>a. Refugees face inadequate housing options.</p> <p>b. Some landlords have established rental policies on their face which are neutral but have a disparate impact upon a particular protected class. For example, some prohibit certain cookware which is most often used by Latinos.</p>	<p>a./b. KHC’s Multicultural Customer Service and Outreach Coordinator (MCSOC) coordinates marketing, outreach, and engagement activities for multicultural populations. Additionally, the MCSOC has developed strategic partnerships with counseling agencies to further improve their outreach and engagement activities with emphasis on identifying community stakeholders, community organizations, churches, and local government participation with the objectives to increase referrals, visibility, outreach as well as leveraging KHC’s network of homeownership stakeholders to reach out to potential homebuyers in communities such as minority, the underserved, and the Limited English Proficiency community. The MCSOC worked directly with the housing counseling network to provide classes in other languages throughout the grant period and to provide technical guidance on how to leverage language-expertise in the community.</p> <p>See Appendix B for attached lists detailing events, attendees, and additional information, and a sampling of event flyers, agendas/speakers, and sign-in sheets for such events.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>22. FAMILIES WITH CHILDREN</b></p> <p>a. Inadequate housing exists for families with children, and appears to have been reduced over the past twenty years.</p>	<p>KHC has included scoring preferences in order to improve the livability and preservation of Kentucky’s aging multifamily affordable housing stock. KHC offers incentives in its competitive application along with a funding preference in its Tax-Exempt Bond Notice of Funding Application for applicants proposing the rehabilitation of existing affordable housing properties which have rental assistance contracts. The competitive application also offers a scoring preference for properties most in need of rehabilitation and for new construction properties located in greatest job growth counties and with access to strong performing schools.</p> <p>In 2019, KHC funding supported new construction of 628 units for families with children and 412 rehabilitated/preserved units. See the following chart for a breakdown by county and school district.</p>

County	School District	# of Units	Type
Allen County	Allen County Public Schools	36	Rehab
Barren County	Glasgow Independent Schools	40	New Construction
Boone County	Boone County Public Schools	48	New Construction
Boyd County	Ashland Independent Schools	64	Rehab
Casey County	Casey County Public Schools	50	Rehab
Edmonson County	Edmonson County Public Schools	56	Rehab
Elliott County	Elliott County Public Schools	64	Rehab
Fayette County	Fayette County Public Schools	96	New Construction
Grant County	Grant County Public Schools	28	Rehab
Greenup County	Greenup County Public Schools	47	Rehab
Henderson County	Henderson County Public Schools	49	New Construction
Hopkins County	Hopkins County Public Schools	52	New Construction
Jefferson County	Jefferson County Public Schools	185	New Construction
Jefferson County	Jefferson County Public Schools	51	Rehab
Kenton County	Erlanger-Elsmere Independent Schools	50	New Construction
Madison County	Madison County Public Schools	30	New Construction
Shelby County	Shelby County Public Schools	37	New Construction
Trigg County	Trigg County Public Schools	41	New Construction
Warren County	Bowling Green Independent Schools	16	Rehab
Total		1,040	

2014 Impediment	Progress Achieved since 2014
<p><b>23. RURAL</b></p> <p>a. Rural areas have an acute shortage of homeless shelters, with many rural counties having no such shelter.</p>	<p>Over the past two HUD Continuum of Care Program Competitions, the Kentucky Balance of State CoC, which includes all rural areas of the state, pursued and was awarded funding for 4 new Joint Transitional Housing (TH)/Rapid Rehousing (RRH) projects. The TH portion of the project is intended to provide crisis housing in areas without existing emergency shelter or without low-barrier emergency shelters. Through the HUD Youth Homelessness Demonstration Program (YHDP), rural communities in Southeastern Kentucky are in the process of developing “Crisis Host Homes” where families agree to serve as “hosts” to young people experiencing homelessness by allowing the young person to live with them at least on a temporary basis. Limited financial support for food and transportation is provided to the Host Home. We hope to be able to replicate this model across the state in the future.</p> <p>As of October 2019, KHC has four joint transitional housing/rapid rehousing projects operating. However, two of them just started in October 2019 and have not yet started serving clients. Of those not yet serving clients, one project will serve both households with children and households with only adults from the general homeless population. The other targets victims of domestic violence.</p> <p>Of the two projects serving clients as of October 2019, one project is targeting families with children and one serves both families with children and households with only adults.</p> <p>The transitional housing portion of the projects operate as “crisis housing” (e.g., emergency shelter). As of October 2019 (projects started within past 12 months), 20 people have been served.</p> <p>Under the Youth Homelessness Demonstration Program (YHDP), KHC now has one facility-based transitional housing project that is serving as “crisis housing/emergency shelter” for unaccompanied youth ages 18-24 and one project has leased two houses that operate as emergency shelter for 18-24 year olds. As of October 2019, 72 people have been served (65 youth 18-25 and 7 children of the youth) since these projects became operational at the end of 2018.</p>

2014 Impediment	Progress Achieved since 2014
<p><b>24. PUBLIC CULTURE</b></p> <p>a. Renting, and therefore renters, are not well regarded in our culture.</p> <p>b. Across Kentucky, there is a lack of awareness of the housing problems faced by many Kentuckians, particularly those in protected classes.</p> <p>c. Often minorities and protected classes feel unwelcome in communities.</p> <p>d. Our elected executive officials often do not place sufficient emphasis upon affordable and fair housing.</p> <p>e. Many Section 8 recipients are turned away by landlords.</p>	<p>a./b./c./d./e. KHC curated a “Simply Home” exhibit to showcase the faces of affordable housing and how affordable housing creates good neighbors. Organizations serving partner and public audiences may request this exhibit for showings in an accessible place by the public. Civic organizations, libraries, museums, and other places that can accommodate the floor space for the 24-foot by 34-foot exhibit and consider the 4-foot accessibility for compliance with American Disabilities Act are great showcases for the exhibit. KHC staff will deliver and set up the exhibit onsite, free of charge, as a service to the Commonwealth. This educational effort serves in part to reduce resistance to affordable housing.</p> <p>KHC’s Multicultural Customer Service and Outreach Coordinator (MCSOC) coordinates marketing, outreach, and engagement activities for multicultural populations to provide education and make them feel welcome.</p> <p>KHC staff also took advantage of the opportunity afforded by NCSHA’s Legislative Conference to emphasize affordable housing issues to legislators. Activities during this time included direct meetings with several Kentucky legislators, including Senators Mitch McConnell and Rand Paul, Congressmen Brett Guthrie, Andy Barr, and John Yarmuth. In addition, KHC staff conducted personal meetings with Senator Joe Manchin of West Virginia and Representative Trey Hollingsworth of Indiana. These meetings are in addition to several meetings with legislators at home in Kentucky.</p>
2014 Impediment	Progress Achieved since 2014
<p><b>25. EDUCATION</b></p> <p>a. Education for homeownership and renters’ rights often remains available only in English.</p>	<p>KHC maintains a Spanish webpage, where Spanish speakers can locate information regarding KHC, its programs, and fair housing information (<a href="http://kyhousing.org/Espanol">kyhousing.org/Espanol</a>). Additionally, KHC has on staff a Multicultural Customer Service and Outreach Coordinator who speaks Spanish, French, and Kreyol. Under its Language Access Plan, KHC commits to make reasonable efforts to provide free language assistance to the requesting client using a four-factor analysis test. See Appendix B for attached lists detailing events, attendees, and additional information, and a sampling of event flyers, agendas/speakers, and sign-in sheets for such events.</p>

## Summary of Progress

KHC and DLG have made significant progress on most of the impediments and recommendations from the 2014 AI; however, several impediments and recommendations are beyond the jurisdiction of the two agencies. Many of the impediments identified in the 2014 AI remain impediments in 2019 simply because they are socio-economic challenges they have occurred over the course of decades and, therefore, cannot be resolved in five years. Indeed, many of the impediments will be carried forward in the 2019 AI with recommendations that focus on progress that both KHC and DLG can achieve within the limits of their respective agency missions and resources.

## 4. Demographic and Housing Summary

### Introduction

This section of the Analysis of Impediments to Fair Housing Choice (AI) analyzes the demographic and housing characteristics of the Commonwealth of Kentucky, focusing on members of the protected classes. The federal Fair Housing Act protects the following characteristics: race, color, religion, sex, national origin, familial status and disability status. The Kentucky General Assembly broadened the law to also protect against housing discrimination on the basis of gender. As of December 2019, discrimination based on sexual orientation is also forbidden in Bellevue, Covington, Danville, Dayton, Frankfort, Georgetown, Henderson, Highland Heights, Lexington, Louisville, Maysville, Midway, Morehead, Paducah, Versailles, and Vicco. On February 3, 2012, the U.S. Department of Housing and Urban Development (HUD) issued a final rule that prohibits discrimination on the basis of actual or perceived sexual orientation, gender identity, or marital status in regard to housing programs assisted by HUD or subject to a mortgage insured by the Federal Housing Administration. Kentucky Housing Corporation (KHC) follows this rule.

The data utilized in the AI is primarily from the United States Census Bureau, which publishes the American Community Survey (ACS); at the time of publication, the most recent five-year estimates were for 2013-2017.

### Key Conclusions

The key conclusions drawn from the demographic and housing summary include the following:

- While Kentucky has had positive growth rates since 2010, the rate has not been keeping pace with the national average. Between 2010 and 2017, Kentucky's growth was 2.0% while the national average was 5.0%.
- Kentucky has become more diverse between 2000 and 2017 with the largest increases occurring among multi-racial and Hispanic persons, and outside of the largest urban areas.
- Lexington is home to a large foreign-born population with nearly all census tracts having above the statewide median rates of foreign-born persons.

- Persons with disabilities participate in the labor market at lower rates than those without disabilities and are more likely to be unemployed (14.6% versus 6.1%) or to earn less money (\$20,239 versus \$30,306).
- Overall, there has been a decrease in the number of single-parent households. The number of single-female parent households have declined while the number of single-male parent households has increased. The largest gains in household type are non-family households (34.1%) and specifically single-person households at 28.4%.
- Nearly half (49.5%) of female-headed households with children live in poverty compared to 27.5% of male-headed households with children and 9.6% of married couples with children.
- Between 2010 and 2017, incomes have declined or stagnated for all racial/ethnic groups except multi-racial and Other Race<sup>1</sup>. However, Multi-racial and Other Race persons had household incomes of \$38,877 and \$37,325, respectively, in 2017 which are significantly lower than the state median household income.
- Black households are much more likely to be unemployed than other racial groups. When the statewide unemployment rate was 6.8%, unemployment among Blacks was 11.4%.
- By 2017, the statewide homeownership rate decreased slightly by 1.7 percentage points to 67.0%. While White homeownership rates decreased by 1.6 percentage points (70.4%), Black homeownership rates decreased by 2.7 percentage points (36.7%). Hispanic households had no change in homeownership rates (35.5%).
- Non-White households tend to be larger than White households and are in the rental market at higher rates. Only 18% of units in the rental market in 2017 had three or more bedrooms.
- Between 2010 and 2017, the inflation-adjusted median household income statewide was stagnant and median housing value fell slightly. In contrast, median gross rent rose nearly 6% across Kentucky.
- Overall, the level of segregation among non-White/White persons has decreased between 2010 and 2017 as measured by the dissimilarity index. However, increased segregation has occurred in the more urbanized areas.

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<sup>1</sup> Other Race includes American Indian, Alaska Native, Native Hawaiian and Pacific Islander. These races were grouped together for this analysis given their small populations within Kentucky.

- There are 24 census tracts in the Commonwealth that have both non-White populations that are ten percentage points higher than the statewide average and poverty rates that are at least 40%; these are the racially/ethnically concentrated areas of poverty (R/ECAPs) and are located primarily in the more metropolitan areas.

## Populations Trends

### *Population of Kentucky and the United States since 2000*

The population has been growing with a 7.4% increase from 2000 to 2010, which slowed to a growth rate of 2.0% between 2010 and 2017. During these same time periods, the national population growth rates were 9.7% from 2000 to 2010 and 5.0% from 2010 to 2017.

Table 1 Kentucky Population, 2000 - 2017

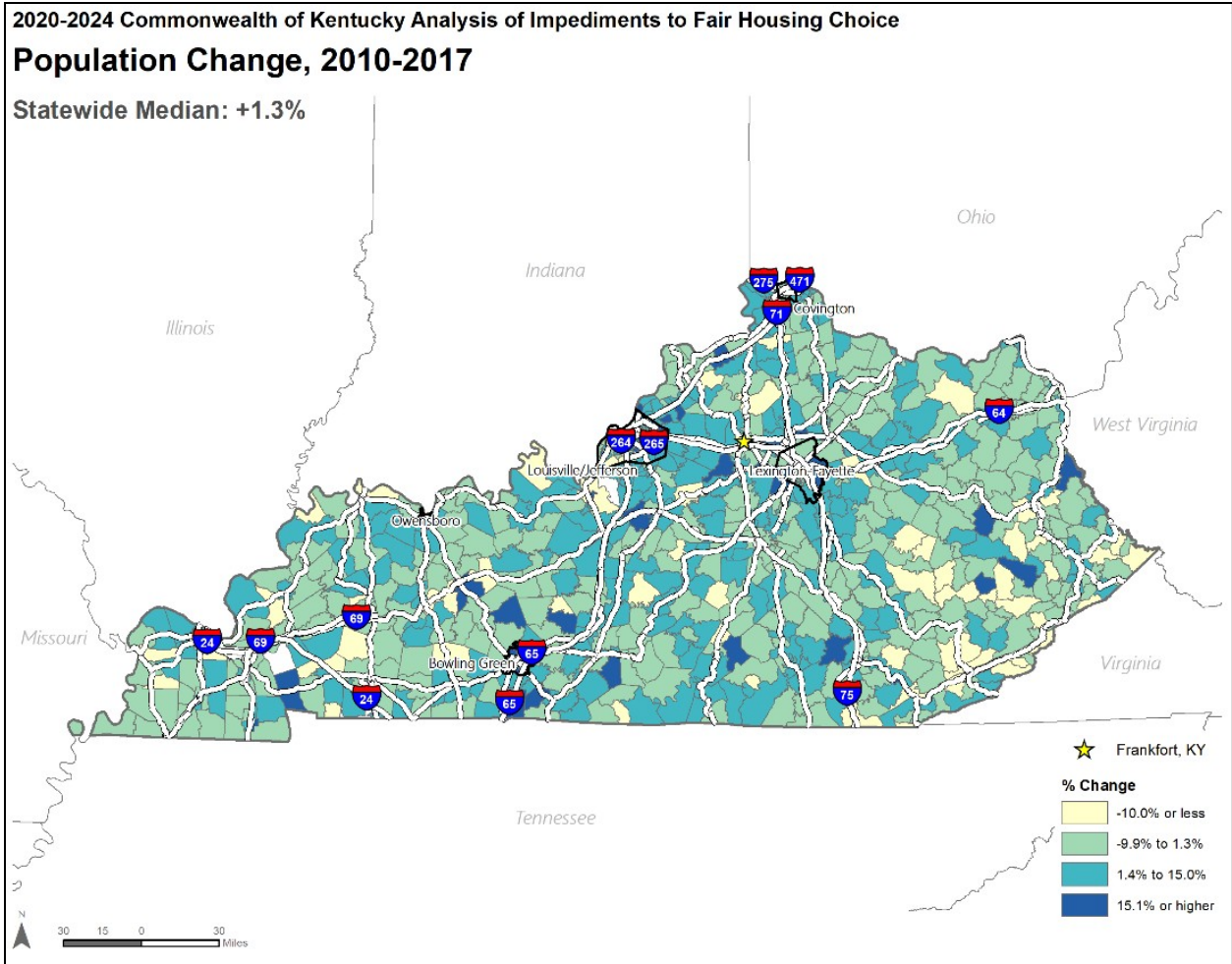
Year	Total Population	Change
2000	4,041,769	-
2010	4,339,367	7.4%
2017	4,424,376	2.0%

Source: U.S. Decennial Census, 2000-2010; American Community Survey five-year estimates 2017

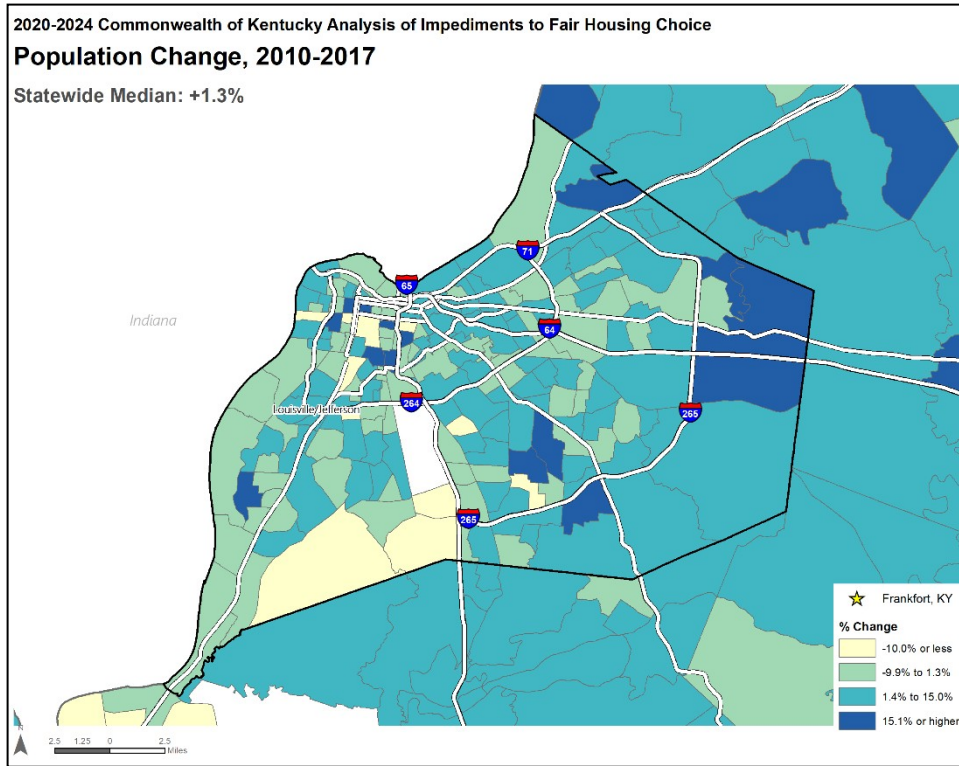
### *Geographic variation in population growth from 2010 to 2017*

Among all census tracts, the median population growth rate from 2010 to 2017 was 1.3%. Areas with growth rates above the median were located primarily in the central portions of the state; areas with growth rates below the median generally were in the easternmost areas toward Virginia and West Virginia. Not all areas with the largest increases in population were in major metropolitan areas such as Lexington and Louisville.

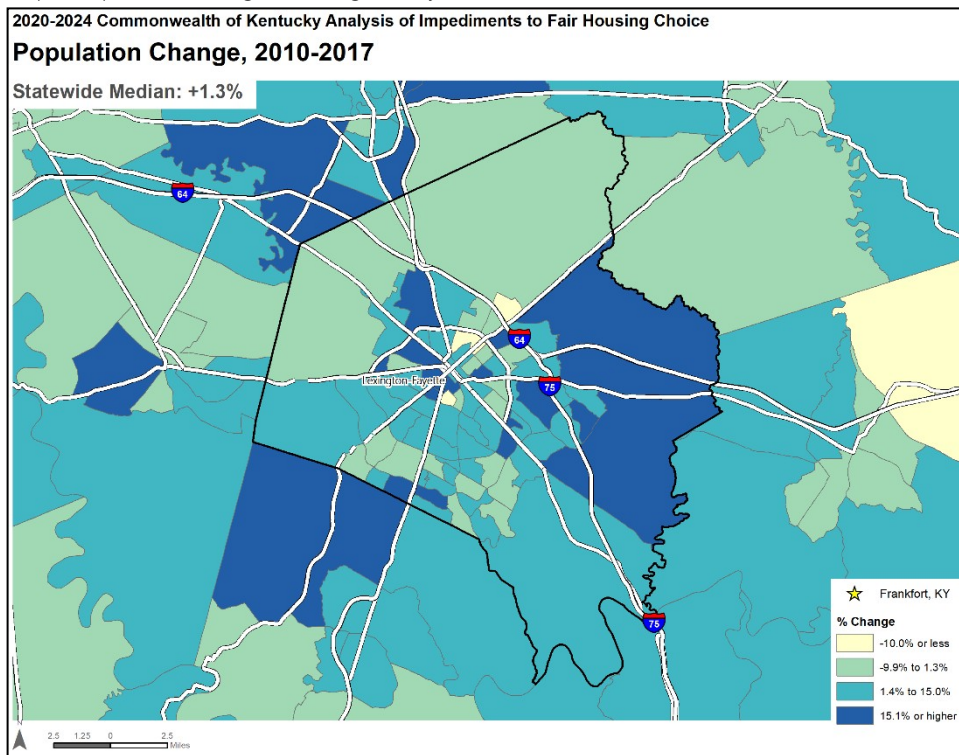
Large areas of both Louisville and Lexington have had population growth. In Louisville, there has been growth throughout the city, but greatest growth has primarily been toward the east; in Lexington, growth has been largest in the southern half of the Lexington-Fayette area.



Map 2 Population Change in Louisville/Jefferson County, 2010-2017



Map 3 Population Change in Lexington-Fayette, 2010-2017



## Race and Ethnicity

The racial and ethnic composition of Kentucky has become more diverse between 2010 and 2017. The non-White population of the Commonwealth increased slightly from 11.1% to 11.9% between 2010 and 2017; the proportion of the population that identifies as Hispanic increased from 3.2% to 3.6%.

The growth rates of each racial/ethnic group have not been uniform between 2000 and 2017. While the overall population grew by just under 10% from 2000 to 2017, the number of Hispanic, multi-racial and Asian persons have all doubled.

Table 2 Kentucky, Race and Ethnicity, 2010 - 2017

	2000	2010	2017	Percent Change 2000-2017
White	3,608,013	3,745,655	3,764,473	4%
Black	293,639	337,520	348,472	19%
Asian	29,368	48,338	59,254	102%
Multi-Racial	37,750	64,113	85,000	125%
Other	13,060	15,350	15,105	16%
Hispanic	59,939	132,836	152,072	154%

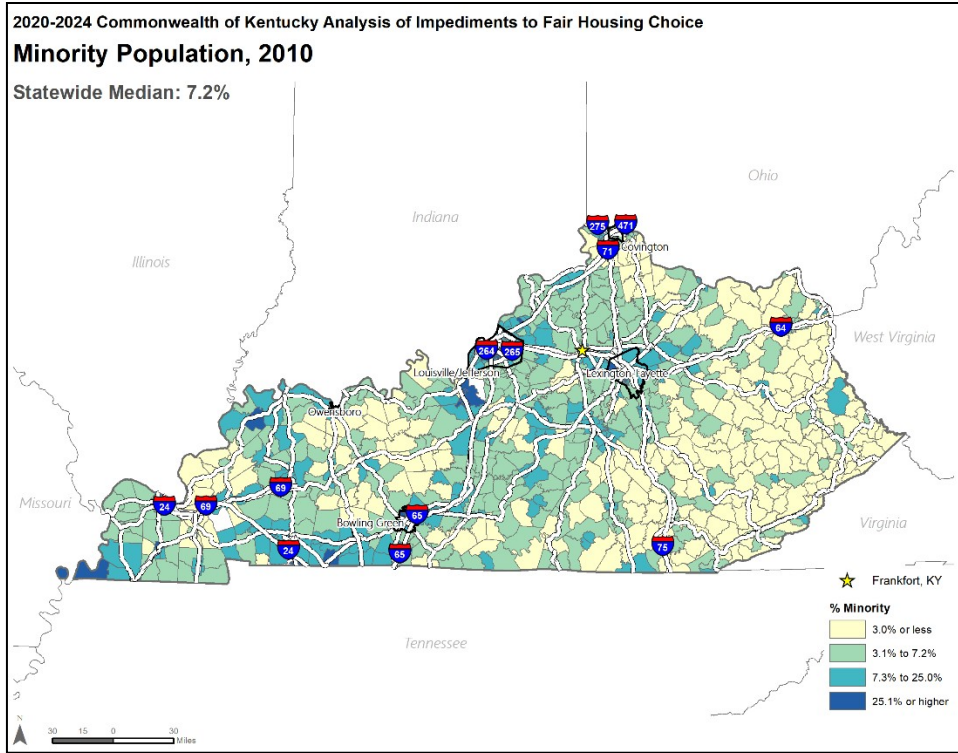
Source: American Community Survey five-year estimates 2017

### *Geographic variation in race and ethnicity*

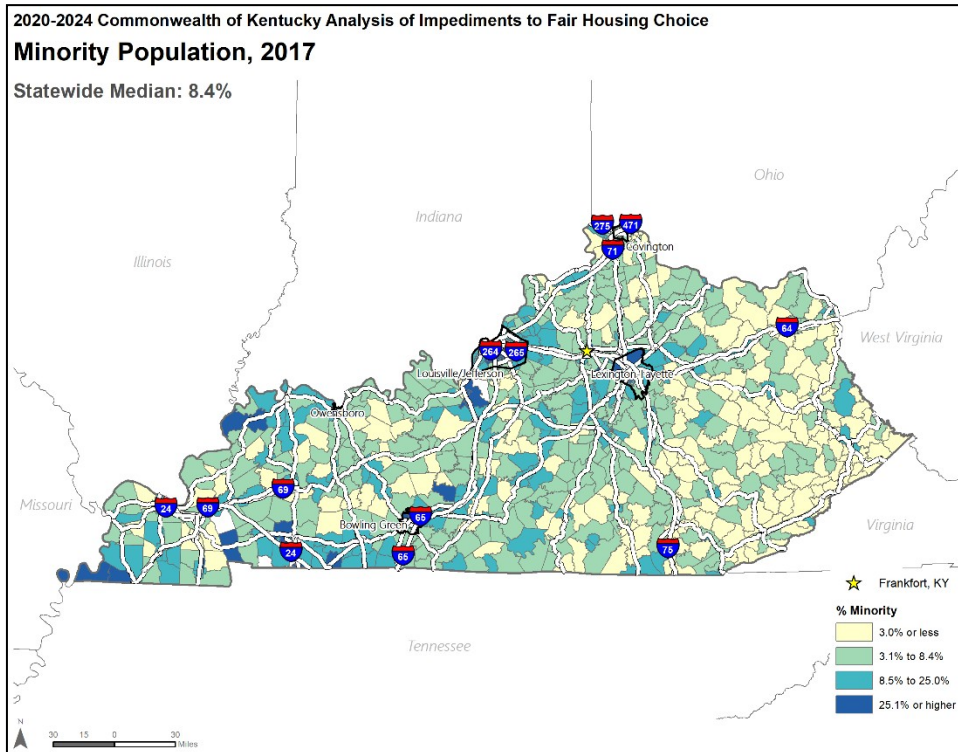
The following four maps illustrate the residency patterns of non-White and Hispanic residents in 2010 and 2017. The first two maps show that the non-Hispanic minority population has been and remains primarily in the more populated centers of the Commonwealth with few non-White persons in the east toward West Virginia and Virginia. However, even in these rural eastern areas the population is diversifying.

The last two maps illustrate the residency patterns of the Hispanic population. In 2010, Hispanics represented 3.2% of the population, growing only slightly to 3.6% by 2017. In 2010, Hispanic persons tended to live in the western part of Kentucky. By 2017, there was a slight increase in the Hispanic population living in the east, though in the western part of the Commonwealth there was movement toward urban centers by Hispanic persons.

