



Affordable Housing Development Program

Policies and Procedures
Updated 10/06/16

Alameda County Community Development Agency
Housing and Community Development Department
Policies and Procedures for Affordable Housing Development Program

Updated October 2016



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PART 1) OVERVIEW

This Affordable Housing Development Program Policies and Procedures document has been prepared by the Alameda County Housing and Community Development (HCD) Department to provide an overview of the requirements, federal regulations, and local policies for the development and operation of affordable housing development projects that have been funded through the HCD's Affordable Housing Development Program. This document is updated periodically to reflect new and updated information, regulations, and policies.

Each year, HCD issues a Request for Proposals (RFP) for its Affordable Housing Development Program to award available funding to affordable housing development projects throughout the county. Funding comes through a number of sources:

- Federal HOME Investment Partnerships (HOME) Program;
- Federal Housing Opportunities for People with HIV/AIDS (HOPWA) Program;
- Federal Community Development Block Grant (CDBG) Program; and
- Locally through Alameda County's Affordable Housing Trust Fund (both funds specifically for the Unincorporated County and countywide through the County's "boomerang" funds).

The annual RFP contains information about the funding programs, geographic applicability of each program, funding amounts, application process, appeal process, and basic thresholds and evaluation criteria considered in the evaluation of proposals.

This Affordable Housing Development Program Policies and Procedures document is intended to be a reference document for applicants submitting proposals under the HCD's annual Request for Proposals and for those organizations awarded funds. In addition, the document contains critical information related to ongoing funding and operations requirements and should be useful to those previously funded.

To be considered for funding, projects must agree to the HCD's local policies and requirements and all applicable federal HUD regulations and restrictions. It is the applicant's responsibility to review and understand all program requirements for all funding sources. While local requirements are explained in this document, this document provides only a broad and general highlights of federal requirements. Detailed Federal requirements for HOME, HOPWA and CDBG can be found at (<https://www.hudexchange.info/manage-a-program/>).

It is critical that applicants thoroughly review the policies contained within this document, including the developer standards that have been adopted, to ensure that developers have the capacity to manage the development process and successfully complete a project.

PART 2) FINANCIAL PLAN/UNDERWRITING REQUIREMENTS

This section describes HCD's loan terms and underwriting requirements for the development budget and operating budget/cash flow. All of HCD funds are made as real estate loans secured by the property. The loan documents include a Loan Agreement, a Deed of Trust, a Promissory Note and a Regulatory Agreement. Additional documents, such as Subordination Agreements and Requests for Notice of Default, shall be prepared as required. To the extent feasible, HCD will wrap all funding sources into one set of loan documents.

Each loan is underwritten to HCD standards. HCD will provide a term sheet of the standard terms of all HCD loans as an exhibit to the RFP. In addition, such terms are outlined in detail below. If the applicant seeks loan terms other than HCD's standard terms for a project, the applicant is required to explicitly state the requested terms as part of the application process in the Financing Plan Narrative and document the need for such terms in its financial submissions. Changes to standard loan terms are at the Housing Director's discretion and are negotiated prior to the loan closing. Successful allocation of funding does not necessarily indicate that the requested loan terms have been granted.

A. Loan Terms

HCD's standard loan terms are 3% simple interest amortized over 59 years, with annual payments due. The standard length of affordability is 59 years. For HOME and HOPWA projects, the term is made up of a Federal reporting term of 20 years and an additional 39 years of County restriction, to total 59 years. The 59 year term is measured from the date of initial occupancy, which can be determined by either the Certificate of Occupancy or by the closeout report. A request to cap the term at 55 years may be submitted, if required by another financing source, and the applicant is required to provide reasoning for the request through a letter provided by developer's counsel.

HCD will accept a residual receipts repayment provision in tax credit projects. In a residual receipts deal, HCD will accept repayment in the form of residual receipts payments in the following amounts: 50% of the residual receipts if the County is the only soft lender receiving residual receipts payments, or a pro-rata split of 75% of the residual receipts split between all other soft lenders if the County is not the only soft lender receiving residual receipts payments. The Developer is permitted to keep either 25% or 50% of the residual receipts, as applicable, as an Incentive Management Fee, as is standard in the industry. However, should the Partnership Agreement not allow the general partner to retain the full amount of the Incentive Management Fee, the County may require that the amount of the soft lender share of residual receipts be increased.

The loans will be at 3% simple interest (calculated as of the date of disbursement), and the full amount will be due at the end of the term. All loans are due on sale, refinancing, or transfer. Exceptions may be made for a transfer to a related entity, such as a limited partnership, subject to the Housing Director's approval. Exceptions may also be made for refinancings, the terms of which are approved in advance by HCD. Developers will be required to pay HCD legal costs associated with transfers, refinancings, or any additional documentation or amendments to HCD loan documents. HCD's Loan Agreement will allow for additional years of affordability should the loan not be paid in full at the end of the term.

Developers will be required to enter into a funding contract with the County, as well as the loan documents, after award of funding. As part of HCD's underwriting, the Developer's ability to meet the County's insurance requirements will be assessed. Details on the County's contracting and insurance requirements may be found in Part 5. Insurance requirements may not be waived. Prior to application, ensure that your organization is capable of obtaining the proper insurance. The applicant must submit the organization's insurance with the RFP Application, and a funded organization will be required to resubmit certificates prior to disbursement of any County loan proceeds, pursuant to the requirements found in Part 5.

HCD loans are secured by a deed of trust recorded against fee title or the Developer's leasehold interest in [the property](#), and income, occupancy, and resale restrictions are placed on the property through a recorded regulatory agreement (rental projects) or resale agreement (ownership projects). The regulatory agreement must be recorded against the fee interest on the property and in senior lien position to bank loan documents.

In terms of subordination agreements, the County will not accept standstill provisions or enter a standstill agreement request by senior lenders that prohibits the County from exercising any remedies during a specified period after a default.

Proforma and Financial Plan

HCD will keep on file the project's stated Financial Plan and Proforma Development Budget. The Financial Plan is a narrative explanation of the Proforma, and will be used to evaluate the project's financial feasibility. The Proforma must be provided in an Excel format and include the items addressed below. Please note that prior to loan closing, HCD will require the developer to submit an updated Proforma in Excel. HCD will provide a template Excel-formatted proforma for RFP applicants. The template proforma includes the following separate worksheets that must be completed by RFP Applicants: Development Sources and Uses, Operating Budget, 30 Year Cash Flow, Financial Summary, and Unit Size and Affordability. The updated Proforma will be included as an exhibit to the loan documents.

B. Sources and Uses Budget

All applicants for funds must submit a sources and uses budget, which specifies the total project costs, the per unit costs and the costs that the applicant is requesting HCD pay for. HCD will provide a template worksheet as noted in the previous section. The budget submitted must be submitted in Excel, and must be updated at construction loan closing. The following items must be addressed in the budget:

- ***Construction Contingency***

A minimum 10% construction cost contingency for new construction projects and a minimum 15% construction cost contingency for rehabilitation projects are required in the development budget; and these levels must be met to meet the basic thresholds on the RFP Application. HCD may consider a lower contingency based on environmental reports, the construction contract, and other relevant documents. **The sources and uses and financing plan must cover the full 10% or 15% contingencies until HCD has fully underwritten the project, reviewed all pertinent documents, and informed the applicant that a different contingency will be approved.**

Rehabilitation contingencies will vary due to the particular needs of the project. The applicant must budget at least a 15% contingency and is also required to provide a Physical Needs Assessment (PNA). Upon review of the PNA, scope of work, plans and construction documents, HCD may require the applicant to increase the contingency.

- ***Developer Fee***

A developer fee is an eligible cost and must reflect a reasonable rate. The HCD standard for developer fee is either 10% of total development costs or no more than \$2 million in cash to the developer. Fees in excess of this standard may be approved at the discretion of the Housing Director, but developers will be required to justify developer fees proposed in excess of this standard in a written request submitted in the Financing Plan Narrative of the Application. This includes deferred developer fees in excess of the \$2 million standard, taken over a 10 or 15 year period. The Financing Plan may include a justification that the higher developer fee is due to the greater developer fee amounts allowed under the TCAC regulations for 4% tax credit projects. Any funds disbursed to the developer for administrative costs, provision of guarantees, or fees for services are to be considered a portion of the developer fee. Payments into reserves required by lenders or investors will not be included as part of the developer fee, but payment of fees for guaranteeing against operating deficits will be included. Specific examples of items to be treated as developer fees (in addition to any fees charged by the developer) include: administration; staff costs, including development consultants (but not historic preservation, environmental, or syndication consultants); net worth guarantee fees; marketing and/or rent-up supervision fees; tax credit compliance guarantee fees; real estate brokerage fees paid to a related party; loan brokerage fees paid to a related party; processing

agent fees; developer profit and overhead; compensation for construction management oversight provided by the developer; the cost of any personal guarantees; and reserves in excess of those customarily required by multi-family housing lenders.

- ***Retention of Developer Fee***

HCD requires that \$50,000 of the HCD funds be allocated toward the developer fee and be retained by HCD as a performance retention. The retention will be released upon recordation of a Notice of Completion, release of all liens, satisfactory compliance with all reporting requirements and submission of a cost certification. These requirements will be outlined in more detail in the contract for funding.

- ***County Legal Fees Covered by Project***

The cost of preparing the County's loan and regulatory documents shall be considered a project cost, and shall be paid by the project or come from the proceeds of the loan. Alameda County retains Goldfarb and Lipman as counsel, and requires that the cost of preparing loan documents be paid from escrow at loan closing. As these documents are tailored to each project from template documents, Borrowers should include at least \$18,000 for County legal fees in the development budget, and this amount should be included in the legal fees budget submitted with the RFP Application. Funds are due no later than Construction Loan closing. These funds should be sufficient to cover all legal work through permanent loan closing, including additional subordinations that may be required. If additional funds are required due to the nature of the transaction, notice will be given and borrowers will be expected to pay such costs.

