

Skagit County HOME Consortium



HOME – American Rescue Plan (HOME-ARP)

Policies and Procedures Manual

Rental Housing

Guidelines for Development, Acquisition, or Rehabilitation of Rental Housing

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I. Introduction/Summary

On March 11, 2021, President Biden signed the American Rescue Plan (ARP) Act of 2021 into law, which provides over \$1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses. A link to the American Rescue Plan Act of 2021 can be found [here](#) for reference.

To address the need for homelessness assistance and supportive services, Congress appropriated \$5 billion in ARP funds to be administered through the HOME-ARP program.

On September 22, 2021 HUD awarded the Skagit County HOME Consortium \$3,591,066.00 in HOME-ARP funds. Of that amount, \$2,252,064.07 has been allocated specifically for the development of affordable rental housing, in the following counties:

- Skagit County: \$1,541,906.81
- Island County: \$710,157.26

This document describes the guidelines used by the Skagit County HOME Consortium (the Consortium) for its HOME-ARP rental housing activities—this manual does not address any other HOME-ARP activities. Some, but not all of the regular HOME Guidelines apply to HOME-ARP.

The HOME-ARP Notice and Appendix linked below outline procedures that all HOME-ARP Participating Jurisdictions must follow in the development, implementation, and monitoring of the program in their service area:

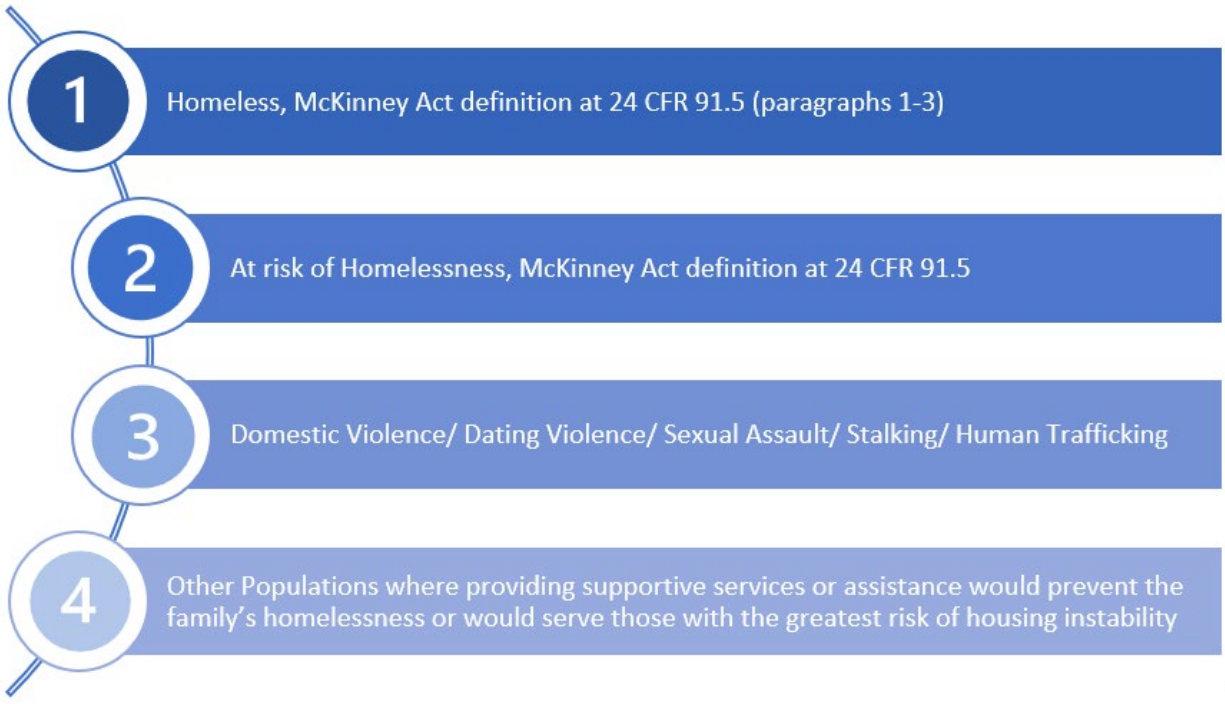
- [HOME-ARP CPD Notice 21.10](#)
- [The HOME-ARP Appendix](#)

II. Overview: Guidelines for the Development, Acquisition, or Rehabilitation of Rental Housing

HOME-ARP Rental Housing HOME-ARP funds may be used to acquire, rehabilitate, or construct affordable rental housing primarily for occupancy by households of individuals and families that meet the definition of one or more of the “Qualifying Populations” (QPs) defined in the HOME-ARP Notice (CPD 21-10) and described in this guide as “qualifying households.” Any individual or family who meets the criteria for these populations is eligible to receive housing assistance funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria), except under certain circumstances as noted in the [Determining Household Income section](#) of these guidelines.

Unlike the regular HOME Program, which serves households that primarily qualify based on income, a minimum of 70 percent of all HOME-ARP units assisted with the Consortium’s HOME-ARP allocation must serve households that are members of at least one of the four categories of Qualifying Populations, as defined below. For some Qualifying Populations, income is not an eligibility factor. Up to 30 percent of HOME-ARP units may be restricted to households that are low-income as defined at 24 CFR 92.2, earning up to 80 percent of the Area Median Income for the household size.

Definition of Qualifying Populations:



Qualifying Population One (QP1)

Homeless as defined in the McKinney-Vento Homeless Assistance Act, 24 CFR 91.5 “*Homeless*” paragraphs (1), (2), and (3) which includes: (1) an individual or family who lacks a fixed, regular, and adequate nighttime residence, (2) an individual or family who will imminently lose their primary nighttime residence, (3) unaccompanied youth under 25 years of age, or families with children and youth who do not otherwise qualify as homeless but who meet specific criteria in 24 CFR 91.5 Homeless paragraph (3).

Qualifying Population Two (QP2)

At risk of homelessness as defined in the McKinney-Vento Homeless Assistance Act, 24 CFR 91.5 “*At risk of homelessness*” which includes but is not limited to an individual or family who has an annual income below 30 percent of median family income for the area, AND, does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or another place not meant for human habitation, AND meets one of the conditions outlined in 24 CFR 91.5 At Risk of Homelessness paragraph (iii).

Qualifying Population Three (QP3)

Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (defined by the Violence Against Women Act, 24 CFR 5.2033), **and/or or human trafficking** (defined by Trafficking Victims Protection Act of 2000) which includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. It includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or live-threatening conditions that relate to violence against the household that has either taken place within the household’s primary nighttime residence or has made the household afraid to return or remain within the same residence.

Qualifying Population Four (QP4)

Other Populations as defined by [Section IV.A.4 of Notice CPD-21-10](#). This definition is unique to the HOME-ARP program and means other families requiring services or housing assistance to prevent homelessness: where assistance would prevent the individuals or family's homelessness, such as household who were previously met the definition of "Homeless" as defined by [24 CFR 91.5](#), are currently housed due to temporary or emergency assistance, and who need additional housing assistance or supportive services to avoid a return to homelessness or serve those with the greatest risk of housing instability.

OR

At Greatest Risk of Housing Instability: where a household has an annual income less than or equal to 30% of the area median income and is experiencing severe cost burden (paying more than 50% of the monthly household income towards housing costs, *OR* where a household has an annual income less than or equal to 50% of the area median income and meets one of the conditions in paragraph (iii) of "At risk of homelessness" definition at [24 CFR 91.5](#). Each QP is defined fully in the [Section IV](#) of Notice CPD-21-10.

Note: Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

Uses of Funds

Eligible HOME-ARP rental housing includes "housing" as defined at 24 CFR 92.2, including but not limited to manufactured housing, single room occupancy (SRO) units, and permanent supportive housing. Emergency shelters, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses, and housing for students or dormitories do not constitute housing in the HOME-ARP program. However, HOME-ARP funds may be used to acquire and rehabilitate such structures into HOME-ARP rental housing.