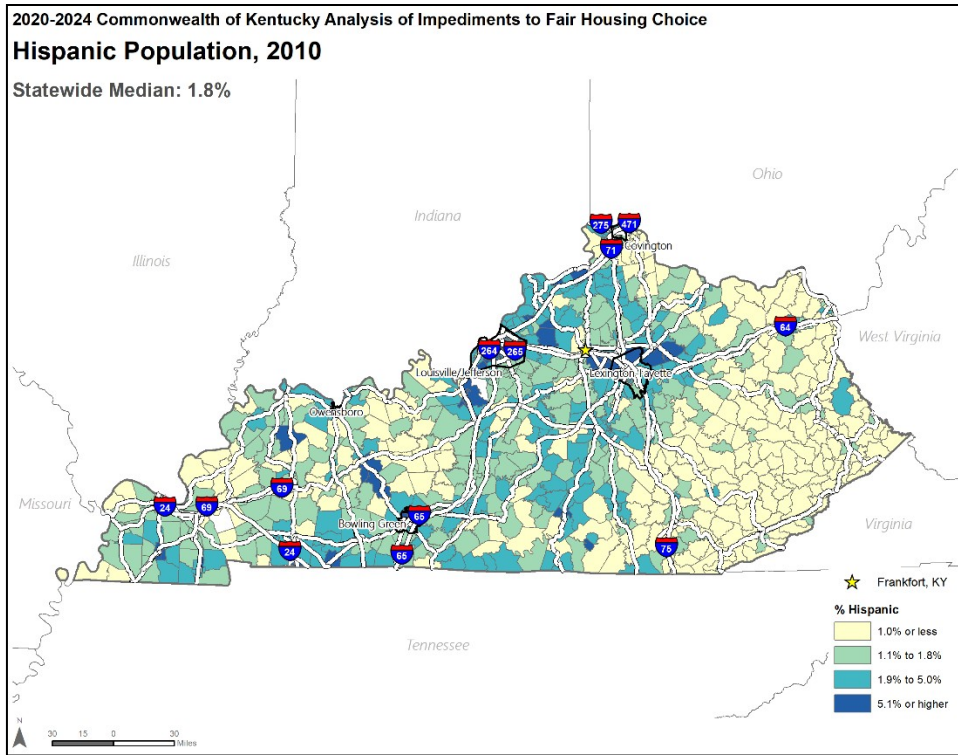
Map 4 Non-White Residency Patterns, 2010



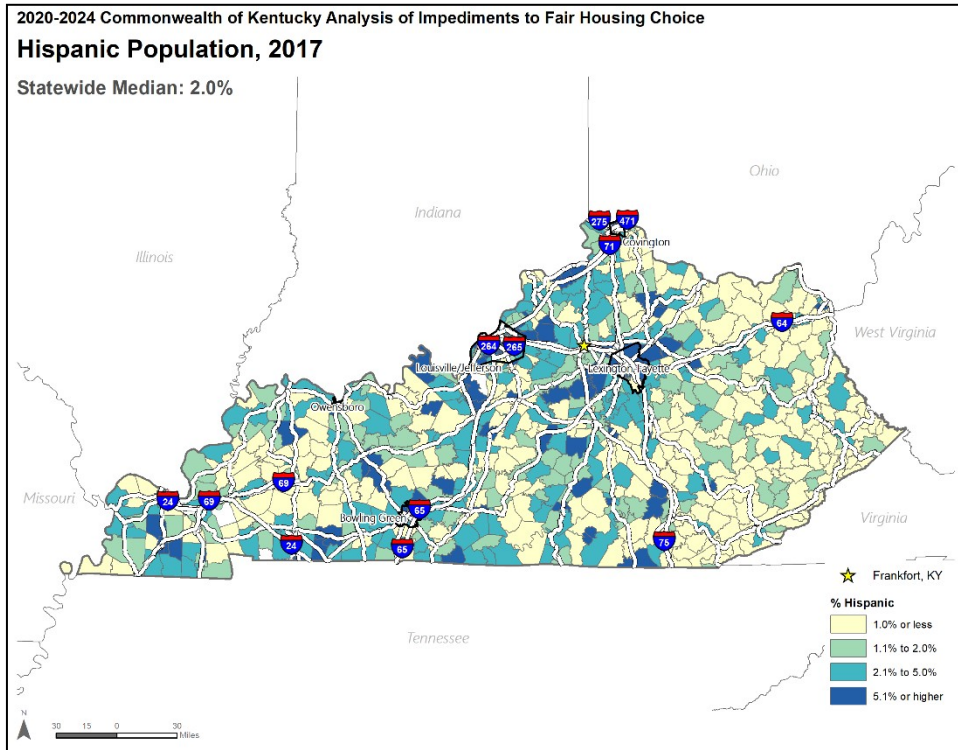
Map 5 Non-White Residency Patterns, 2017



Map 6 Hispanic Residency Patterns, 2010



Map 7 Hispanic Residency Patterns, 2017



## Ancestry and National Origin

### *Foreign-born persons*

It is illegal to refuse the right to housing based on place of birth or ancestry. Across Kentucky, 3.6% of all residents were foreign-born. This rate was much higher in Louisville (7.1%) and Lexington (9.1%). Children living in homes where at least one parent is foreign-born were significantly more likely to be living in poverty. In Kentucky overall, children with at least one foreign-born parent is three times more likely to live in poverty than children with two native-born parents. In Louisville and Lexington, children with at least one foreign-born parent are more than seven and six times, respectively, as likely to be in poverty as children with only native-born parents.

Table 3 Foreign-born Population and Poverty Status of Households with Children, 2017

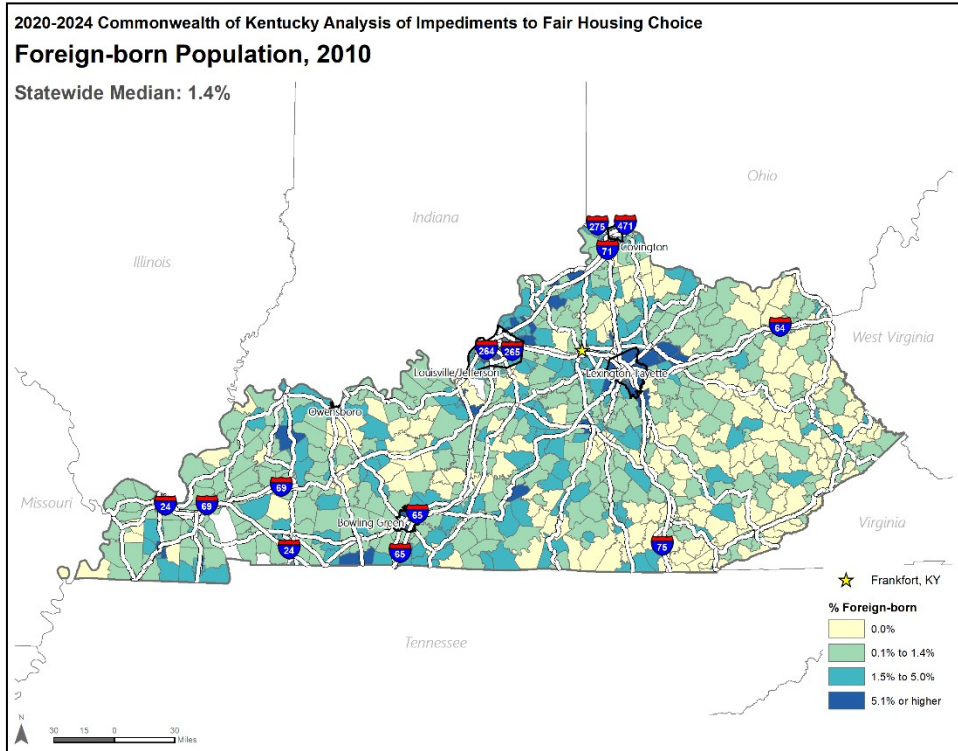
	Percent Foreign-born of the population	Percent households in poverty with children and two native parents	Percent households in poverty with children and at least one foreign-born parent
Kentucky	3.6%	6.9%	22.7%
Louisville/Jefferson County	7.1%	3.0%	21.6%
Lexington-Fayette	9.1%	2.4%	18.5%

Source: American Community Survey five-year estimates 2017

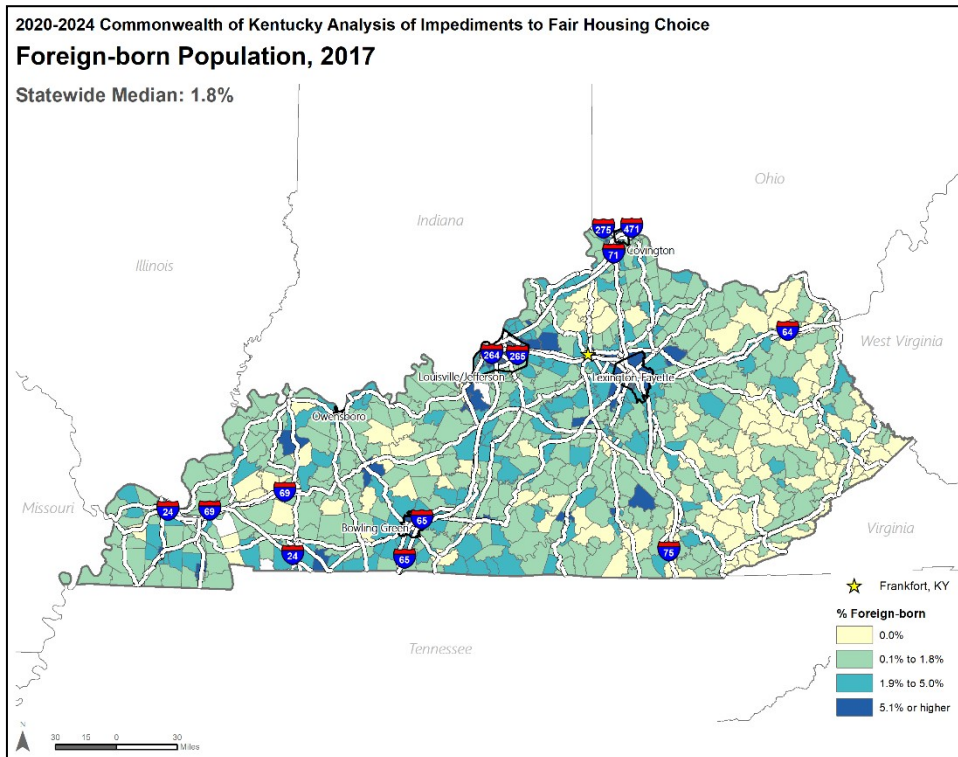
### *Residency patterns of foreign-born population*

In both 2010 and 2017, the foreign-born population primarily resided in the more urban areas of the Commonwealth. In Louisville, the foreign-born population was primarily between Interstates 64 and 265 in 2010 but has since expanded beyond those boundaries. In the Lexington area, there is a large foreign-born population with nearly all census tracts exceeding the statewide median of 1.8%.

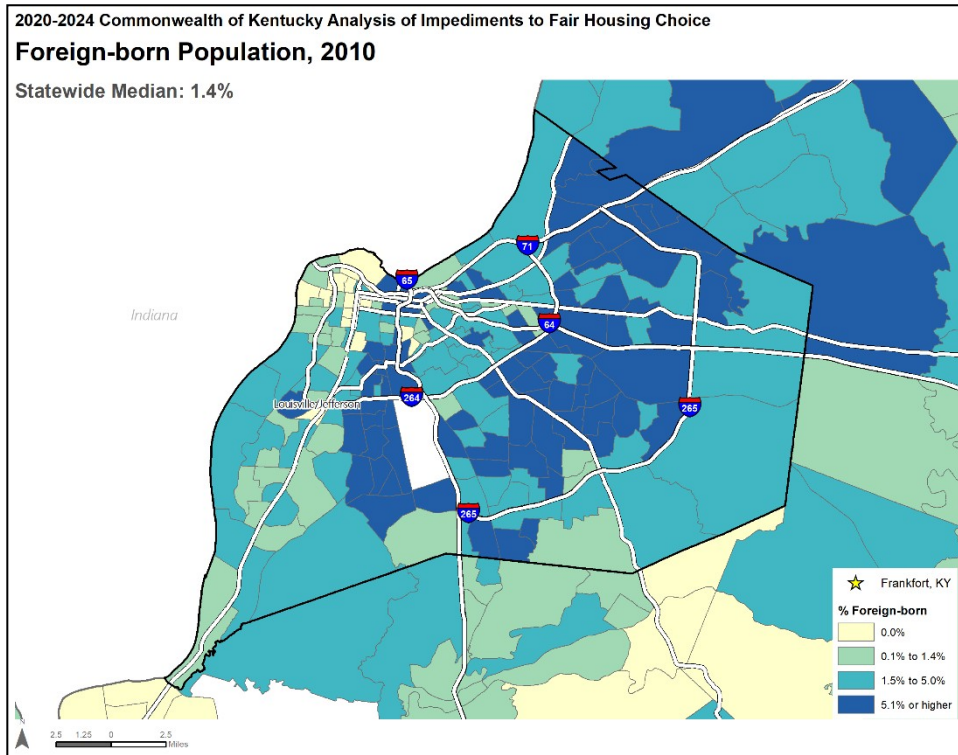
Map 8 Residency Patterns of Foreign-born Population, 2010



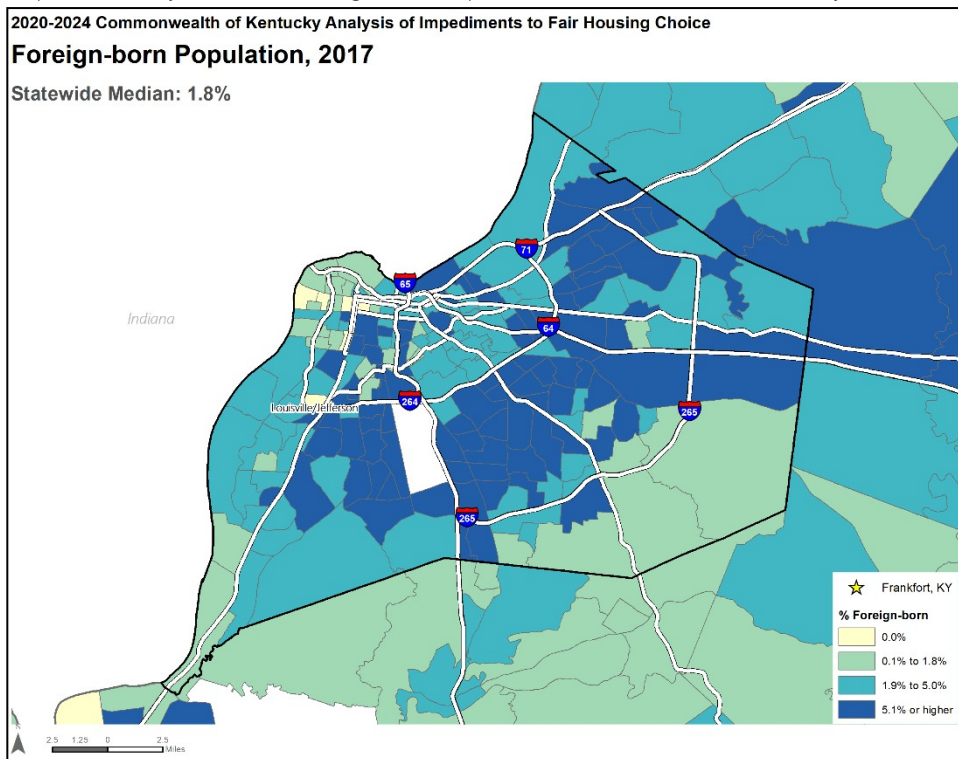
Map 9 Residency Patterns of Foreign-born Population, 2017



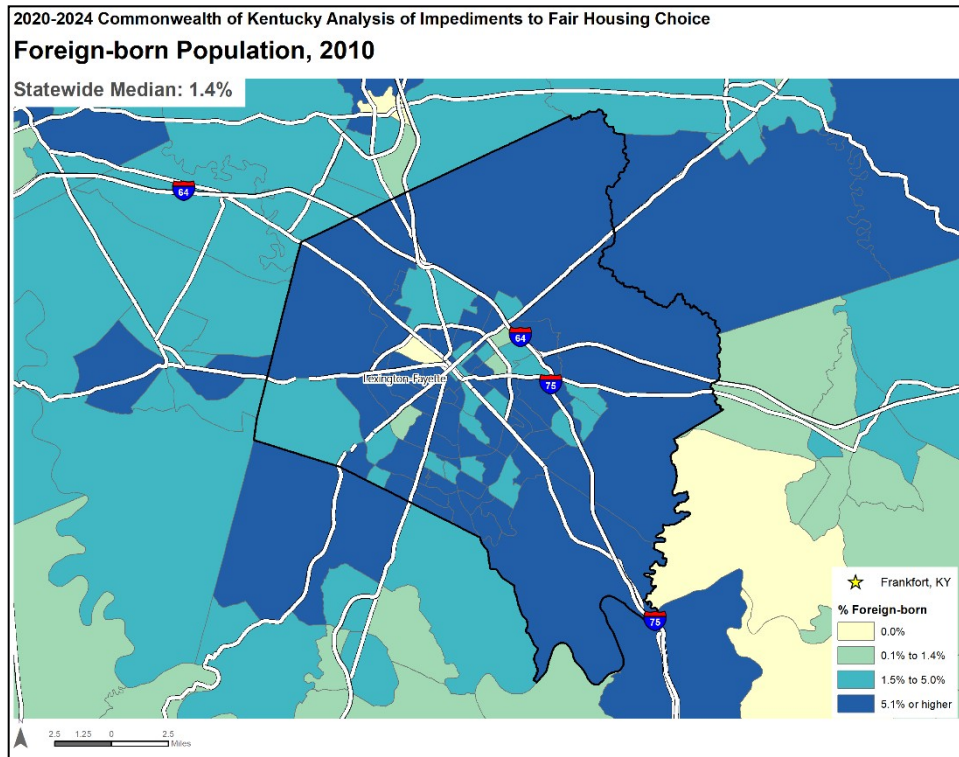
Map 10 Residency Patterns of Foreign-born Population in Louisville/Jefferson County, 2010



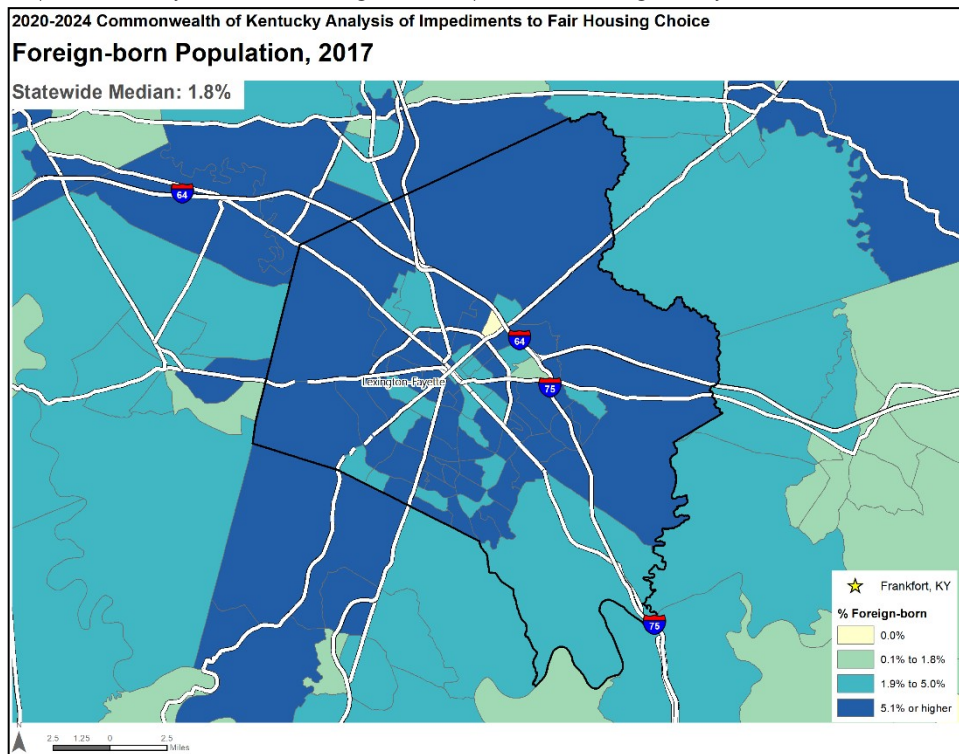
Map 11 Residency Patterns of Foreign-born Population in Louisville/Jefferson County, 2017



Map 12 Residency Patterns of Foreign-born Population in Lexington-Fayette, 2010



Map 13 Residency Patterns of Foreign-born Population in Lexington-Fayette, 2017



### *Limited English Proficiency (LEP)*

Persons with limited English proficiency (LEP) are defined as persons who have a limited ability to read, write, speak or understand English. HUD uses the prevalence of persons with LEP to identify the potential for impediments to fair housing choice due to their inability to comprehend English. Persons with LEP may encounter obstacles to fair housing by virtue of language and cultural barriers within their new environment. To assist these individuals, it is important that a community recognizes their presence and the potential for discrimination, whether intentional or inadvertent, and establishes policies to eliminate barriers. It is also incumbent upon HUD entitlement communities to determine the need for language assistance and comply with Title VI of the Civil Rights Act of 1964.

The most recent data available for the Commonwealth as a whole is 2013-2017 ACS; the most recent census tract level data is from 2015. The largest LEP language group throughout the Commonwealth is Spanish, which is spoken by 48,214 persons or 1.16% of the population. The second largest group of persons with LEP speak Chinese, which is spoken by 3,760 persons or 0.09% of the population. Persons with LEP tend to live in the western part of Kentucky and near populated urban areas.

Table 4 Most Common Languages Spoken Among Those with Limited English Proficiency in Kentucky, 2017

Kentucky			
		#	%
#1 LEP Language	Spanish	48,214	1.16%
#2 LEP Language	Chinese (incl. Mandarin, Cantonese)	3,760	0.09%
#3 LEP Language	Arabic	3,563	0.09%
#4 LEP Language	Vietnamese	2,876	0.07%
#5 LEP Language	German	2,687	0.06%
#6 LEP Language	Nepali, Marathi, or other Indic languages	2,533	0.06%
#7 LEP Language	Amharic, Somali, or other Afro-Asiatic languages	2,340	0.06%
#8 LEP Language	Other languages of Asia	2,252	0.05%
#9 LEP Language	French (incl. Cajun)	2,200	0.05%
#10 LEP Language	Japanese	2,158	0.05%

Source: American Community Survey five-year estimates 2017

Table 5 Most Common Languages Spoken Among Those with Limited English Proficiency in Jefferson County, 2015

	Jefferson County		
		#	%
#1 LEP Language	Spanish	13,002	1.84%
#2 LEP Language	African	2,233	0.32%
#3 LEP Language	Arabic	1,175	0.17%
#4 LEP Language	Other Asian languages	1,055	0.15%
#5 LEP Language	Vietnamese	998	0.14%
#6 LEP Language	Chinese	959	0.14%
#7 LEP Language	Serbo-Croatian	943	0.13%
#8 LEP Language	Other Indic languages	797	0.11%
#9 LEP Language	French (incl. Patois, Cajun)	601	0.09%
#10 LEP Language	Russian	555	0.08%

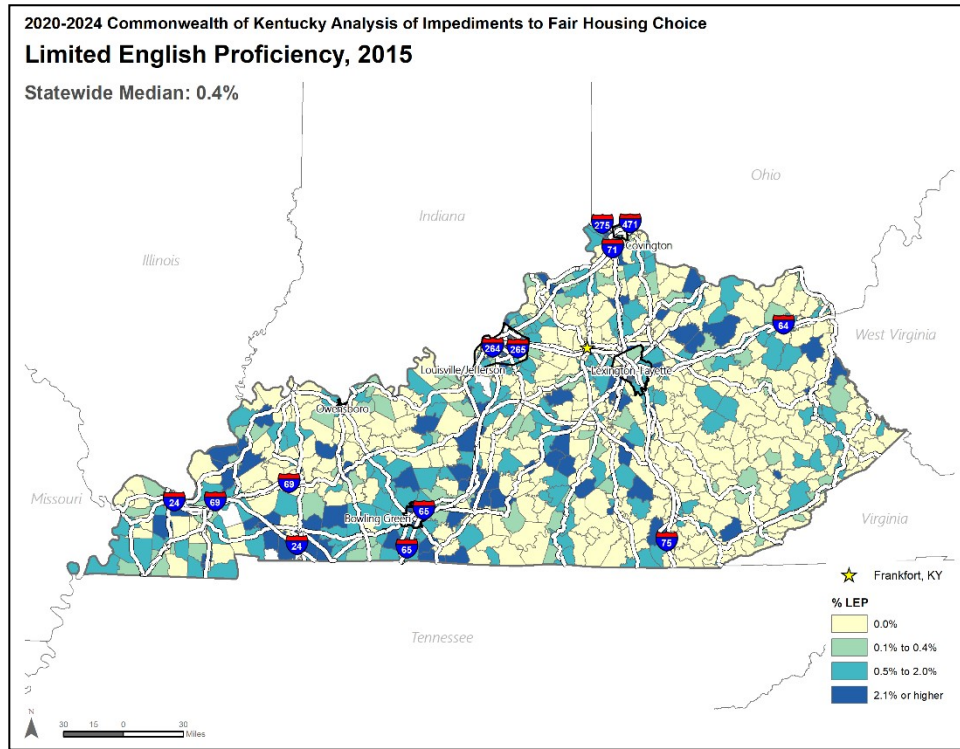
Source: American Community Survey five-year estimates, 2015

Table 6 Most Common Languages Spoken Among Those with Limited English Proficiency in Fayette County, 2015

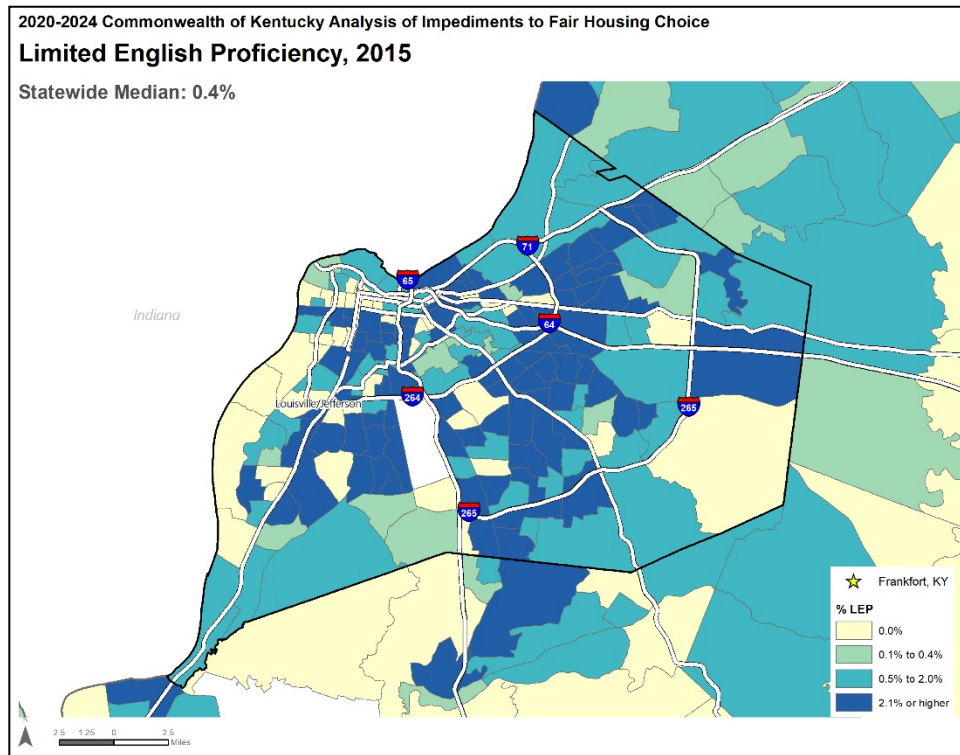
	Fayette County		
		#	%
#1 LEP Language	Spanish	8,970	3.11%
#2 LEP Language	Chinese	1,797	0.62%
#3 LEP Language	Arabic	723	0.25%
#4 LEP Language	Japanese	688	0.24%
#5 LEP Language	Other Indic languages	481	0.17%
#6 LEP Language	African	425	0.15%
#7 LEP Language	Korean	395	0.14%
#8 LEP Language	Vietnamese	360	0.12%
#9 LEP Language	Other Asian languages	290	0.10%
#10 LEP Language	Russian	237	0.08%

Source: American Community Survey five-year estimates, 2015

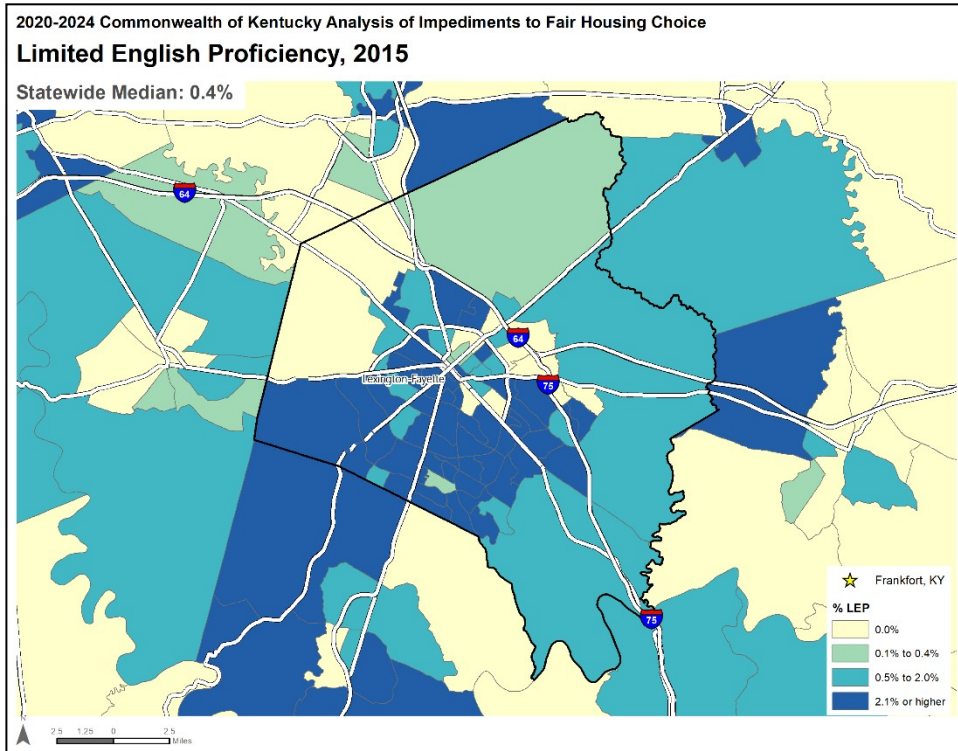
Map 14 Residency Patterns of Persons with LEP, 2017



Map 15 Residency Patterns of Persons with LEP, Louisville/Jefferson County, 2017



Map 16 Residency Patterns of Persons with LEP, Lexington-Fayette, 2017



## Disability

As defined by the Census Bureau, a disability is a long-lasting physical, mental, or emotional condition that can make it difficult for a person to engage in activities such as walking, climbing stairs, dressing, bathing, learning or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business.