- ***Coverage of Environmental Assessment Costs***

Contractors may be required to cover the cost of the Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) from the proceeds of County funding, or another project funding source if requested. This may include the Contractor hiring a consultant to complete the EA. HCD recommends that CEQA analysis and the EA be done together, and be done by the same consultant in new construction projects. If a NEPA EA was performed for another HUD Grantee (i.e. Berkeley or Oakland), HCD may be able to use this NEPA EA, and will request such documentation from the Contractor. The application asks for specific details on Environmental Reviews in order to assess on a project by project basis what level of EA is needed. Costs to obtain NEPA clearance in advance of access to County funding can be reimbursed from funds once a Contract is awarded by the County. If projects are located in the City of Oakland, the ER worksheet available online is required. Costs must be covered by no later than construction loan closing

- ***Prevailing Wage***

State legislation requires payment of prevailing wages for many private projects that are constructed under an agreement with a public agency (including Alameda County HCD) providing some form of assistance for the project. Projects should make a determination if

prevailing wage applies and include those costs in the development budget. The RFP Application Financing Plan Narrative should describe whether or not the construction contract budget line includes prevailing wages or not. If prevailing wages are required by law, the Developer will be responsible for ensuring compliance with the labor code and for hiring a prevailing wage monitor, approved in advance by HCD, for the benefit of both Developer and the County.

- **Construction Inspection Fees**

A construction manager selected or approved by HCD and paid for by the Developer shall conduct inspections prior to, during, and after construction to ensure that work is done in accordance with applicable codes and pursuant to the terms of the loan documents. The Developer shall either pay all construction management fees to the County or directly to the construction manager, at HCD's discretion. The relationship between the Developer, the County, and the construction manager shall be set forth in a construction management agreement in a form approved by HCD. The project must cover HCD's costs for the construction manager, and include an estimate of the costs in the development's sources and uses submitted with the Application. Should the Developer be able to obtain agreement from the construction lender's inspector (or any other inspector already inspecting the development) to provide sufficient reports to HCD (which includes a review of Section 504), then this fee may be waived.

- **Ineligible Development Budget Items**

Funding requested to pay down other permanent (long term) funding is not an eligible use of HCD's development funding. Repayment of short term debt (acquisition or construction funding) may be considered an eligible cost as long as that debt cannot be amortized and its payment makes the project infeasible. HCD funds may not be used to cover capitalized operating reserves or services reserves. HOME funds may not be used to cover furnishings. HCD's funds may not be used for the commercial portion of a project's costs or other costs that are not eligible under the HOME, HOPWA or other financing source program regulations.

C. Unit Mix and Utility Allowance

All projects must provide a clear statement on the number of units, the sizes, and the projected rent levels and rents. The description of the units to be restricted by HCD must contain a breakdown of which funds will restrict which units at what affordability levels (i.e. 5 HOME units at XX% AMI and 7 Affordable Housing Trust Fund units at XX% AMI). In addition, all projects must provide a clear statement of which utilities the tenants will pay for, and which the project will pay for. Please provide a utility allowance sheet for the city in which the project is located. Final monthly and annual income generated from rents should accompany the unit mix sheet. Once a project is funded, HCD will require the developer to adhere to the unit mix proposed in the development application and this unit mix will be reflected in the regulatory

agreement. Additional information on Utility Allowance requirements can be found under Part 4, Local Policies, sub-section D.

D. Operating Budget & Cash Flow

All applicants for funds must submit a one-year operating budget, which specifies the total monthly and annual budgets, as well as per-unit monthly costs of the project. The budget must be in Excel, and provide detail comparable to that of the State's Universal Application.

Applicants may use the Excel Proforma provided by HCD to all RFP applicants. The submission does not have to be on the Universal Application, but if the Project has a completed up-to-date one, that will suffice. The project must also provide a cash flow analysis in the approved format, and list all hard and soft lenders. The Financing Plan should include narrative information regarding both.

- ***Operating Budget Requirements***

Operating budgets and the 30-year proforma must be submitted in an electronic Excel format and should conform to the following criteria:

- a) Show at least break-even cash flow within 18 months of initial rent-up. If this is not achievable, a written explanation in the Financing Plan Narrative should accompany the application.
- b) Include operating and replacement reserves (see Replacement and Operating Reserve Requirements below).
- c) Include five percent (5%) annual vacancy/collection loss for family, senior, and preservation projects and ten percent (10%) annual vacancy/collection loss for SRO or special needs projects.
- d) Include three and a half percent (3.5%) annual increase for expenses (other than property taxes and replacement reserves deposits) and two and a half percent (2.5%) annual increase for income.
- e) **If Section 8 or other rental assistance/operating subsidy is assumed, two operating proformas must be provided**, one assuming rental assistance will be renewed and one assuming rental assistance will expire after the initial contract term. Rents must remain restricted according to HCD requirements even if the rental assistance is no longer available.

The operating budget will be reviewed to ensure it is sufficient for proper maintenance and

management but is not excessive compared to other similar properties. If the applicant is proposing different standards than those outlined above, a written explanation and justification is required.

- **Replacement and Operating Reserve Requirements**

HCD financing is generally in place longer than other financing sources (i.e. 59 years). As a result, the owner's ability to maintain and repair the project over the long term is extremely important to HCD. Exceptions to the stated requirements will be granted in rare cases only. Use of replacement and operating reserves is subject to prior review and approval by HCD, or other senior lender.

1. **Replacement Reserves:** 0.6% of the replacement cost of the structure annually, up to \$600 per unit for family developments and \$500 per unit for senior developments. A lower amount may be requested if a third party replacement reserves analysis shows that less reserves are needed. For rehabilitation projects, developers will be required to submit a third party Capital Needs Assessment (CNA) for projects with 26+ units. It must include a replacement cost analysis in which the age, remaining life, and cost of major building systems is estimated and amortized over the number of units and years. Gut rehabilitation projects should use reserve standards for new construction projects. The required replacement reserves amount will be stated in the Regulatory Agreement. Another Physical Needs Assessment (PNA) must be completed at the end of the period analyzed in the initial CNA/PNA.

2. **Operating Reserves:** Initial operating reserve of *at least* 2% of the gross rental income must be capitalized on a monthly basis until the reserve reaches an amount equal to six months of operating costs (including debt service and HCD monitoring fees costs). A larger deposit is encouraged. The operating reserve must be maintained at the level of six months of operating costs for the period during which the property is regulated by the Regulatory Agreement. The Regulatory Agreement will specify the use of the operating reserves.

- **Monitoring Fees**

Operating Budgets must include an HCD monitoring fee. The current monitoring fee is \$300 per HCD unit per year. The amount of the monitoring fee may be increased periodically in an amount not to exceed 5% per year. If HCD does not raise the amount of the monitoring fee in any given year, such percentage amount will accrue and HCD may raise the monitoring fee by the cumulative amount of the accrued percentage at the next increase. HCD will bill the owner this amount on an annual basis to cover the costs of HCD monitoring the project for financial health and compliance with funding regulations. The loan documents will include the final number of restricted HCD units.

- **Debt Coverage Ratio**

As it is HCD's goal to make projects financially viable and to leverage other financing, HCD loan terms may be adjusted based on documentation of conflicting requirements of other approved funding sources. It is a goal to have the maximum debt coverage ratio allowed in rental projects (new construction, rehabilitation or acquisition) to be limited to the ratio required by other lenders providing financing as reflected in their commitment of funds, with HCD's standard being a minimum of 1.15. Draft loan documents (contract, loan agreement regulatory agreement, deed of trust and promissory note) are circulated to the project developer prior to execution. If another lender requires a residual receipts loan, the County requires that the calculation of required payment be based upon the percentage of participation of all lenders, with the County receiving a pro rata share as discussed under Part 2 Section A above (Loan Terms). It is the developer's responsibility to negotiate this requirement with other lenders. In addition, the annual audit of the project must calculate the amount of payment owed to each separate lender every year as part of the ongoing multi-year reporting requirements. All loans are due on sale, refinancing, or transfer (except to a related entity, such as a limited partnership, subject to the Housing Director's approval).

- **Partnership Management and Asset Management Fees**

The total combined partnership management and asset management fees are limited to a cumulative amount of \$25,000 per year. No automatic escalation is allowed and unpaid fees do not accrue. Any fees above this amount or escalators must come from the developer's 25% or 50% Incentive Management Fee.

- **Commercial Income**

HCD will evaluate mixed-use (commercial/residential) projects on a case-by-case basis during the underwriting process to determine whether commercial income will be calculated in the determination of residual receipts payments.

PART 3) LOCAL POLICIES

In addition to Federal Requirements specifically associated with the federal HOME, CDBG, and HOPWA programs (discussed in Part 4), Alameda County HCD, in coordination with the members of the HOME Consortium, the Urban County, and the City of Oakland, impose additional requirements on projects financed under Alameda County's Affordable Housing Development Program.

The intent of these local policies is to ensure that projects financed through HCD's Affordable Housing Development Program, whether funded through the above-referenced federal sources

or through the County's Affordable Housing Trust Fund Program, are effectively and sustainably developed, managed, and operated. Through the latest update to the HOME Program Rule in 2013, HUD has sought to enhance the requirements of the program to accelerate the timely production and occupancy of HOME-assisted housing, strengthen the performance of local HOME entitlement jurisdictions (called participating jurisdictions or PJs), provide PJs greater flexibility in design and implementation of their programs, and increase administrative accountability. As HOME is a key source of affordable housing funding for the County, in place since 1992 and having funded over 2,000 affordable units throughout the County, many HOME program requirements and processes have been adopted across HCD's Affordable Housing Development Program to ensure that the program overall may be successfully implemented.

Pre-Funding Requirements

A. Developer Standards

HCD has established developer threshold criteria for all developers receiving HCD-administered funding. These guidelines are the minimum requirements for HOME-funded CHDO projects, which HCD has implemented across all funding sources to ensure capacity and completion of projects. HCD has made its Developer Standards for Tier One Developers consistent with those of the California Department of Housing and Community Development, Tax Credit Allocation, and California Debt Limit Allocation Programs.

The criteria include the following two levels or tiers of experience.

Tier One: Developers who meet the criteria defined in Tier One are qualified to apply for funding directly, with no additional joint venture partners or assistance (although they may be part of a joint venture as well).

Tier Two: Applicants who do not meet Tier One Developer Standards must apply under Tier Two. Under Tier Two, applicants must have additional assistance (e.g. a qualified development partner approved by HCD or by hiring paid qualified staff to boost organizational capacity) for project management. Without an approved form of agreement between the applicant and an approved development partner, no contract for funds will be entered into and funds will not be released. If the applicant does not submit the required information within 8 months of the committee recommendation, HCD may re-allocate the funds into the next year's RFP process, and the applicant may apply again.

Tier One Developer Experience

In order to be considered for funding under the Tier One criteria, a developer must demonstrate experience and capacity to complete the project. Experience includes the successful development and completion of **THREE** projects of a similar size and scope by the

Developer. Capacity includes having existing staff assigned to the project who have worked on similar projects and whose résumés demonstrate their ability to guide the project through all stages of the development process. Tier One Developers will be able to submit the following information on completed projects that they believe will qualify them as Tier One developers:

- project name and address;
- tenant tenure ownership or rental;
- rehabilitation or new construction;
- number of units and unit mix;
- income levels served;
- types of permanent financing;
- project start and completion dates.