1. Targeting and Occupancy Requirements: HOME-ARP activities must primarily benefit households in the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, the Consortium may invest HOME-ARP funds in units that are not restricted for occupancy solely for qualifying populations as described in this section. Specifically, participating jurisdictions must comply with the following requirements:

a. Targeting: HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:

- i. Not less than 70 percent of the total number of rental units assisted with HOME ARP funds by the Consortium must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,
- ii. Not more than 30 percent of the total number of rental units assisted with HOME ARP funds by the Consortium may be restricted to low-income households. These rental units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.

b. Occupancy Requirements:

- i. **Qualifying Households.** Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition at the time of admission.
- ii. **Low-Income Households.** At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income, earning up to 80% AMI for the household size as determined by HUD. If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the Consortium to take action in accordance with the rent and unit mix requirements as outlined in the "[Changes in Income and Over-income Households](#)" and "[Maintaining Unit Mix](#)" sections of this manual.

2. **Eligible Activities:** HOME-ARP funds may be used for acquisition, construction, and rehabilitation, including reconstruction as defined in 24 CFR 92.2, of affordable rental housing for qualifying and low-income households. Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide HOME-ARP rental housing within the timeframes provided in the HOME-ARP Guidelines. A HOME-ARP rental project must meet the definition of a project in 24 CFR 92.2.

HOME-ARP funds may be used to assist one or more units in a project. Only the eligible development costs of the HOME-ARP units may be charged to the HOME-ARP program. Cost allocation in accordance with 24 CFR 92.205(d)(1) is required if the assisted and non-assisted units are not comparable. If the assisted and non-assisted units are comparable, the Consortium can use the proration method (Ex: if HOME-ARP funds compose 10% of the eligible project cost, HOME-ARP designations apply to 10% of the units).

After project completion, the number of HOME-ARP units in a project cannot be reduced. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, the Consortium may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion.

3. **Forms of Assistance:** The Consortium may invest HOME-ARP funds in accordance with the eligible forms of assistance described in 24 CFR 92.205(b). Under HOME-ARP, housing projects may receive equity investments, grants, interest or non-interest bearing loans, deferred payment loans, below-market rate loans, or loan guarantees. A partial list of eligible expenses is included on page 11. Although operating cost assistance is an eligible expense in HOME-ARP, it was not included in the Consortium's HOME-ARP Plan. Additionally, cost reasonableness on expenses (2 CFR 200) applies to all expenses.
4. **Minimum Amount of Assistance:** The minimum amount of HOME-ARP funds that must be invested in a rental housing project is \$1,000 times the number of HOME-ARP units in the project as

established in 24 CFR 92.205(c).

- 5. Eligible Costs:** HOME-ARP funds may be used to pay for up to 100% of the following eligible costs associated with the acquisition, development, and operation of HOME-ARP rental units:
- a. Development hard costs – defined in 24 CFR 92.206(a).
 - b. Refinancing – **The Consortium has not identified refinancing debt within its HOME-ARP Allocation Plan, so it is not an eligible use of funds.**
 - c. Acquisition – the costs of acquiring improved or unimproved real property.
 - d. Related soft costs – defined in 24 CFR 92.206
 - e. Relocation costs – as defined in 24 CFR 92.206(f), 24 CFR 92.353,
 - f. Costs relating to payment of loans – If the HOME-ARP funds are not used to directly pay a cost specified in this HOME-ARP rental housing section, but are used to pay off a construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost if the loan was used for eligible costs specified in this HOME-ARP rental housing section, and the HOME-ARP funds are part of the original financing for the project.
 - g. Operating Cost Assistance – Although operating cost assistance is an eligible expense in HOME-ARP, it was not included in the Consortium’s HOME-ARP Plan. The Consortium may pay ongoing operating cost assistance or capitalize an operating cost assistance reserve for HOME-ARP units restricted for occupancy by qualifying populations in a project where the Consortium determines in its underwriting that the reserve is necessary to maintain the HOME-ARP units’ long-term operational feasibility. However, HOME-ARP funds cannot be used for both a capitalized operating cost assistance reserve and ongoing payments for operating cost assistance during the minimum compliance period. The allowable amount of the reserve shall not exceed the amount determined by the Consortium to be necessary to provide operating cost assistance for HOME-ARP units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.

The operating cost assistance reserve for HOME-ARP units for qualifying households must be held by the project owner in a separate interest-bearing account and sized, based on an analysis of projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units’ share of operating costs. Funds in a capitalized operating cost assistance reserve can only be drawn to address operating deficits associated with HOME-ARP units restricted for occupancy by the qualifying populations.

The Consortium must use the HOME ARP definition of operating costs in its calculation of operating deficits to determine the amount of HOME-ARP funds needed for an operating cost assistance reserve or when providing operating cost assistance. Unexpended operating cost assistance reserve amounts remaining at the end of the minimum compliance period must be returned. The Consortium may provide operating cost assistance to a HOME-ARP rental project to cover an operating deficit associated with HOME-ARP units restricted for occupancy by qualifying households except for when an operating cost assistance reserve is already established for the project.

Operating cost assistance committed to a project cannot be provided beyond the HOME-ARP budget period (ends September 30, 2030). Operating costs include costs for administrative expenses, property management fees, insurance, utilities, property taxes, and maintenance of a unit that is designated as a HOME-ARP unit and required to be occupied by a qualifying household. Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project.

Project administrative expenses include payroll costs, which are gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits; employee education, training, and travel; advertising; and general administrative costs which are costs for goods and services required for administration of the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance, and other administrative costs that are reasonable and customary for the general administration of a rental unit occupied by qualifying populations. HOME-ARP permits the pro-rated staffing costs of a Resident Services Coordinator to be included in the operating costs allocated to a HOME-ARP unit for low-income or qualifying households if such costs are not already paid by another source. Typically, the role of a Resident Services Coordinator is to arrange community activities for residents and link residents to outside service agencies as needed.

A property management fee includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. A management agent must cover its costs of supervising and overseeing operations of a HOME-ARP unit out of the fee they receive.

A reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a reserve for replacement of major systems included in the operating costs allocated to a HOME ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A reserve for replacement allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period. Supportive services costs are not eligible operating costs of HOME-ARP units, however, qualifying households occupying HOME-ARP rental units may receive supportive services through the HOME-ARP supportive services eligible activity.

6. Prohibited Activities and Fees: HOME-ARP may not be used for any of the prohibited activities, costs or fees in 24 CFR 92.214, as amended by CPD Notice 21-10. These prohibited uses include:

- Provide tenant-based rental assistance for the special purposes of the existing section 8 program, in accordance with section 212(d) of the Act;
- Provide non-federal matching contributions required under any other Federal program;
- Provide assistance for uses authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds);

- Provide assistance to eligible low-income housing under [24 CFR part 248](#) (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in [24 CFR 248.101](#);
- Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or
- Pay delinquent taxes, fees or charges on properties to be assisted with HOME-ARP funds.
- Pay for any cost that is not eligible under [§§ 92.206](#) through [92.209](#), [except as modified by the appendix to CPD Notice 21-10 \(at Subpart E, 10\(2\), p. 20\)](#).

Site and Neighborhood Standards

[Follows the HOME Regulations at §92.202(b)]

For new multi-family construction projects, Consortium staff will review and include in the project file a written determination that the proposed location and site for the rental development project has been reviewed to determine if it meets the HOME-ARP Program requirement that housing provided through the Program promote greater choice of housing opportunities.

- 7. HOME-ARP Funds and Public Housing:** HOME-ARP funds must be used in accordance with the requirements in 24 CFR 92.213(a)-(c). Generally, this means that HOME-ARP funds may not be used for public housing units.

III. Distribution of Funding

As lead agency for the Consortium, Skagit County distributes HOME and HOME-ARP funds within the boundaries of the Consortium area and among different categories of housing need, according to the priorities of housing need identified in its approved Consolidated Plan. The Consortium only invests HOME and HOME-ARP funds in eligible projects within the boundaries of Island, Whatcom, and Skagit counties. Projects within the non-member City of Bellingham are generally ineligible for funding. Bellingham projects are eligible for capital funding in situations when funds would otherwise need to be returned to HUD due to a lack of eligible Consortium projects. Specific marketing and HUD match conditions must be met for these projects.