The Fair Housing Act prohibits discrimination based on physical, mental, or emotional disability, provided “reasonable accommodation” can be made. This may include changes to address the needs of persons with disabilities, such as adaptive structural changes (e.g., constructing an entrance ramp) or administrative changes (e.g., permitting the use of a service animal). In 2017, 17.3% of the population had at least one disability. The most common type of disability among those aged 18 and older is ambulatory while cognitive difficulties are the most common among minors.

Table 7 Kentucky Disability Status and Disability Type by Age, 2017

	Number of People	Percentage of the Total Population	Percentage of the Population Subset by Age
Persons	751,563	17.3%	17.3%
Under 5 years	2,748	0.06%	1.0%
Age 5-17	52,626	1.21%	7.1%
Age 18-64	425,520	9.80%	15.9%
Age 65 and Above	270,669	6.24%	41.7%

	Total	Percent
Total Population	4,340,343	100.0%
With a disability	751,563	17.3%
With a hearing difficulty	210,345	28.0%
With a vision difficulty	146,033	19.4%
With a cognitive difficulty	295,399	39.3%
With an ambulatory difficulty	417,846	55.6%
With a self-care difficulty	144,614	19.2%
With an independent living difficulty	152,043	20.2%
Population Under 18 Years	1,010,223	23.3%
With a disability	55,374	1.3%
With a hearing difficulty	7,177	13.0%
With a vision difficulty	10,094	18.2%
With a cognitive difficulty	41,187	74.4%
With an ambulatory difficulty	5,617	10.1%
With a self-care difficulty	8,902	16.1%
With an independent living difficulty	-	-
Population 18 to 64 Years	2,680,290	72.6%
With a disability	425,520	9.8%
With a hearing difficulty	85,269	20.0%
With a vision difficulty	81,837	19.2%
With a cognitive difficulty	185,793	43.7%
With an ambulatory difficulty	235,319	55.3%
With a self-care difficulty	76,169	17.9%
With an independent living difficulty	152,043	35.7%
Population 65 years and Older	649,830	9.8%
With a disability	270,669	6.2%
With a hearing difficulty	117,899	43.6%
With a vision difficulty	54,102	20.0%
With a cognitive difficulty	68,419	25.3%
With an ambulatory difficulty	176,910	65.4%
With a self-care difficulty	59,543	22.0%
With an independent living difficulty	112,110	41.4%

Source: American Community Survey five-year estimates 2017

### *Income and disability status*

Among the population between the ages of 20 to 64, there are significant differences in labor force participation rates among those with and without a disability; 33.6% of persons with a disability participate in the labor force compared to 81.3% of persons without a disability. Among persons in the labor force with one or more disabilities, 17.7% of persons are living in poverty compared to 9.8% of persons without a disability. The median income for the persons with a disability was \$20,239 compared to \$30,306 for a person without a disability. Even in the absence of discrimination, persons with disabilities often experience greater obstacles in securing affordable housing that is accessible due to the potential for lower wages and rates of employment.

Table 8 Disability Status, Labor Force Participation and Poverty, 2017

	#	%
Total Population	2,560,063	
With a disability	415,698	16.2%
In labor Force	139,655	33.6%
In poverty	24,721	17.7%
Not in Labor Force	276,043	66.4%
In poverty	114,815	41.6%
Without a disability	2,144,365	83.8%
In labor Force	1,742,486	81.3%
In poverty	170,123	9.8%
Not in Labor Force	401,879	18.7%
In poverty	135,131	33.6%

Source: American Community Survey five-year estimates, 2017

### **Families with Children**

The Census Bureau divides households into family and non-family households. Family households are married couple families with or without children, single-parent families, and other families made up of related persons. Non-family households are either single persons living alone, or two or more non-related persons living together.

Title VIII of the Civil Rights Act of 1968 protects against gender discrimination in housing. Protection for families with children was added in the 1988 amendments to Title VIII. Except in limited circumstances

involving elderly housing and owner-occupied buildings of one to four units, it is unlawful to refuse to rent or sell to families with children.

In 2017, family households comprised 65.9% of all households, down slightly from 66.9% in 2010. The number of married-couple families in Kentucky has also declined slightly to 48.6% of all households. This change in composition can be attributed to faster rates of growth among non-family households.

Between 2010 and 2017, female-headed households with children decreased 1.2% to 12.5% of all households. Male-headed households increased 0.6% but only represent 4.8% of all households. Non-family and one-person households increased by 3.1% since 2010 and comprise 34.1% of households.

Table 9 Kentucky Household Composition, 2010 - 2017

	2010		2017		Change from 2010 - 2017	
	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>
Family Households	1,149,905	66.9%	1,136,917	65.9%	-12,988	-1.1%
Married Couples	848,324	49.3%	837,485	48.6%	-10,839	-1.3%
<i>with children</i>	329,086	19.1%	312,222	18.1%	-16,864	-5.1%
Single female	219,036	12.7%	216,357	12.5%	-2,679	-1.2%
Single male	82,545	4.8%	83,075	4.8%	530	0.6%
Non-Family Households	570,060	33.1%	587,597	34.1%	17,537	3.1%
Living Alone	473,447	27.5%	489,398	28.4%	15,951	3.4%
Other Non-Family	96,613	5.6%	98,199	5.7%	1,586	1.6%
Total Households	1,719,965	100.0%	1,724,514	100.0%	4,549	0.3%

Source: American Community Survey five-year estimates, 2017

Female-headed households with children often experience difficulty in obtaining housing as a result of lower incomes and higher expenses such as childcare. In 2017, 49.5% of female-headed households with children were living in poverty compared to 27.5% of male-headed households with children and 9.6% of married-couple households with children.

Table 10 Poverty Status of Households with Children by Household Type, 2017

Household Types with Children	Total	In Poverty	
		#	%
Single Female Headed	116,581	57,676	49.5%
Single Male Headed	40,315	11,074	27.5%
Married Couple	312,222	29,959	9.6%

Source: American Community Survey five-year estimates, 2017

## Income, Unemployment and Poverty

### *Household income*

Household income is strongly related to housing choice, as household income is one of several factors used to determine eligibility for a home mortgage loan or rental lease. Additionally, lack of income inherently reduces the number of options a household has over where to live.

The 2017 Kentucky median household income was \$45,535, approximately three quarters of the national median of \$61,372. When adjusted for inflation, Kentucky household income decreased by 0.1% between 2010 and 2017. With the exceptions of Multi-racial and Other Race persons - whose incomes increased by 21.3% and 2.1%, respectively - wages have declined or stagnated. However, multi-racial and Other Race persons had household incomes of \$38,877 and \$37,325 in 2017, which are significantly lower than the overall median household income.

Table 11 Kentucky Household Income by Race/Ethnicity, 2010 - 2017

	Household Income		Percent Change 2010-2017
	2010 (adj to 2017\$)	2017	
White	\$47,986	\$48,228	0.5%
Black	\$32,169	\$32,160	0.0%
Asian	\$66,903	\$61,730	-7.7%
Multi-racial	\$32,042	\$38,877	21.3%
Other Race	\$36,553	\$37,325	2.1%
Hispanic	\$38,796	\$38,267	-1.4%
Overall	\$46,565	\$46,535	-0.1%

Source: American Community Survey five-year estimates 2017

### *Unemployment rates by race*

Per the 2013-2017 American Community Survey, the 2017 statewide unemployment rate was 6.8%. With an unemployment rate of 7.1%, males were slightly more likely than females to be unemployed. The unemployment rate for Whites and Asian persons was at 6.3% and 4.6%, respectively, while Black and Hispanic persons had unemployment rates of 11.4% and 7.0%, respectively. The Bureau of Labor Statistics published statistics for 2018 unemployment finding an overall unemployment rate of 4.4% for Kentucky. Among White persons, the rate was lower at 4.1%. Among the Black and Hispanic populations, the unemployment rates were higher at 6.5% and 5.5%, respectively.

Table 12 Unemployment Rates by Sex and Race/Ethnicity, 2017

	Total Labor Force	Unemployed Individuals	Percent Unemployed
By Sex			
Male	1,090,130	77,293	7.1%
Female	988,737	63,424	6.4%
By Race / Ethnicity			
White	1,823,581	114,119	6.3%
Black	170,500	19,400	11.4%
Asian	29,935	1,387	4.6%
Hispanic	69,332	4,881	7.0%

Source: American Community Survey five-year estimates 2017

### Poverty rates

The poverty rate in Kentucky was 18.3% in 2017 - up from 17.7% in 2010 - and six percentage points higher than the national rate. The only racial groups with below average poverty rates are Whites and Asians. In 2017, the poverty rates among Black and Hispanic persons was 29.2% and 29.5%, respectively. A lack of income severely restricts housing choice. Members of the protected classes by race/ethnicity – Black, Multi-racial, Other, and Hispanic - are disproportionately affected by this issue, as they are far more likely to have lower incomes or live in poverty.

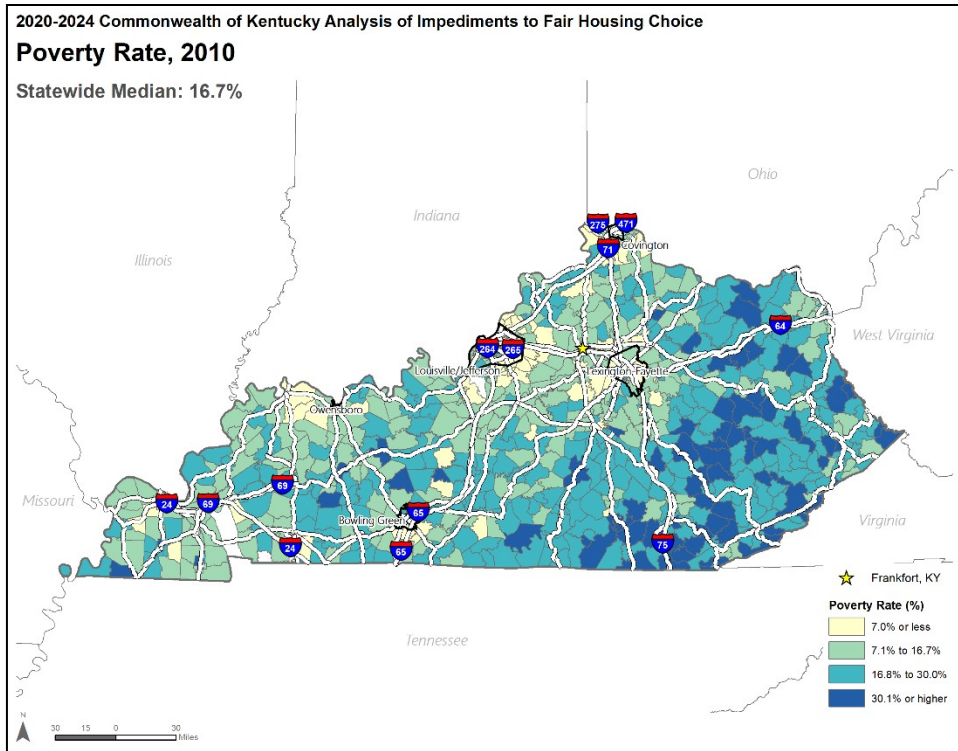
Table 13 Kentucky Poverty Rates by Race, 2010 - 2017

	2010			2017		
	Total Households	In Poverty	Poverty Rate	Total Households	In Poverty	Poverty Rate
Asian	44,382	5,735	12.9%	58,254	9,370	16.1%
Black	309,384	96,290	31.1%	331,658	96,845	29.2%
White	3,691,575	598,861	16.2%	3,756,503	636,627	16.9%
Multi-racial	62,424	19,675	31.5%	91,598	24,962	27.3%
Other	49,312	15,221	30.9%	49,874	15,782	31.6%
Hispanic	113,454	35,163	31.0%	146,146	43,098	29.5%
Total	4,157,077	735,782	17.7%	4,287,887	783,586	18.3%

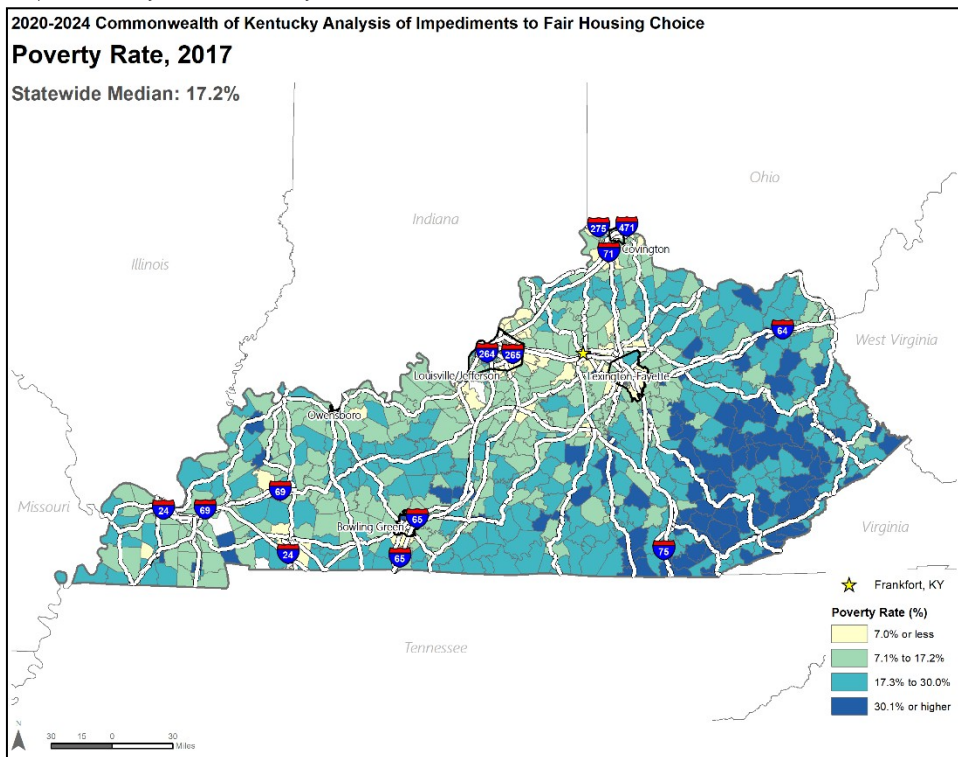
Source: American Community Survey five-year estimates 2017

On the following maps, higher rates of poverty dominate rural eastern Kentucky and the inner-city areas of both Louisville and Lexington.

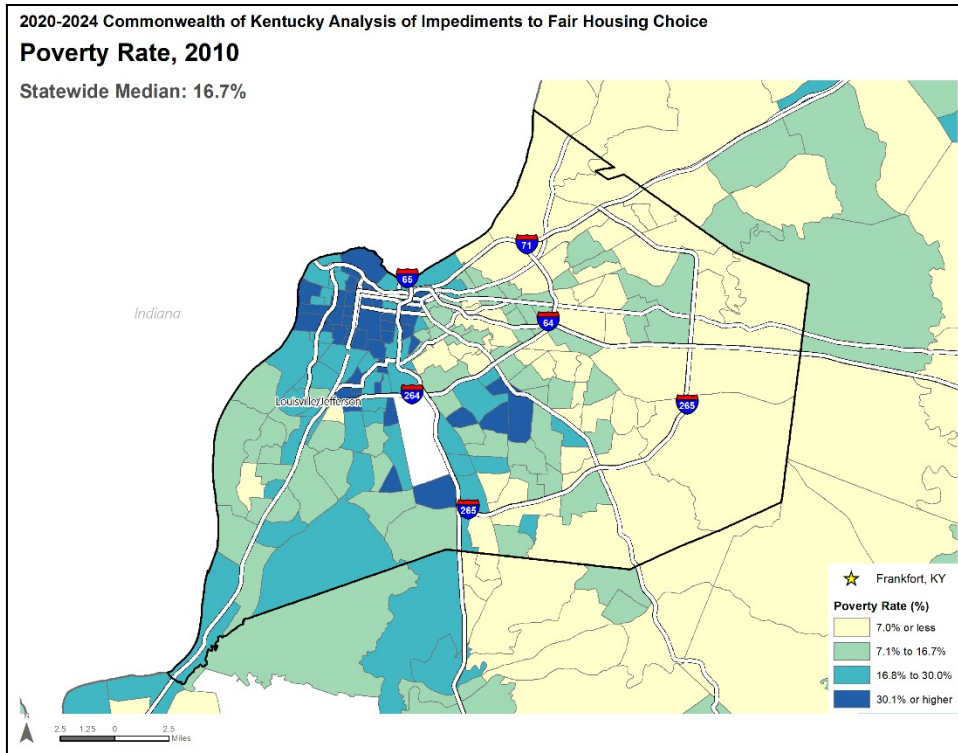
Map 17 Poverty Rates Kentucky, 2010



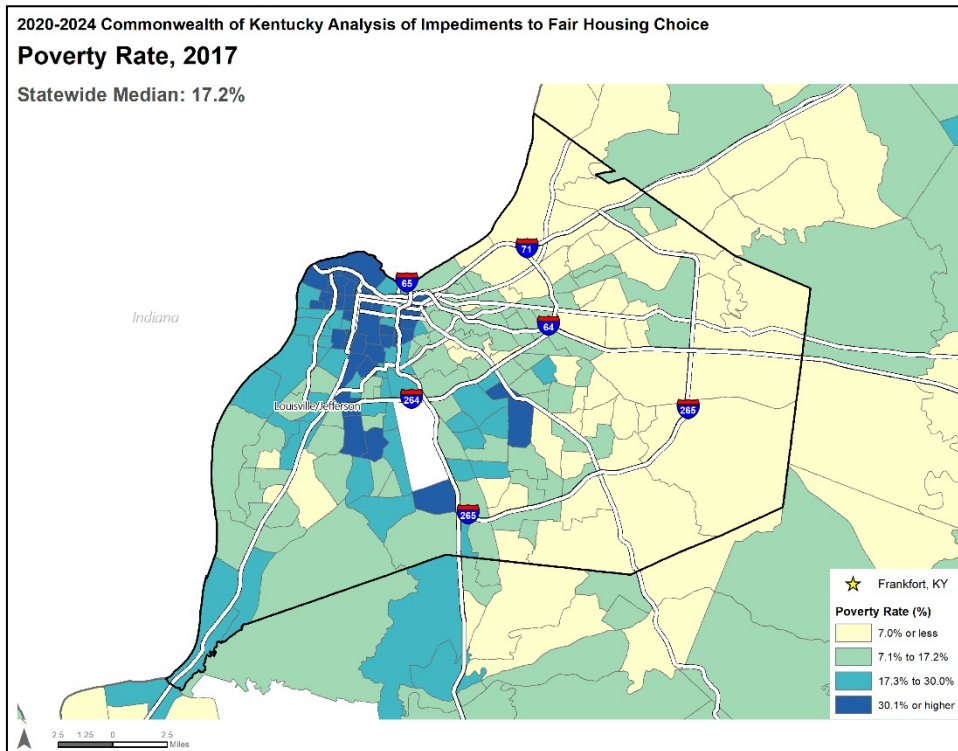
Map 18 Poverty Rates Kentucky, 2017



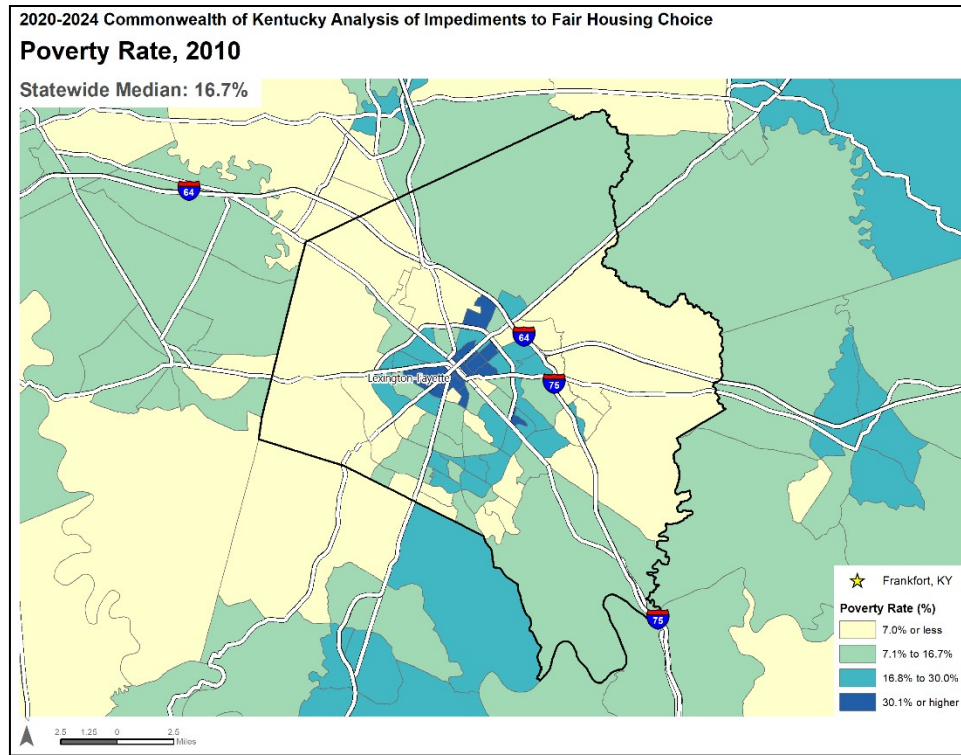
Map 19 Poverty Rates Louisville/Jefferson County, 2010



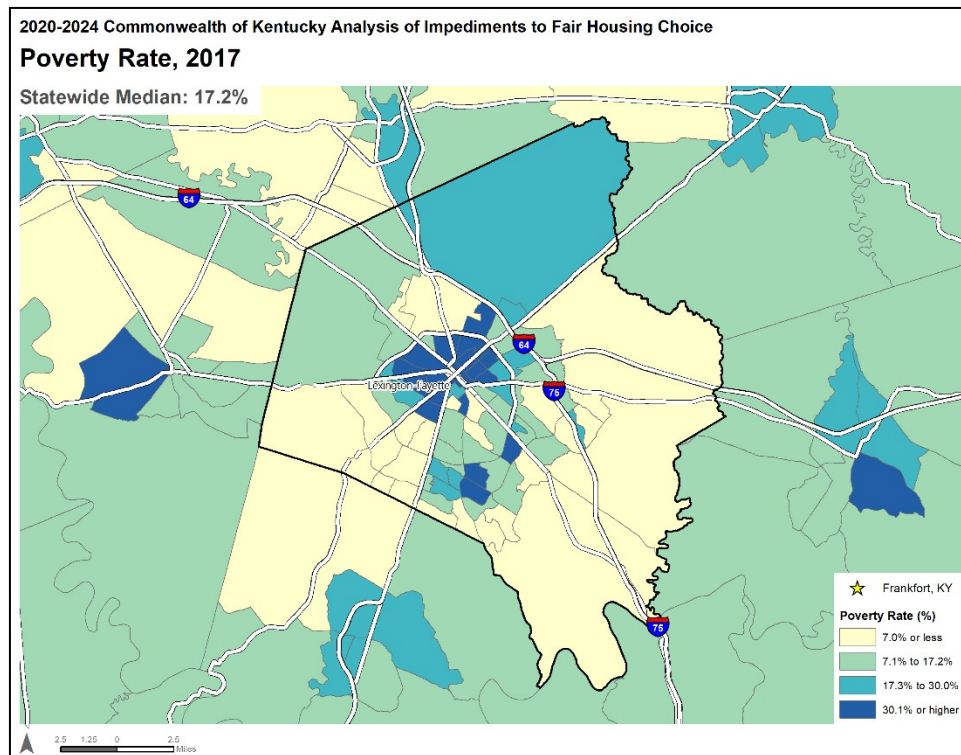
Map 20 Poverty Rates Louisville/Jefferson County, 2017



Map 21 Poverty Rates Lexington-Fayette, 2010



Map 22 Poverty Rates Lexington-Fayette, 2017



## Housing Tenure, Household Size and Unit Size

### *Housing tenure*

Although the rental rate increased from 31.3% to 33.0% since 2010, homeownership remains higher across Kentucky than the nation where the rental rate is 36.2%. There are, however, significant variation by race. In 2010, all races except White had renter rates between 50.5% (Asian) and 67.5% (Other races). This pattern was largely unchanged in 2017. White renter rates were below 30% in both 2010 and 2017.

In 2010, homeownership rates among non-Whites were lower than White household rates; while 72.0% of White households were homeowners, 39.4% of Black and 35.5% of Hispanic households owned their homes. By 2017, the statewide homeownership rate decreased slightly by 1.7 percentage points to 67.0%. While White homeownership rates decreased by 1.6 percentage points, Black homeownership rates decreased by 2.7 percentage points. Hispanic households had no change in homeownership rates.