In addition, the following information is also required:

- list of current staff assigned to the project for which funding is requested, including their resumes;
- list of current board members, with resumes and city of residence;
- audited financial statements for the past three years.

Tier Two Developer Experience

In order to be considered for funding, Tier Two applicants must show experience and current capacity to complete the project. Applicants with less experience than those in Tier One may still be eligible for funding by joint venturing with a more experienced developer and/or by hiring paid staff to augment either of the organizations' capacities. Capacity requirements may be met by using a combination of both organizations' experience to meet the requirements outlined under Tier One. **If a developer wishes to qualify for Tier Two, a discussion of how the applicant intends to supplement their capacity must be included in the funding application. This is subject to HCD approval.**

Before a contract is awarded, a Tier Two Developer must demonstrate that the joint venture partnership is in place with a written agreement.

DEVELOPMENT TEAM

HCD reserves the right to approve all members of the development team, including architects, attorneys, general contractor, and property management firm. Should applicants for funds wish to receive approval of the development team as part of the funding application process, sufficient documentation of their experience and capacity to complete the project should be included in any request for funding. If this information is not included in the application, HCD may withhold funding until such time as the development team is approved. The criteria for the development team are listed below.

Architect

The architect or architectural firm must be selected at the time of receipt of the funding application. The architect or architectural firm must have experience developing at least three projects that are similar to the proposed project. This experience must be demonstrated by providing:

- names and addresses of projects of comparable size and with similar financing structures and types of construction;
- resumes of staff involved in the proposed project including the lead staff person for this project and his/her experience with similar projects; and
- references, including at least three from owners of the similar projects described above, which will be checked during the HCD underwriting process

Attorney

Attorneys must have experience working on at least three projects that are similar to the proposed project. Key staff at each law firm should have experience with housing development. If the developer is using different law firms for different aspects of the development, please provide the following information for each firm:

- experience with real estate law;
- experience with nonprofit corporate law;
- experience with low income housing tax credit syndication, if applicable;
- resumes of firm and key staff members; and
- three or more references.

General Contractor

Provide if the general contractor has been selected at the time of application for funding. The general contractor must have experience with at least three projects that are similar to the proposed project. The contractor must provide the following information:

- experience with similar construction type;
- experience with Davis-Bacon and Prevailing Wage projects, (if applicable);
- financial capacity and bonding capacity equal to 100% of the construction amount;
- resumes of firm and key staff, including the site supervisor;
- documentation of liability and worker's compensation insurance; and
- three or more references.

The Contractor must have all applicable licenses in good standing, and must not be on the federal or state Debarred and Suspended Contractors List. The Contractor must provide proof that subcontractors are not debarred.

Property Manager

The property manager for the project must be selected at the time of submittal of the funding application. Applicants must provide the following information about the selected property manager in the funding application:

- evidence of the property manager's experience managing at least five projects of similar size, income mix, unit mix, population mix, and service enrichment, if applicable;
- a list of all properties currently managed by the property management company, and evidence that the property management company has capacity to, and is willing to, take on an additional property;
- resumes of key management staff;
- a standard lease agreement, note any anticipated changes to the document;
- a management plan, either the actual plan for this property, or a sample of a similar plan;
- a copy of anticipated House Rules, if available; and
- a minimum of three positive references.

If the developer proposes to also act as property manager, the same information must be provided and thresholds met.

B. Market Study Requirements

The Market Study is a HOME Program funding requirement which HCD adopted across all funding sources to ensure proper review and award of funding. An assessment of neighborhood and market conditions are required prior to HCD or other member of the HOME Consortium entering into a legally binding agreement for a rental or homebuyer project, including acquisition, rehabilitation, new construction and down payment assistance. The assessment should ensure that there is adequate need for each project, including review of neighborhood market data.

HCD requires submittal of a market study with the application in order to obtain the information needed to diligently review applications and to ensure that there is sufficient demand for the proposed housing. The market study should have definite conclusions, and conclusions must be based on evidence in the market study.

The market study must include the date completed, and the person and organization conducting the market assessment, including their qualifications. The market study can be conducted by the developer, partner, consultant, or other funder such as the State. The cost of the market study can be part of project delivery costs or pre-development costs if the project is a CHDO project. For more information on the Market Study, please see **Appendix A**.

C. Utility Allowance Requirements

Government agencies receiving HOME funds are required to establish monthly allowances for utilities and services (excluding telephone) and to update them annually. HCD has adopted the HOME Program utility allowance requirement across all of its funding sources. In the past, HCD relied upon the local Housing Authorities (HA) in Alameda County to set these limits and applied them to HCD funded projects located in that HA jurisdiction. This practice has changed due to new federal requirements.

A new HOME provision in the 2013 HOME Rule at 24 CFR Part 92.252(d) requires HCD to determine an individual utility allowance for each HOME rental project, either (1) by using the HUD Utility Schedule Model, or (2) by otherwise determining the allowance based upon the specific utilities used at the project.

The HUD Utility Schedule Model was developed by HUD and enables the user to calculate utility schedules by housing type after inputting utility rate information. The IRS uses this model to determine utilities for the LIHTC program. The model can be found at:

<http://www.huduser.org/portal/resources/utilallowance.html>

Home Participating Jurisdictions (PJ), such as HCD, are no longer permitted to use a single utility allowance (such as that established by the local HA) for every HOME-assisted rental project. This is because as more projects are constructed or rehabilitated to higher energy-efficiency standards, the use of a standard utility allowance may not represent actual utility costs and may be difficult to justify.

Developers submitting applications under the HCD Affordable Housing Development RFP are required to complete the HUD Utility Schedule Module for the proposed project and submit this module with the Application.

D. Reasonable Development Costs

All project costs must be deemed reasonable, and not excessive based on industry standards and research of HCD staff. The new 2013 HOME Program Rule (the 2013 Rule) at 24 CFR Part 92 requires underwriting of all HOME-funded projects by a participating jurisdiction in addition to the subsidy layering review that has been in place from the pre-2013 Rule, to demonstrate that the County is not investing more HOME funds than are necessary to provide quality, affordable, and financially viable housing. HCD has adopted this rule across all funding sources as it is prudent and is in line with HCD's fiduciary responsibility to ensure proper use of public funds.

The subsidy layering and underwriting requirements of the 2013 Rule require that the PJ examine the sources and uses for the project to determine whether the development costs are

reasonable, among other requirements specified in §92.250(b). HCD has adopted this HOME requirement for reasonable development costs across all of its funding sources.

If a project budget submitted through the application is deemed unusually high, HCD staff may request additional information. If costs go up during the loan closing phase, HCD reserves the right to re-score an application and withdraw funding based on new information. Projects with above-average costs or below-average costs must provide justification for the costs. Projects with unjustified development costs may not be approved/awarded funding.

Final Work-Write Up

All projects must demonstrate cost reasonableness. A final work-write up showing the costs per unit will be required to be submitted prior to the start of construction. A third party, independent entity must verify that costs are reasonable, such as an architect or a cost estimator. The following language is an example that could be included in an exhibit to the development budget and signed by the verifier:

“I certify that the total development costs and the individual line items are reasonable for labor and the quality and quantity of materials. Cost reasonableness is determined based on the scope of work and the geographic region the property is located in. The budget includes a 10% hard cost contingency to cover the cost change orders for unforeseen conditions. This percentage is an industry standard and is generally sufficient for projects with similar scope.”

E. Green and Sustainable Building

Green building strives to improve design and construction practices so that new buildings will last longer, cost less to operate, and contribute to increased productivity and better working environments for workers and/or residents. In addition, green building works to protect natural resources and improve the built environment so ecosystems, people, enterprises and communities can thrive and prosper. Green and sustainable building requires thorough planning, thoughtful design and quality construction. Projects that meet certain minimum standards will receive points in the annual RFP application process; the annual RFP includes detail on how green and sustainable building elements will be evaluated, including the points assigned in the rating process.

GreenPoint Checklist and Green Building Guidelines

Applicants are required to complete the appropriate **GreenPoint Rated Checklist or LEED document** depending on the project type and scope. The GreenPoint Rated program is developed and administered by Build It Green as part of the GreenPoint Rated (GPR) program. Build It Green maintains four checklists and rating systems:

- New Home Single Family Checklist

- New Home Multifamily Checklist
- Existing Home Single Family Checklist
- Existing Home Multifamily Checklist

The checklist tracks green building measures in the proposed project design and provides a preliminary GreenPoint Rated score or LEED level. The proposals will be evaluated based on the total GreenPoint score or LEED level. This category is scored in the evaluation criteria under the Physical Characteristics category. Points will be given in the Green Building category of the RFP on a sliding scale. As a minimum threshold, projects will be required to meet at least the minimum scores in each category set forth in each GreenPoint Checklist (energy efficiency, resource conservation, indoor air quality, water conservation, and community).

HCD notes that many proposals are in early stages of design development, and therefore, the applicants are asked to complete and submit with their application the GreenPoint Rated checklist based on their intent to incorporate green building components. However, projects awarded HCD funding will be evaluated for the actual design prior to start of construction. The projects will be required to achieve at least the same GreenPoint score range as was achieved in the RFP scoring.

The GreenPoint Checklists are accompanied by the ***Single Family, Existing Home, and Multifamily Green Building Guidelines*** and are the basis for Build It Green’s third party rating programs. The GreenPoint Rated Checklists and Green Building Guidelines can be downloaded for free at the Build It Green website: <https://www.builditgreen.org/greenpoint-rated/documents-checklists>. Additional technical assistance resources may also be found at this website. The companion Manual for the checklists may be downloaded for \$30 from the website. Free technical assistance is also available to non-profit multi-family housing developers. Visit www.stopwaste.org or call 510-891-6511 for more information.

F. California Environmental Quality Act (CEQA)

If the project has California Environmental Quality Act (CEQA) clearance from the local planning department in which the project is located, the applicant for HCD funding will be required to provide CEQA documents to the County with the funding application. If CEQA is not complete, the County may request that the NEPA review be coordinated with the CEQA review from the local planning department. Applicants will be responsible for any costs the County may incur in connection with CEQA compliance.

G. EveryOne Home Units

HCD, along with member jurisdictions of the HOME Consortium, the Urban County, and the Cities of Oakland and Berkeley, are active participants in EveryOne Home, the countywide effort to end homelessness in Alameda County by 2020. The Plan calls for the creation of

15,000 new EveryOne Home units through tenant-based subsidies and the development of new affordable housing units. For more information see www.everyonehome.org . HCD seeks to support the creation of EveryOne Home units and requires all projects to report units meeting the EveryOne Home criteria, for tracking purposes. Additional information regarding EveryOne Home may be found in **Appendix C**.