When funds are available, applications for Skagit County Consortium HOME and HOME-ARP funds are solicited through a NOFA process and reviewed competitively. Before committing funds to a project, Skagit County will evaluate the project and will not invest any more HOME or HOME-ARP funds, in combination with other governmental assistance, than is necessary to provide affordable housing. Additionally, Skagit County will not enter into a contract on any project before all other sources of funding are secured. The competitive selection criteria for projects will be published at the time applications are solicited.

The first step to a successful development project is for the Skagit County HOME Consortium to solicit qualified applicants with strong development credentials and feasible projects. The Consortium will issue a combined funding application that clearly reflects the Consortium’s housing priorities identified in the HOME-ARP Allocation Plan.

IV. Application and Evaluation Process

Stage 2 involves the intake and review of the developer’s application. To be eligible, the application must meet several requirements regarding qualifying criteria, HOME-ARP Program requirements, and other federal requirements. If the application does not meet all the requirements in these areas, the application should not move forward.

Eligible Applicants

Public agencies, nonprofit organizations, and for-profit entities are all eligible to apply for HOME ARP funds. Fund recipients (hereafter called “Project Sponsors”) are classified into one of three categories:

- Subrecipients: a subrecipient is a public agency or nonprofit housing service provider selected by the Skagit County Consortium to administer a HOME-ARP Program.
- Developers, Owners, Sponsors: for-profit entities, housing authorities, nonprofit organizations, and CHDOs can receive HOME funds in the roles of developers, owners, and sponsors of eligible activities.

Allocation Plan

The proposed project must be within the parameters established in the Consortium’s HOME-ARP Allocation Plan activities and assist qualifying populations (QPs). The Consortium will follow a similar review process it has used for traditional HOME development projects, which includes review and scoring by the HOME Consortium Executive Advisory Committee (H-CEAC) and the Consortium’s Loan Review Board. The H-CEAC shall make funding recommendations to the Lead Agency’s governing body, which is the Skagit County Board of Commissioners, which retains ultimate decision-making authority on funding. The process should demonstrate that:

- The proposed project must outline how it serves the HOME-ARP qualifying populations as outlined in the [Definition of Qualifying Populations](#) section of these guidelines. In aggregate, the Consortium must balance project funding to ensure 70% of the total number of units across the Consortium’s rental housing portfolio serve Qualifying Populations.
- The project does not propose to use HOME-ARP funds to refinance existing debt, as this is not an eligible use of funds per the Consortium’s HOME-ARP Allocation Plan.
- If the project includes additional HOME-ARP activities (e.g., supportive services) to be funded by the Consortium’s HOME-ARP funds, sufficient funds have been allocated to these activities in the Allocation Plan.

If the above criteria are not able to be met, Consortium staff would review options to proceed with the H-CEAC, which would then explore whether to submit an amendment to the Allocation Plan.

HOME-ARP Criteria

Consortium staff will review each application as identified in the “[Project Evaluation](#)” section of this manual. Additionally, the Consortium will ensure each HOME-ARP Rental Housing application for funds meet the criteria as defined in the following sections of this guide:

- [Affirmative Marketing and Outreach](#)
- [Conflict of Interest](#)
- [Debarred Contractors](#)
- [Eligible Activities](#)

- [Forms of Assistance](#)
- [Eligible Costs](#)
- [Tenant Selection Process](#)
- [Rent Limitations & Affordability Requirements](#)
- [Timeline](#)
- [Underwriting/Subsidy Layering Review](#)
- [Operating Cost Assistance Reserve \(QP Units Only\)](#)
- [Reserve for Replacement](#)
- [Site and Neighborhood Standards](#)
- [Property Standards](#)
- [Determining the Per Unit HOME-ARP Subsidy](#)
- [Rental Units – Determining HOME-ARP Units](#)
- [Compliance Period](#)
- Other Federal Requirements Review
 - [Environmental](#)
 - [Labor Standards/Davis Bacon](#)
 - [Section 3](#)
 - [Program Accessibility](#)
 - [Procurement/Contractor Selection](#)
 - [Lead-Based Paint \(Housing Built Before 1978\)](#)
 - [Relocation](#)

V. **Underwriting and Execution of Agreements**

This section outlines the HOME-ARP Rental Housing Written Agreement Requirements, the Consortium’s underwriting and subsidy layering guidelines, and the process for drawing program funds

- 8. Commitment:** The affordable housing requirements in the definition of commitment in 24 CFR 92.2, including the provisions in (2) Commit to a specific local project, apply to rental housing units assisted with HOME-ARP funds. This includes but is not limited to the requirements that the Consortium and project owner have an executed legally binding written agreement under which HOME-ARP assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within 12 months of the agreement date.

Written Agreements

Before disbursing any HOME-ARP funds to any entity, the Consortium must enter into a written agreement with that entity pursuant to 24 CFR 92.504.

The Written Agreement with the Owner/Developer/Sponsor should, at minimum, include the following provisions and features (refer to the HOME-ARP Notice 21.10, pages 75-78 for detailed requirements):

- Use of HOME-ARP funds for Rental Housing:
 - Project requirements
 - Address or legal description of the project
 - Tasks to be performed for the project, project description
 - Roles and Responsibilities

- Complete Project Budget (all sources & uses), identifying use of HOME -ARP funds for eligible costs
- Use of other non-HOME-ARP funds
- Time Period
- Affordability, including:
 - Number, size, and designation (fixed or floating) of HOME-ARP units
 - Address and unit numbers for HOME-ARP units must be provided by initial occupancy
- Sublease/Master Lease of HOME-ARP Units
- Tenant Selection:
 - Preferences
 - Referral methods
 - Subpopulations
 - Coordinated Entry and Project-Specific Waitlists
 - Tenant Selection Plan
 - Waitlist for Low Income units
- Project schedule (completion date & interim milestones for monitoring progress)
- On-going compliance - Must meet all ongoing requirements in the notice in Section VI.B or require repayment in accordance with Section VI.B.22:
 - Rents for units with TBRA voucher
 - Occupancy Requirements – QP/LI units
 - Fees
 - Determining Household Income
 - Rent limitations
 - Project Based Units
 - SRO Units
 - Initial rent schedule and utility allowance
 - Tenants’ contribution to rent
 - Changes in Income and Over-income tenants
 - Tenant protections (related to lease requirements, prohibited lease terms, and termination of tenancy)
- Property Standards
- Other program requirements
- Records and reports
 - Rent and Occupancy reports
 - Floating unit reporting
 - Financial viability reporting
- Enforcement of the agreement
 - Right to require specific performance; enforced by liens, deed restrictions, covenants running with the land, use restriction, or other mechanism approved by HUD
 - Remedies for breach of provisions of the agreement
- Request for disbursement of funds
 - Eligible costs
- Duration of the agreement
- On-site Inspections and Financial Oversight
 - Project Completion Inspections
 - Ongoing periodic inspections

- Financial Oversight
- Dated signature of each person signing the agreement

While the Consortium can make a preliminary, contingent award of HOME-ARP funds for proposed projects, such an award does not constitute a funding commitment. The Consortium may not execute a written agreement, thereby committing HOME-ARP funds, before:

- If the project consists of rehabilitation or new construction, all necessary funding is secured for the project, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date.
- If the project is owned by the participating jurisdiction or State recipient, the project must have been set up in IDIS and construction must be reasonably expected to start within twelve months of the project set-up date.
- If the project includes HOME-ARP-funded acquisition, a legally binding sale contract is in place and the property title will be transferred within six months of the date of the contract.