Table 14 Tenure by Race/Ethnicity, 2010 - 2017

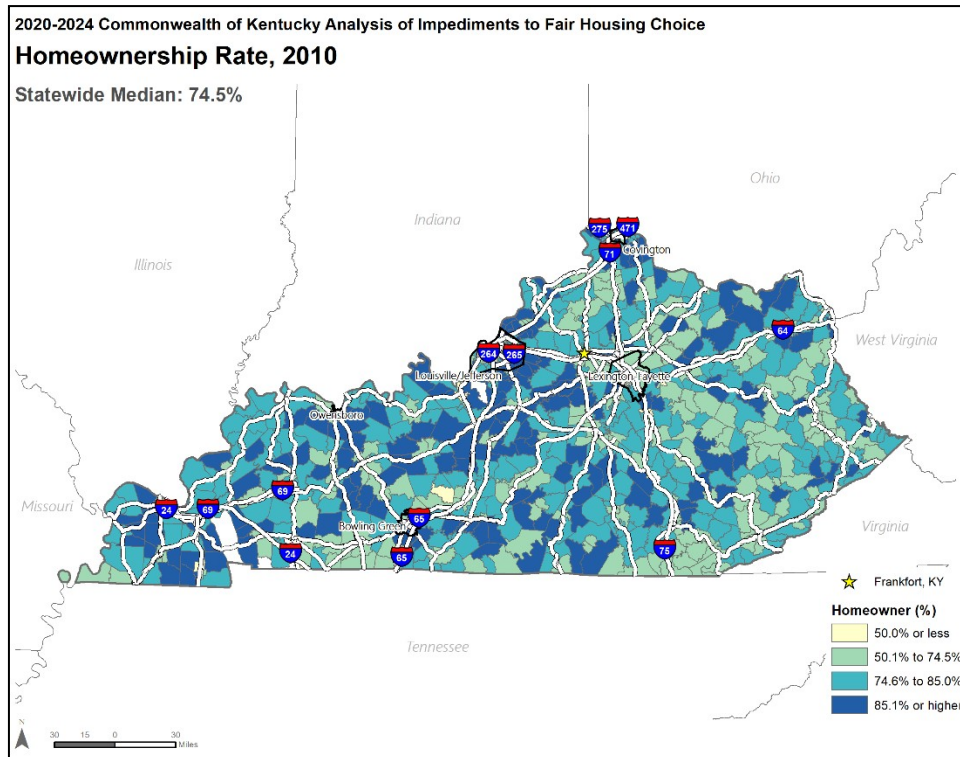
Householder Race / Ethnicity	2010				2017			
	Owner-Occupied	Renter-Occupied	Percent Renter Occupied	Percent Owner Occupied	Owner-Occupied	Renter-Occupied	Percent Renter Occupied	Percent Owner Occupied
White	1,108,967	431,367	28.0%	72.0%	1,081,378	454,248	29.6%	70.4%
Black	50,706	78,150	60.6%	39.4%	49,899	86,173	63.3%	36.7%
Asian	7,662	7,814	50.5%	49.5%	9,263	9,108	49.6%	50.4%
Multi-racial	7,937	8,925	52.9%	47.1%	10,234	10,173	49.9%	50.1%
Other	5,999	12,438	67.5%	32.5%	4,802	9,236	65.8%	34.2%
Hispanic	12,062	21,918	64.5%	35.5%	13,849	25,145	64.5%	35.5%
All Occupied Units	1,181,271	538,694	31.3%	68.7%	1,155,576	568,938	33.0%	67.0%

Source: American Community Survey five-year estimates 2010, American Community Survey five-year estimates 2017

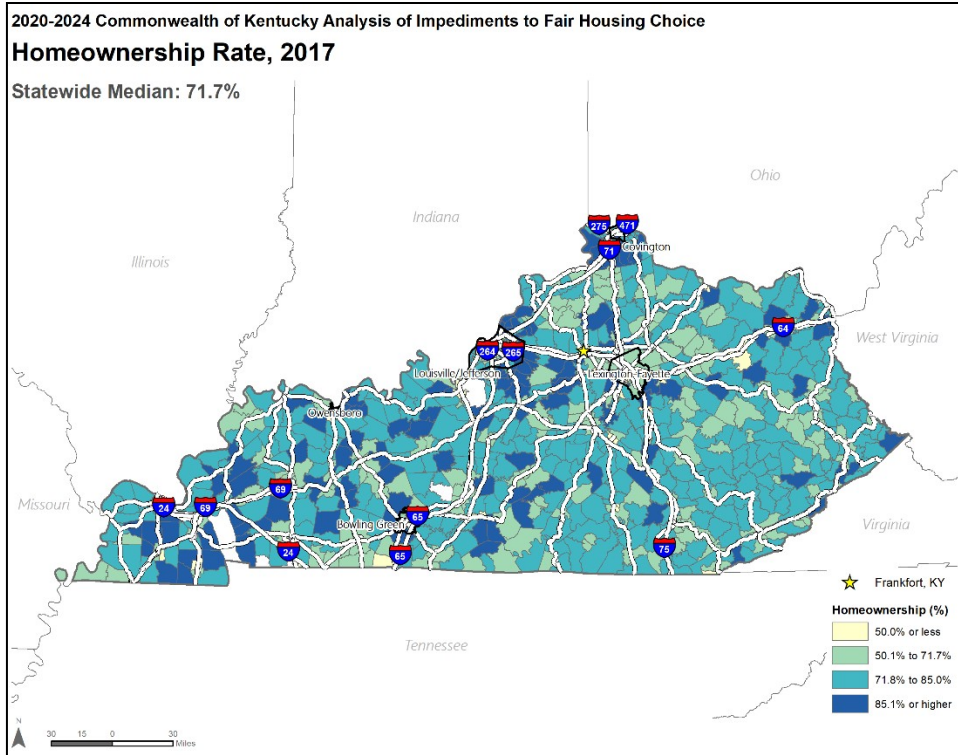
In 2010, the median homeownership rate at the census tract level was 74.5% which dropped to 71.7% in 2017. In both years, there were few census tracts with less than 50% homeownership rates but, as the 2017 map shows, there were fewer census tracts with the highest levels of homeownership in 2017 likely due to the 2008 recession and housing crisis which would not have been evident in data from 2010. By 2013, the beginning year of the 2013-2017 ACS estimates, the housing crisis was over and changes in housing would appear in the data.

Louisville/Jefferson County was largely comprised of homeowners in 2010 and most census tracts had homeownership rates above the statewide median. By 2017, there were concentrations of census tracts in which the homeownership rate was well below the statewide median. In Lexington-Fayette, similar patterns existed in 2010 and 2017; there were above median ownership rates in 2010 but large increases in the number of census tracts with below statewide median ownership rates by 2017.

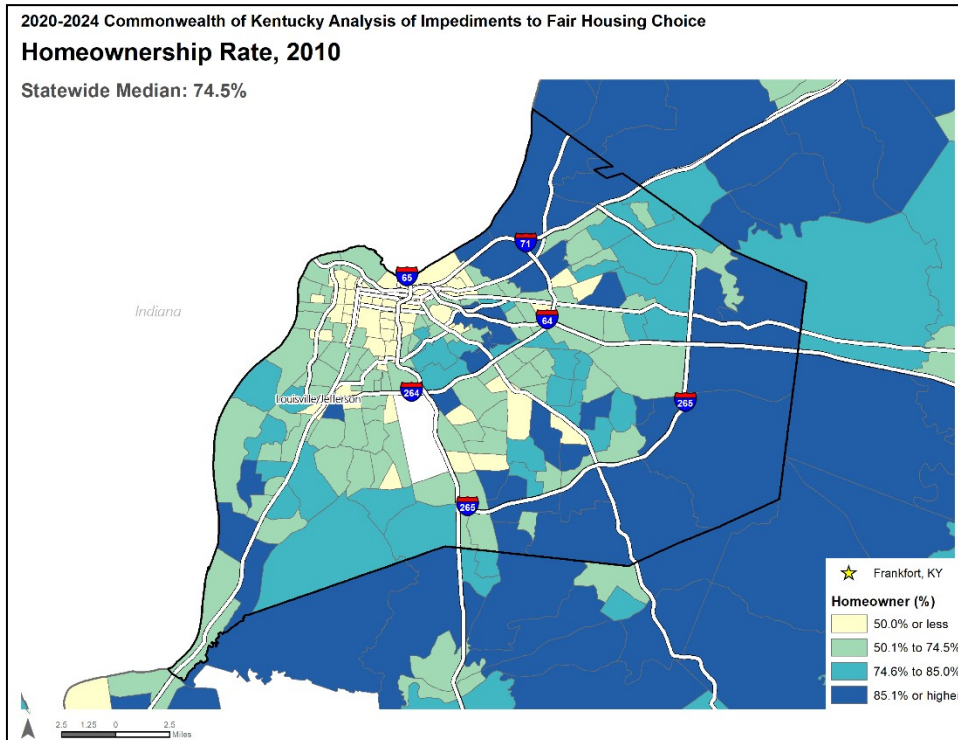
Map 23 Homeownership Rate, 2010



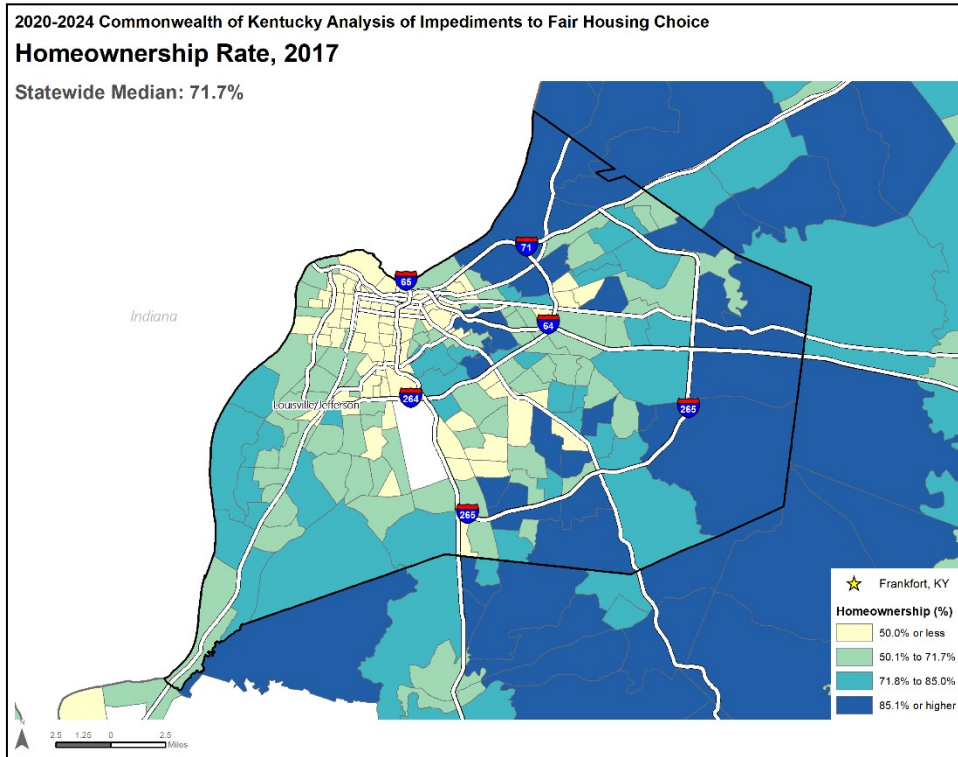
Map 24 Homeownership Rate, 2017



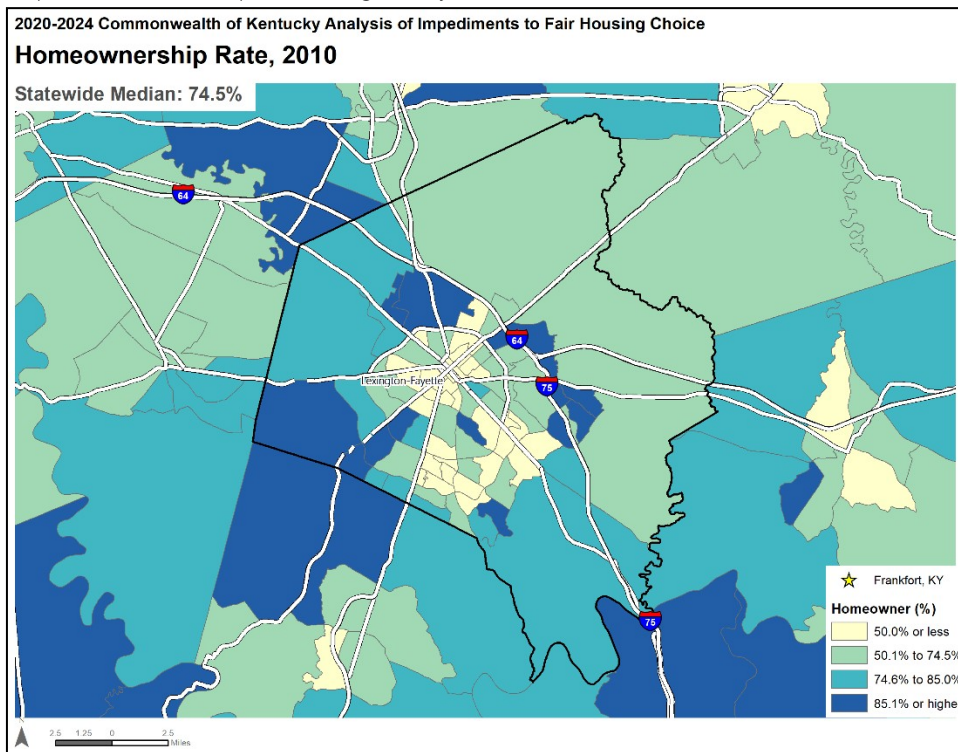
Map 25 Homeownership Rate Louisville/Jefferson County, 2010



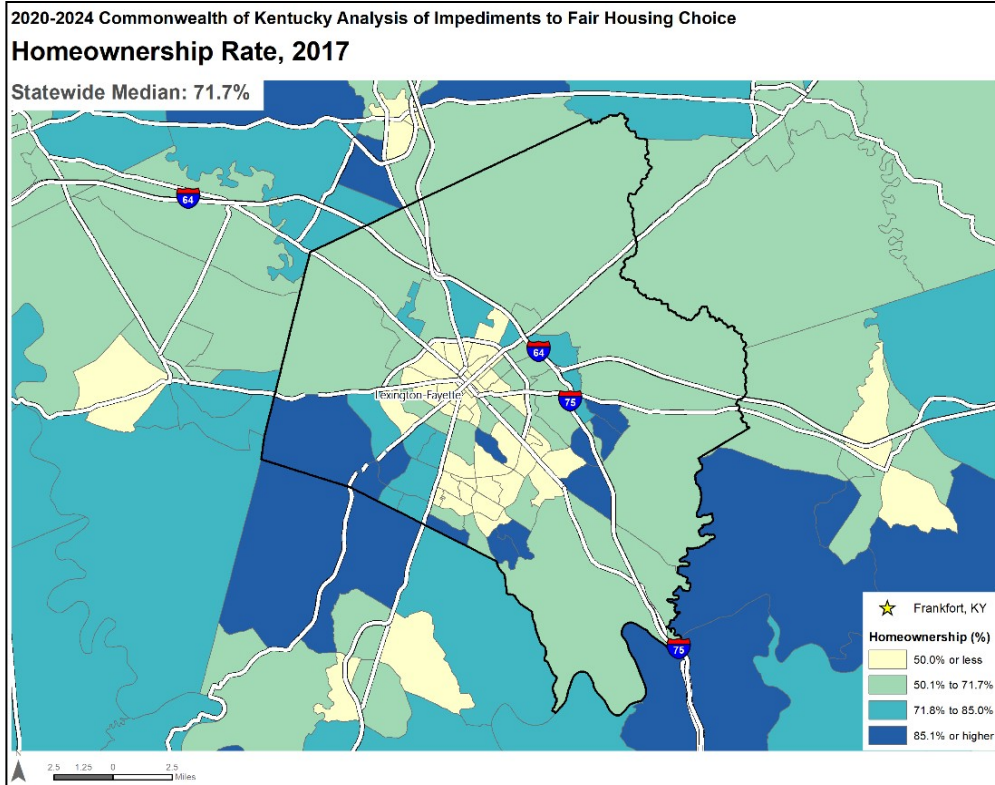
Map 26 Homeownership Rate Louisville/Jefferson County, 2017



Map 27 Homeownership Rate Lexington-Fayette, 2010



Map 28 Homeownership Rate Lexington-Fayette, 2017



### *Household size by race/ethnicity and unit sizes*

Non-White households tend to be larger than White households meaning that non-White household will need larger units to avoid over-crowding. However, larger units are typically more costly than smaller units and, in general, non-White households tend to have lower household incomes than White households. To the extent that affordable housing is linked to fair housing, members of the protected classes may have limited housing choice.

In addition, non-White households are disproportionately represented in the rental market, yet most rental units have less than three bedrooms. Only 15.6% of the rental inventory in 2010 consisted of three-or more bedroom units which increased to 18% in 2017

Table 15 Household Size by Race/Ethnicity, 2017

Household Size	White		Black		Asian		Multi-racial		Other race		Hispanic	
	#	%	#	%	#	%	#	%	#	%	#	%
3 person	248,704	24.0%	21,807	27.7%	2,870	26.8%	2,671	25.4%	3,175	23.8%	5,871	23.6%
4 person	191,919	18.5%	15,047	19.1%	2,832	26.4%	2,158	20.5%	3,315	24.8%	6,451	25.9%
5 person	80,644	7.8%	7,426	9.4%	1,183	11.0%	1,156	11.0%	2,149	16.1%	3,979	16.0%
6 person	27,352	2.6%	3,052	3.9%	433	4.0%	470	4.5%	1,065	8.0%	1,889	7.6%
7 person	14,364	1.4%	2,073	2.6%	290	2.7%	312	3.0%	932	7.0%	1,477	5.9%
Total Family Households	1,036,492	100%	78,821	100%	10,721	100%	10,504	100%	13,367	100%	24,878	100%

Source: American Community Survey five-year estimates 2017

Table 16 Unit Size by Tenure, 2017

Unit Size	2010			2017		
	Owner-Occupied Units	Renter-Occupied Units	Percent Renter-Occupied	Owner-Occupied Units	Renter-Occupied Units	Percent Renter-Occupied
0 Bedroom	1,791	12,492	87.5%	3,096	18,410	85.6%
1 Bedroom	20,279	110,472	84.5%	20,046	114,364	85.1%
2 Bedroom	223,647	211,272	48.6%	203,337	232,260	53.3%
3+ Bedroom	925,889	170,866	15.6%	929,097	203,904	18.0%

Source: American Community Survey five-year estimates 2017

### *Changes in household income relative to housing costs*

Between 2010 and 2017, household incomes have stagnated; when adjusted for inflation, household incomes fell by 0.1%. Median home values have also decreased slightly by 0.6%. The median gross rent, however, has increased by 5.9%. Given that members of the protected classes are disproportionately represented in the rental market, these households are required to spend an increasing amount of their income on housing than their home-owning counterparts.

Table 17 Changes in Housing Costs and Household Income, 2010 - 2017

	2010 (adj to 2017\$)	2017	Percent Change 2010-2017
Median Gross Rent	\$673	\$713	5.9%
Median Housing Value	\$130,816	\$130,000	-0.6%
Median Household Income	\$46,565	\$46,535	-0.1%

Source: American Community Survey five-year estimates 2017

## Segregation/Integration

### *Overview of the Analysis*

Residential segregation is a measure of the degree of separation of racial or ethnic groups living in a neighborhood or community. Latent factors, such as attitudes, or overt factors, such as real estate practices, can limit the range of housing opportunities for minorities. A lack of racial or ethnic integration in a community creates other problems, such as reinforcing prejudicial attitudes and behaviors, narrowing opportunities for interaction, and reducing the degree to which community life is considered harmonious. Areas of extreme minority isolation often experience poverty and social problems at rates that are disproportionately high. Racial segregation has been linked to diminished employment prospects, poor educational attainment, increased infant and adult mortality rates and increased homicide rates.

Segregation can be measured using a statistical tool called the dissimilarity index (DI).<sup>2</sup> This index measures the degree of separation between racial or ethnic groups living in a community. Since White residents are the majority in Kentucky, all other racial and ethnic groups were compared to the White population as a baseline. DI scores were determined for each county for Black, Asian and Hispanic populations as well as an aggregated index comparing the non-White population with the White population.

The index of dissimilarity allows for comparisons between subpopulations (i.e. different races/ethnicities), indicating how much one group is spatially separated from another within a community. In other words, it measures the evenness with which two groups are distributed across the neighborhoods that make up a community. The index of dissimilarity is rated on a scale from 0 to 100, in which a score of 0 corresponds to perfect integration and a score of 100 represents total segregation. According to HUD, a score under 40 is considered low, between 40 and 54 is moderate, and above 60 is high segregation.

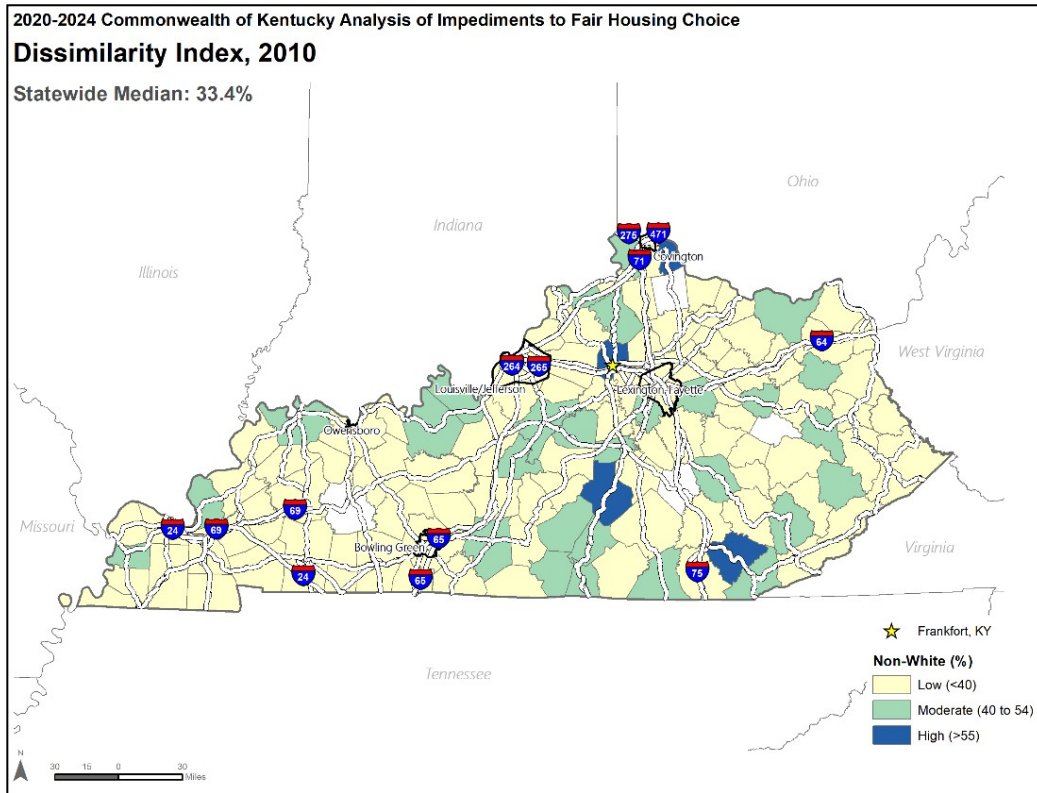
### *Dissimilarity Index trends*

In general, the level of segregation was low and moderate across Kentucky with only a small number of high segregation areas in 2010. By 2017, there was less segregation and most counties overall have a low level of segregation as shown in Maps 29 and 30. Map 31 illustrates the percent change in the DI score. All areas that are shown in yellow or light green has experienced a decrease in the DI score meaning that there is less segregation. Areas shown in blue are areas in which segregation has increased among White/Non-White populations. Specifically, segregation has increased in the metro areas including in Lexington-Fayette, Louisville/Jefferson County, Bowling Green and areas to the west of Bowling Green along the Tennessee, Missouri and Illinois borders as shown on the following map. See Appendix A for a county comparison table of the Dissimilarity Index by race.

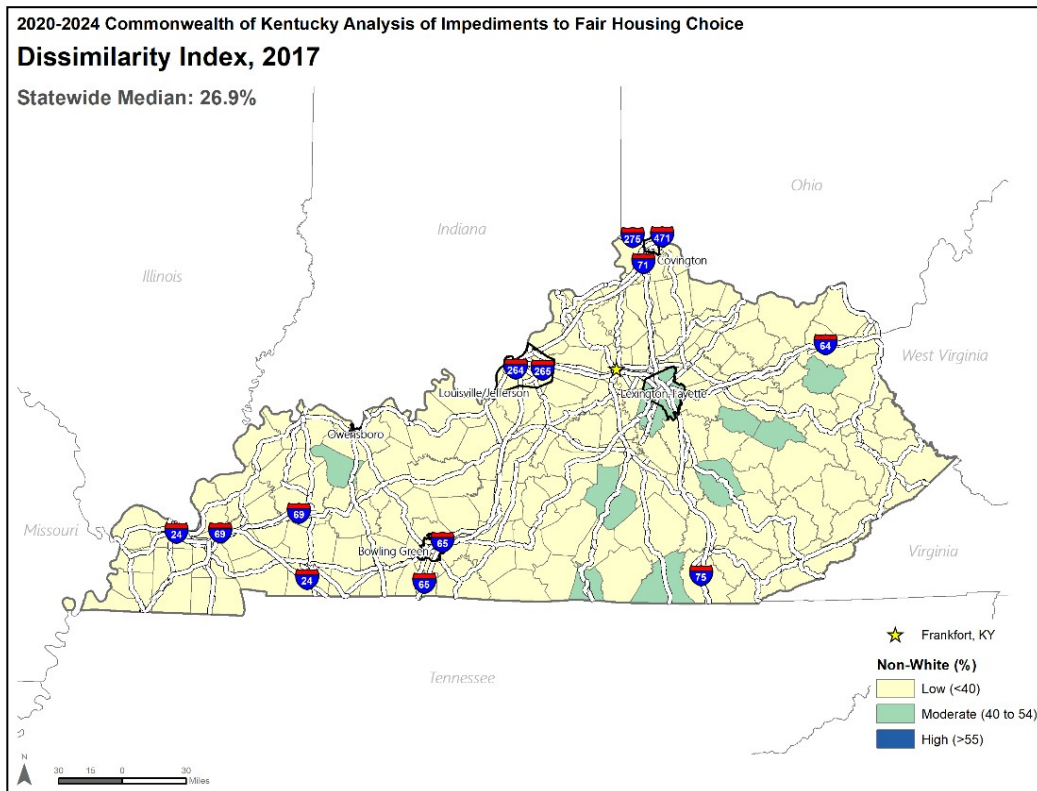
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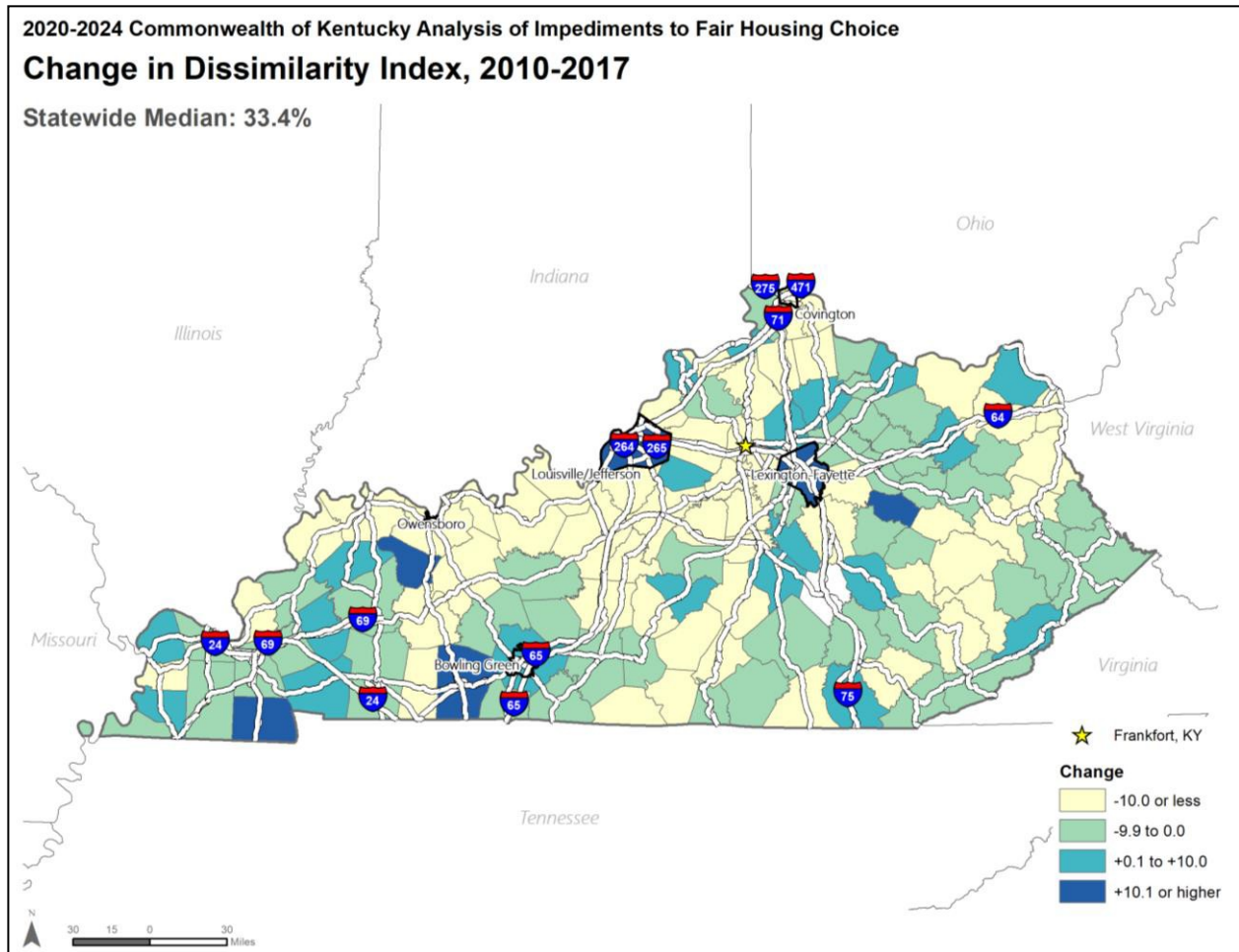
<sup>2</sup> For a given geographic area, the index is equal to  $[(a/A) * (a/t)]$ , where "a" is the group population of a sub-region, "t" is the population of all groups in the sub-region, and "A" is the total group population in the larger region.