In addition to supporting the creation of EveryOne Home units for people who are homeless, the County encourages developers to increase access to general affordable units for people with histories of homelessness, people with disabilities, and people with a history of involvement in the criminal justice system who may have difficulty meeting current screening criteria and practices. Developers should consider adopting screening tools like EveryOne Home's model guidelines that help property managers screen all applicants consistently in a way that also reduces the barriers to entry for such households. Please see http://www.everyonehome.org/media/resources_PM-Guidelines.pdf for more information.

H. Evidence of Community Impact and Need

The developer must demonstrate that their proposed project will have a positive impact on the surrounding community and that there is a demonstrated need for the proposed development. The developer is required to submit with their application a narrative describing the community benefits and improvements resulting from the proposed project.

I. Evidence of Community Outreach, Funding Support, Planning Approvals

The developer must submit evidence of community outreach to residents surrounding the proposed development and to relevant community groups. For acquisition and rehabilitation projects, the developer must demonstrate that meetings with the existing tenants have occurred, and the tenants are aware of the extent of construction work (both rehabilitation and new construction) which will occur on site. The developer must show that the project has the support of the jurisdiction where the project exists (projects applying for County Affordable Housing Trust Fund "boomerang" funds must demonstrate that they have local financial support in order to be considered for funding). Applicants should provide a narrative regarding whether or not discretionary approvals are required for planning or building permits and the project's status and schedule relating to this. Projects that do not require discretionary planning approvals must provide a letter documenting that the project does not need planning approvals from the jurisdiction's Planning Department.

J. Alameda County Affordable Housing Trust Fund "Boomerang" Policies

The purpose of the Alameda County Trust Fund Countywide Affordable Housing Development Program is to increase the supply of affordable housing opportunities for lower income households countywide. The Board approved a set of policies in July 2014 relating to the use of the "boomerang" funds and these have been incorporated into HCD's annual RFP and

Application when relevant, as well as in this Policies and Procedures document. **Appendix D** contains a table describing the County’s Affordable Housing Trust Fund policies. While most of the Affordable Housing Development Program policies are already incorporated into the local policies set forth in this Part and in the RFP, it is important to highlight these specific funding requirements:

- Funds are distributed to four geographic areas of the County based upon a formula tied to the Regional Housing Need Allocation for very low and low income units;
- Local jurisdictional funding is required in order to receive the County “boomerang” funds;
- Extra points are given in the RFP evaluation rating and ranking for providing extremely low income units.

Post-Funding Requirements

K. Mandatory Awardees Meeting

If funded, developers must meet with HCD staff to discuss loan closing requirements, contracting, the invoice submission process, close-out procedures, and ongoing reporting requirements. The awardees will be notified in advance of the meeting and **MUST** send one representative from their organization who will play a role in closing the HCD loan.

L. Multifamily Housing Revenue Bonds

Projects which receive an allocation of funding from HCD, and are applying for Multifamily Housing Revenue Bonds from the California Debt Limit Allocation Committee for either construction or permanent funding, must use HCD or the city government in which the project is located to issue the bonds. This requirement is to ensure that the subordination agreement will be drafted in such a way that local funds, secured by the loan documents, including HOME and HOPWA, are protected.

M. First Source

Alameda County has adopted a First Source Hiring program for contracts over \$100,000. The selected applicant (contractor) shall identify for the County the number of new positions resulting from the procurement of this contract by the contractor or any sub-contractor needed to fulfill the Scope of Work. In addition, the contractor shall post any new or vacant position to be filled for the project during the term of the contract to the County identified “First Source” system ten (10) working days before advertising to the general public. The contractor agrees to post any such new or vacant position to this system that contractor has available during the contract term and to report out quarterly on this policy. The goal of this provision is to hire local lower income individuals who are seeking positions with contractors receiving County funding. The First Source program lines up with Section 3 requirements from HUD, and the First Source Hiring System is meant to assist Contractors with meeting their Section 3 Goals. First Source

language will be added to the contract and loan documents. HCD will provide technical assistance on how to use the system for any project that is awarded funds. For more information please see First Source website at <https://www.eastbayworks.com/alamedacounty/vosnet/Default.aspx>

N. Public Recognition of Funding

Contractor will publicly recognize the funding provided by the County in all newspaper articles and any other public relations opportunities related to this project. Members of the Board of Supervisors will be invited to participate in the groundbreaking and grand opening events, if held.

O. Competitive Bidding

Project developers may negotiate the general contractor bid so long as the General Contractor undertakes competitive bidding for all of its subcontractors. HCD does not require competitive bidding for professional services contracts arising from the use of funds released through the RFP (e.g. architects, environmental consultants).

P. Income Certification

Per Federal and HCD requirements, owners are required to re-examine tenant incomes annually to ensure that tenants continue to meet the income requirements. Rents and tenant incomes will be annually reviewed for compliance by HCD. It is the applicant's responsibility to satisfy themselves of the applicable rules for each funding program prior to applying to HCD for funding. The new HOME Program Rule stipulates that at least two months of source documentation (e.g. wage statements, interest statements, or unemployment compensation documentation) must be reviewed to determine household income for all potential HOME beneficiaries, and that either the IRS "adjusted gross income" definition or 24 CFR Part 5 ("Section 8 definition") be used. The U.S. Census long form "annual income" definition may no longer be used. Alameda County HCD requires that project owners specify which definition of income will be used to determine income in the project. The income of all persons in the household (including nonrelated individuals) must be counted. HCD has adopted this requirement across all of its funding programs.

Q. Disabled Accessibility Policy

If a Section 504 unit or other unit designed for use by a person with a disability is rented to a non-disabled person, that tenant's lease must contain a clause requiring that the non-eligible household vacate that unit at such point that a non-accessible unit becomes available in the project. In addition, the project's wait list must provide information on whether or not the applicant is eligible and has applied for a disabled accessible project unit. During lease up and whenever the project's wait list is open for new applications, specific outreach and marketing to disability organizations must be conducted.

HCD has adopted a local accessibility policy to provide additional points under the evaluation criteria for projects that exceed federal accessibility requirements as described below in Part 4, Section F (Section 504 of the Rehabilitation Act of 1973). To this end, developers are required to submit a narrative plan and letter from their project architect in their application that describes how they plan to exceed the minimum federal accessibility requirements so that HCD staff may evaluate whether additional points in the accessibility category are warranted. **The local accessibility policy provides evaluation criteria points on a sliding scale to project applications that exceed the Section 504 requirements by at least 20%, provide 100% of the units as adaptable, provide visitability to units, and incorporate Universal Design throughout the project.** Appendix E contains additional background information on the principles of visitability and Universal Design.

R. Rent Increases

Rent increases must be requested in advance and are subject to the requirements of the funding source(s) invested in the project. For instance, HOPWA and SHP rents are set at 30% of the residents actual income, and may only be raised if the residents income increases. Low HOME Rents are set annually by HUD, and HCD does not generally allow High HOME Rents. If an owner does not impose allowed rent increases annually (if any), HCD will not approve large increases year over year due to an owner not previously increasing rents as allowed. In cases where projects have not taken allowed annual rent increases on an annual basis, HCD generally only approves annual rent increases of not more than 5% annually (unless approved in writing by the Housing Director in advance of the increase).

S. Records Retention

Records must be maintained for at least 5 years past project completion, or such longer period as required by applicable regulations. Specific requirements will be laid out in the loan documents.

S. Housing Director's Discretion

Any specific requirements above may be waived at the discretion of the Housing Director.

PART 4) FEDERAL REQUIREMENTS

Projects receiving federal funding (HOME, CDBG and/or HOPWA) through HCD's Affordable Housing Development Program must comply with federal crosscutting requirements. Detailed guidance on crosscutting topics is available by visiting the federal HOME program's Cross Cutting Regulations link found at <https://www.onecpd.info/home/topics/cross-cutting-requirements>. Unless noted below under a subsection, **HCD has adopted the federal crosscutting requirements across all of its funding sources**, including non-federal sources. These

requirements will be described in further detail to the project sponsor upon commitment of funding. A brief summary is included below:

A. Compliance with Federal Regulations

Contractor's administrative procedures must be in compliance with 2 CFR Part 200.

B. Environmental Review

Prior to final project approval and execution of loan documents and initial disbursement of funds, the required environmental review under the National Environmental Policy Act (NEPA) must be completed. If a new construction project, HCD staff recommends that the project have the CEQA consultant prepare the NEPA at the same time. If not, the NEPA process may take 4-6 months or more to complete, and HCD staff will not start work on an Environmental Assessment (EA) until the local CEQA review is complete (see Part 3-Local Policies for project CEQA requirements). This could significantly delay your project.

Please note that upon submittal of an application, pursuant to HUD environmental review regulations, no additional activities can take place on the project (**even if the activities are funded by non-federal funding sources**) unless a NEPA environmental review for the entire project has been completed. Because of the likelihood that federal funds will be awarded, applicants must refrain from undertaking activities that would have an adverse environmental impact or would otherwise limit the choice of reasonable alternatives between the times of application submittal and when HCD has completed the environmental review process. **Such activities include executing Disposition and Development Agreements (DDAs), acquisition, rehabilitation, conversion, leasing, repairing or constructing property, and any kind of site preparation during the NEPA review period.** The prohibition against choice-limiting actions begins on the date the application is submitted to the County in response to HCD's RFP. Applicants are asked to sign and submit with their application a general certification form to certify that this restriction on the proposed project is understood by the developer. Failure to comply with this requirement could result in the project being ineligible for HOME, CDBG, and/or HOPWA funding. HCD may require that the project pay for a third party consultant to prepare the NEPA and submit to HCD for review and approval. *Projects not receiving federal funding are not required to complete a NEPA review; however, a CEQA review is still required.*

C. Relocation

HCD's policy is for projects to make all efforts to avoid or minimize displacement of current occupants of proposed housing development projects, and that applicants for funds avoid permanent displacement if at all possible. Federal and State relocation laws will apply to projects funded by HCD; including those that will temporarily or permanently displace current business or residential occupants, and relocation assistance and benefits may be required

which can add substantially to the project cost. Relocation plans and budgets are required of any project that proposes temporary or permanent displacement.