9. Maximum Per-Unit Subsidy and Limitations on Costs: The maximum per-unit subsidy established in the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA) does not apply to HOME-ARP units. The Consortium has not chosen to set a maximum per-unity subsidy limit for HOME-ARP units. The Consortium may pay up to 100 percent of the eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit. If HOME-ARP and non-HOME-ARP units are comparable in terms of size, features, and number of bedrooms, the actual cost of the HOME-ARP units can be determined on a pro rata basis so that the proportion of the total development costs charged to the HOME-ARP program does not exceed the proportion of the HOME-ARP units in the project. Otherwise, the Consortium must allocate costs in accordance with 24 CFR 92.205(d)(1).

All costs paid by HOME-ARP funds must comply with the requirements of the Cost Principles at 24 CFR part 200, subpart E of the Uniform Administrative Requirements, as amended. In order to evaluate cost reasonableness, the Consortium will benchmark per unit costs against third party cost data, including the Washington State Housing Finance Commission total development cost limits. If an applicant's proposed costs are significantly higher than the benchmarks, those differences must be explained and justified at project evaluation and underwriting.

10. Underwriting, Subsidy Layering: Before the Consortium can commit HOME-ARP funds to a project, it will evaluate the project to determine the amount of HOME-ARP capital subsidy necessary to provide quality affordable housing that is financially viable throughout the minimum 15-year HOME-ARP compliance period.

The Consortium must evaluate the project in accordance with underwriting and subsidy layering guidelines it has developed for HOME-ARP projects, described below.

Note on Matching Funds: There is no match requirement for HOME-ARP.

Project Evaluation

Project Evaluation: Establish a Budget

In addition to having secured financing, the Consortium will evaluate a complete budget for the project in sufficient detail to determine total project development costs and its funding, including proposed sources and uses. The Consortium must ensure that the amount of HOME funding in the project:

- Is at least \$1,000 per unit; and
- Supports only eligible costs that are both necessary and reasonable, as described below in [Project Evaluation: Review of Uses](#).

Underwriting: Frequency

The Consortium will evaluate a project using the Consortium's underwriting and subsidy layering guidelines before committing HOME ARP funds to a development project. The Consortium will check and update project underwriting and subsidy layering at several stages, including but not limited to: initial closing/construction start (based on firm bids and/or contracts), and if major change orders or other changes in project costs occur that exceed available contingencies.

Project Evaluation: Documentation

Each project file must contain documentation of the underwriting evaluation completed by the Consortium, including required certifications. Each time an evaluation (underwriting or subsidy layering) is completed or updated, the Consortium staff completing it must sign and date a certification that the project remains viable. Because the evaluation is used to determine the financial terms of the project agreement, the certification must document how the project evaluation affects the project agreement (e.g., grant or loan terms). The certification of the initial project evaluation will summarize the financial terms of the project agreement, and updates will specify whether there are any adjustments, and, if there are, the terms of those adjustments.

Project Evaluation: Market Assessment

It is the Consortium's practice to review and approve an assessment of the current demand for the type of housing being proposed in the neighborhood in which the project will be located. The market assessment must document whether a sufficient pool of potential tenants exists for the proposed project (HOME-ARP assisted and non-HOME ARP assisted units), given its proposed price/rent, amenities and location. The scope of the market assessment should be relative to the scope/size of the proposed project. Market assessments for projects serving special needs populations (persons with developmental disabilities [DD], persons with chronic mental illness [CMI], homeless persons, survivors of domestic violence [DV], persons with chronic substance abuse issues combined with homelessness and/or other conditions requiring intensive support services) can be completed using primary data from service providers whose existing clients will form the primary pool of potential tenants.

A market assessment is required for any project using traditional HOME funds or HOME-ARP projects that are serving low-income households using HOME-ARP funds. For HOME-ARP, there is not a strict requirement for a market assessment if the project is only serving QP households. The approved HOME-ARP plan is sufficient to demonstrate demand for QP units.

A market assessment must include the following elements:

- Delineation of the market area: What is the geographic area from which the majority of residents are likely to come?
- Evaluation of general demographic, economic and housing conditions in the community: Is it a

suitable living environment for the proposed population?

- Data concerning the pool of eligible applications: How many potential tenants exist, given the household size, age, income and tenure of the population? Only a portion of the residents of the market area are likely future residents.
- Information about competing housing opportunities: What other similar subsidized or low-cost rental opportunities exist in the market area? How are they performing (e.g., vacancy rates)?
- Evaluation of the effective demand and capture rate: What is the number of units in the project divided by the number of households in the applicant pool, expressed as a percentage? The lower the percentage, the more likely the project is to succeed.
- Determination of whether there is sufficient demand to rent the HOME-ARP housing within 18 months of project completion.

The market assessment may be completed by a third party (e.g., a professional market analysis) or by the project sponsor. The Consortium must review the market assessment for compliance with the standards stated above and document compliance. The cost of the market assessment may be charged as a project delivery cost.

Project Evaluation: Assessment of Developer Capacity

The Consortium will evaluate and document its review of the experience and capacity of the developer (the staff and the project team) to implement the project and the financial soundness of the developer relative to its ability to absorb the obligations and risks of the proposed project.

The Consortium must evaluate the organizational experience of the development entity (i.e., has the organization completed similar projects successfully?), the experience of the specific staff assigned to the project and that of the overall development team, including whether individuals have had similar roles in other successful projects. If the applicant does not have prior experience in affordable housing development or has not had experience within the past ten (10) years, they must partner with a development consultant experienced in affordable housing development.

Applicable areas include property management and asset management associated with similar rent-restricted, highly regulated projects, as well as development expertise (construction and financial management). Evaluation of development experience and capacity may also include an assessment of board member capacity to the extent determined appropriate by the Consortium.

The Consortium must evaluate the financial capacity of the developer to complete the proposed project by determining if it has adequate financial management systems and practices and enough financial resources to carry the project to completion/initial lease up. To complete this evaluation, the Consortium may request that the applicant submit:

- Complete audit reports for each of the past two years, including a single federal audit as required by 2 CFR 200 Subpart F (if entity receives > \$750k of any federal funding per year), any audit findings, corrective action plan, management letter and agency response. If the applicant organization has not been audited, the Consortium may request financial statements for each of the past two fiscal years and a year-to-date statement certified by the applicant's Chief Financial Officer. Financial statements will include balance sheets and cash flow, revenue, and long-term debt statements.
- Nonprofit organizations will need to submit an IRS Form 990 for the prior two years.

- A signed board resolution or board minutes authorizing submittal of a development application, to demonstrate organizational commitment to the project. If selected for funding, Consortium staff must request that the organization's board designate in writing the person(s) authorized to execute agreements on behalf of the organization.

To determine whether the organization has the financial capacity to undertake the project, the Consortium will consider the developer's financial statements, development history, real estate portfolio and organizational liquidity. The Consortium will document its review of these items.

Project Evaluation: Required Sources and Uses Statement

The Consortium must review a Sources and Uses statement submitted by the project developer. The Sources and Uses Statements and other records must indicate that there are sufficient HOME-ARP-eligible costs associated with the project to support the amount of HOME-ARP funds provided. The Consortium will review cost estimates, evaluate whether the costs are reasonable, and confirm that HOME-ARP funding is only used for HOME-ARP eligible expenses, in accordance with VI.B.5. of CPD Notice 21-10 (starting on p. 23).

At a minimum, the Sources and Uses statement must list:

- All sources of public and private funds with dollar amounts and timing of availability of each source
- All uses associated with the project

The Consortium has reviewed the Washington State Combined Funders Application (CFA) for HOME-ARP funds and determined that it provides the information needed to apply for Skagit County Consortium HOME-ARP funds. Thus, the Consortium shall require that applicants use the Washington State CFA.