Map 29 Dissimilarity Index, 2010



Map 30 Dissimilarity Index, 2017





The previous three maps indicate the level of segregation as defined by the DI score among Whites/Non-Whites meaning that the score was calculated by comparing the residential patterns for all White Non-Hispanic persons against all other persons not identifying as White Non-Hispanic. Even with low segregation overall, different racial and ethnic groups in Kentucky experience varying levels of segregation when disaggregated by race/ethnicity rather than when comparing all non-White persons to the White population. The following table illustrates the DI score when the Non-White population is disaggregated. Many more counties have medium levels of segregation when racial/ethnic groups are disaggregated. Note that the margins of error for some populations were sufficiently large as to not allow for the calculation of a DI score for individual races/ethnicities as shown in the N.A. column at right.

Table 18 Summary of the Number of Counties with Varying Levels of Segregation by Race/Ethnicity, 2017

	Low	Medium	High	N.A.
Non-White/White	111	10	0	0
Black/White	29	28	3	61
Asian/White	9	18	3	91
Hispanic/White	60	32	1	28

Source: American Community Survey five-year estimates 2017, calculations by Mullin & Lonergan Associates, Inc.

## Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs)

### *Overview of analysis*

HUD defines R/ECAPs as census tracts with a non-White population of at least 50% (and 20% outside of metropolitan/micropolitan areas) and a poverty rate that either exceeds 40% or is three times the average tract poverty rate for the metropolitan/micropolitan area, whichever is lower. By combining these data, it is possible to determine geographic patterns where there are concentrated areas of poverty among racial/ethnic minorities.

### *Identification of R/ECAPs*

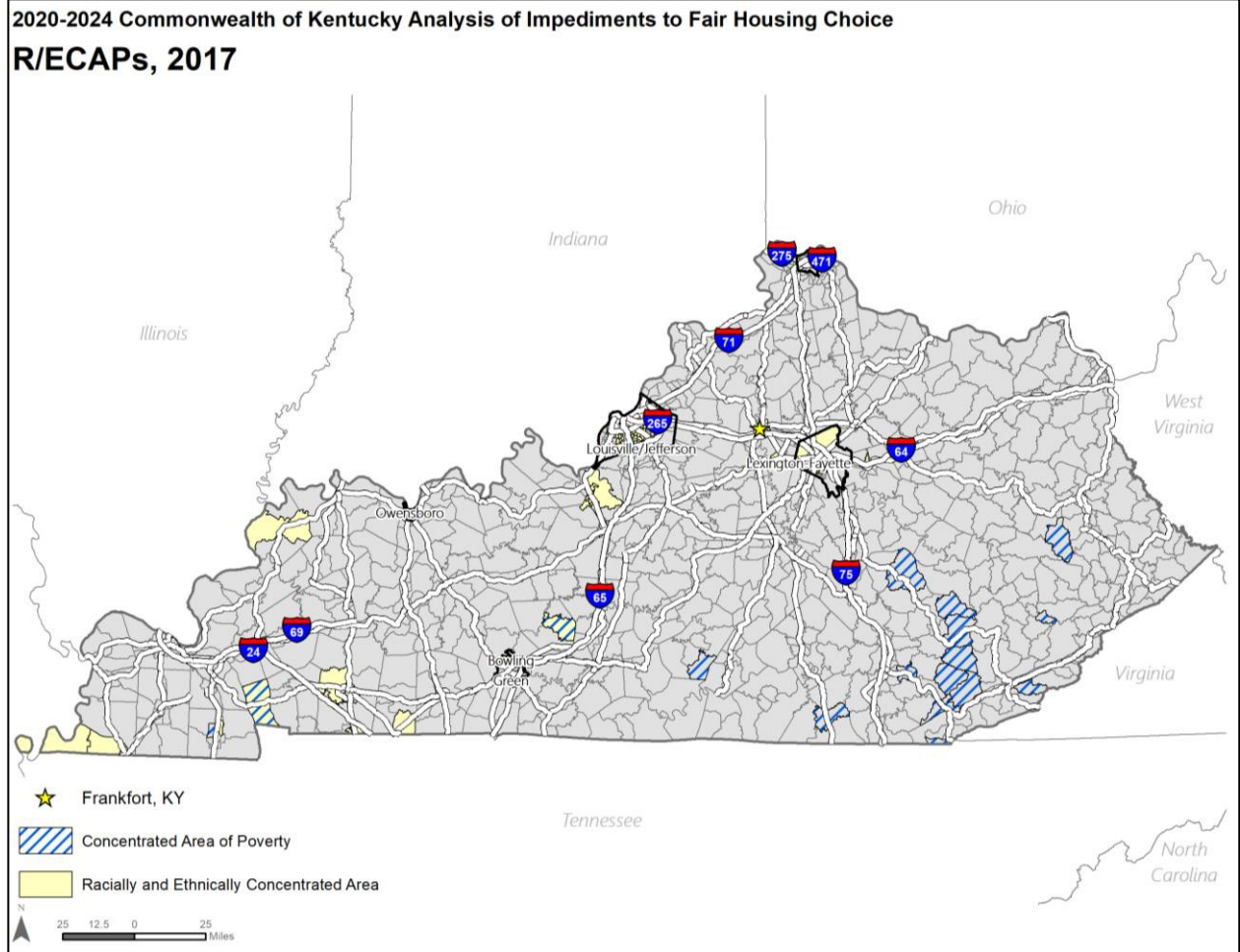
Given the relatively low non-White population of Kentucky outside of urban areas, applying the HUD definition could potentially overlook areas in need. Therefore, an alternative definition is used in which the thresholds include: a census tract with a non-White population that is ten percentage points higher than the statewide non-White average and a census tract with a poverty rate of at least 40%. There are 24 census tracts in the Commonwealth that meet these criteria.

Most R/ECAPs are located in and near urban areas. There are also census tracts in the eastern part of Kentucky that do not meet the R/ECAP definition because they are largely populated by White persons, but the poverty rate does meet the 40% threshold.

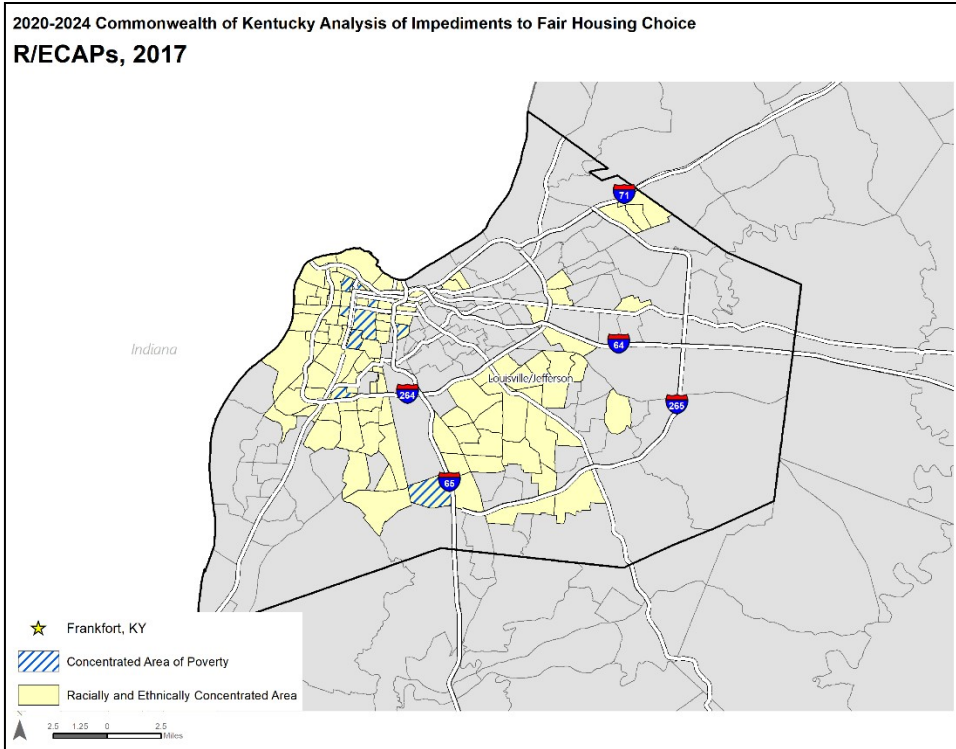
Table 19 Modified R/ECAP Census Tracts, 2017

Census Tract	County	Non-White	Poverty
501	Campbell County	37.6%	60.3%
2003	Christian County	41.6%	50.3%
2	Daviess County	35.4%	45.1%
9801	Edmonson County	81.7%	91.0%
4	Fayette County	60.9%	46.2%
9	Fayette County	31.8%	70.5%
1.01	Fayette County	29.2%	43.3%
19	Fayette County	42.2%	58.5%
119.01	Jefferson County	73.8%	42.1%
18	Jefferson County	98.4%	45.0%
21	Jefferson County	37.7%	51.2%
23	Jefferson County	49.2%	44.2%
27	Jefferson County	83.4%	52.7%
28	Jefferson County	84.0%	41.2%
30	Jefferson County	91.7%	78.6%
43.01	Jefferson County	68.6%	43.2%
65	Jefferson County	60.0%	48.0%
609	Kenton County	39.8%	53.8%
651	Kenton County	48.8%	43.2%
671	Kenton County	66.7%	44.4%
304	McCracken County	68.9%	41.2%
9801	Trigg County	57.1%	100.0%
110.01	Warren County	45.3%	42.4%
103	Warren County	49.5%	42.3%

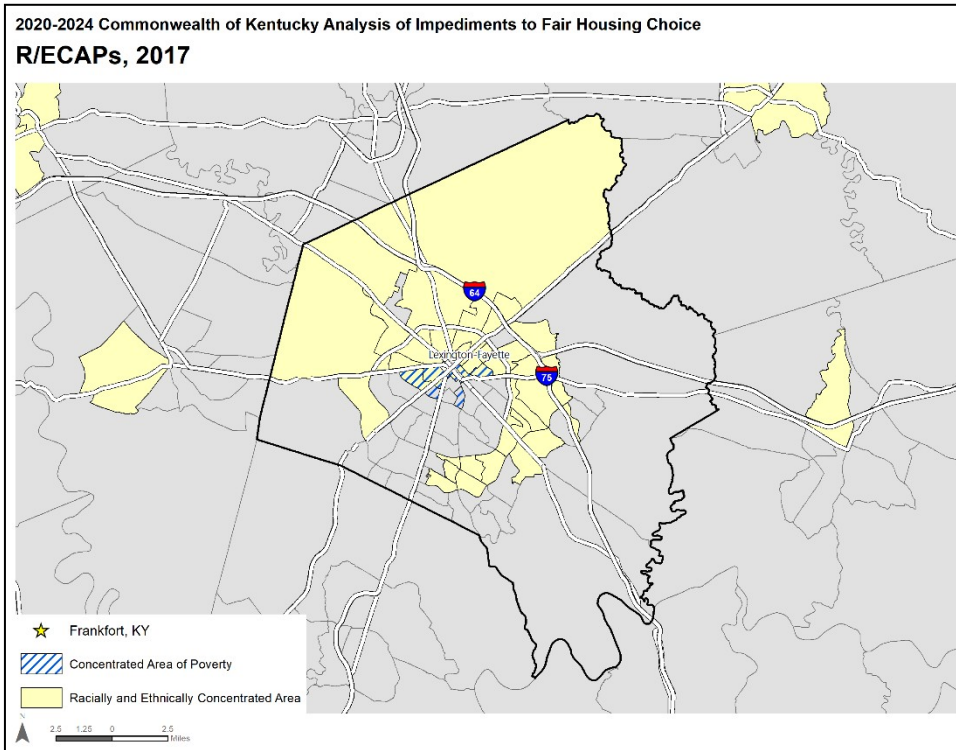
Source: American Community Survey five-year estimates 2017



Map 33 R/ECAPs in Louisville, 2017



Map 34 R/ECAPs in Lexington, 2017



## 5. Public Sector Policy Analysis

Impediments to fair housing choice can take many forms. Some policies, practices, and procedures may appear neutral on their face but adversely affect the provision of fair housing in reality. An important element of the AI is an examination of public policies in Kentucky to determine opportunities for reducing obstacles to fair housing and expanding housing choice.

### Federal Funding Sources and Programs

Collectively, the Community Development Block Grant (CDBG), HOME Investment Partnerships, Emergency Solutions Grant (ESG) and Housing Opportunities for Persons With AIDS (HOPWA) programs are under the authority of the Community Planning and Development (CPD) division of the U.S. Department of Housing & Urban Development (HUD). In addition, since 2016, the State has received a \$3 million annual allocation from the Housing Trust Fund (HTF), also under the authority of HUD. Kentucky also receives annually approximately \$12 million in financing through the federal Low-Income Housing Tax Credit (LIHTC) program.

Annually, the State is required to engage the public and stakeholders in the development of its Annual Action Plan to identify the eligible activities it will fund and implement with CDBG, HOME, ESG, and HOPWA funds. In addition, the State undertakes a Consolidated Plan every five years to set priorities and goals for upcoming Annual Action Plans.

This section analyzes the state-level policies in place that guide how Kentucky affirmatively furthers fair housing as part of its planning process and in the implementation of its CDBG, HOME, LIHTC and HTF programs.

### *Community Development Block Grant Program*

The Kentucky Department for Local Government (DLG) administers the CDBG program across the State. Eligible applicant communities include those that are not direct HUD entitlement grantees. DLG

allocates CDBG resources to address community needs such as housing, economic development, public facilities, and public services. In 2017, the State received \$22.8 million in CDBG funds.

DLG's CDBG Handbook is available online and was reviewed for the AI. The handbook includes a statement of non-discrimination, including a statement making known the Department's ability to make reasonable accommodation for persons with disabilities to participate in all programs, services and activities. Chapter 7: Fair Housing and Equal Opportunity, along with the associated attachments, was reviewed. The Department's non-discriminatory statement includes the seven federal protected classes and also reinforces the more recent HUD regulations and guidelines as well Executive Order 11246. The latter include:

- March 2012 HUD regulations that provide fair housing to persons regardless of sexual orientation or gender identity (actual or perceived)
- EO11246 that extended coverage to these classes in 2014
- September 2016 HUD guidance that formalized legal standards regarding sexual harassment in housing and how the Fair Housing Act applies to ensure that local nuisance or crime-free housing ordinances do not lead to discrimination
- September 2016 HUD guidance regarding Fair Housing Act protections for persons with limited English proficiency (LEP)

As part of the grant agreement to receive state CDBG funding, a sub-recipient must provide assurances to further fair housing and ensure nondiscrimination, such as maximizing housing choice throughout the jurisdiction; lessening racial, ethnic and economic concentrations in housing; facilitating desegregation and racially inclusive patterns of occupancy; providing for equal access in HUD-funded properties and programs; and, affirmatively furthering fair housing. Sub-recipients must designate a local fair housing and equal opportunity coordinator, adopt a fair housing resolution and undertake one or more activities from among a list of 12 initiatives—all of which promote fair housing.

In addition to requiring compliance with the federal Fair Housing Act, state CDBG sub-recipients must also comply with Title VI of the Civil Rights Act of 1964 and KRS 344.015. To achieve this, sub-recipients can

either adopt DLG's Title VI Implementation Plan or create one of their own. Furthermore, sub-recipients must ensure equal opportunities are made available through project site selection, evaluation criteria and administrative practices are non-discriminatory, affirmative actions are undertaken to overcome past discriminatory actions, and EEO and fair housing posters are prominently displayed, among other things. A grievance procedure to handle complaints must be put in place as well.

Specific to housing activities, sub-recipients are required to periodically review the Commonwealth's AI or adopt their own and maintain compliance. Marketing to LEP populations, selection criteria for program participants, policies for relocation, and legal documents must be reviewed and revised, as needed, to ensure compliance. Section 504 requirements regarding accessibility are imposed, including accessible design and construction features for housing activities. Sub-recipients are required to use DLG's four- factor analysis to ensure meaningful access to LEP populations, and to ensure that Language Access Plans address local LEP data and needs.

Information on how to file a complaint alleging discrimination is provided as an online link to HUD Discrimination Form 903.1 (online complaint form). DLG also provides a substantial list of attachments, several of which are templates for required documents (e.g., local Fair Housing Resolution, Civil Rights Title VI Self-Survey, Policy of Non-Discrimination Section 504 Public Notice, etc.).

DLG monitors its sub-recipients on a periodic basis. In an interview with DLG executive staff, it was reported that DLG requires that sub-recipient document compliance with fair housing requirements before a release of funds is approved. This step became necessary when DLG found that its programmatic fair housing requirements were simply not being met by sub-recipients. Now, midway through a project, DLG monitors it for compliance. If a finding is noted, a letter is sent to the sub-recipient and a 10% administrative fee is withheld until the finding is resolved. As a result of these changes, fair housing compliance in the state CDBG program is higher. Staff reported that the only issue they may find now is that a local government sub-recipient has an outdated fair housing policy that hasn't been updated if a new elected official has been sworn in.

DLG provides fair housing training as part of its mandatory program administrative training for sub-recipient staff. DLG staff are provided fair housing training opportunities through KHC's statewide training opportunities.

### *HOME Investment Partnerships Program*

KHC administers the HOME program, which provides funding for affordable housing initiatives across the Commonwealth. In terms of fair housing, the location of assisted housing can expand access to community assets or it can perpetuate residential segregation patterns. For example, affordable housing units planned and developed in high opportunity areas can facilitate access to better schools and jobs. On the other hand, affordable housing that is located exclusively in R/ECAP or lower opportunity areas can restrict housing choice and residents' access to higher quality community assets.

KHC's HOME funds may be used for the development of multifamily properties involving acquisition and rehabilitation or new construction of affordable rental housing. Income-eligible households include those with incomes up to 60% of the area median. The required affordability period for new construction rental development is 20 years. The affordability period for rehabilitation projects is dependent upon the amount of HOME funds invested per unit, ranging from 5 to 15 years.

HOME funds are may be used for the following single-family residential activities.:

- Homebuyer assistance can include acquisition and rehabilitation for resale of an existing home and new construction of a single-family unit. Acquisition can occur under direct sale to the homebuyer or via a lease-purchase agreement. Up to \$40,000 of HOME funds may be used to assist homebuyers via a direct subsidy for principal reduction, and/or down payment and closing costs assistance. Up to \$25,000 of HOME funds per house may also be used for development gap subsidy in the event the total development costs exceed the appraised value sales price of the unit. The level of development gap subsidy available is dependent on the energy-efficiency of the unit as defined by its HERS rating. Eligible households include those with incomes up to 80% of the area median. Until the calendar year 2019 award cycle, KHC also provided up to \$60,000 of HOME funds per unit funds for homeowner rehabilitation to bring a primary residence up to current building code or, if the house is too dilapidated, to demolish it

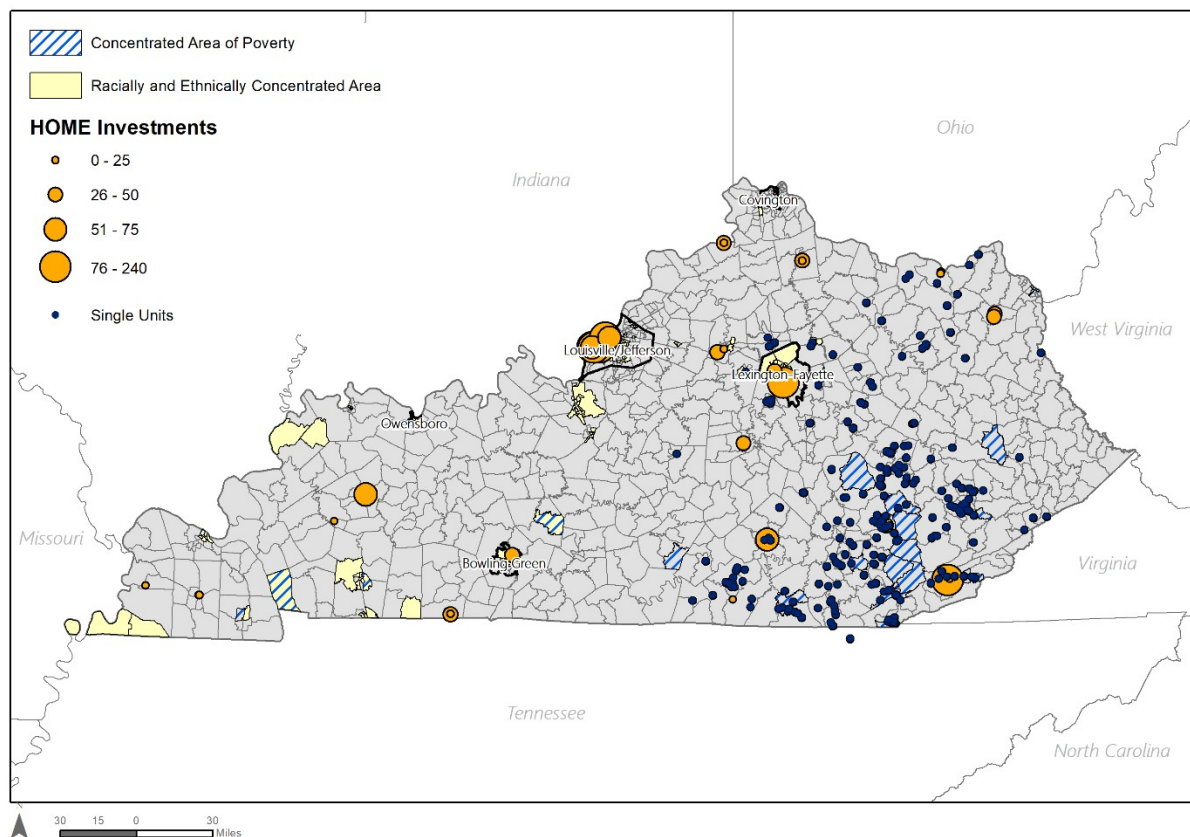
and build a new home. Eligible households included those with incomes up to 80% of the area median. Owner-occupied home repairs are now funded using Kentucky state Affordable Housing Trust Fund moneys.

- Tenant-based rental assistance provides funds for rent and utility assistance as well as security and utility deposits. Eligible households have incomes up to 60% of the area median.

The following series of maps illustrate the HOME-financed single-family and multi-family housing activities for the three-year period beginning July 2015. Of the 6,659 dwellings represented on the maps, 448 units (6.7%) are located in R/ECAPs in Lexington (80) and Louisville (384).

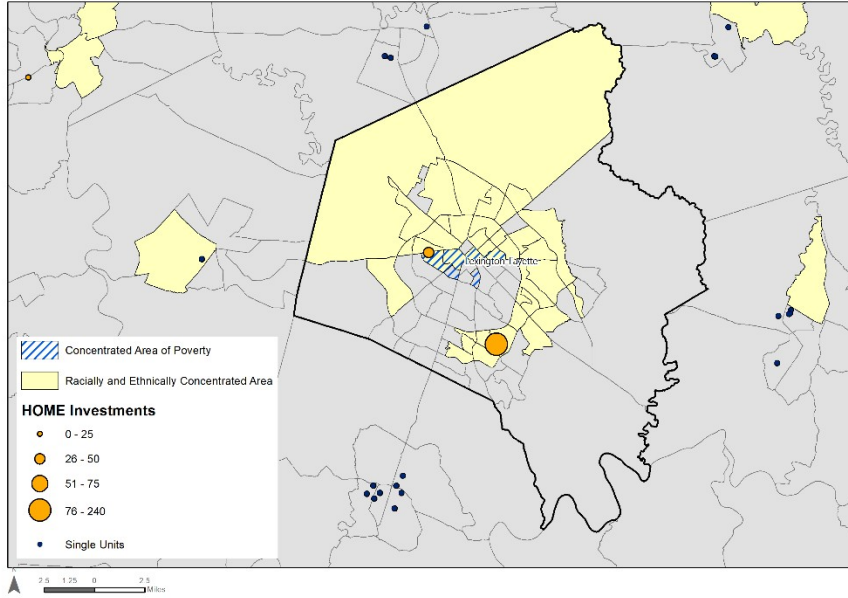
Map 35 HOME Program Investments in Kentucky, July 2015-June 2018

**2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice**  
**HOME Program Investments, July 2015 - June 2018**



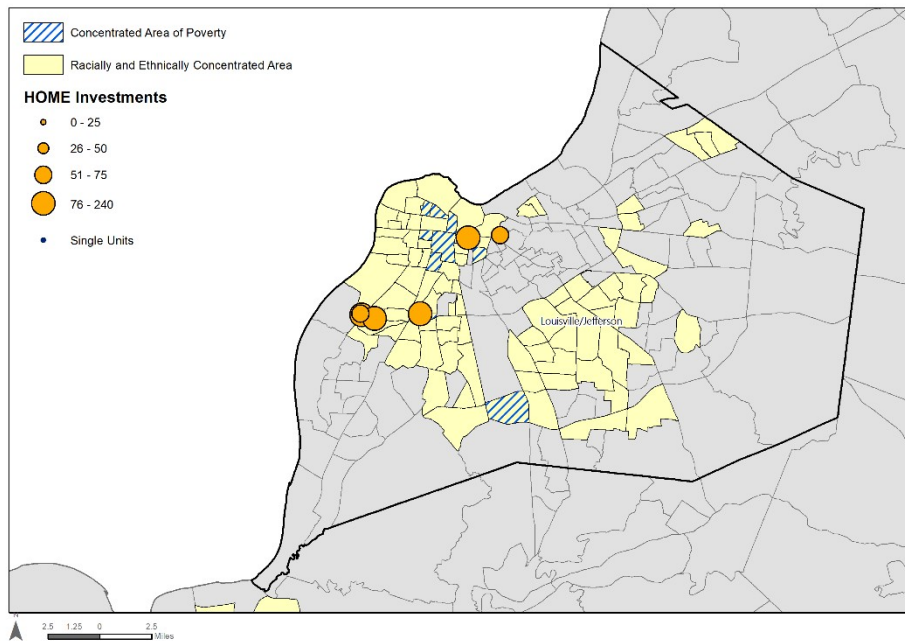
Map 36 HOME Program Investments in Lexington-Fayette County, July 2015-June 2018

2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice  
**HOME Program Investments, July 2015 - June 2018**



Map 37 HOME Program Investments in Louisville-Jefferson County, July 2015-June 2018

2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice  
**HOME Program Investments, July 2015 - June 2018**



KHC's *Minimum Design Standards for New Construction, Adaptive Reuse and Rehabilitation of Multi-family Housing Units* (revised for 2020) was reviewed for the AI. KHC's minimum design standards apply to all new construction and reconstruction of multi-family dwellings, all adaptive reuse converting non-residential uses to residential uses, and limited rehabilitation projects constructed with funds from HOME, HTF, LIHTC and three other KHC programs. This standard also applies to all rehabilitation of existing multifamily properties and structures. KHC also has design standards for single-family housing funded via HOME and state Affordable Housing Trust Fund dollars, with separate standards established for rehabilitation and new construction.

Furthermore, all construction must comply with the following applicable codes and standards:

- Kentucky building and residential construction codes
- Local planning and zoning requirements
- Local public housing authorities' rules and regulations
- The Fair Housing Amendment Act of 1988 (for units constructed for first occupancy on or after March 31, 1991)
- Section 504 of the Rehabilitation Act of 1973
- American with Disabilities Act of 1990

In a letter from HUD dated October 19, 2017 in which the Commonwealth's 2017 Annual Action Plan was reviewed and approved by HUD, the Office of Fair Housing and Equal Opportunity provided the following comments related to new construction and housing rehabilitation activities undertaken with HUD entitlement funds: the State failed to indicate that the developer of these housing activities was aware of the new construction accessibility requirements of the federal Fair Housing Act (24 CFR 100.205) and Section 504 of the Rehabilitation Act of 1973, as amended (24 CFR 8.20) and/or the Uniform Federal Accessibility Standards (UFAS) when constructing new rental and/or rehabilitated housing. FHEO recommended that Kentucky provide a statement to include these requirements in future Consolidated Annual Performance and Evaluation Reports (CAPERs) and Annual Action Plans and ensure that all contractors, sub-contractors, architects, developers and anyone affiliated with development activities have expert knowledge of the Fair Housing Act, Section 504 and UFAS to ensure compliance.