D. Federal Wage Requirements (Davis-Bacon)

Federal wage (“Davis-Bacon Act”) requirements are triggered by HOME funds if the HOME Consortium (including Alameda County and any of the member jurisdictions) restricts more than 11 HOME units in a project. CDBG triggers Davis-Bacon in multi-family housing of eight or more units, regardless of the number of units restricted or the dollar amount provided. In general, a number of requirements must be met in the bidding of a project subject to Davis-Bacon, including, but not limited to, use of the applicable wage decision, required documentation in the contract award, and post-award requirements such as employee interviews and certified payroll submittal. In accordance with HUD, the correct wage decision for your project must be “locked-in.” HOPWA funding specifically does not trigger Davis-Bacon, according to the regulations. *Davis-Bacon requirements are not triggered by HCD funding if a project only receives local non-federal funding.*

E. Section 3

Federally funded projects are subject to HUD Section 3 requirements. Section 3 of the Housing and Urban Development Act of 1968 requires that recipients of HUD dollars spent for housing rehabilitation, housing construction or public construction, and their subcontractors, must provide to the greatest extent feasible, employment, training and contracting opportunities to low and very-low income people and businesses. If a project is awarded funding, Section 3 requirements and reporting requirements are triggered. Details will be outlined in the contract entered into between the County and the funding recipient. *Section 3 requirements are not triggered by HCD funding if a project only receives local non-federal funding, however the County encourages local hiring and low-income job training and employment.* More detailed information on Alameda County’s Affirmative Action Plan under Section 3 may be found in **Appendix F.**

F. Section 504

Developments assisted with the funds released through HCD’s annual RFP must meet the requirements of the Americans with Disabilities Act and the Fair Housing Act, among other local, state, and federal laws. Projects with any federal funds must also meet accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (24 CFR 100.205 and Part 8). Section 504 sets minimum percentages of accessible units, and calls for fully accessible common areas, among its numerous requirements.

- For all federally-funded new construction and substantial rehabilitation projects, a minimum of 5% of the total number of units must be accessible to people with physical disabilities, and an additional 2% of units must be accessible to people

with auditory and visual disabilities, as defined in the Uniform Federal Accessibility Standards (UFAS).

- When the rehabilitation does not rise to the level of substantial rehabilitation, once 5% of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units are required to be accessible. Section 504 requires alterations to common areas or parts of facilities that affect accessibility of existing housing facilities be, to the maximum extent feasible, accessible to and usable by individuals with handicaps.

Where Section 504, the Fair Housing Act, and/or ADA apply, the developer and project architect must make a written certification of compliance.

Owners/property managers must maintain a waiting list that clearly identifies all applicants that need accessible units. During initial lease up and if an accessible unit becomes available during operations, those applicants must receive priority for the accessible unit.

HCD may require that the Section 504 units be distributed among multiple types of units and not be of all one type (e.g. all 1-bedroom units). If the project has an elevator, the Section 504 units may be required on all floors. Each project will be evaluated individually.

G. Fair Housing Management and Marketing Plan

For rental projects, a final Management and Marketing Plan will be required 180 days prior to construction completion and an executed management contract must be submitted to HCD 90 days prior to construction completion. Alameda County has the right to approve the management plan, management agent and management contract per its Regulatory Agreement with the project sponsor. The final Marketing Plan must be approved prior to beginning of rent-up activities, including marketing flyers and application materials.

Due to the possibility of illegal discriminatory impacts, the County and the HOME Consortium do not allow Live/Work policies to be applied to any projects it funds.

H. Language Access Plan

A Language Access Plan (LAP) must be developed to describe how non-English speaking tenants and prospective tenants will be served. The affirmative marketing plan must include information concerning in which languages the marketing and lease-up materials will be provided. In addition, ongoing language access for the project must be addressed by the property management company. More detail on this plan may be found in Part 5 under Required Documentation Submittals.

I. Lead Based Paint

The use of lead-based paint is prohibited. Testing for and abatement of lead-based paint in rehabilitation projects is required. Projects must follow the federal guidelines (Sections 302 and 401(b) of the Lead-Based Paint Poisoning Prevention Act), which require notification to prospective residents of potential lead-based paint hazards, among other requirements.

J. Nondiscrimination

Recipients of funding must not discriminate on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, HIV/AIDS, or any other arbitrary basis in the course of carrying out contracted activities, as well as in the ongoing operations and management of the project for the full term of the regulatory agreement.

K. Debarred, Suspended or Ineligible Contractors and Participants

Federal funds granted by HUD may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension, or placement of ineligibility status. Prior to entering into any contract, HCD will check all contractors, subcontractors (including sub-tier contractors), consultants, and subrecipients against the System for Award Management (SAM), found at www.sam.gov.

L. Specific HOPWA Requirements

Required Rents

HOPWA regulations require that tenants pay rent for all HOPWA assisted housing. The amount of rent must equal (including utilities or a utility allowance) **the higher** of:

- 30% of the household's adjusted gross income;
- 10% of the household's monthly gross income; or,
- If the household is receiving public assistance, the portion of the assistance specifically designated for housing costs.

Required fees over and above rent charged for this housing are allowable only if fees pay for food or services not supported with HOPWA funds.

Group homes or other non-emergency shared living situations may have no more than one person or family per sleeping room.

Limitations on New Construction

Under HOPWA regulations, new construction is limited to Single Room Occupancy dwellings (SROs) and "community residences." A community residence is defined by HUD as "a multi-unit residence designed for eligible persons to provide a lower cost residential alternative to

institutional care; to prevent or delay the need for such care; to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently; and to enable such persons to participate as fully as possible in community life." HCD interprets this definition to include affordable housing units in multi family buildings.

Support Services

Federal HOPWA regulations require that all recipients of HOPWA funding ensure that tenants receiving housing assistance are provided with appropriate support services. Selected applicants will be required to work with service providers in the area to ensure that the support services needs of their HOPWA-eligible residents are met. Under the HOPWA rating and ranking criteria, applications will be judged on both the services plan provided, as well as documentation on the relationship between the developer and the social services agency proposed.

Additional information on the HOPWA Program may be found by visiting the HUD website at <https://www.hudexchange.info/hopwa>.

M. Specific HOME Requirements

Development Property Standards

The property standard requirements for HOME-funded projects are specified in 24 CFR Part 92.251, which details separate requirements for projects involving new construction, rehabilitation, acquisition, tenant-based rental assistance, and manufactured housing.

New Construction

Housing that is newly constructed must meet all applicable State and local codes, ordinances, and zoning requirements. In the absence of State or local residential and building codes, the International Code Council's (ICC's) International Residential Code or International Building Code must be met, whichever is applicable to the type of housing being developed. In addition, the property must meet the following standards:

- As referenced elsewhere in this document, the project must comply with Section 504 of the Rehabilitation Act of 1973.
- Where relevant, the housing must be constructed to mitigate the impact of potential disasters in accordance with State and local codes.
- Construction contracts must describe the work to be undertaken in adequate detail so that written costs estimates, construction contracts, and construction documents can be reviewed and approved by the County, and so that progress and final inspections can be conducted by the County to ensure that work is done in accordance with applicable codes, the construction contract, and construction documents.

- The housing must meet the applicable requirements upon project completion.

Rehabilitation

In accordance with the 2013 HOME Final Rule, the County has developed written rehabilitation standards including the required use of Uniform Physical Condition Standards (UPCS) as an inspection protocol to evaluate the condition of the housing and establish minimum property standards for rehabilitation standards. UPCS standards are found in 24 CFR 5.703. As guidance has not yet been released by HUD on what specific inspectable elements of UPCS will apply to HOME-funded projects, the County's written rehabilitation standards have not been revised as of the date of this Policies & Procedures document, and developers are therefore directed to ensure that housing that is rehabilitated meet all applicable State and local codes, ordinances, zoning requirements, and the County's current written rehabilitation standards.

Ongoing Property Standards

Properties must be maintained to meet all applicable State and local codes. Or, if no State or local codes exist, the UPCS standards must be followed. Housing must be kept free of health and safety defects and the County will require owners to correct immediately any life-threatening deficiencies. Housing must meet the lead-based paint requirements in 24 CFR Part 35. Owners must certify annually that the units are suitable for occupancy.

HOME Rental Project Percentage of Units

Federal regulation requires that twenty percent (20%) of the HOME-assisted units in each rental project containing five or more HOME-assisted units must be occupied by very low-income families (i.e. families with incomes that do not exceed 50% of the area median income). These units are Low HOME units, and tenants must be charged Low HOME rents. HCD's annual RFP contains the Income, Rent and Subsidy Limits in its appendices. **Unless there are extenuating circumstances, Alameda County chooses to restrict all HOME units to Very-Low Income Households and requires that rent be restricted to the Low HOME rent.**

Community Housing Development Organization (CHDO) Regulations

Contracts and loan documents must be executed by the owner of the property and HOME funds can only be provided to the entity that owns the property.

Each time HCD commits funds to a specific Community Housing Development Organization (CHDO) project, the applicant must submit CHDO certification documentation. This documentation is included in the annual RFP Application. If applying for CHDO funds the applicant must be a CHDO at the time of application. The applicant must submit the CHDO certification documents with the application. HCD will certify that the nonprofit organization meets the definition of CHDO, document that the organization has the capacity to own, develop or sponsor housing, and commit funds to a CHDO for a specific project within 24 months.

Capacity Requirements

CHDOs must have paid staff with demonstrated capacity appropriate to the CHDO's role. The staff can be:

- Full time or part-time
- Independent contractors
- Consultants ONLY during the 1st year of operation as a CHDO

CHDOs cannot meet capacity requirements based on the use of volunteers, donated staff, shared staff, or board members.

CHDOs must have the capacity related to their role as owner, developer, or sponsor (roles defined below).

Owner: This means that the CHDO owns the property in fee simple absolute or has a long-term ground lease. The CHDO must own the property for at least as long as the HOME affordability period. Staff must have the capacity to act as owner and hire and oversee the developer. CHDOs can hire a contractor/project manager to assist in oversight of development process.

Developer: This means that the CHDO owns the property and develops new housing on it through either new construction or rehabilitation. The developer arranges financing and is in sole charge of construction. For rental projects, the CHDO owns the property through the HOME affordability period. For homebuyer projects, the CHDO owns, rehabs, or constructs, then sells the property. The CHDO staff must have development experience of similar scope as the new project.

Sponsor: A CHDO develops rental housing that it agrees to convey to an identified private nonprofit at a predetermined time after completion. The other definition of "sponsored" is that the rental housing is owned or developed by a wholly-owned subsidiary of the CHDO, limited partnership of which the CHDO or its subsidiary is the sole general partner, or a limited liability company of which the CHDO or its subsidiary is the sole managing member. The subsidiary may be a for-profit or nonprofit organization that is wholly owned by the CHDO. The limited partnership or LLC agreement can only permit the removal of the CHDO for cause and must require that the CHDO be replaced with another CHDO.