In alignment with the CFA and the Washington State Housing Trust Fund Handbook, the Consortium adopts the following standards for all HOME-ARP rental projects:

- The following construction contingencies are required and must be included in the project's Combined Funders Application and all project budgets:
 - New construction: 10% contingency
 - Rehabilitation: 15% contingency
- Projects must assume a 5% residential vacancy rate and a 10% non-residential vacancy rate in the Operating Pro Forma.
- The Developer Fee must be included in the project's CFA, and may not exceed 10% of the total development cost. The Consortium reserves the right to assess proposed developer fees in the context the following factors:
 - The scope and complexity of the project being developed
 - The size of the project
 - The relative risk the developer is taking
 - The costs a developer will incur from the fee as compared to those being charged as project costs
 - The fees that are regularly and customarily allowed in similar programs and projects
 - Other fees the project is generating for the developer and its related entities
 - Additional assessment or negotiation of the developer fee will be documented in the project underwriting

- Replacement reserves must meet the following requirements:
 - New rental construction projects must have adequate replacement reserves from capital or operating income over time that will be sufficient for all major maintenance and replacement needs of the project for the HOME-ARP period of affordability.

Project Evaluation: Review of Sources

Prior to project commitment (defined as: execution of the development agreement), the Consortium must document that all financing sources are in place. Consortium staff must request and obtain the following documentation for all project sources:

- Firm commitment letters with all terms and conditions for all permanent financing, grants, bridge/construction/interim loans, and investment tax credits
- Copy of the partnership agreement or operating agreement, if applicable, that indicate the cash contributions by the partners or members
- If equity is being provided by the developer or owner, evidence of available equity funds.

The Consortium must evaluate (and document its evaluation of) the following questions:

- Are total funding sources adequate and timely in their availability to cover development costs at each phase of the development — acquisition, construction, conversion to permanent financing, and ongoing operations? (i.e., What are the conditions the developer must meet to draw funds? Does the schedule of fund availability work with the project timeline? How will this affect the disbursement of HOME-ARP funds? What are the positions of the permanent financing sources, and how does this affect the position of the HOME-ARP funds with regard to potential repayment?)
- Are the other funding sources compatible with HOME-ARP, or do they contain requirements that affect the structure of the project in a way that is different from what was proposed in the HOME-ARP application?
- Are the funding sources firmly committed? Firm commitments must be non-speculative sources identified and secured in the amount necessary to complete the project. They may include award letters, offer letters, final term sheets, or other commitments that are conditioned upon commitment of HOME-ARP funds.

Project Evaluation: Review of Uses

The Consortium will request and review documentation for all line-item costs in the budget, including but not limited to:

- Acquisition documentation: If the applicant is proposing the purchase of real property and/or building(s), a full appraisal must support the purchase price. Appraisals and acquisition must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), and the regulations at 49 CFR Part 24, as amended. The application should also provide a copy of the purchase agreement, option, or closing statement.
- Construction costs: Cost estimate, preliminary bids
- Professional costs: Estimates, quotes, or other agreements substantiating key professional costs and the basis for estimating other soft costs and working capital items, including capitalized reserves
- Reserves: Agreements governing the various reserves that are capitalized at closing, to ensure that the reserves cannot be withdrawn later as fees or distributions to the owner/developer

- “Built” third-party appraisal: Appraisal to document the value of the land and the property either after rehabilitation (for rehab projects) or after the structures are built (for new construction)
- If LIHTC are used, documentation of syndication costs (legal, accounting, tax opinion, etc.) from the syndicator to ensure that the project can support them

The Consortium will review the costs to determine if they are necessary (required to implement the project) and reasonable and document its findings. The Consortium will refer to Washington State Housing Finance Commission Total Development Cost Limits in assessing cost reasonableness and document the assessment in the underwriting file. The Washington State Housing Finance Commission Total Development Cost limits are based on industry cost indices. The Consortium may also consider the cost of comparable projects in the same geographic area (in aggregate and by line items if available), and/or comparable costs published by recognized industry cost indices.

The Consortium will review the costs to be supported by HOME-ARP funds to determine that they are eligible. HOME-ARP development funds may be used for, but are not limited to:

- Site preparation or improvement, including demolition if construction begins within 12 months
- Securing buildings
- Construction materials and labor
- Onsite improvements in keeping with surrounding projects, including sidewalks, utility laterals, etc.; offsite infrastructure is not eligible as a HOME-ARP expense
- Relocation costs, including moving costs, replacement housing costs, advisory services, staff costs related to relocation assistance
- Financing fees
- Credit reports
- Title binders and insurance
- Recording fees and transaction taxes
- Legal and accounting fees, including project audit costs
- Appraisals
- Architectural and engineering fees
- Environmental reviews
- Developer fees (subject to a limit)
- Permit fees
- System development charges
- Affirmative marketing, initial leasing and marketing costs
- Initial operating deficit reserve for HOME-ARP Low-Income units during lease-up: limited to 18 months (new construction projects only)

The Consortium will review the budget to ensure that the proposed costs are sufficient to achieve all program requirements, including property standards, to provide quality housing at least for the HOME-ARP affordability period. Rehabilitation proposals must include a capital needs assessment, and the relevant findings must be incorporated into the scope of work for the project; acquisition only projects must include an estimate of the property’s useful life to establish its viability for at least the HOME-ARP affordability period.

Project Evaluation: Review of Projected Income and Expenses for Rental Projects

The Consortium must review an Operating Pro Forma submitted by the project developer project for the HOME-ARP period of affordability. Each rental project Operating Pro Forma will be evaluated against the following baseline standards for income and expenses, as reflected in the project's submitted CFA.

- Net operating income is defined as gross revenue minus operating expenses, and should be sufficient to cover debt service and mandatory replacement reserve funding
- Cash flow will be evaluated by the following:
 - Project must have a minimum Debt Coverage Ratio of 1.1. The Consortium reserves the right, during contract development, to direct the use of excess cash flow when a project has an overall DCR greater than 1.2.
 - Cash flow should not exceed a reasonable percentage of operating costs and debt service.
- Cost escalation of 3%
- Income escalation of 2%
- 5% residential vacancy rate
- 10% non-residential vacancy rate
- Conservative projection of non-residential income

Project Evaluation: Review of Profit and Returns to the Developer

The Consortium will identify and document the likely sources of profit and return to the owner and developer on a project including:

- Developer fees
- Cash flow
- Identity of interest roles (e.g., profit from developer owning construction company, project management company, etc.; these relationships are allowed, but they must be disclosed, and the fees or profit earned must be within project guidelines)
- Tax benefits (e.g., tax credits in a LIHTC project; these are offset by an investment of equity by the investor)

The Developer Fee must be included in the project's CFA and may not exceed 10% of the total development cost. The Consortium reserves the right to assess proposed developer fees in the context the following factors:

- The scope and complexity of the project being developed
- The size of the project
- The relative risk the developer is taking
- The costs a developer will incur from the fee as compared to those being charged as project costs
- The fees that are regularly and customarily allowed in similar programs and projects
- Other fees the project is generating for the developer and its related entities
- Additional assessment or negotiation of the developer fee will be documented in the project underwriting

Project Evaluation: Subsidy Layering Analysis

The Consortium will complete a subsidy layering analysis (gap analysis) to determine that no more than the necessary amount of HOME-ARP funds will be invested in a project to provide decent, sustainable

housing at the stated rents and income levels. This includes ensuring that the project can accommodate moderate rental income shocks (e.g., increased vacancy levels for a moderate period of time) and moderate expense shocks, and that the project can self-fund major repairs and replacements from a combination of its reserve for replacement, cash flow, and future refinancing.

The Consortium must certify that, through its Project Evaluation process, it has established that:

- The loan terms provided by other sources of financing are, at a minimum, in accordance with industry standards
- Gross rents are achievable
- Allowance for rent loss is achievable
- Budgeted operating costs should enable a competent property manager to operate the project successfully
- The trends for income and expenses are reasonable and prudent
- There is enough debt service coverage to allow the property to survive income and expense shocks
- Reserves (initial and ongoing), combined with cash flow, will be adequate to meet the project's capital needs during the HOME affordability period

Consortium will review payment requests from developers and/or contractors and ensure that the developers and/or contractors are receiving appropriate payment for completed work, and that they are not being overpaid or compensated for unfinished work. Progress payments may be made only for work that has been completed. The Consortium will provide an explanation if a payment is not approved.