A review of KHC's *Architect's Certification of Compliance with Design Requirements for Accessible Housing* was reviewed in light of the comments provided by FHEO in the October 19, 2017 letter. This form, which is required to be completed and submitted with all project applications requesting KHC funding, includes the design accessibility standards mentioned in the FHEO letter. Signatures are required from both the architect and the project owner/developer. KHC should revise the certification form or create a new form to require the same level of compliance from general contractors responsible for the design and construction of residential units covered by these standards. And, a brief description of how KHC is addressing this requirement using the certification form should be included in each CAPER in which new construction and/or rehabilitation activities are reported.

Developers awarded HOME funds must comply with the affirmative marketing requirements and procedures outlined in 24 CFR Part 92.351 as stated in KHC's *Single Family Homebuyer Development Program Policy Manual* (revised February 27, 2019). The first sentence of that section of the federal regulations states the following: Each participating jurisdiction must adopt and follow affirmative marketing procedures and requirements for rental and homebuyer projects containing five or more HOME-assisted housing units. Although KHC's *Single Family Homebuyer Development Policy Manual* and *Multifamily Guidelines* address requirements, KHC acknowledges a formally adopted document specifically addressing KHC's affirmative marketing procedures and requirements would be a good practice.

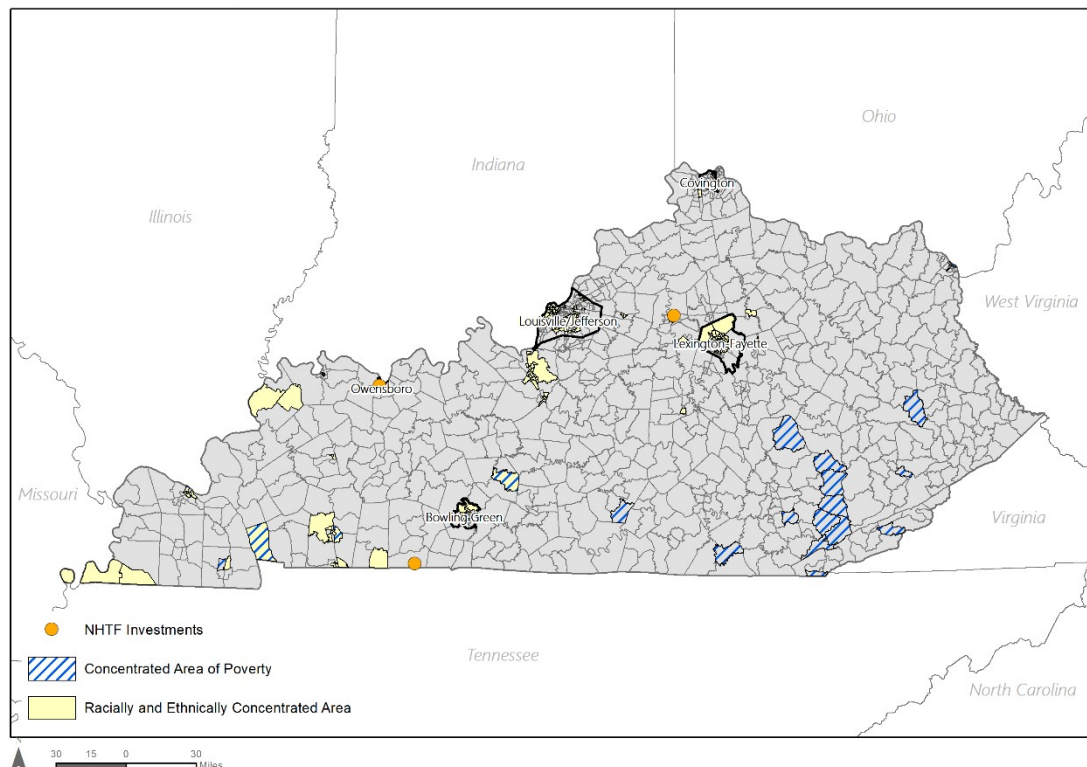
## National Housing Trust Fund

The Housing Trust Fund (HTF) is an affordable housing production program that complements existing Federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families. HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. Kentucky receives the minimum allocation of \$3 million annually from this program.

In its 2018 CAPER, KHC reported using HTF funds for the preservation and rehabilitation of over 300 affordable rental housing units that serve extremely low-income families or families with incomes at or below the poverty line. HTF investments are geographically illustrated on the following series of maps.

Map 38 National Housing Trust Fund Investments in Kentucky, July 2015-June 2018

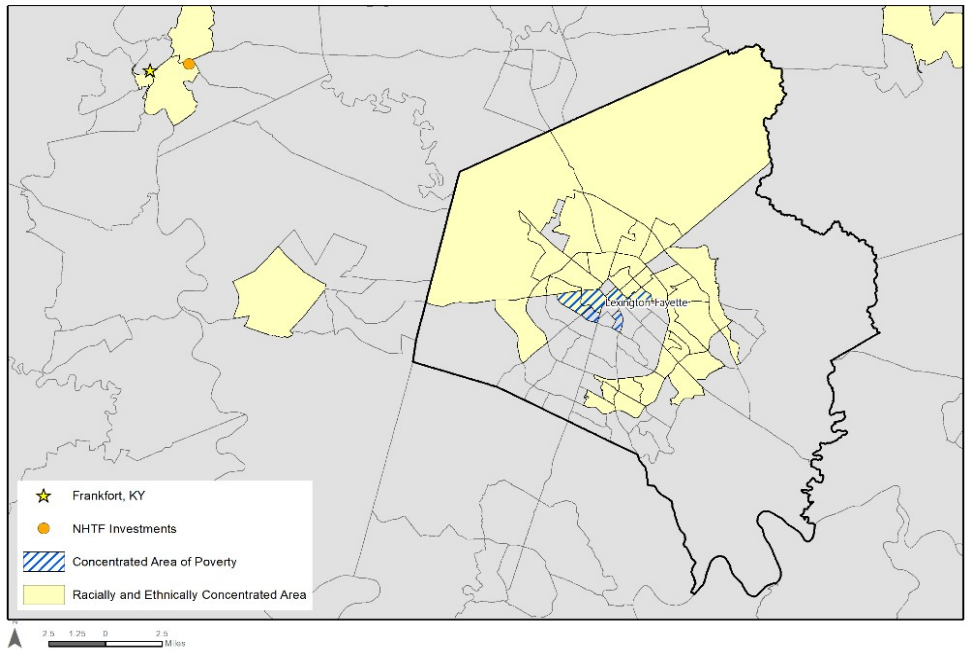
### 2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice National Housing Trust Fund Investments, July 2015 - June 2018



Map 39 National Housing Trust Fund Investments in Lexington-Fayette County, July 2015-June 2018

2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice

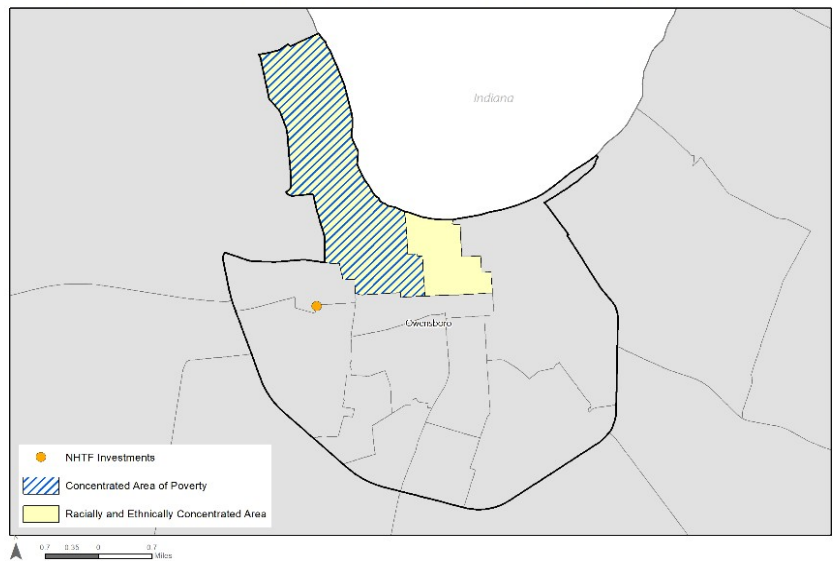
**National Housing Trust Fund Investments, July 2015 - June 2018**



Map 40 National Housing Trust Fund Investments in Owensboro, July 2015-June 2018

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**National Housing Trust Fund Investments, July 2015 - June 2018**



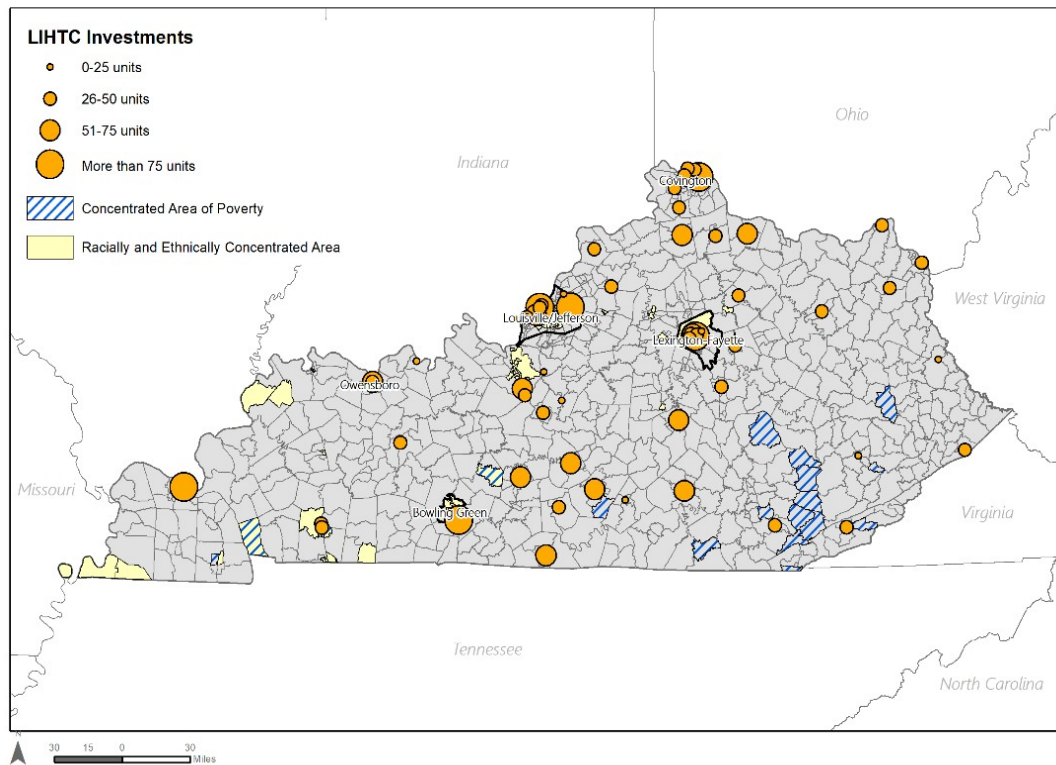
### Low Income Housing Tax Credit Program and the Qualified Allocation Plan

The Qualified Allocation Plan (QAP) is a public policy based on guidelines established by Section 42 of the Internal Revenue Code, which establishes KHC's priorities for rental housing initiatives financed with Low Income Housing Tax Credits (LIHTC).

The following series of maps illustrate the types and locations of investments made with LIHTC funding for the two-year period beginning July 2016.

Map 41 Low Income Housing Tax Credit Investments in Kentucky, July 2016-June 2018

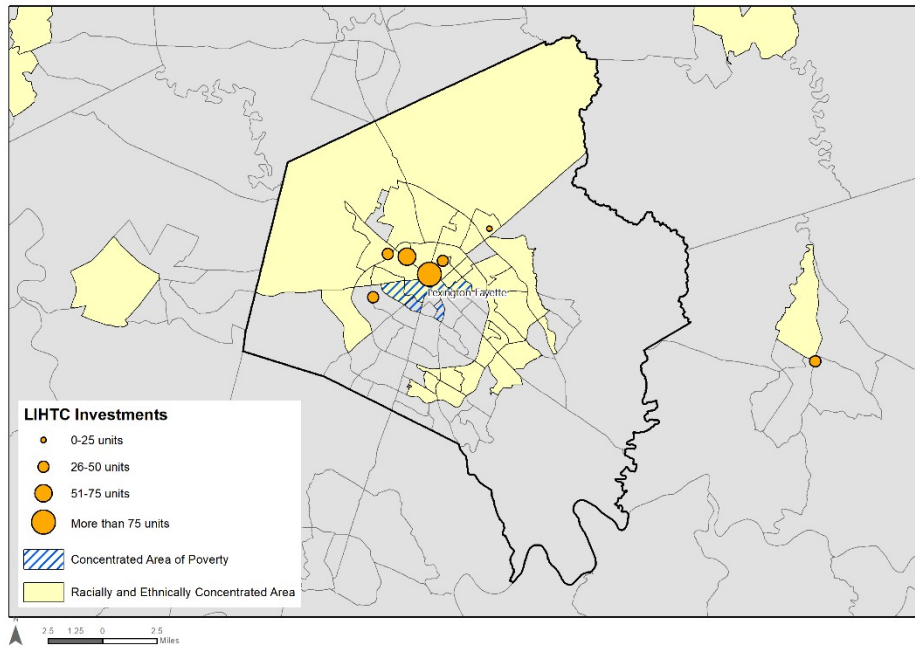
#### 2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice Low Income Housing Tax Credit Investments, July 2016 - June 2018



Map 42 Low Income Housing Tax Credit Investments in Lexington-Fayette County, July 2016-June 2018

2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice

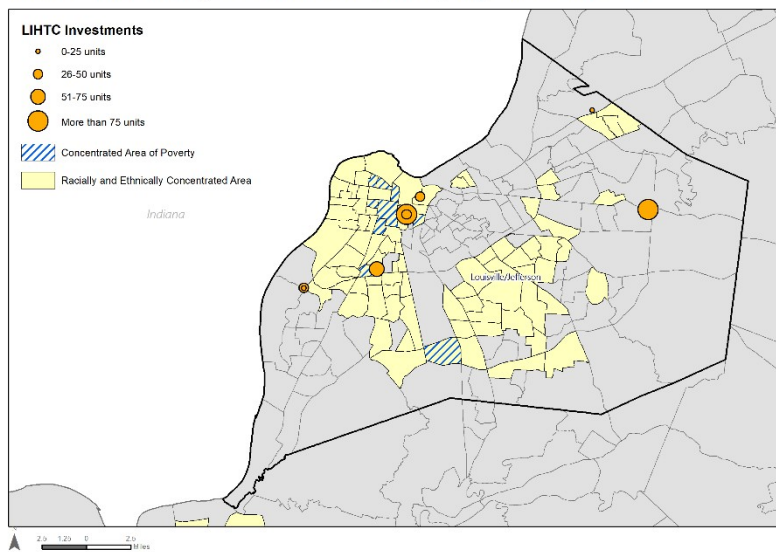
**Low Income Housing Tax Credit Investments, July 2016 - June 2018**



Map 43 Low Income Housing Tax Credit Investments in Louisville-Jefferson County, July 2016-June 2018

2020-2024 Commonwealth of Kentucky Analysis of Impediments to Fair Housing Choice

**Low Income Housing Tax Credit Investments, July 2016 - June 2018**



Unlike federal programs that provide grants or loans for housing development, the LIHTC program generates private equity from the sale of tax credits to assist with the hard and soft development costs of rental units. Generally, for-profit corporations such as banks purchase the credits based on current demand for them. In return, corporations receive an annual dollar-for-dollar reduction of federal taxes each year for the first ten years that units are in operation. Each year, the QAP must be approved by the Governor before the tax credits can be awarded by KHC to developers. Because the competition for tax credits is robust, tax credit developers design their rental housing projects to achieve maximum scoring under KHC's QAP priority scoring categories. The QAP has a major impact on what populations are served, the types of projects that will be undertaken and, indirectly, where rental housing is built or rehabilitated.

QAP policies across the country have changed in recent years to address issues central to a recent federal fair housing case, *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs* (N.D. Tex. 2010), in which a local affordable housing advocate challenged the Texas QAP. The Department of Housing and Community Affairs (TDHCA) is the housing finance agency for the State of Texas. The lawsuit alleged that TDHCA disproportionately approved tax credits for low-income housing in minority neighborhoods and denied applications for family tax credit housing in predominantly White neighborhoods. The plaintiff alleged that TDHCA's policy in awarding credits perpetuated racial segregation in violation of the Fair Housing Act. TDHCA argued that it prioritized tax credit applications for projects located in qualified census tracts (QCTs) in accordance with Section 42 of the Internal Revenue Code and that, as such, it was unavoidable that tax credit projects would be located in concentrated minority neighborhoods rather than predominantly White neighborhoods.

TDHCA's motion for summary judgment (i.e. dismissal of the case) was denied in 2010. Following a trial, the court found in March 2012 that actions taken by TDHCA in allocating tax credits had a disparate impact under the Fair Housing Act.

This finding was followed by an opinion issued by the Fifth Circuit Court of Appeals in March 2014, which determined that the correct legal standard to apply in disparate impact claims under the Fair

Housing Act is the standard recently adopted in HUD regulations regarding burdens of proof (24 CFR 100.500). These rules establish liability for practices with discriminatory effects, whether or not those practices are intentionally discriminatory. A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns. In 2015, the United States Supreme Court held that “disparate-impact claims are cognizable under the Fair Housing Act.”

The results of this legal precedent perfectly summarizes the challenge of affirmatively furthering housing in cities, counties and states across the U.S.: balancing the creation of affordable housing in lower poverty and predominantly non-minority areas (i.e., higher opportunity areas) with the need to preserve affordable housing and improve the quality of life for residents in higher poverty and predominantly minority areas (i.e., lower opportunity areas). This is the context within which Kentucky’s 2019-2020 QAP was evaluated for purposes of the AI.

The QAP was reviewed to determine the presence of five tax credit allocation priorities meant to incentivize developers to create LIHTC developments in locations with lower poverty rates and higher opportunity.<sup>3</sup> The five allocation priorities included:

- High-opportunity neighborhoods
- Access to amenities
- Approval by the community
- Furthering investment in blighted neighborhoods
- Avoiding concentrations of affordable housing

The total annual tax credit authority for Kentucky in 2019 was roughly \$12 million. The set-asides established in the QAP reflect distinctions in specific needs and county market conditions (SOAR counties and Greatest Job Growth counties) as determined by KHC. For 2019-2020, the QAP stated five

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<sup>3</sup>The five allocation priorities are found in “Effect of QAP Incentives on the Location of LIHTC Properties” published by the U.S. Department of Housing & Urban Development, Office of Policy Development & Research (April 2015).

set-asides: 9% of the credits for nonprofit supportive housing, 35% for preservation of existing affordable housing properties (including historic adaptive re-use projects), 42% for new housing construction split between urban areas (64%) and rural areas (36%), 0.5% for projects maximizing outcomes, and 14% for projects demonstrating innovation. In addition, the QAP has set-aside \$1.2 million for the redevelopment of Beecher Terrace, Louisville Metro Housing Authority's Choice Neighborhood initiative. Each of the five allocation priorities listed above are reviewed below as they relate to Kentucky's 2019-2020 QAP.

High-opportunity neighborhoods refer to areas that are typically suitable for long-term growth with existing or planned infrastructure in the vicinity of quality schools and employment opportunities. The significance of locating LIHTC developments in high-opportunity areas is that these are also areas with lower poverty rates. Exercising fair housing choice means having the opportunity to move to another neighborhood that offers economic opportunity, proximity to the workplace, better schools, and a safer and more secure environment should a lower income household *choose* to move. Affirmative moves from R/ECAP areas to lower poverty areas of opportunity help to break down patterns of segregation. KHC fosters this goal by awarding for three specific criteria.

First, three points are awarded to developments proposed in SOAR<sup>4</sup> counties or in counties designated as "greatest job growth" counties. Second, seven points are awarded to family LIHTC developments proposed in areas with strong schools (defined as having a combined reading and math proficiency score of 61.5 or higher) as rated by the 2016-2017 Department of Education ratings. Third, projects proposed in urban areas located in census tracts with poverty rates below the State poverty rate of 18.5% will receive 0.20 points for every 1% lower the census tract poverty rate is than the State rate for a maximum of 3.7 points.

Similar to the previous priority, 5 points are awarded for access to amenities such as health care services, specifically, general health care practitioners, walk-in clinics (excluding specialists), or hospitals. For

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<sup>4</sup> Designated counties that are part of the Shaping Our Appalachian Region (SOAR) initiative in Eastern Kentucky established in 2014 to modernize how the Commonwealth supports high-tech, high-growth potential businesses.

urban sites, the facility must be located within three miles of the project site; for rural sites, within 20 miles of the project site.

With regard to local community approval and the potential for not-in-my-backyard opposition, the fair housing rule of thumb is that a housing project financed with public funding sources should not be subjected to a higher standard of public notification and/or approval process than privately financed housing. Different treatment on this basis is discriminatory if the tenants of a proposed development will be members of the protected classes (families with children, persons with disabilities, minorities, etc.).

A community's land use regulations should be the sole determining factor in deciding whether a public meeting is required. If an apartment building is permitted by right in a certain location, a public hearing is typically not required. The method of financing (i.e., conventional market-rate financing versus tax credit equity or other public subsidies) should not be a factor for consideration when deciding whether a public meeting is required.

Project notification requirements are evident in Section 42(m)(1)(A)(ii) of the Internal Revenue Code. In accordance, KHC is required to notify the chief executive officers (or the equivalent) of local jurisdictions where projects to receive credits are located and provide the officials a reasonable opportunity to comment on the projects. Within the KHC QAP, there is no scoring category that requires applicants to notify local officials and/or neighborhood groups within a buffer of the proposed site, a requirement that generally increases the likelihood that the project will be derailed through political intervention or public opposition.

In some cases, careful and coordinated planning involving revitalization of deteriorated structures and conditions in some areas can spur new investment in blighted neighborhoods and enhance living conditions for residents. New LIHTC projects are frequently part of the equation for this type of initiative, providing new quality and affordable housing for longtime residents. The QAP can be a useful and

valuable tool in guiding LIHTC investment, particularly when it is part of a broader comprehensive community plan. HUD's Choice Neighborhood Initiative is one example of how this can be achieved. The KHC QAP awards three points for projects located in urban QCTs with a plan for a defined target area where other investments will occur or have occurred. This requirement is specific to plans that are formally recognized and/or adopted for revitalization, community development, and/or economic development. The plan must have been created or updated within the previous five years and demonstrate a need for multi-family units.

The QAP also includes a separate and specific \$1.2 million set-aside for Louisville Metro Housing Authority's Choice Neighborhood project involving the redevelopment of the Beecher Terrace public housing community in the Russell neighborhood. In addition to replacing the 1939-era units with 620 modern units, the project will include commercial uses on street-level floors and a renovated and expanded community center adjacent to a park.

One of the desired outcomes of the lawsuit filed by The Inclusive Communities Project against the Texas Department of Housing and Community Affairs was to avoid concentrations of affordable housing created through the LIHTC program in predominantly minority areas with high poverty. The KHC QAP penalizes urban projects that are proposed to be located within 0.5 miles of a KHC-approved LIHTC project approved in the previous two years, is not yet placed in service, and targets the same tenants; for rural projects, the distance is 3.0 miles. Up to five points will be deducted for projects that fall within these distances.

The KHC QAP affirmatively furthers fair housing with several additional allocation priorities that affirmatively further fair housing and for which points can be awarded to applicants. These include giving priority to local public housing authority waiting list applicants, making units accessible to persons with disabilities (including the elderly), and projects with tenant selection plans that commit to giving priority to veterans.

The KHC QAP awards three points for projects providing notification of LIHTC project vacancies to public housing authorities and giving priority to households on its waiting lists. Providing a preference for applicants on waiting lists for public housing or Housing Choice Vouchers in a LIHTC project promotes expansion of housing choice for the lowest income households in an area by ensuring some of these households will have access to the new subsidized units.

Expanding the supply of affordable housing that is accessible to persons with disabilities is a goal of the KHC QAP as it requires each awarded project to target 10% of the units for persons with disabilities by making them fully accessible. This is in addition to the units required to be Uniform Federal Accessibility Standards (UFAS)-compliant and those provided for visually- and hearing-impaired tenant households.

Finally, the QAP awards up to seven points for senior projects with aging-in-place design features. At least five of the seven listed features must be included in the units to accommodate elderly tenants with the option of remaining in their unit for as long as possible.

Overall, the KHC QAP includes significant provisions for developer incentives to expand housing choice in higher opportunity areas. In a large rural state like Kentucky, however, the need for creating new, decent and safe affordable housing in rural areas is also great. KHC appears to strike a balance between the two.

### Olmstead Housing Initiative

The Olmstead Housing Initiative is a partnership between KHC and the Cabinet for Health and Family Services, Department for Behavioral Health and Developmental and Intellectual Disabilities (DBHDID). The goal of this initiative is to address the need for housing for people who are currently in, or at risk of entering, institutions such as psychiatric hospitals or personal care homes, or who have a history of frequent institutionalizations. Implementing this program enables Kentucky to meet the mandates of the U.S. Supreme Court's 1999 landmark decision in *Olmstead v. L.C.*, which found the unjustified segregation of people with disabilities is a form of unlawful discrimination under the Americans with Disabilities Act (ADA). The case asserted that the civil rights of people with disabilities included the right

to community-based care and services as an alternative to long periods of institutionalization. DBHDID is currently implementing a plan to transition at least 1,275 individuals with serious mental illnesses from personal care homes to the community under a second amended settlement agreement (SASA) entered into with Kentucky Protection and Advocacy (KP&A). KP&A, an independent State agency, is a client-directed legal rights agency that protects and promotes the rights of persons with disabilities. Per the SASA Administrator Q5 Report, as of December 31, 2019, 1,187 individuals have been provided housing assistance since the inception of the SASA (in October 2018).

### Language Access Plans

HUD's guidance relative to Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," stipulates that a community can achieve compliance by providing certain language assistance services for LEP language groups with more than 1,000 persons or 1% of the population to be served. As noted earlier in the AI, the largest LEP language throughout Kentucky is Spanish, which is spoken by 48,214 persons or 1.16% of the population based on 2017 ACS data.

HUD grantees are responsible for serving persons with LEP and who may be income-eligible for services and programs in accordance with Title VI of the Civil Rights Act of 1964. Preparation of a Language Access Plan (LAP) is the most effective way to achieve compliance. KHC adopted a LAP effective January 1, 2012. DLG adopted its Language Access Plan in June 2018. Both of these documents were reviewed for the AI.

In the KHC LAP, it clearly states its obligation to provide services, financial assistance and other benefits to residents regardless of their nation of origin and will make reasonable efforts to provide free language assistance services to clients. In determining which languages meet the stated thresholds, KHC conducted a four-factor analysis as required by HUD. The 2012 LAP estimated that 3% of State residents were of Hispanic or Latino origin. Considered in conjunction with an estimate of the frequency of contact, it was determined that native Spanish-speakers were the most likely to be served. Among the services that KHC will provide to persons with LEP are the following:

- The right to LEP services at no cost with the safeguards of confidentiality

- Posting of multi-lingual signs in public spaces
- Use of automated Spanish telephone services
- Use of multi-lingual notices for outreach activities
- Notices of right to language assistance services on KHC's webpage
- Use of the I-Speak cards

The LAP clearly states how interaction with LEP clients via oral communication will proceed. Staff will assist in identifying the spoken language and coordinate with the Fair Housing Coordinator to obtain the appropriate services. Bilingual office staff may be used as informal interpreters; however, formally certified interpreters will be made available if required. Translation of vital documents can be provided as well as translated summaries, where appropriate. The LAP also includes a provision that KHC will annually review the document to determine if revisions are necessary, including in light of demographic changes.