A for-profit parent cannot appoint more than 1/3 of board members, and parent-appointed board members cannot appoint the other 2/3 of the board. The new HOME rule prohibits officers and employees of the parent organization from serving as officers or employees of the CHDO (except for the 1/3 of the CHDO board members). Except for the permitted 1/3 CHDO board members, officers or employees of the public agency parent cannot serve as officers or

employees of the CHDO.

Organizations which apply for CHDO funding will be required to be certified each time CHDO funds are committed to a project. The annual RFP Application contains the County's CHDO Certification Checklist and list of required documentation submittals. The certification requirements are tied to the definition of "Community Housing Development Organization" (CHDO) in 24 CFR Part 92.2 of the HOME Rule. These requirements are generally summarized in **Appendix G**.

Pre-development Costs-HOME projects

Developer may request reimbursement for pre-development soft costs incurred up to 24 months before the commitment of HOME funds.

Income Eligibility Determination

Property Owners must examine at least 2 months of source documentation and count income of all adult household members (even unrelated individuals). The use of the Census Long Form is not allowable to determine the annual income. For additional detail on income eligibility, see Part 3 (Local Policies).

Reconstruction of Destroyed Properties-HOME projects

"Reconstruction" means the rebuilding, on the same lot, housing that has been destroyed. HOME funds may be provided to reconstruct destroyed units that are not standing at the time of commitment. Funds must be committed to the project within 12 months of destruction. The number of housing units on the lot may not be decreased or increased as part of the reconstruction project but the number of rooms per unit may be increased or decreased.

Investing HOME funds into Troubled HOME Properties

The new HOME rule allows jurisdictions to provide additional HOME funds into a HOME project that is still within the HOME affordability period if the project is no longer financially viable. This means that the operating costs significantly exceed operating revenue. The new plus old HOME funds cannot exceed the original subsidy limits. The use of HOME funds may include the recapitalization of project replacement reserves. HUD Headquarters may approve the reduction in the number of HOME-assisted units if the original number is higher than the minimum required. This requires HCD to obtain permission from HUD. If additional HOME funds are provided HUD may require the period of affordability to be extended, based on such considerations.

Additional information on the HOME Program may be found by visiting the HUD website at <https://www.hudexchange.info/home/>.

N. Specific CDBG Requirements

General Program Requirements

In terms of housing development, Community Development Block Grants (CDBG) provided through HCD's annual Request for Proposals will be set aside for use in the Urban County jurisdictions (Albany, Dublin, Emeryville, Newark, Piedmont, and the Unincorporated County) for substantial rehabilitation. CDBG funds may not be used for new construction, and beneficiaries must be households at or below 80% of the Area Median Income. Funded activities must meet one of 3 national objectives, including benefitting "low-moderate" income persons (households less than 80% of AMI), aiding in the prevention or elimination of slums or blight, or meeting an urgent need to alleviate emergency conditions.

Income Targeting

At least 51% of the units in a CDBG-funded development must be for households with incomes less than 80% of the AMI.

Davis-Bacon Requirements

CDBG triggers Davis-Bacon in multi-family housing of eight or more units, regardless of the number of units restricted or the dollar amount provided.

Additional information on the CDBG Program may be found by visiting the HUD website at <https://www.hudexchange.info/cdbg-entitlement/>.

PART 5) CONTRACTING WITH THE COUNTY

A. Contracting with the County

Once a project has received a staff and committee recommendation, and after the NEPA Environmental Review is completed (for more information on the NEPA, please see Part 4- Federal Requirements), **the developer must enter into contract with the County to obtain financing.** County contracts are a funding mechanism and are meant to cover the term of construction rather than the term covered under the full regulatory requirement. An example of the County's standard contract may be found at **Appendix H**. HCD staff takes the funding commitment to the Alameda County Board of Supervisors for approval with a funding contract. For scheduling purposes, this item may take six weeks or longer to place on the Board of Supervisors' agenda. The funding contract is not one of the loan documents, but is required by the County Auditor's office as a funding instrument for the County to be able to disburse funds. The contract will be general, but will reference the RFP for loan terms and policies and the requirement to later enter into loan documents.

Requirements at Time of Application:

Below is a list of the documentation that an organization will be required to submit with the RFP Application so that HCD has this information on-hand should the organization be recommended for funding. The application will be awarded additional points under the RFP evaluation criteria if the project's ownership entity has been established:

- 1) Completed IRS Form W-9
- 2) Proof of insurance as required by HCD (see insurance requirements in Part 5.B below)
- 3) Contractor's Information Form (see **Appendix I**)
- 4) Sources and Uses Budget (with County Budget identified)
- 5) Evidence of Formation of the Project's Ownership Entity (e.g. limited liability corporation or limited partnership documentation), if available at time of application.

Requirements at Time of Board of Supervisors Approval:

At such point an organization has been recommended for funding, the following documentation must be submitted (or re-submitted as applicable) before the contract may go to the Board of Supervisors and dated within 30 days of the anticipated Board of Supervisors Approval Date:

- 1) Completed IRS Form W-9
- 2) Proof of insurance as required by HCD (see insurance requirements in Part 5.B below)
- 3) Contractor's Information Form (see **Appendix I**)
- 4) Name of Ownership Entity entering contract with the County
- 5) Signature Block
- 6) Evidence of Formation of the Project's Ownership Entity (e.g. limited liability corporation or limited partnership documentation).

Other required forms may include, but are not limited to, the Alameda County Auditor-Controller Agency Office of Contract Compliance Small Local Emerging Business (SLEB) Waiver Request and the Alameda County Vendor Application. Alameda County HCD will provide required forms to Contractor.

Alameda County contracting requirements and links to forms can be found at

<http://www.acgov.org/cda/hcd/rhd/requirements.htm>

B. Insurance Requirements

HCD will need to receive proof of insurance from the developer in order to take a contract to the Board of Supervisors, for the County to execute the contract, to pay an invoice, and when a contract is assigned. If the project will require an LP or LLC, the LP or LLC must be able to obtain the required insurance. The developer must submit insurance certificates to the County prior to

any disbursement of the County loan. Due to the nature of how LPs and LLCs hold insurance, the County's Risk Management Department may allow the worker's compensation and automobile insurance to be held in the name of the nonprofit general partner or sole member. The general partner or sole member must make a formal request for such an allowance for HCD to submit to the Risk Management Department.

Insurance requirements are subject to change, and it is the developer's responsibility to request an update prior to contract and loan closing. Generally, during development, developers must have comprehensive general liability insurance coverage of at least \$2,000,000 per occurrence and automobile insurance coverage of at least \$1,000,000 per occurrence. Workers' Compensation must be at least \$1,000,000 per accident. HCD also requires property (hazard) damage insurance for rehabilitation projects in an amount equal to 100% of the replacement cost of the structure. For all new construction projects, developers will be required to obtain course of construction/builder's risk insurance in an amount equal to the value of the completed project or materials and provide this insurance prior to loan closing. If the Contract is executed prior to receipt of the builder's risk insurance, the Developer must get the insurance to the County prior to any payments for construction related invoices. The Developer must also purchase commercial crime insurance covering all officers and employees, for loss of County loan proceeds caused by dishonesty. All General Liability and Auto insurance policies must name the County, and its officers, agents, employees, and members of the County Board of Supervisors as an additional insured. Requirements may change based on Alameda County's Risk Management standards.

The Developer must also ensure that any general contractor or subcontractors maintain the general liability, Workers' Compensation, and automobile insurance coverage in the amount of \$1,000,000 each.

After completion of construction, similar levels of liability and hazard coverage are required and specified in the Regulatory Agreement.

The County's insurance procedures and minimum coverage requirements are detailed at <http://www.acgov.org/cda/hcd/rhd/requirements.htm>.

C. Disbursement of Funds

Loan documents will not be executed until after a commitment of funding is made in the form of a County Contract which must be approved by the Board of Supervisors. The Contract will detail how funds are disbursed, including invoicing requirements which will be set forth in Exhibit B of the Contract. In general, invoices must be on the letterhead of the contracting entity. Checks will be cut to the contracting entity. Please make sure you are clear about which entity is entering into the contract, especially in tax credit deals. Detailed invoicing and budget

change procedures are detailed at <http://www.acgov.org/cda/hcd/rhd/requirements.htm>.

The contract will reference the RFP and the Alameda County Affordable Housing Development Policies and Procedures document as the terms and policies under which the funds are provided. Generally, funding is not released until all terms of the loan documents have been satisfied. These requirements can differ between projects, but a general statement of these requirements can be found in the subsection below--“Required Documentation Submittals.”

Funding is generally disbursed on a reimbursement basis upon submission of invoices and specified backup documentation. The first request for funds generally takes 45 days, subsequent requests are generally 30 days. Funds for acquisition of properties may be provided through deposit of funds into an escrow account after receipt of an approved draw request, but in this type of situation if the developer wishes the check to be made out to a different entity, it must be requested in advance and set up with the County auditor, including providing W-9’s and other documentation. Funds deposited to the escrow can only be for the amount needed to acquire the property or other preapproved purpose. No cash out to the developer is allowed. If the developer requests soft costs to be covered in the escrow process, an invoice with back up documentation for those specific costs must be provided. The developer should consult with the HCD project manager about disbursement requests. During project implementation, the developer will be required to submit documentation such as schedule, financing plans, insurance documentation, updated budgets, construction drawings and specifications.

D. Assigning a Contract

The County attempts to avoid assigning/transferring contracts if at all possible. If the project will be ultimately held in the name of an organization other than the primary nonprofit such as an LP or LLC, we prefer to execute the contract in the name of the intended entity. If that entity is not yet formed, and the contract must be entered into with the requirement of a subsequent transfer to another entity, the contract must be assigned. The sample Contract Assignment Agreement can be found on the County’s webpage at <http://www.acgov.org/cda/hcd/rhd/requirements.htm>. The project must provide the tax ID and insurance for this organization before the transfer can be complete. Please allow 6 to 8 weeks to transfer the contract. No invoices will be processed in the name of the new organization until the transfer is complete.

E. Required Documentation Submittals

Subsequent to the approval of a project for funding, HCD will require the developer/project owner to submit documentation during project implementation, from initial contracting with the County, through predevelopment and loan closing, construction, and during the occupancy period. Requirements for contracting with the County have been detailed in the preceding

section. Submittal requirements will also be included in the contract or loan documents as applicable , and are noted here for reference.