The owner, developer or sponsor will assemble construction draw requests, on a partial payment form covering all eligible costs and expenses, including both hard and soft costs from the general contractor, engineers, architects and other professionals on the project. Appropriate supporting documentation must be attached to the partial payment voucher for all line items that the developer is seeking payment. Supporting documentation will include, but not be limited to: AIA forms, invoices for soft costs, bank statements, etc.

HOME-ARP Operating Assistance

While eligible under HOME-ARP, the Consortium does not currently plan to provide operating cost assistance to HOME-ARP assisted rental housing projects.

Designating HOME-ARP Units

As noted on page 26 of Notice CPD-21-10, "HOME-ARP funds may be invested in different types of projects, including permanent supportive housing, mixed finance affordable housing, and market-rate projects."

As noted above, a minimum of 70 percent of rental units assisted with the Consortium's HOME-ARP allocation must serve households of individuals and families that are members of one or more of the Qualifying Populations. The Consortium will ensure this threshold is achieved across its HOME-ARP rental housing portfolio by requiring each project to meet or exceed the 70/30 ratio of QP to LI units.

Consortium staff need to ensure that the project will follow the required labor standards and Davis

Bacon requirements, as applicable. Unless triggered by another funding source, Davis Bacon requirements only apply to a project being built under a construction contract that includes a combined total of 12 or more HOME and/or HOME-ARP units.

All HOME-ARP assisted units must be designated as “fixed” or “floating” at the time of project commitment in accordance with 92.252 (j). See Section 17 below for additional information.

- Fixed: When HOME-ARP units are “fixed,” the specific units that are HOME-ARP assisted (and, therefore, subject to HOME-ARP program rent and occupancy requirements) are designated and never change.
- Floating: When HOME-ARP units are “floating,” the units that are designated as HOME-ARP assisted may change over time as long as the total number of HOME-ARP units in the project remains constant. Most applicants will choose to designate HOME-ARP units as floating because it provides greater flexibility.
- The HOME-ARP rent and occupancy rules apply only to HOME-ARP units.
- The number of HOME-ARP units in a given project must be specified at project commitment in the written agreement

Example: XYZ non-profit developer is considering a request for HOME-ARP funds from The Consortium for a 20-unit building.

The HOME-ARP **eligible development costs** total \$8,000,000 (\$400,000 per unit). The developer has requested \$800,000 in HOME ARP funds.

Since the HOME-ARP funds represent one-tenth of the total eligible development costs, the Consortium must require the project to have at least two HOME-ARP units, the “floor.” In this case, to meet the 70% QP requirement, both units would need to be dedicated to serve QP, and there would be no option to serve the HOME-ARP LI population. The Consortium may choose to require more than two units to be HOME-ARP units.

Using “traditional” HOME and HOME-ARP together

Through the unit allocation process, it is possible to combine traditional HOME and HOME-ARP units in a single project, however it is important to note that different underwriting, tenant selection, and other HOME regulations may apply. The tenant selection process for the units will likely differ as well. Combining HOME and HOME-ARP into a single project increases the number of HOME-funded units, increasing the likelihood of triggering additional compliance requirements (e.g., Davis-Bacon). Any Davis-Bacon threshold would be triggered by the combined HOME and HOME-ARP number of units. The “traditional” HOME units are also subject to the HUD maximum per-unit subsidy limit. To ensure consistency with the provisions of section 212(e)(1) of NAHA and 24 CFR 92.250(a), the HUD approved HOME maximum per-unit subsidy limit for the Consortium cannot exceed 240 percent of the HUD Section 234 basic mortgage limit.

Example #2: XYZ non-profit developer is considering a request for HOME-ARP funds from The Consortium for a 20-unit building. The building is all one bedroom units.

The HOME-ARP **eligible development costs** total \$8,000,000 (\$400,000 per unit). The developer has requested \$800,000 in HOME-ARP funds and \$800,000 in traditional HOME funds

The analysis is the same for HOME-ARP (floor of 2 HOME-ARP units), but for HOME, the Section 234 mortgage limits apply (currently \$183,132 for one bedroom units). Given these limits, the minimum number of HOME assisted units would be 5 ($\$800,000/183,132 = 4.3$). All other traditional HOME guidelines would apply, as would different tenant selection requirements for the two types of units. Davis Bacon would not apply because the project would only include 2 HOME-ARP units and 5 HOME units (total of 7).

11. Property Standards: To meet HOME-ARP program regulations and Consortium goals, all projects must meet certain physical standards intended to provide quality affordable housing that is durable and energy efficient.

- Construction must meet all applicable local building and fire codes (including related electrical, mechanical, and plumbing codes).
- All projects must meet applicable Section 504/UFAS requirements. New construction or substantial rehabilitation projects with five (5) or more total units must provide 5% of the project's units (but not less than one) for physically disabled occupants and another 2% of units (but not less than one) designed to be accessible to those with visual or hearing impairments. Other rehabilitation projects will be required, to the maximum extent feasible, to provide physically and sensory accessible units in the same percentage. Additionally, covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements required by the Fair Housing Act as outlined in 24 CFR 100.205.
- All buildings of five (5) or more residential units in new construction or substantial rehabilitation HOME projects must include the installation of "broadband infrastructure" as defined by 24 CFR 5.100. In limited circumstances, the regulations allow the City to waive this requirement if the project's location makes such installation infeasible or creates an undue financial burden. In practice, this requires the developer to provide the wiring for high-speed internet but does not require the project to provide the internet service itself. The Consortium does not anticipate circumstances under which it would waive this requirement.
- All new construction projects must meet or exceed the standards of the 2021 International Energy Conservation Code (IECC) or, as applicable to buildings of more than four (4) stories, the Standard 90.1 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE 90.1). Note that this may be a higher standard than the otherwise applicable building codes adopted by the Consortium.
- Additionally, all assisted projects must comply with the Consortium's ongoing property standards for HOME-ARP rental housing during the term of the affordability period or HOME-ARP loan, whichever is longer. Those standards include applicable state and local codes, including but not limited to the Consortium's adoption of the International Property Maintenance Code (IPMC) and HUD-published National Standards for the Physical Inspection of Real Estate (NSPIRE) requirements."

12. Determining Household Income: All HOME-ARP units must be restricted for eligible households (i.e., either qualifying or low-income households) throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP units solely by meeting the definition of one of the qualifying populations (i.e., HOME-ARP does not impose income restrictions on units restricted for qualifying populations). If there is no income requirement in the qualifying population's definition, the Consortium is not required to perform an initial determination of household income except as necessary

to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restrictions (e.g., LIHTC).

Definition of Income

HUD’s “Technical Guide for Determining Income and Allowances for the HOME Program” provides the method by which income for HOME-ARP projects must be calculated. Applicants should use HUD's "[CPD Income Eligibility Calculator](#)" to determine eligibility and document records.

- For HOME-ARP Rental Housing projects, annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as defined in 24 CFR Part 5 (Part 5 annual income). This is called the “Section 8 income determination method.” For rental projects, initial income must be verified using source documentation. Income must be recertified annually and source documentation obtained every six years.

The table below indicates if an income determination is required to demonstrate eligibility based upon HOME-ARP QP definitions. Income determinations are always required to confirm affordable contribution to rent.

QP Definition	Corresponding Income Requirement (if applicable)	Income Determination Required (Yes/No)
Homeless (paragraphs 1-3)	N/A	No
At-risk of Homelessness (paragraph 1)	<30% AMI	Yes
At-risk of Homelessness (paragraph 2)	N/A	No
At-risk of Homelessness (paragraph 3)	N/A	No
Domestic Violence/Sexual Assault/Trafficking	N/A	No
Other Populations (paragraph 1)	N/A	No
Other Populations (paragraph 2.i)	≤30% AMI	Yes
Other Populations (paragraph 2.ii)	≤50% AMI	Yes
*Veteran households must meet the criteria, including income criteria, for one of the QP definitions to receive assistance as a HOME-ARP QP.		