KHC staff training is required annually for staff having the occasion to interact with persons with LEP. The Fair Housing Coordinator monitors the training and the delivery of language assistance services. Subrecipients of federal funds received through KHC are required to ensure access to language assistance services for their program beneficiaries. Such services are to be provided free to eligible clients and the Fair Housing Coordinator is available to assist with these services. In addition, the appendix of the LAP includes a list of formal interpreters who may be contacted for assistance.

KHC could enhance its LEP services by considering where higher rates of persons with LEP reside across the Commonwealth. For example, Jefferson County and Fayette County accounted for 37% of Kentucky's Hispanic or Latino residents in 2017. In this case, a higher level of language assistance and outreach may be warranted than in the rural counties. A list, updated annually, of the languages spoken at home by persons with LEP for all counties in Kentucky (similar to DLG's LAP) would be a useful tool to include in the KHC LAP. Lastly, although KHC includes a provision to review its LAP annually, the 2012 version reviewed for the AI is the most current version available. Reviewing the LAP should occur annually with updates determined by a shift in demographics and the results of monitoring the implementation of the LAP for its effectiveness in achieving its objectives.

In the DLG LAP, similar recognition of the department's requirement to provide language assistance to LEP populations is included. DLG requires that its sub-recipients use the same four-factor analysis prior to the release of federal funds since DLG does not provide direct financial assistance to individuals. Sub-recipient local units of government or nonprofit organizations would encounter persons with LEP and, therefore, must be able to address their language assistance needs. DLG does, however, recognize that persons with LEP may have the need to interact with its staff during the public comment period. Upon request, DLG will make available translations of annual plans and amendments for its federal grant programs.

Sub-recipients are required to conduct a four-factor analysis, develop a LAP, and provide a description of the outreach efforts to be undertaken during the Letter of Conditional Commitment stage. DLG specifies the required measures that sub-recipients are required to take if the four-factor analysis reveals 1,000 or more persons, or 5% or more of the population, with LEP: translation of vital documents, posting of public hearing notices in the languages spoken and in locations frequented by persons with LEP, and providing translation of services at public hearings if requested to do so. There are lesser requirements when the LEP population is smaller. DLG monitors its sub-recipients for compliance with these requirements. Included in Appendix B of the LAP includes is a list of the languages spoken at home by persons with LEP for all counties in Kentucky.

Like KHC, although LAP includes a provision to review its LAP annually, the 2018 version reviewed for the AI is the most current version available. Reviewing the LAP should occur annually with updates determined by a shift in demographics and the results of monitoring the implementation of the LAP for its effectiveness in achieving its objectives.

## 6. Private Sector Policy Analysis

In addition to the public sector policies that influence fair housing choice, there are private sector policies that can influence the development, financing, and advertising of real estate. For the purposes of the AI, mortgage lending practices are analyzed.

### Mortgage Lending Analysis

Unfettered access to fair housing choice requires impartial and equal access to the mortgage lending market. The Fair Housing Act prohibits lenders from discriminating against members of the protected classes in granting mortgage loans, providing information on loans, imposing the terms and conditions of loans (such as interest rates and fees), conducting appraisals, and considering whether to purchase loans. An analysis of mortgage applications and their outcomes can identify possible discriminatory lending practices and patterns in a community.

Under the terms of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (F.I.R.R.E.A.), any commercial lending institution that makes five or more home mortgage loans must report all residential loan activity to the Federal Reserve Bank under the terms of the Home Mortgage Disclosure Act (HMDA). HMDA regulations require most institutions involved in lending to comply and report information on loans denied, withdrawn, or incomplete by race, sex, and income of the applicant. The information from the HMDA statements assists in determining whether financial institutions are serving the housing needs of their communities. The data also helps to identify possible discriminatory lending practices and patterns.

The most recent HMDA data available for Kentucky is from 2015 to 2017 and at the county level. Reviewing this data helps to determine the need to encourage area lenders, other business lenders, and the community at large to actively promote existing programs and develop new programs to assist residents in securing home mortgage loans for home purchases. The data focus on the number of homeowner mortgage applications received by lenders for home purchase of one- to four-family dwellings and manufactured housing units across the Commonwealth. The information provided is for the primary applicant only. Co-applicants were not included in the analysis. In addition, where no

information is provided or categorized as not applicable, no analysis has been conducted due to lack of information. Table 20 summarizes three years of HMDA data by race, ethnicity, and action taken on the applications. Household incomes were determined by whether an applicant's income was greater or less than the median household income of the census tract where the housing unit to be purchased was located. In Kentucky, there were a total of 273,825 mortgage applications made between 2015 and 2017. Of these, 72,544 (26.5%) were denied.

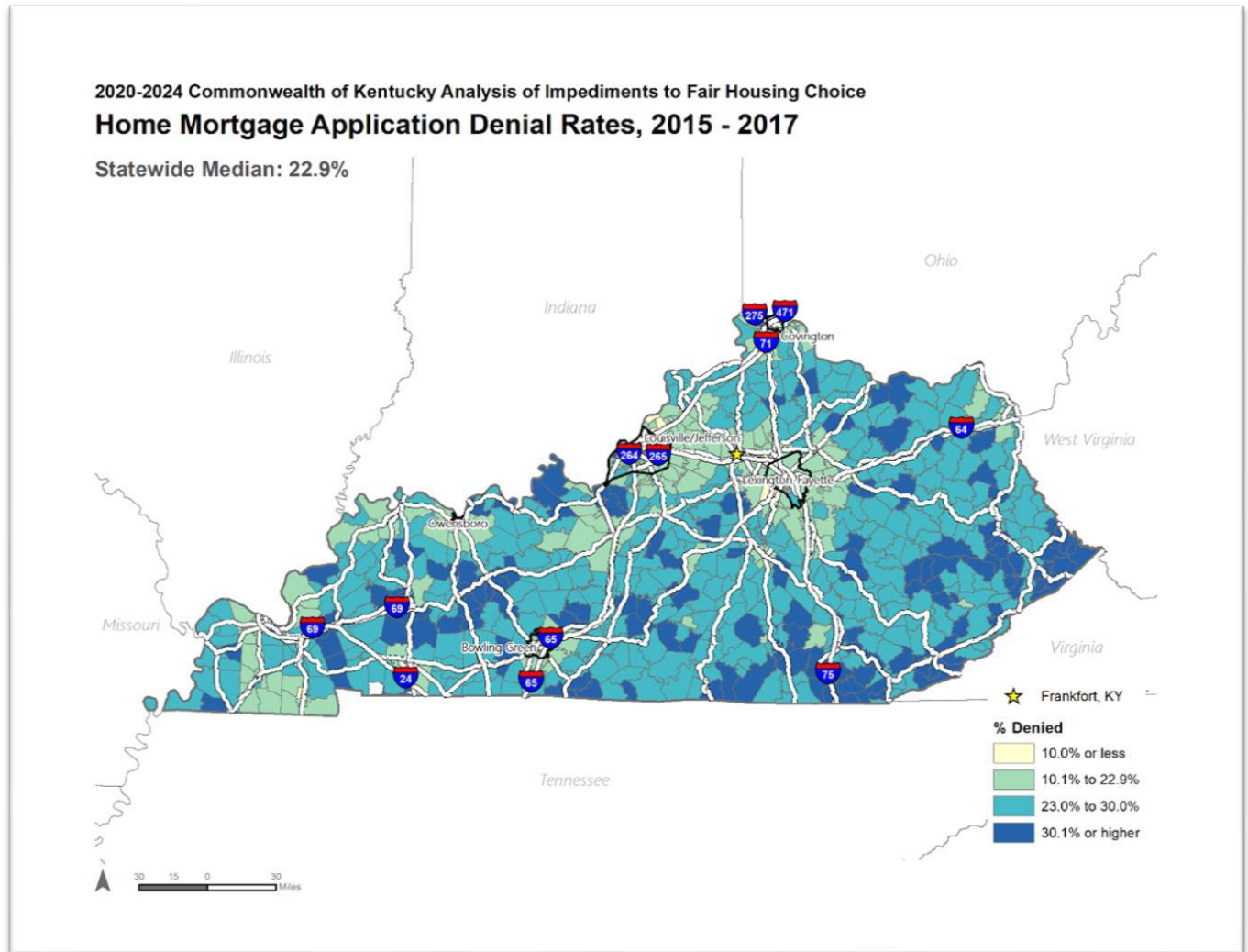
There were differences between racial and ethnic groups by income level in the rates of denied mortgage loans. Upper income Asian applicants had the lowest denial rate at 13.3% with upper income Native Hawaiian/Other Pacific Islander at 18.2%, and upper income White households slightly higher at 19.8%. Upper income Native American and upper income Black households were denied mortgages at higher rates of 26.1% and 29.7%, respectively, as were upper income Hispanic/Latino households (24.5%).

Notably, the denial rate for *lower* income Asian applicants (22.5%) was less than the denial rate for *upper* income Black applicants (29.7%), upper income Native American applicants (26.1%) and Hispanic/Latino applicants (24.5%).

Table 20 Mortgage Originations by Race/Ethnicity and Income, 2015-2017

	Income Level*	Applications	Denials	% Denied
White	Lower Income	109,367	33,602	30.7%
	Upper Income	123,092	24,322	19.8%
Black	Lower Income	6,780	2,573	37.9%
	Upper Income	4,307	1,281	29.7%
Asian	Lower Income	1,779	400	22.5%
	Upper Income	1,922	256	13.3%
Native Hawaiian or Other Pacific Islander	Lower Income	251	84	33.5%
	Upper Income	187	34	18.2%
Native American	Lower Income	578	306	52.9%
	Upper Income	746	195	26.1%
Information Not Provided	Lower Income	11,849	5,368	45.3%
	Upper Income	12,967	4,123	31.8%
Hispanic or Latino	Lower Income	3,932	1,313	33.4%
	Upper Income	1,916	469	24.5%
Total	Lower Income	130,604	42,333	32.4%
	Upper Income	143,221	30,211	21.1%
	Total	273,825	72,544	26.5%

Map 44 Home Mortgage Denial Rates in Kentucky, 2015-2017



Geographic patterns of loan denial rates reveal rates higher than the State median of 22.9% with the highest rates found outside urbanized areas throughout Kentucky. Of the 273,825 loan applications made during this period, 9% did not include race or ethnicity data on the primary applicant. The denial rates for this category were relatively high: 45.3% among lower income applicants and 31.8% among upper income applicants.

Of the total 72,544 denied mortgage applications, 43,705 (60%) were provided with a reason for denial. The most frequently cited reason for denial was poor credit history, followed by high debt-to-income ratios and lack of adequate collateral (the value of house appraised for less than the mortgage amount requested). Nearly 75% of denials fall into one of these three categories.

Table 21 Reasons for Denial of Mortgage Loans, 2015-2017

Denial Reason	#	%
Collateral	8,472	19.4%
Credit application incomplete	5,666	13.0%
Credit history	14,407	33.0%
Debt-to-income ratio	9,020	20.6%
Employment history	823	1.9%
Insufficient cash (downpayment, closing costs)	1,095	2.5%
Mortgage insurance denied	36	0.1%
Other	2,951	6.8%
Unverifiable information	1,235	2.8%
Total	43,705	100.0%

Source: Consumer Financial Protection Bureau HMDA database, 2015 - 2017

The widespread housing market crisis of 2008 has brought a new level of public attention to lending practices that victimize vulnerable populations. Subprime lending, designed for borrowers who are considered a credit risk, has increased the availability of credit to low-income persons. At the same time, subprime lending has often exploited borrowers, piling on excessive fees, penalties, and interest rates that make financial stability difficult to achieve. Higher monthly mortgage payments make housing less affordable, increasing the risk of mortgage delinquency and foreclosure and the likelihood that properties will fall into disrepair.

Some subprime borrowers have credit scores, income levels, and down payments high enough to qualify for conventional, prime loans, but are nonetheless steered toward more expensive subprime mortgages. This is especially true of minority groups, which tend to fall disproportionately into the category of subprime borrowers. The practice of targeting minorities for subprime lending qualifies as mortgage discrimination.

Since 2005, HMDA data has included price information for loans priced above reporting thresholds set by the Federal Reserve Board. This data is provided by lenders via Loan Application Registers and can

be aggregated to complete an analysis of loans by lender or for a specified geographic area. HMDA does not require lenders to report credit scores for applicants, so the data does not indicate which loans are subprime. It does, however, provide price information for loans considered “high-cost.”

A loan is considered high-cost if it meets one of the following criteria:

- A first-lien loan with an interest rate at least three percentage points higher than the prevailing U.S. Treasury standard at the time the loan application was filed. The standard is equal to the current price of comparable-maturity Treasury securities.
- A second-lien loan with an interest rate at least five percentage points higher than the standard.

Not all loans carrying high APRs are subprime, and not all subprime loans carry high APRs. However, high-cost lending is a strong predictor of subprime lending, and it can also indicate a loan that applies a heavy cost burden on the borrower, increasing the risk of mortgage delinquency and eviction.

From 2015 to 2017, there were 21,593 high-cost mortgages approved throughout Kentucky, representing 9.7% of all mortgages in the Commonwealth during this period. Among approved lower income applicants, 12.8% received high-cost mortgages compared to 7.1% of upper income applicants. Analyzed by race, lower income White and Native American applicants had higher rates of high-cost loans at 13.2% and 19.5%, respectively. Among upper income applicants, only Black households had a higher rate (8.6%) than the State rate.

Table 22 High Cost Loans by Race, Ethnicity and Income in Kentucky, 2015-2017

	Income Level*	High-cost Originations	Total Originations	Percent High-cost
White	Lower Income	11,532	87,297	13.2%
	Upper Income	7,855	106,625	7.4%
Black	Lower Income	618	4,825	12.8%
	Upper Income	285	3,311	8.6%
Asian	Lower Income	95	1,474	6.4%
	Upper Income	32	1,698	1.9%
Native Hawaiian or Other Pacific Islander	Lower Income	18	185	9.7%
	Upper Income	8	161	5.0%
Native American	Lower Income	66	338	19.5%
	Upper Income	38	589	6.5%
Information Not Provided	Lower Income	658	7,139	9.2%
	Upper Income	388	9,232	4.2%
Hispanic or Latino	Lower Income	312	2,931	10.6%
	Upper Income	107	1,554	6.9%
Total	Lower Income	12,987	101,258	12.8%
	Upper Income	8,606	121,616	7.1%
	Total	21,593	222,874	9.7%

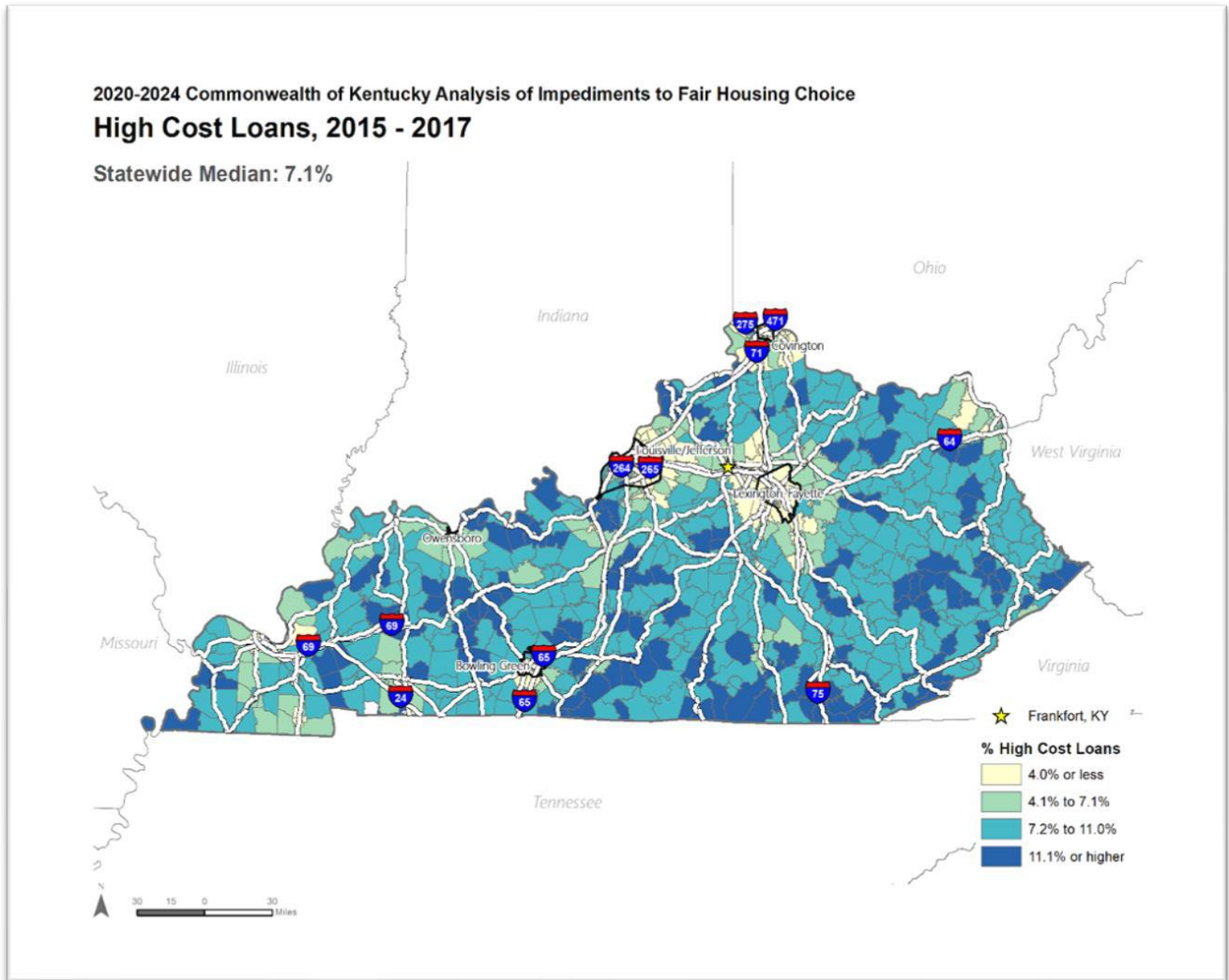
\*Based on the median income for the census tract where the home was located.

Source: Consumer Financial Protection Bureau HMDA database, 2015 - 2017

Similar to the geographic patterns in mortgage denials, higher rates of high-cost loan approvals are found predominantly in the rural counties of Kentucky.

Overall, the findings revealed in this section are inconsistent with fair housing provisions but a judgment as to their declaration of being an impediment cannot be made in the absence of better data, which is not available through HMDA or other sources. These findings do, however, reveal a continuing need for fair housing education and outreach, home ownership counseling and credit counseling for homebuyers.

Map 45 High Cost Mortgage Loans in Kentucky, 2015-2017



## 7. Fair Housing Profile

This section provides a review of the existence of fair housing complaints or compliance reviews where a charge of a finding of discrimination has been made. Additionally, this section will review the existence of any fair housing discrimination suits filed by the United States Department of Justice or private plaintiffs in addition to the identification of other fair housing concerns or problems.

Kentuckians can receive fair housing services from a variety of organizations, including but not limited to HUD, the Kentucky Commission on Human Rights, and, in some areas, the Lexington Fair Housing Council, Inc. This section summarizes the fair housing organizations and analyzes the existence of fair housing complaints or compliance reviews where a charge of a finding of discrimination has been made.

### Housing Discrimination Complaints

A lack of filed complaints does not necessarily indicate a lack of housing discrimination. Some persons may not file complaints because they are not aware of how to go about filing a complaint or where to go to file a complaint. In a tight rental market, tenants may want to avoid confrontations with prospective landlords. Discriminatory practices can be subtle and may not be detected by someone who does not have the benefit of comparing his treatment with that of another home seeker.

Other times, persons may be aware that they are being discriminated against, but they may not be aware that the discrimination is against the law and that there are legal remedies to address the discrimination. Finally, households may be more interested in achieving their first priority of finding decent housing and may prefer to avoid going through the process of filing a complaint and following through with it. Therefore, education, information, and referral regarding fair housing issues remain critical to equip persons with the ability to reduce impediments.

### U.S. Department of Housing & Urban Development

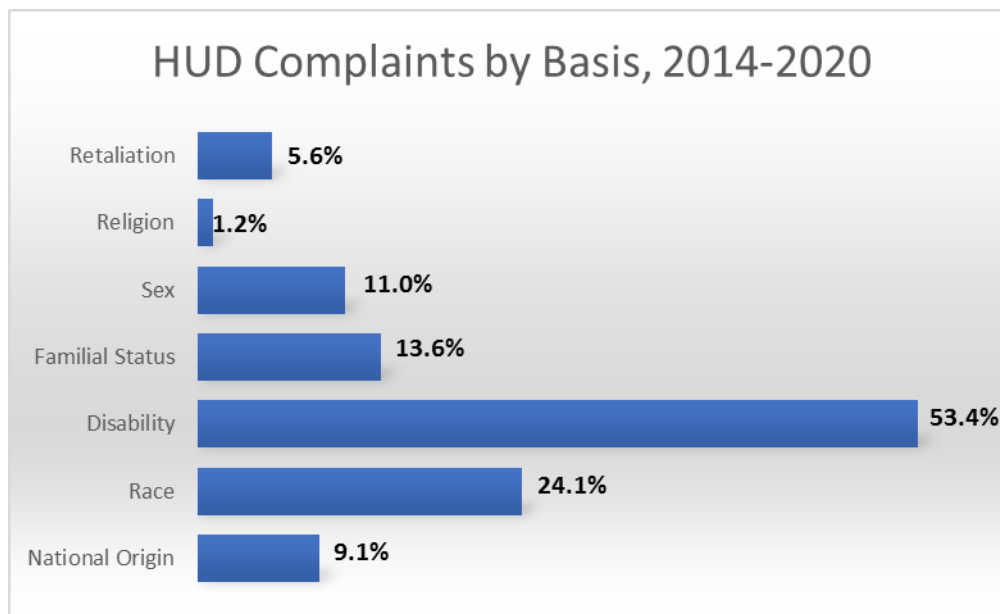
The Office of Fair Housing and Equal Opportunity (FHEO) at HUD receives complaints from persons regarding alleged violations of the federal Fair Housing Act. Fair housing complaints originating in Kentucky were obtained and analyzed for the period of January 2014 through January 2020. In total, there were 772 complaints filed with HUD during this period. The volume of cases was roughly consistent across years with a minimum of 105 cases filed in 2018 and a maximum of 160 cases filed in 2016. Eleven cases have been filed to date in 2020, and there are 84 unresolved cases.

HUD provided information on the geographic distribution of cases. Disability was the most common basis alleging discrimination, accounting for more than half of all complaints filed during this period. The second most frequent basis alleging discrimination was race. This mirrors national trends of disability and race being the two most frequently cited types of housing discrimination, according to the *2019 Fair Housing Trends Report* published by the National Fair Housing Alliance. Of the 772 complaints filed by Kentuckians, 128 (16.6%) were filed on two or more bases; as a result, the figure below reflects a total greater than the number of complaints filed.

Table 23 Housing Discrimination Complaints Filed with HUD, 2014-2020

HUD Complaints by Basis and Year, 2014-2020							
Year	National Origin	Race	Disability	Familial Status	Sex	Religion	Retaliation
2014	14	33	44	21	11	2	8
2015	11	32	74	21	14	3	4
2016	19	49	77	17	15	3	9
2017	11	19	83	10	12	1	7
2018	7	27	54	17	17	0	3
2019	8	25	73	18	15	0	11
2020	0	1	7	1	1	0	1
<b>Total</b>	<b>70</b>	<b>186</b>	<b>412</b>	<b>105</b>	<b>85</b>	<b>9</b>	<b>43</b>
<b>Percent</b>	<b>9.1%</b>	<b>24.1%</b>	<b>53.4%</b>	<b>13.6%</b>	<b>11.0%</b>	<b>1.2%</b>	<b>5.6%</b>

Table 24 Bases for Alleging Housing Discrimination among Complaints Filed with HUD, 2014-2020



Across all complaints filed with HUD, discriminatory terms, conditions, or services and facilities was the most commonly cited issue, factoring into over 75% of all cases. Failure to make reasonable accommodations accounted for nearly one-third of all cases. The majority of cases involved more than one issue.

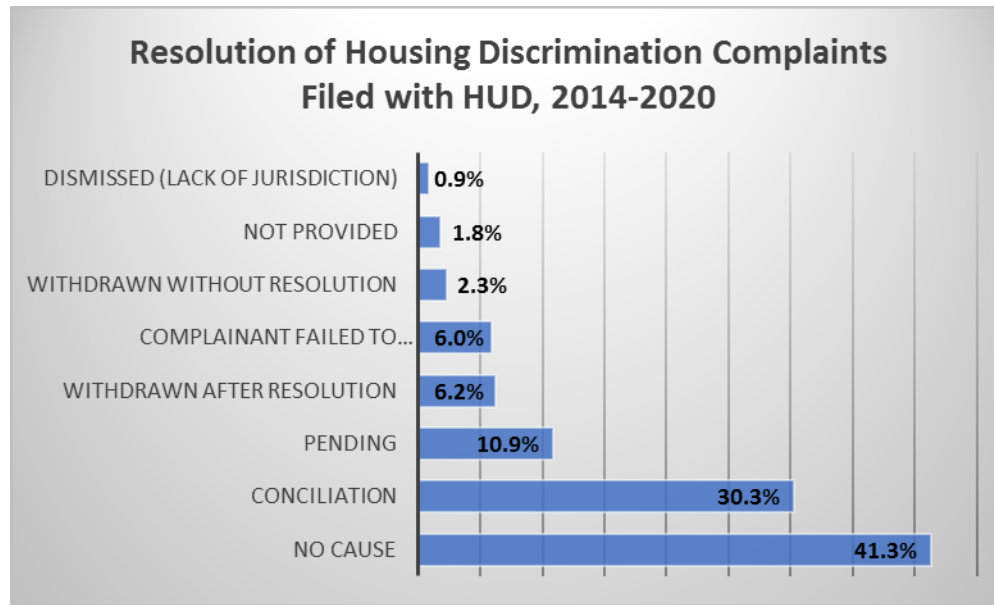
Table 25 Housing Discrimination Complaints by Issues, 2014-2020

<b>Housing Discrimination Complaints by Issue Filed with HUD, 2014-2020</b>		
<b>Issue</b>	<b>Citations</b>	<b>% of Complaints</b>
Terms, conditions, privileges, or services and facilities	584	75.6%
Failure to permit/make reasonable modification/accommodation	247	32.0%
Refusal to rent and negotiate for rental	169	21.9%
Discriminatory acts under Section 818 (coercion, etc.)	142	18.4%
Otherwise deny or make housing unavailable	83	10.8%
Advertising, statements, and notices	58	7.5%
Other	33	4.3%
Financing and/or lending	14	1.8%
Refusal to sell and negotiate for sale	8	1.0%
Failure to provide accessible and usable public and common user areas	6	0.8%
Discriminatory acts under Section 901 (criminal)	4	0.5%
Using ordinances to discriminate in zoning and land use	3	0.4%
Refusing to provide municipal services or property	2	0.3%

Source: HUD FHEO

Of the complaints reviewed, 319 (41.3%) were found to be without probable cause. Just over 30% of cases resulted in a negotiated settlement. Eighteen cases (2.3%) were withdrawn without resolution. Two 2012 cases ended in court filings, and both were resolved through the court system in 2016.

Table 26 Resolution of Housing Discrimination Complaints filed with HUD, 2014-2020



### Kentucky Commission on Human Rights

The Kentucky Commission on Human Rights (KCHR) is responsible for the enforcement of federal fair housing laws, undertaking the mediation/conciliation and litigation of housing discrimination complaints, and enforcing the Kentucky Civil Rights Act. The Kentucky Civil Rights Act makes it unlawful to discriminate against people in the areas of employment, financial transactions, housing and public accommodations. Housing discrimination is prohibited on the basis of race, color, religion, national origin, gender, disability and familial status. It is also a violation of the law to retaliate against a person for complaining of discrimination to the commission.

KCHR is a “substantially equivalent agency” under HUD’s Fair Housing Assistance Program (FHAP). This means that KCHR has been certified as substantially equivalent after HUD determined that the Commission administers a law (i.e., the Kentucky Civil Rights Act) which provides rights, procedures, remedies and judicial review provisions that are substantially equivalent to the Fair Housing Act. For this reason, HUD refers complaints of housing discrimination that it receives from Kentucky residents to the KCHR for investigation. Housing discrimination complaint data from the KCHR are accounted for in the complaints filed with HUD FHEO.