Required Documentation Prior to Loan Closing

1. Syndication: If the project will be syndicated and the applicant will not retain ownership, developer shall submit partnership agreements and briefly describe the disposition of this project before it is placed in service. If the partnership is not in place, developer shall provide a relevant description of what the partnership will look like, and the schedule for completing the syndication documents.
2. Preliminary Title Report (within the past 90 days)
3. A copy of nonprofit 501(c)(3) tax-exemption certification.
4. Articles of Incorporation and bylaws.
5. Preliminary Management Plan: Developer shall provide a preliminary management plan, a resume of the entity that will be managing the property once it is placed in service, and a minimum of three annual operating budgets of similar projects that the agency manages. Developer shall include a detailed description of how the project will be marketed to populations who do not speak English.

Required Documentation Prior to Start of Construction

1. Inspection Reports for Rehabilitation Projects
2. Final Work Write Up – Cost Estimation
3. Contractor Bid Documents
4. Results of Bids
5. Contractor Eligibility Form
6. Contractor’s Certificate of Insurance
7. Evidence of Contractor Licensure
8. Debarment List
9. Pre-Construction Conference Report
10. Lead-based Paint Compliance Documentation
11. Construction Contract
12. Notice to Proceed
13. Asbestos Report

Required Documentation During Construction

Monthly Reporting and Invoicing Requirements

The following items are required to be submitted as part of monthly reporting requirements to the County:

1. Approved Change Orders (construction change orders are subject to the County's approval)
2. All Contractor Payment Requests (even if County is not funding that pay request). Invoicing shall be submitted in compliance with the County's requirements as specified in the preceding subsection C-"Disbursement of Funds."
3. Payment Certifications
4. Contractor shall provide information on the progress of the project to HCD as part of the request for funding.
5. Semi-Annual Minority and Women Owned Business Report (MBWBE) and Section 3 Reports.

180 Days Prior to Construction Completion

For rental projects, an Affirmative Marketing and Management Plan will be required 180 days prior to construction completion. Alameda County has the right to approve the management plan, management agent and management contract per its Regulatory Agreement. The final Affirmative Marketing and Management Plan must be approved prior to beginning of rent-up activities, including marketing flyers and application materials.

The Management and Marketing Plan must include a Language Access Plan (LAP) to describe how non-English speaking tenants and prospective tenants will be served. Refer to section 4 H. for additional information on the LAP.

Final Invoice and Release of Retention

The HOME Program requires that a number of conditions be met before a project can be determined complete and occupancy requirements met. HCD has adopted these requirements across all of its funding sources. HCD must receive the following Close-Out documents before the final invoice is paid and retention released:

1. MBWBE reporting form (if haven't received for the current year)
2. Section 3 reporting form (if haven't received for the current year)
3. Rent-up report: our form will be provided to you in Excel and is on the HCD website
4. Cost certification/project audit/Final Sources and Uses
5. Certificate of Occupancy or, if occupied, final sign off from Building Department
6. Notice of Completion
7. Lien Releases and Final Lien Waivers for GC and all subcontractors
8. Final Building Department Inspection
9. Receipt of Final Payment Form
10. Final Management Plan
11. Final Affirmative Fair Marketing Plan and outreach materials
12. Final Relocation Report (if applicable)
13. Final Report on Section 504 (list of which units are accessible)

14. Section 504 Certification
15. EveryOne Home Unit Data Form
16. Final Report on Title 24
17. If Davis Bacon wages were required, certified payroll and other evidence of compliance as required by HCD
18. Evidence of compliance with NEPA mitigation measures
19. Funding Source Close-out Report

Required Documentation During Occupancy

Quarterly Reports

For the first year after the project is completed, or until the Housing Director deems it appropriate to change to annual reports, Contractor shall submit to HCD quarterly reports not more than 30 days after the end of each quarter. These reports shall include financial statements, operating budgets, actual vs. budget, tenancy reports and a cash flow proforma. These requirements are more clearly detailed in the regulatory agreement.

Annual Reports

After the first year, or when the Housing Director or her designee determines, an annual report must be submitted not more than 180 days after the end of the fiscal year. These reports must include financial statements, operating budgets, actual vs. budget, tenancy reports and a cash flow proforma. These requirements are more clearly detailed in the regulatory agreement.

PART 6) LIST OF APPENDICES

Appendix A	Market Study Required Elements
Appendix B	Applicable Housing Authority by Jurisdiction
Appendix C	EveryOne Home Unit and Population Definitions
Appendix D	Alameda County Affordable Housing Trust Fund Policies adopted 7/29/2014
Appendix E	Accessibility Information (Universal Design, Visitability Information, Section 504)
Appendix F	Section 3 of the Housing and Urban Development Act of 1968
Appendix G	HOME CHDO Definition Summary
Appendix H	Standard Alameda County Contract
Appendix I	Contractor's Information Form
Appendix J	Developer Questionnaire

General Note regarding the Affordable Housing Development Program Policies and Procedures Document:

Please note that these policies and procedures are subject to change. HCD reserves the right to amend the policies and procedures contained herein at any time, and the regulatory agreement will contain a statement that the Housing Director has the authority to amend, add, or increase requirements at any time.

Appendix A—Required Components of the Market Analysis

To complete the market study applicants may use HUD’s Consolidated Planning Suite (<https://www.hudexchange.info/consolidated-plan/econ-planning-suite>), an online data and mapping tool. This system can assist with the completion of a housing assessment, including ; place-based planning; data on housing and economic conditions; housing stock, facilities and other assets by census tract, county or state; can review location of other affordable housing; demographic data; and grantee funding information. Other data sources that can be used for conducting the market assessment include: HUD Consolidated Plan data sets, U.S. Census, private data sources, and web resources.

HCD staff, as part of its due-diligence in reviewing proposals for recommendations to the various committees and the Board of Supervisors will certify that all of the required elements of the market assessment are in place. This will be documented on the HCD Project Approval and Contingent Funds Commitment form for projects that come into HCD via the RFP process. For jurisdictional proposals (those submitted by the HOME TAC jurisdictions), jurisdictional staff will be responsible for completing a Project Approval and Contingent Funds Commitment form, including reviewing and certifying that the required elements have been met at the time the jurisdiction submits a project application to HCD for HOME funds.

➤ **Market Context**

- Describe the project area/neighborhood (include maps street level);
- Describe the City (include maps of the neighborhood within city);
- Describe in the context of County-wide information;
- Maps of development site, community area, primary market area, market area with comparable properties

➤ **Housing Supply**

- Describe the current supply of housing units and their type for the neighborhood and the city, compare to the county.
- *For-sale housing* – What is the sales volume, price and length of time on market; excess for-sale units on the market; sales prices rising, stable or declining (chart).
- *Rental housing* – is market balanced in terms of multi-family housing supply and demand; is additional housing needed; is the market overbuilt; competing properties (provide a list of competing properties and their rents) both market rate and other affordable units.

- **Vacancy Rates** – rates increasing, stable or declining (chart) for the specific type of housing proposed (rental vs. ownership);

- **Demographic Trends** – explain the demographics of the neighborhood, the population, ethnic and income level of the community immediately surrounding the project and compare against the city or jurisdiction as a whole. What household trends are occurring? Is the market growing, contracting or stable?
- **Housing Demand**-include demand for both affordable and market rate units. If proposed project serves special needs population (HOPWA), the demand for the population and how the project will meet the demand must be addressed.
- **Absorption rates**- What is the current market saturation level for the specific type of project being proposed with the funding requested? What will the impact be on the market and neighborhood to develop this housing project? For homebuyer units will you be able to sell the planned units within six-months? What is the current rate a similar property remains on the market? Document whether the project will be able to lease-up the planned rental units. Does it fit within the timeframe specified in the project pro-forma?
- **Conclusion**- Describe the need for this particular type of housing units. Document gaps, potential growth area.

Example of Market Absorption/Penetration for Rental Project

Very-Low Income Tax Credit Units
 Overall Market Penetration Rate for 77 Rental Units

Market Area

Total Number of households (2010)	21,494
Number of rental households	16,034
% of total (estimated)	75.0%

Number of households with income of \$32,750 - \$54,250	9,112
Estimated number of rental households in income group (75%)	6,843
Market penetration by 77 units	1%

Example of Market Penetration for Sale Programs

Home-Ownership Units
 Overall Market Absorption/Penetration Rate for 50 Units

Market Area

Total Number of households (2010)	21,494
Income needed to purchase in this community	
Number of households with income of \$39,300 - \$65,100	2,026
Market penetration by 50 units	2.5%
Estimated % of income-eligible households	
Consumer debt problems	60%
Number of income-eligible households	
Who can qualify for financing	810
Market penetration by 50 units	6.2%

Appendix B-Applicable Housing Authority by Jurisdiction

Applicable Housing Authority by Jurisdiction					
	City of Alameda Housing Authority	Housing Authority of Alameda County	City of Livermore Housing Authority	City of Berkeley Housing Authority	City of Oakland Housing Authority
Alameda	x				
Albany		x			
Berkeley				x	
Dublin		x			
Emeryville		x			
Fremont		x			
Hayward		x			
Livermore			x		
Newark		x			
Oakland					x
Piedmont		x			
Pleasanton		x			
San Leandro		x			
Uninc County		x			
Union City		x			

Appendix C—EveryOne Home Definitions

Who EveryOne Home is Committed to Housing

1. Homeless Individuals and Families. EveryOne Home defines homeless to be persons:

- staying in a place not meant for human habitation (e.g., a vehicle, an abandoned building, bus-train/subway station/airport or anywhere outside)
- in an emergency shelter or transitional housing for the homeless
- fleeing domestic violence
- facing eviction within a week from a private dwelling unit and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing
- in an institution or treatment facility (for less than 30 days, on the streets or in a shelter prior to that, and he/she lacks the resources and support networks needed to obtain housing)
- in an institution or treatment facility (for 30 or more consecutive days, being discharged within the week and no subsequent residence has been identified and he/she lacks the resources and support networks needed to obtain housing)
- living in someone else’s housing without the resources to obtain other housing AND have been notified that the arrangement is short-term (less than 30 days)

2. HUD-defined Chronically Homeless.

- A. “homeless individual with a disability,” as defined in the Act, who:
- i. Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - ii. Has been homeless (as described above) continuously for at least 12 months or on at least 4 separate occasions in the last 3 years where the combined occasions must total at least 12 months
 - iii. Occasions separated by a break of at least seven nights
 - iv. Stays in institution of fewer than 90 days do not constitute a break
- B. An individual who has been residing in an institutional care facility for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
- C. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraphs (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

3. Extremely low-income and living with HIV/AIDS. Having annual incomes below the current

standard for extremely low-income (30% of area median income) set by HUD and testing positive for HIV infection and/or having a diagnosis of AIDS.