Each subsequent year during the compliance period, starting 1 year after initial occupancy, the Consortium must use the definition of annual income as defined in 24 CFR 5.609 to examine the income of qualifying households to determine the household’s contribution to rent. For low-income households,

the Consortium must use the definition of annual income as defined in 24 CFR 5.609 to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.

a. Qualifying populations: For purposes of establishing the qualifying household's rental contribution after initial occupancy, the Consortium must examine a HOME-ARP qualifying household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting 1 year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the Consortium. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

b. Low-income Households: In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) specified by the Consortium. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.

c. Households Assisted by Other Programs: Notwithstanding paragraphs (a) and (b), if a family is applying for or living in a HOME-ARP unit, and the unit is assisted by a Federal or State project based rental subsidy then the Consortium must accept a public housing agency, section 8 project owner, or CoC recipient or subrecipient's determination of the family's annual income and adjusted income under that program's rules and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP rental unit, and the family is assisted by a Federal tenant-based rental assistance program (e.g. housing choice vouchers) then the Consortium may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

13. Rent limitations & Affordability Requirements: HOME-ARP establishes rent limits for HOME-ARP units restricted for qualifying populations and for units that may be restricted for low-income households.

a. Units Restricted for Occupancy by Qualifying Households: In no case can the HOME ARP rents exceed 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the Area Median Income (AMI), as determined by HUD, with

adjustments for number of bedrooms in the unit. HUD will publish the HOME-ARP rent limits on an annual basis. Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program). If a household receives tenant-based rental assistance, the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

- b. Rent limitations – Low-Income households:** HOME-ARP rental units occupied by low income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of AMI, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program).
 - a. Maximum rents for LI Units shall not exceed the lesser of:
 - i. The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111 and
 - ii. 30% of the adjusted monthly income of a family whose annual income equals 65% AMI.
- c. Rent limitations – Single Room Occupancy (SRO) Units:** A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental, an SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification. If the SRO units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include a utility allowance.
- d. Initial Rent Schedule and Utility Allowance:** The Consortium must establish maximum allowances for utilities and services and update the allowances annually. The Consortium has opted to adopt the utility allowance schedule of the Public Housing Authority whose jurisdiction includes the rental project site (i.e., Skagit County PHA or Island County PHA). The Consortium must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying utilities and services (e.g., trash collection), the Consortium must determine that the rent for the unit does not exceed the maximum rent minus the applicable monthly allowance for utilities and services.

14. Tenant Contribution to Rent – Qualifying Households: The Consortium must determine that the

qualifying household's contribution to rent is affordable to the qualifying household based on a determination of the household's income. If the household is receiving project-based or tenant-based rental assistance, the household cannot be required to contribute more towards rent than the amount permitted by the requirements of the applicable rental assistance program. If a qualifying household is not receiving project-based or tenant-based rental assistance and cannot contribute any income toward rent, or the contribution is insufficient to cover the unit rent, the project owner may draw from the project's operating cost assistance reserve if projected rental revenue minus the operating costs of the unit results in a deficit. If an operating cost assistance reserve was not capitalized at project completion:

- The Consortium may provide ongoing HOME-ARP operating cost assistance to cover the operating deficits associated with units occupied by qualifying households, subject to the requirements described in this document.
- The qualifying household may receive HOME-ARP TBRA to remain housed in the HOME-ARP rental unit or the Consortium may offer, in conjunction with a qualifying household's admittance into a HOME-ARP rental unit, a simultaneous award of supportive services to the qualifying household. Any provision of supportive services must comply with all requirements in these policies and procedures.
- Operating cost assistance, HOME-ARP TBRA, and supportive services funds committed to a project cannot be provided beyond the budget period for the HOME-ARP funds.

15. Changes in Income and Over-income Households: A household that met the definition of one of the HOME-ARP qualifying populations at initial occupancy and whose annual income at the time of income re-certification is above 50 percent of AMI but at or below 80 percent of AMI must pay the rent specified in 24 CFR 92.252(a), which is the lesser of the fair market rent and 30% of the adjusted monthly income of a family whose annual income equals 65% AMI. HOME-ARP units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

A qualifying or low-income household that is not low-income at the time of income recertification (i.e., whose income is above 80 percent of AMI) must pay rent that complies with the over income regulatory requirements at 24 CFR 92.252(i)(2), which includes requirements applicable to HOME units that also have LIHTC restrictions. This rent amount is determined by the lesser of:

- The amount payable by the tenant under state or local law,
- 30% of the family's adjusted income, except that
- Tenants of HOME-ARP units developed with LIHTC must pay rent governed by Section 42 of the Internal Revenue Code of 1986.

The Consortium should therefore review the information for over-income tenants to determine if the rents were within the Rent Limitations identified in section 13 above and confirm they were income eligible at the time of initial occupancy. If they meet this test, then the owner has not violated HOME-ARP rules by allowing the tenant to remain in the property and charging higher rents when income has increased.

Any increase in rents for HOME-ARP units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

If the tenant in a HOME-ARP unit was not income or otherwise eligible at the time of initial occupancy, they were granted occupancy in violation of HOME-ARP rules, which the monitor must include in monitoring findings. Similarly, if the rent being charged for HOME-ARP units exceeds the applicable limits (and there is no justification based on the tenant's increased income over time) the project is out of compliance with HOME-ARP rules.

16. Unit Designation: The Consortium must determine the number of HOME-ARP units in the project restricted for qualifying households and low-income households, respectively, and whether the units are fixed or floating units at the time of project commitment. The total number of HOME-ARP units restricted for occupancy by qualifying households and the total number of HOME-ARP units restricted for low-income households must be identified as separate totals in the written agreement. In a project containing HOME-ARP and other units, the Consortium must designate fixed or floating HOME-ARP units in accordance with 24 CFR 92.252(j). The Consortium must maintain this unit mix throughout the compliance period.

17. Maintaining Unit Mix: At the time of admission to a HOME-ARP rental unit, a household must meet the definition for at least one qualifying population or be determined to be a low-income household, depending on the applicable HOME-ARP designation on the rental unit. For HOME-ARP rental units restricted for occupancy by qualifying populations, a household that meets the definition of a qualifying population at the time of admission retains its eligibility to occupy a HOME-ARP rental unit restricted for occupancy by qualifying populations, irrespective of changes in income or whether the household continues to meet the definition of a qualifying population after initial occupancy. As an example, a household that qualifies as "Homeless" at admission does not meet the Homeless definition once the household occupies a HOME-ARP unit, but remains a qualifying household and eligible to occupy the HOME-ARP QP unit indefinitely. Income determinations for qualifying households are therefore only for purposes of establishing a qualifying household's rental contribution and not for maintaining continued eligibility in the HOME-ARP program.

For HOME-ARP rental units restricted for occupancy by low-income households, units will be considered temporarily out of compliance if the household's income increases above 80 percent of area median income. The requirements for correcting any noncompliance using vacancies or redesignation of units are determined based on whether the HOME-ARP rental units are fixed or floating and whether other funding sources (e.g., LIHTC) impose income or other restrictions on the units. A qualifying or low-income household occupying a HOME-ARP unit, whose income falls above 80 percent of area median income for the household size at the time of income recertification must pay as rent the lesser of the amount payable under state or local law or 30 percent of the family's adjusted income. The exception is if the unit was funded with LIHTC, then the rent charged is determined by tax credit requirements at 26 U.S.C. 42. **An increase in a tenant's income does not constitute good cause to evict or refuse to renew a HOME-ARP unit tenant's lease, regardless of program requirements associated with other funding sources such as LIHTC.**

Please refer to the ["Managing Rental Unit Mix" chart](#) on the HUD Exchange for reference.

18. Minimum Compliance Period: HOME-ARP units must comply for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken. While the Consortium does not intend to extend the minimum compliance period, if they opt to impose a longer compliance period for a specific project, they will plan for the project's financial feasibility for

the longer period without HOME-ARP funds. If a project-based rental assistance Housing Assistance Payments (HAP) contract is awarded to a HOME-ARP rental project, the Consortium must impose a minimum compliance period that is the greater of 15 years or the term of the HAP contract (See section VI.B.18 of HOME-ARP CPD Notice) .