According to KCHR, recent trends over the past two years involving discriminatory behavior against persons with emotional support animals (ESAs) reflects increasing discrimination against persons with disabilities. Resistance from housing providers in the form of “no pet” policies, requiring pet deposits and establishing animal breed, size and weight policies (even though ESAs are not considered pets under fair housing laws) are reflected in many of the inquiries and complaints filed with KCHR. The commission provides fair housing education and outreach through radio spots, on signs, and through its partners across the Commonwealth. KHRC also expressed a desire to engage more actively with state-level agencies such as KHC and DLG. For example, through job shadowing with these two agencies, KCHR would be able to learn from staff members how the Commission could work through KHC and DLG for referrals in areas where fair housing education and outreach is needed.

KCHR also identified a need to conduct an informational blitz across Kentucky with the goal of reaching out to judges and the court system to learn how the Commission could assist them with legal issues, such as eviction if the eviction is the result of a discriminatory act. In the smaller, rural counties where month-to-month leases are more common, tenants may be at greater risk for eviction as a result of discrimination.

### Lexington Fair Housing Council

The Lexington Fair Housing Council (LFHC) is a full-service, nonprofit civil rights agency committed to eradicating discrimination in housing. The Fair Housing Council enforces the federal Fair Housing Act, the Kentucky Fair Housing Act, and local fair housing ordinances, where applicable. The LFHC is the only private nonprofit fair housing agency in Kentucky and investigates complaints throughout the Commonwealth. The Council is certified as a Fair Housing Initiatives Program (FHIP) through HUD to assist people who believe they have been victims of housing discrimination. LFHC refers discrimination complaints received to the US Department of Justice, HUD FHEO, and KCHR. LFHC participates in the Private Enforcement Initiative (PEI) program, which means it implements initiatives that promote fair housing laws and equal housing opportunity awareness.

LFHC provided a summary of fair housing cases for which assistance was provided without a formal complaint being filed. Between 2014 and 2018, LFHC provided data on 653 such cases, most of which

included emotional support animals and reasonable accommodation requests. Comparable to national and state trends, disability was the most frequent issue accounting for 59% of all inquiries. This was followed by race, national origin and gender/sex, each of which reflected approximately 11% of all inquiries.

Across Kentucky, LFHC would want to reach more rural counties with fair housing education and outreach. Like KCHR, LFHC believes some evictions may be the result of discriminatory behavior caused by landlords, with minorities potentially being impacted more than non-minorities. Some evictions may also be caused by discrimination against persons with disabilities, especially people with mental illness. More training for realtors is also needed to increase educational opportunities and prevent steering of homebuyers.

LFHC has had an established partnership with KHC for about 15 years. In addition to responding to fair housing issues raised by KHC, LFHC provides an annual training in April for KHC staff.

### KHC Multi-Cultural Coordinator

Approximately five years ago, KHC created the position of a Multi-Cultural Coordinator to address the diversifying population across Kentucky. Specifically, KHC wanted to ensure that people with limited English proficiency (LEP) could access its programs and services. In addition, Spanish speakers were complaining to KHC that the agency was not adequately addressing their population. As one of the fastest-growing states for immigrants and new Americans, KHC wanted to be positioned at the forefront of the Commonwealth's shifting demographics. One way to achieve this goal was to prepare human resources within KHC itself to reflect statewide demographics and meet the challenge of diversity.

One of the service areas where KHC initiated this mission was with their mortgage lending products. As a result of a strong outreach and educational program, KHC experienced an increase in minority loan approvals from 10% of all loan approvals in 2010 to 25% in 2019. KHC believes this rate may be higher, however, since not all applicants reveal their minority status on the application form. KHC has capitalized on this opportunity to incorporate financial literacy programs through its partners across Kentucky.

## 8. Summary of Impediments to Fair Housing Choice

This section describes the impediments to fair housing choice that emerged from the data analysis, public engagement/outreach initiatives, and policy review discussed throughout the AI. The impediments are the results of primary and secondary research that define the underlying conditions, trends, and context for fair housing planning in Kentucky. The impediments are listed separately for the Commonwealth of Kentucky and local municipalities, including counties, which as subrecipients of DLG funds also have an obligation to affirmatively further fair housing. While KHC and DLG recognize the need to alleviate all the impediments listed below, they also recognize that addressing certain impediments is beyond the reach of their programmatic abilities and control.

### Impediments to Fair Housing Choice

#### *Commonwealth of Kentucky Impediments*

1. Lack of affordable housing in a variety of locations based on:
  - A need for increased collaboration among State agencies to ensure that policies and funding affirmatively further fair housing
  - Limited access to transportation in both urbanized areas and in rural counties
2. Lack of resources for fair housing education, outreach and enforcement based on:
  - A need for fair housing education for locally elected officials and appointed boards and commissions with authority to make housing and housing-related land use and development decisions
  - A need for fair housing education for landlords and tenants to understand their respective rights and responsibilities
  - A need for fair housing education for real estate professionals, lenders, architects, and building permitting officials to understand their respective professional obligations under the fair housing laws
  - A need for fair housing education for stakeholders and residents statewide to understand their rights and the need for affordable housing in their communities
  - A need for greater fair housing enforcement across Kentucky to (a) protect the rights of members of the protected classes to access and retain housing, (b) bring violators into

compliance and (c) seek damages for persons who are unlawfully denied housing under fair housing laws

3. Lack of resources to support low- and moderate-income households based on:
  - A need for 24/7 affordable childcare
  - A need for jobs in rural counties
  - A need for substance abuse recovery
  - A need for mental health services
4. Lack of expanded protected classes for:
  - The elderly
  - LGBT persons
  - Sources of lawful income
5. Lack of adoption of the Uniform Residential Landlord Tenant Act (URLTA) by the State Legislature on a statewide basis

#### *Local Municipal Impediments*

1. Lack of affordable housing in a variety of locations based on:
  - Opposition to affordable housing, including emergency shelters and permanent supportive housing
  - Opposition to the adoption of URLTA in most communities

## 9. Fair Housing Action Plan

The Fair Housing Action Plan includes recommended actions for KHC and DLG separate from several actions recommended for the Commonwealth of Kentucky as a whole. The reason for this categorization is that KHC and DLG, within their own agencies' missions, have many worthwhile programs and initiatives that affirmatively further fair housing, and these must be continued in addition to several new actions recommended. The actions recommended for the Commonwealth reflect instances where a higher level of collaboration among a larger number of State agencies would be necessary for impactful change to occur. While the parties intend to fulfill the efforts below, they recognize that addressing certain impediments requires resources and efforts of parties beyond KHC and DLG's scope of control.

### Recommendations for Actions by KHC

The following recommendations are specific to KHC and its policies and programs.

- Fair Housing Education and Outreach
  - Continue to financially and administratively support bilingual housing counseling and education efforts.
  - Continue to promote and market the "Simply Home" exhibit to municipalities and institutions across Kentucky as a vehicle for fair housing education and outreach.
  - Continue to collaborate with the Kentucky Commission on Human Rights and Lexington Fair Housing Council, Inc. to expand education and outreach efforts and to identify gaps in need of additional efforts.
  - Continue the marketing, outreach and engagement activities with multicultural populations across Kentucky via the Multicultural Customer Service and Outreach Coordinator.
- Expansion and Preservation of Affordable Housing in a Variety of Locations
  - Continue to allocate LIHTC funding to projects that prioritize higher opportunity areas and avoid concentrations of affordable housing.
  - Continue the Down Payment Closing Cost Assistance Program and the Homebuyer Loan Program for income-eligible homebuyers. Evaluate a preference for low- and moderate homeowners in neighborhoods at risk for displacement due to gentrification.

- Continue the Homeowner Rehab Program and the Weatherization Assistance Program to preserve the existing affordable housing inventory and lower homeowner costs. Evaluate a preference for low- and moderate-income homeowners in neighborhoods at risk for displacement due to gentrification.
- Continue to advocate for affordable housing resources among local, State and Congressional delegations.
- Continue the Tenant-based and Project-based Rental Assistance Programs to ensure affordable rental assistance for protected classes across the Commonwealth, including assistance to individuals with disabilities and/or recovering from substance abuse.
- Continue to seek Continuum of Care funding for rapid-rehousing and permanent supportive housing developments that provide affordable housing options and related services for protected classes.
- Evaluate tools and methods to connect people to housing, such as housing service locator tools.
- Enforcement of Design and Construction Requirements
  - Expand the *Certification of Compliance with Design Requirements for Accessible Housing* to require that general contractors involved in the design and construction of new multifamily residential properties sign the certification form, in addition to owners/developers and architects.
  - Continue allocation of funding to projects that include accessibility design features such as aging-in-place, Universal Design, ADA and UFAS construction standards.
- Ensure Access to Programs and Services for LEP Populations
  - Annually update the Language Access Plan to reflect a review of any demographic changes statewide and for each county, and the results of monitoring for the effectiveness of the plan's implementation.
  - Evaluate collecting preferred language data at time of single family loan origination to provide improved loan servicing to LEP populations.

## Recommendations for Actions by DLG

The following recommendations are specific to DLG and its policies and programs.

- Fair Housing Education and Outreach
  - Continue to collaborate with the Kentucky Commission on Human Rights and Lexington Fair Housing Council, Inc. to expand education and outreach efforts.
- Expansion and Preservation of Affordable Housing in a Variety of Locations
  - Continue to fund eligible applications for housing rehabilitation to preserve the existing affordable housing inventory in Kentucky's smaller communities.
  - Continue to fund eligible applications for public infrastructure and public facility projects to improve the quality of life for low- and moderate-income households in Kentucky's smaller communities.
  - Continue to advocate for affordable housing resources among local, State and Congressional delegations.
  - Continue to fund eligible applications for local economic development projects to improve economic mobility and the quality of life for low- and moderate-income households in Kentucky's smaller communities.
- Ensure Access to Programs and Services for LEP Populations
  - Annually update the Language Access Plan to reflect a review of any demographic shifts statewide and for each county, and the results of monitoring for the effectiveness of the plan's implementation.
- Ensure Subrecipient Units of Government Comply with their Obligation to Affirmatively Further Fair Housing
  - Continue the fair housing compliance and monitoring initiatives as part of the CDBG Program.
  - Adopt a policy to consider denying or withholding funding from applicants that have engaged in discriminatory behavior. For example, if a local unit of government has a pending public infrastructure funding application with DLG but has recently denied the approval of an affordable housing project based on discrimination of the potential tenants, then DLG should consider denying or withholding approval of the pending application until the discriminatory matter is resolved. Although the pending application

may not involve or be related to the proposed affordable housing project, DLG has a legal obligation to affirmatively further fair housing by not investing federal funds such as CDBG resources in a community that engages in discriminatory behavior such as denying an affordable housing project for members of the protected classes for reasons that are not related to objective land use and development standards.

## Recommendations for Actions by Kentucky

KHC and DLG are recipients of HUD funding that is administered throughout Kentucky; however, other State agencies also have a role in Kentucky's efforts to affirmatively further fair housing. To ensure that there is a concerted level across State agencies, the following recommendations are made.

- Collaborate with other State agencies and community partners to affirmatively further fair housing
  - Seek opportunities to align policies and funding to expand affordable housing opportunities and explore avenues for practical fair housing solutions between various State agencies and community partners.
- Engage with stakeholders to explore possible legislative solutions to impediments to fair housing
  - Review State regulations regarding compliance with federal fair housing laws and regulations.
  - Continue to support efforts to expand the list of protected classes in the Kentucky Fair Housing Act.

## Recommendations for Actions by

### Municipalities and Counties

Municipalities and counties play a central role in ensuring that Kentuckians have access to housing in a variety of locations. Although the State and its agencies may not be able to require compliance with the recommended actions listed below, they are worthy initiatives that would affirmatively further fair housing through local administrative decisions, planning documents and municipal ordinances.

- Expansion of affordable housing in a variety of locations
  - Identify developable land within the municipality for developers of affordable housing

- Participate in regional planning efforts to ensure that there is affordable housing in a variety of locations
- Support funding applications, zoning decisions and other administrative functions to expand the inventory of affordable housing options for protected classes
- Fair Housing Education and Outreach
  - Engage the Kentucky Commission on Human Rights and/or Lexington Fair Housing Council, Inc. to provide fair housing education and outreach at the local or regional level with topics appropriate for residents, landlords, appointed boards and commissions, elected officials, real estate professionals, architects, etc.

# Appendix A

## Public Engagement Summary & Materials

The following outreach tools were utilized during the months of August, September and October 2019, copies of which are included at the end of this appendix.

Promotional flyers were distributed by KHC through its list serve and other media, including posting on the KHC project webpage.

Bilingual FAQ sheets were developed and posted on the KHC project webpage beginning on or about August 6. The links to the FAQ sheets were included on the promotional flyers and copies were made available at the State’s Regional Public Meetings and the Kentucky Affordable Housing Conference (KAHC19) Stakeholder Workshops.

KHC created a project webpage on its agency website for posting all information related to the Consolidated Plan and the Analysis of Impediments to Fair Housing Choice. The link to the webpage was included on the promotional flyers, in the FAQ sheets, and listed in the presentations made at the Regional Public Meetings and KAHC19 Stakeholder Workshops.

Regional public meetings were held in three locations across the Commonwealth to provide stakeholders and the public with three opportunities to provide input.

Regional Meetings Across Kentucky	Handicap Accessible?	Number of Attendees
Independence (northern KY) August 19, 2019 10:00 AM – 12:00 PM EST Kenton County Public Library William E. Durr Branch, 1992 Walton Nicholson Road	Yes	6
Hopkinsville (western KY) August 20, 2019 10:00 AM – 12:00 PM CST Hopkinsville-Christian County Library 1101 Bethel Street	Yes	14

Pikeville (eastern KY) August 21, 2019 1:00-3:00 PM EST Pikeville Public Library 126 Lee Avenue	Yes	3
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At each regional public meeting, a brief presentation was made then participants were asked five questions. Across the three locations, the most frequently cited responses to each question are listed below.

- *What is the greatest challenge to finding and keeping safe, decent and affordable housing in Kentucky?*
  - Limited or lack of funding to build more affordable housing options, including capital funds for public housing
  - Lack of available options for emergency shelter and permanent housing for homeless individuals and families, including youth
  - Lack of housing options in all geographic areas and for people with disabilities
- *What is the greatest challenge to creating more affordable housing for Kentuckians?*
  - Lack of adequate funding, including funding dedicated to rural areas
  - Lack of understanding for the need for affordable housing, including a lack of land and appropriate zoning for multi-family housing and lack of support from community residents and elected officials
- *What other needs are required in your community to improve the quality of life for residents (e.g. better paying jobs, water/sewer service, substance abuse treatment, etc.)*
  - Better paying jobs along with workforce development
  - Reliable transportation/quality transit systems operating on weekends and second/third shifts and for veterans and people with disabilities
  - Mental health support services including substance abuse treatment programs
  - Affordable childcare, including availability for second/third shift workers
- *Have you or your clients been discriminated against in your/their search for housing or your/their efforts to keep housing? What was the outcome?*
  - Discrimination based on familial status
  - Discrimination based on victims of domestic violence
  - Discrimination based on past criminal records

- *In your opinion, what is the single most important thing the state should be doing to create more affordable housing across Kentucky?*
  - Increase funding for affordable housing
  - Mandate the adoption and implementation of Kentucky’s Uniform Residential Landlord-Tenant Act (URLTA)
  - Educate elected and appointed officials about the need for and value of affordable housing

Two stakeholder workshops were conducted at the Kentucky Affordable Housing Conference (KAHC19) on September 12 and 13 at the Lexington Convention Center. This venue was selected because the typical conference attendees include affordable housing developers, builders, advocates and other entities who work in the affordable housing arena. The two stakeholder workshops were two of more than 15 sessions participants could self-select to attend over three days and three different timeslots.

KAHC19 Stakeholder Workshops	Handicap Accessible?	Number of Attendees
September 12 10:15 AM - 11:45 AM EST Lexington Convention Center 430 West Vine Street	Yes	12
September 13 10:30 AM – 12:00 PM EST Lexington Convention Center 430 West Vine Street	Yes	8

At each workshop, a brief presentation was made then participants were asked four questions, similar to the Regional Public Meetings. The most frequently cited responses to each question from both workshops included the following:

- *What is the greatest challenge to finding and keeping safe, decent and affordable housing in Kentucky?*
  - Lack of adequate funding, including for Section 202/811 programs, Housing Choice Voucher/Project-based Rental Assistance
  - Local ordinances banning emergency shelters within city limits
  - Lack of adequate supply of affordable family housing
  - Gentrification displacing lower income households

- *What is the greatest challenge to creating more affordable housing for Kentuckians?*
  - Increasing land and construction costs
  - Demand for affordable housing exceeds the supply
  - Not-in-my-backyard (NIMBY) opposition
  - Criminal background checks
  - Mental illness, including substance abuse
  - Lack of education, affordable childcare, transportation and jobs in most areas
- *What other needs are required in your community to improve the quality of life for residents (e.g. better paying jobs, water/sewer service, substance abuse treatment, etc.)*
  - Financial literacy classes
  - Substance abuse treatment
  - Affordable childcare, including for second shift workers
  - Intensive case management
  - Public transportation
- *In your opinion, what is the single most important thing the state should be doing to create more affordable housing across Kentucky?*
  - State legislative appropriation for affordable housing
  - Increase funding for Housing Choice Vouchers and Tenant-based Rental Assistance
  - Fair housing training for elected and appointed officials
  - Run a poverty-simulation program for elected officials
  - Incentivize developers to build new affordable housing in specific neighborhoods

A series of four online GoToMeeting sessions was conducted in early October. These were advertised on the KHC project webpage, on the FAQ sheets, at the Regional Public Meetings and the KAHC19 Stakeholder Sessions. KHC also distributed e-grams using its own agency list serve to remind stakeholders of the session schedule and details.

Online GoToMeeting Session	Number of Attendees
October 1, 10:30 AM - 11:30 AM EST	1
October 1, 2:00 PM – 3:00 PM	2

October 2, 10:30 AM - 11:30 AM EST	0
October 2, 2:00 PM – 3:00 PM	0

The format of these sessions was similar to the Regional Public Meetings and KAHC19 Stakeholder Workshops with a series of five questions posed to participants.

A bilingual online survey was created in Survey Monkey and the link distributed through the KHC project webpage, on the FAQ sheets and the presentations made at the Regional Public Meetings and the KAHC19 Stakeholder Workshops. At KAHC19, workshop attendees were encouraged to respond to the survey as they entered the meeting room. The survey was also marketed at the end of the GoToMeeting sessions. The survey was live from August 6 through October 4, 2019; a total of 127 responses were received and tabulated. Of these, only one Spanish response was received.

The majority (53%) of survey respondents reported annual incomes of \$60,000 or higher. The next highest group of respondents (13%) have incomes of less than \$15,000. Most respondents (86%) identified as Caucasian/White while 14% identified as African American/Black. One in four respondents reported their household includes a person with a disability. Three in four respondents were female. By age, 42% of are between the ages of 25-44; another 24% are between 55-64.

Across all categories of priority need questions posed to respondents to the online survey, the following nine community development activities were rated the highest when weighted averages were ranked:

Activity	Average Weight (ranked)	Category
Emergency shelters/homeless services/mental health services	2.73	Special Needs & Services
Youth transitioning out of foster care	2.67	Special Needs & Services
Rental assistance	2.64	Housing
Job creation/retention	2.63	Economic Development
Mental health facilities	2.62	Community Facilities
Substance abuse services	2.59	Special Needs & Services
Hunger/nutrition services	2.59	Special Needs & Services
Transportation	2.58	Public Infrastructure

Workforce development programs	2.57	Economic Development
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The next three activities, each of which scored 2.56, included residential accessibility improvements for persons with disabilities, foster youth services, and elderly services—also categorized as Special Needs and Services.

Major findings summarized from each section of the online survey include the following:

#### Fair Housing

- 8 or more responses were received from each of Campbell, Fayette, Jefferson, Kenton, and Warren Counties for a total of 50 (40%).
- 41% (49) of respondents replied “yes” or “not sure” to the question inquiring about their experience with housing discrimination.
  - Of these, the most frequently cited counties of occurrence were Boone, Fayette, Jefferson, Madison, and Warren.
  - The majority (76%) reported that “a landlord or property manager” best described the person who may have discriminated against them.
  - 67% (25) reported the alleged discriminatory behavior occurred at “an apartment complex” or “public housing or other housing where your rent was only a portion of your income”.
  - Alleged bases for discrimination (covered by federal and state fair housing laws) included primarily familial status, race, disability, and color.
  - Notably, of the 37 respondents who answered the question “did you report the incident of possible discrimination”, only 2 responded “yes”.
  - The majority of respondents (71%) didn’t report the incident because they “didn’t think it would make a difference” or they “didn’t know who to report it to”.
- 20% of respondents (21) answered either “yes” or “not sure” to the question asking if they had ever been denied reasonable accommodation by a landlord.
- When asked “what would you do if you felt you were being discriminated against while seeking housing”, 32% responded they would “report the discrimination”, 29% responded they would

“do nothing and look for other housing”, and 20% (20) responded they “wouldn’t know what to do”.

### Community Development

- Housing activities which received the highest weighted averages as identified by respondents included: rental assistance (2.64 out of 3.00), housing for persons with disabilities (2.44), senior housing (2.42), rental housing and energy efficiency improvements (both at 2.38), rental housing new construction (2.35), and housing for larger families (2.30).
- Economic development activities which received the highest weighted averages as identified by respondents included: job creation/retention (2.63), workforce development programs (2.57) and literacy programs/GED preparedness (2.54).
- Special needs and service activities which received the highest weighted averages as identified by respondents included: emergency shelters/homeless services/mental health services (2.73), youth transitioning out of foster care (2.67), substance abuse services and hunger/nutrition services (each at 2.59), residential accessibility improvements for persons with disabilities, foster youth services, and elderly services (each at 2.56), and services for persons with disabilities (2.51).
- Neighborhood / commercial district revitalization activities which received the highest weighted averages as identified by respondents included: street lighting (2.34), sidewalk improvements (2.22), street/alley improvements (2.15), demolition of blighted structures (2.11) and parking improvements (2.05).
- Public infrastructure activities which received the highest weighted averages as identified by respondents included: transportation (2.58), water system improvements/extensions (2.33), sanitary system improvements/extensions (2.32), road reconstruction (2.29) and water/wastewater treatment facilities (2.28).
- Community facilities which received the highest weighted averages as identified by respondents included: mental health facilities (2.62), childcare centers (2.57), substance abuse centers (2.54), employment centers (2.48) and healthcare facilities (2.42).

## Appendix B

### Dissimilarity Indices by County

The following table indicates the Dissimilarity Index for each county in Kentucky by race.

Table 27 Level of Segregation in Each County by Race/Ethnicity, 2017

County	Non-White/White	Black/White	Asian/White	Hispanic/White
Adair County	Low	Medium	High	Low
Allen County	Low	Low	High	Medium
Anderson County	Low	Low	Low	Medium
Ballard County	Low	Low	Low	Low
Barren County	Low	Medium	Medium	Low
Bath County	Low	Medium	Medium	Low
Bell County	Low	Medium	Medium	Medium
Bell County	Low	Medium	Medium	Medium
Boone County	Low	Low	Low	Low
Bourbon County	Low	Medium	High	Low
Boyd County	Low	Medium	High	Medium
Boyle County	Low	Low	Medium	Medium
Bracken County	Low	High	Medium	Low
Breathitt County	Low	Medium	High	Medium
Breckinridge County	Low	Low	High	Medium
Bullitt County	Low	Medium	Medium	Medium
Butler County	Low	Low	High	Medium
Caldwell County	Low	Low		Medium
Calloway County	Low	Low	Medium	Low
Campbell County	Low	High	Medium	Medium
Carlisle County	Low	Low	Medium	Low
Carroll County	Low	Low	Medium	Low
Carter County	Medium	Medium	High	High
Casey County	Low	Low	Low	Low
Christian County	Low	Low	Medium	Medium
Clark County	Low	Medium	Medium	Low
Clay County	Medium	High		Medium
Clinton County	Low	Medium	Low	Low
Crittenden County	Low	Medium		Medium
Cumberland County	Low	Medium	Medium	Low

County	Non-White/White	Black/White	Asian/White	Hispanic/White
Daviess County	Low	Low	Medium	Low
Edmonson County	Medium	High	Low	Medium
Elliott County	Low	Low		Low
Estill County	Medium	Medium		High
Fayette County	Low	Medium	Low	Medium
Fleming County	Low	Medium	High	Low
Floyd County	Low	Medium	High	Medium
Franklin County	Low	Medium	Low	Low
Fulton County	Low	Low	Low	Low
Gallatin County	Low	Low	Low	Low
Garrard County	Low	Medium	Medium	Low
Grant County	Low	Low	Medium	Low
Graves County	Low	Medium	Medium	Low
Grayson County	Low	Low	High	Low
Green County	Low	Low	Low	High
Greenup County	Low	High	Medium	Low
Hancock County	Low	Low	Low	Low
Hardin County	Low	Medium	Medium	Medium
Harlan County	Low	Medium	High	Medium
Harrison County	Low	Low		Medium
Hart County	Low	Low	Medium	Low
Henderson County	Low	Low	Medium	Low
Henry County	Low	Medium	High	Medium
Hickman County	Low	Low	Low	Low
Hopkins County	Medium	Medium	Medium	Medium
Jackson County	Low	Low		High
Jefferson County	Medium	Medium	Medium	Medium
Jessamine County	Low	Low	Medium	Low
Johnson County	Low	Low	Medium	Low
Kenton County	Low	Medium	Medium	Low
Knott County	Low	Medium	High	High
Knox County	Low	Medium	Medium	Medium
Larue County	Low	Medium	Medium	Low
Laurel County	Low	Medium	Medium	Medium
Lawrence County	Low	Medium	High	Low
Lee County	Low	Low	Medium	Low
Leslie County	Low	Medium	Medium	Low
Letcher County	Low	Medium	Low	Low
Lewis County	Low	Low	High	High
Lincoln County	Low	Medium	High	Low

County	Non-White/White	Black/White	Asian/White	Hispanic/White
Livingston County	Low	High	Low	Low
Logan County	Low	Low	High	Low
Lyon County	Low	Low	Low	Low
McCracken County	Medium	Medium	Medium	Low
McCreary County	Medium	Medium	High	Medium
McLean County	Low	Low	Medium	Low
Madison County	Low	Low	Low	Low
Magoffin County	Low	High		Low
Marion County	Low	Medium	High	Medium
Marshall County	Low	Low	Low	Low
Martin County	Low	Medium		Low
Mason County	Low	Low	Low	Medium
Meade County	Low	Medium	Low	Low
Menifee County	Low	Low	Medium	Medium
Mercer County	Low	Low	Low	Low
Metcalfe County	Low	Low	Medium	Low
Monroe County	Low	Low	High	Low
Montgomery County	Low	Low	High	Low
Morgan County	Low	High	Medium	Low
Muhlenberg County	Low	Medium	Medium	Medium
Nelson County	Low	Medium	Medium	Medium
Nicholas County	Low	Low		Low
Ohio County	Low	Medium	High	Low
Oldham County	Low	Low	Low	Low
Owen County	Low	Low		Low
Owsley County	Low	Low		Medium
Pendleton County	Low	Low	Low	Medium
Perry County	Low	Medium	High	Medium
Pike County	Medium	High	High	Medium
Powell County	Low	Medium	Medium	Low
Pulaski County	Low	Medium	High	Low
Robertson County	Low	Low		Low
Rockcastle County	Low	Medium	Medium	Medium
Rowan County	Low	Low	Medium	Low
Russell County	Low	High	Medium	Low
Scott County	Low	Low	Medium	Low
Shelby County	Low	Low	Medium	Low
Simpson County	Low	Low	High	Low

County	Non-White/White	Black/White	Asian/White	Hispanic/White
Spencer County	Low	Medium	High	Low
Taylor County	Low	Low	Medium	Low
Todd County	Low	Low	High	Low
Trigg County	Low	Low	Medium	Low
Trimble County	Low		High	Low
Union County	Low	Low	Low	Low
Warren County	Low	Low	Medium	Medium
Washington County	Low	Medium	Medium	Low
Wayne County	Low	Low	High	Medium
Webster County	Low	Medium	High	Medium
Whitley County	Medium	High	High	Medium
Wolfe County	Low	Medium		Medium
Woodford County	Low	Low	Medium	Low

Source: American Community Survey five-year estimates 2017