4. **Extremely low-income and living with mental illness.** Having annual incomes below the current standard for extremely low-income (30% of area median income) set by HUD and having a diagnosis of severe and persistent mental illness.

What is an EveryOne Home Unit?

- 1) It is **permanent**, wherein each tenant may stay as long as they pay their share of rent and comply with the terms of their rental agreement.
- 2) It is **affordable** to people with disabilities, that is, it meets **one or more** of the following criteria:
 - a) The unit is targeted to households with incomes at or below 30% of area median income
 - b) The unit is targeted to households with incomes at or below 50% of area median income AND tenants pay 30% of their income for housing
 - c) The tenant pays between 30-50% of the current SSI/SSP rate in California for independent living toward housing costs (\$845/month as of 11/1/09 = \$254 - \$422/month toward housing)
- 3) It is **tenancy housing** in which each tenant holds a lease or rental agreement in his or her own name and is responsible for paying his or her own rent.
- 4) It is **tenancy housing** and housing providers are required to comply with applicable state and federal laws governing the landlord-tenant relationship.
- 5) It is housing where a tenant has his or her **own room or apartment unit**.
- 6) It is housing where a tenant has a **choice** about whom they share their room or apartment with.
- 7) It is housing where **service participation** is **NOT a condition of tenancy**
 - a) Some level of participation in services may be required to acquire and maintain housing subsidies

An EveryOne Home Unit may or may not have supportive services connected with the unit or the tenant in the unit AND an EveryOne Home unit can include a physical housing unit or a portable housing voucher that meets ALL of the criteria listed above.

Appendix E-Principles of Universal Design

The incorporation of universal design and visitability features in new homes is an important way to improve the safety and utility of housing for all people, including home accessibility for people with disabilities and older adults. The RFP points system provides a sliding scale of points for projects that provide levels of accessibility that exceed the minimum requirements of Section 504. HCD strongly encourages developers to provide not only the minimum required Section 504 units, but to exceed this level by at least 20% and incorporate universal design features throughout the development.

Visitability is a concept that was formalized in 1987 by the advocacy group Concrete Change, to enable persons with disabilities to visit relatives, friends, and neighbors in their homes within a community. A “visitable” unit is not a completely accessible unit, but provides the opportunity for a disabled person to visit the home without having to be lifted up stairs, be able to use a bathroom on the same floor, and be able to enter and exit the unit and move through the unit with adequate door clear openings to accommodate a wheel chair.

Three architectural conditions usually distinguish a visitable home:

- (1) one zero-step entrance,
- (2) interior doors, including bathrooms, have 32 inches or more of clear passage space,
- (3) at least one half-bath is located on the main floor.

HCD will base its awarding of points on units’ visitability based on these conditions.

As noted in the AARP Policy Institute fact sheet (March 2010), “Universal design is an approach to designing products and environments to be appropriate for all people, including those with physical, cognitive, or sensory impairments. Within a residential setting, examples of universal design include a blended step-free entrance route, multiple countertop heights, wide doorways, lever faucets, and curbless shower with handheld adjustable shower head.” North Carolina State University’s Center for Universal Design has developed seven key principles of Universal Design, which are 1) equitable use, 2) flexibility in use; 3) simple and intuitive use; 4) perceptible information, 5) tolerance for error, 6) low physical effort, and 7) size and space for approach for use. The appendix contains a table providing examples for each of these principles.

For a proposed project to receive full points in the accessibility category of the RFP, in addition to exceeding the Section 504 requirements by 20%, it must employ universal design features throughout the project. HCD will evaluate the narrative plan submitted on accessibility as well

as the project architect's letter to evaluate the strength of the universal design plans for the project. HCD will evaluate the accessibility plan submittal based on these principles:

- All units within the project must be visitable as defined above.
- Project building(s) should be designed to be equally usable by people of all abilities.
- Design solutions should be flexible even if employed in unconventional manner. For example, wayfinding should be viewable from both standing and seated positions.
- Building and site design solutions should be simple and intuitive to use. All essential information on wayfinding signage, building numbering, and informational displays should be presented to ensure effective communication with all users regardless of sensory abilities.
- Building design should employ features that require minimum to no physical force to use them.
- Building design features should provide appropriately arranged spaces to be functional by users of all abilities.

For further reference, review the attached Principles of Universal Design by the Center of Universal Design and the AARP Fact Sheet at <http://www.acgov.org/cda/hcd/rhd/requirements.htm>

Appendix F-Section 3 of the Housing and Urban Development Act of 1968

To ensure that to the greatest extent feasible, projects financed by the Alameda County Housing and Community Development Department provide business and employment opportunities for low income residents and low income business concerns in Alameda County funded with Federal Funding overseen by HCD, including HOME, Community Development Block Grant Funds and HOPWA funding.

Alameda County is required to report to HUD annually on results of the Section 3 program. Specifically, HCD must:

- facilitate employment/training opportunities for Section 3 residents;
- notify Section 3 residents of employment and training opportunities
- Endeavor to reach HUD's stated goals:
 - a) 30% Section 3 new hires
 - b) 10% of contracts to Section 3 businesses

To determine where and how to meet these requirements, HUD has defined who a Section 3 Resident and Business Concerns are:

- Section 3 Resident - A resident of a public housing or a Low to Moderate income person residing in the area in which HUD assisted project is located
- Section 3 Business Concern
 - A Business owned by Section 3 resident(s), or
 - Employs a substantial number of Section 3 residents (30% of permanent FTE position) or
 - Subcontracts with business concerns owned by or employing Section 3 residents (at least 25% of dollar award of all subcontracts)

To meet these requirements, HCD issues a competitive Request for Proposals to identify the best possible projects and Developer partners. Once selected for a contract, HCD passes on these requirements to its recipients of federal funding from programs HCD administers.

1. Each Contractor is required to notify Section 3 residents of employment opportunities. This includes posting notices for hiring of new positions in areas where Section 3 residents will be able to access the information. It is also required that General Contractors and Sub-contractors who are paid as part of the overall project must do the same when hiring for their construction jobs.
2. In all sub-contracts for work paid for with funds from this Contract over \$10,000, the

following clause (referred to as the Section 3 Clause), will be included:

- a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - b) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
3. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
 4. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but not before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
 5. The contractor agrees to publish and advertise all new employment opportunities and subcontracting opportunities with the following types of organizations:
 - a) Labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the

- anticipated date the work shall begin.
- b) Workforce Investment Board “One Stop Career Centers”
 - c) Other low income training organizations.
6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
7. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 405e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Appendix G-HOME CHDO Definition Summary

See 24 CFR Part 92.2 in the HOME Rule for detailed information.

- Must be a nonprofit organization under State or local laws as evidenced by: a Charter, or Articles of Incorporation.
- Has a tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c) of the Internal Revenue Code of 1986
- Has among its purposes the provision of decent housing that is affordable to low and moderate-income people.
- Conforms to the financial accountability standards of Attachment F of OMB Circular A-110, "Standards for Financial Management Systems."
- Has a demonstrated capacity for carrying out activities assisted with HOME funds
- Has a history of serving the community where housing to be assisted with HOME funds will be used, as evidenced by:

NOTE: The CHDO or its parent organization must be able to show one year of serving the community from the date the participating jurisdiction provides HOME funds to the organization. In the statement, the organization must describe its history (or its parent organization's history) of serving the community by describing activities which it provided (or its parent organization provided), such as developing new housing, rehabilitating existing stock, and managing housing stock, or delivering non-housing services that have had lasting benefits for the community, such as counseling, food relief, or childcare facilities. The statement must be signed by the president of the organization or by a HUD-approved representative.

- Maintains at least one-third of its governing board's membership for residents of low income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations
- Under the HOME Program, for urban areas, the term "community" is defined as one or several neighborhoods, a city, county, or metropolitan area.

- Provides a formal process for low-income, program beneficiaries to advise the organization in all of its decisions regarding the design, site, development, and management of all HOME-assisted affordable housing projects,
- A CHDO may be chartered by a State or local government, however, the State or local government may not appoint: (1) more than one-third of the membership of the organization's governing body; (2) the board members appointed by the State or local government may not, in turn, appoint the remaining two-thirds of the board members; and (3) no more than one-third of the governing board members are public officials.
- If the CHDO is sponsored or created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the CHDO's governing body and the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members.
- The CHDO may not be controlled nor receive direction from individuals or entities seeking profit from the organization.
- A CHDO may be sponsored or created by a for-profit entity, however, the for-profit entity's primary purpose may not include the development or management of housing and the CHDO must be free to contract for goods and services from vendor(s) of its own choosing.

Appendix H-Standard Alameda County Contract Template

Appendix I-Contractor's Information Form

Appendix J – Developer Questionnaire

Project:

Project

Address:

Developer:

Legal name of the borrowing entity (Please provide a signature block as well):

Property Management Company:

Project Summary: (how many units? Is it rehab or new construction? Is it permanent housing or transitional? Is it only a housing development or will it be a mixed use?)

Unit Mix – How many units of each kind

Affordability Level	Studio	1- BR	2 - BR	3- BR	4- BR	Total Units	HCD units(list how many in each income level and bedroom size)
30% AMI							
40 % AMI							
50 % AMI							
60% AMI							
80% AMI							
Market							
Managers'							
TOTAL							

Relocation: (Please explain why Relocation does or does not apply).

Prevailing wage obligations (include which entity will be monitoring for Davis Bacon, if applicable):

CEQA/NEPA status:

HCD loan amount by funding

**source: HOME
HOPW**

Alameda County HCD
Loan Closing Questionnaire

A
CDBG
NSP
Trust Fund

HCD Loan terms: Standard HCD Loan terms are 3% simple interest, amortized over a 59 year term. If you are requesting different terms, please explain here.

How will the funds to be used? Provide a line item budget.

Other funding sources in project:

Source	Amount	Committed	Closed	Recording order
Total				

Additional Financial Details

Required First Lender operating deficit reserve and terms of their control over this reserve:

Partnership management fees due general partners:

Permitted developer fee amount: Standard HCD approved developer fee is 10% of total project costs (less developer fee). If you are requesting a change in this policy, please explain here.



Alameda County HCD
Loan Closing Questionnaire

Attachments:

- Project schedule
- Preliminary title report
- Partnership Agreement
- Most current financials
- CEQA/NEPA Documents (if applicable)