PJs are also encouraged by HUD to extend restrictions for occupancy of the HOME-ARP units in accordance with the requirements in this section to match the term of eligible HAP contract renewals. The provisions at 24 CFR 92.252(e)(1)-(4) apply, including the requirement that the Consortium must impose the HOME-ARP rental requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanisms approved by HUD. The chart providing minimum affordability periods based on rental housing activity that is contained in 24 CFR 92.252(e) does not apply. The enforceable restriction must provide that units assisted with HOME-ARP comply with the HOME-ARP requirements throughout the minimum 15-year compliance period, including:

- a) Units restricted for qualifying populations must be occupied by households that met the definition of a qualifying population at the time of initial occupancy.
- b) Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent limitations specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income.
- c) The units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504.
- d) Each household that occupies a HOME-ARP unit has an executed lease that complies with the tenant protections required in 19 below.

The table below outlines the requirements for on-site inspections, based on the total number of HOME-ARP units within a property.

TOTAL NUMBER OF HOME-ARP UNITS IN PROPERTY	NUMBER OF UNITS TO BE INSPECTED	ON-SITE REVIEW REQUIRED
1-4	100% of units	Once within 12 months of completion and then every 3 years
5+	Review a minimum of 5 files, or 20% of HOME-ARP units, whichever is greater.	More often if health/safety issues or other problems are identified

19. Tenant Protections: The Consortium must verify that each household that occupies a HOME-ARP unit has an executed lease that complies with the tenant protection requirements described below. The lease must either be between the project owner and the household or between the project owner and a HOME-ARP sponsor with a sublease between the qualifying household and HOME-ARP sponsor. A HOME-ARP sponsor is a nonprofit organization that provides housing or supportive services to qualifying households and facilitates the leasing of a HOME-ARP unit to a qualifying household or the use and maintenance of HOME-ARP TBRA by a qualifying household. The Consortium may permit a HOME-ARP sponsor to lease a HOME-ARP unit from an owner or execute a master lease with the owner of a HOME-ARP project for HOME-ARP units restricted for occupancy by qualifying households.

The HOME-ARP sponsor may then sublease the HOME-ARP rental unit to the qualifying household. The sublease between the HOME-ARP sponsor and the qualifying household must comply with the rent limitations and tenant protection requirements:

- A. Lease Requirement: There must be a lease between the qualifying household or the low-income household and the owner of the HOME-ARP project in accordance with 24 CFR 92.253(a), except that a sublease is permitted if a HOME-ARP sponsor has executed a master lease or lease with the project owner for the leasing of the units restricted for occupancy by qualifying households.
- B. Prohibited Lease Terms: The lease between the low-income household, qualifying household, or HOME-ARP sponsor and the HOME-ARP project owner or the sublease between the HOME-ARP sponsor and a qualifying household may not contain any of the prohibited lease terms specified in 24 CFR 92.253(b).
- C. Termination of tenancy: An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a HOME-ARP unit or of a HOME-ARP sponsor with a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; or for other good cause. Similarly, a HOME-ARP sponsor may not refuse to renew a sublease with a qualifying household except for serious or repeated violation of the terms and conditions of the sublease; for violation of applicable Federal, State, or local laws; or for other good cause. An increase in the tenant's or sublessee's income does not constitute good cause.

To terminate or refuse to renew tenancy for any household occupying a HOME-ARP unit, the owner must serve written notice upon the tenant (and the HOME-ARP sponsor if the lease is between an owner and HOME-ARP sponsor) at least 30 days before termination of tenancy, specifying the grounds for the action. In the case of a sublease, to terminate or refuse to renew tenancy of a qualifying household, the HOME-ARP sponsor, in accordance with the policy established by the Consortium, must notify the Consortium in advance of serving written notice to the qualifying household and must serve written notice upon the qualifying household at least 30 days before termination of tenancy, specifying the grounds for the action.

20. Tenant Selection Process: As none of the CE systems within the Consortium region (Whatcom, Island, Skagit counties) serve all of the qualifying populations for HOME-ARP, the Consortium will not be able to use CE systems for direct referral to HOME ARP-funded projects. The Consortium has determined that it is necessary to use a project-specific waitlist to select qualifying households for HOME-ARP units restricted for occupancy by qualifying populations.

All qualifying individuals or families must have access to apply for placement on the waiting list for a project. To the extent possible, Qualifying individuals or families on a waiting list will be selected in chronological order.

The written agreement between the Consortium and the project owner must specify the method the owner must use for selecting qualifying households for admission to HOME-ARP units.

- A. The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:
 - i. Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the Consortium's preferences and the Consortium's policies and procedures for applying those preferences, if any, and must not violate nondiscrimination requirements in 24 CFR 92.350.
 - ii. Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program (24 CFR 982), or an applicant participating in HOME, HOME-ARP or other Federal, state or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document;
 - iii. Limits eligibility or gives a preference to a particular qualifying population or segment of the qualifying population if permitted in its written agreement with the participating jurisdiction (and only if the limitation or preference is described in the participating jurisdiction's HOME-ARP allocation plan). A preference for households in one or more of the HOME-ARP qualifying populations must comply with the Consortium's determined preference(s) and the Consortium's policies and procedures for applying the preference(s), if any;
 - iv. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350. If the Consortium requires the use of a project-specific waitlist to select qualifying households and/or low-income households for occupancy of HOME ARP units, provide for the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable;
 - v. Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,
 - vi. Complies with the VAWA requirements as described in 24 CFR 92.359.

- B. Project-Specific Waitlist – Low-Income Households: A project owner must use a project-specific waitlist to select households to occupy units restricted for occupancy by low-income households in accordance with the tenant selection requirements of 24 CFR 92.253(d).

21. Project Completion and Occupancy: Developer's application must be complete and funded in a manner that the project will meet the HOME-ARP timelines as outlined below.

HOME-ARP rental projects must meet the definition of project completion at 24 CFR 92.2. For rental housing projects, project completion occurs upon completion of construction (issuance of the Certificate of Occupancy from the planning or building department with jurisdiction) and before occupancy.

If the Consortium fails to complete a project within 4 years of project commitment, it must comply with the terminated project requirements at 24 CFR 92.205(e)(2). In such an instance, the Consortium may request a one-year extension of this deadline in writing. The Consortium would work with the

developer to obtain information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project for HUD's review and approval.

The Consortium will require the project owner to submit tenant information for the initial occupants of the HOME-ARP units for timely reporting into IDIS. If the HOME-ARP units are not occupied by eligible qualifying households or low-income households within six months following project completion, the Consortium, as applicable, must submit to HUD information on its efforts to coordinate with a CoC, homeless service providers, social service, and other public agencies to fill units for qualifying households or must submit marketing information and, if appropriate, a marketing plan to fill units for low-income households. The Consortium must repay any HOME-ARP funds invested in units that are not rented to eligible qualifying or low-income households, or for units for which beneficiary information is not entered into IDIS within 12 months of project completion.

22. Operating Cost Assistance Reserve - Management and Oversight: The Consortium must require that any HOME-ARP funds expended for project operating cost assistance reserves are held by the project owner in a separate interest-bearing account. The Consortium must require the project owner to request written approval from the Consortium prior to disbursing funds from the project operating cost assistance reserve. The Consortium must review each requested distribution from the operating cost assistance reserve, including supporting documentation, to determine that the distribution is reasonable and necessary to cover the operating deficit associated with HOME-ARP units occupied by qualifying households. The Consortium must, no less than annually, review the operating cost assistance reserve account to determine that the account is appropriately sized based on the projected operating deficits of HOME-ARP units restricted for occupancy by qualifying households. The Consortium may require the project owner to enter into a deposit account control agreement for the operating cost assistance reserve where the Consortium must approve disbursements from the account.

23. End of Compliance Period and Return of Operating Cost Assistance Reserve: Any unexpended operating cost assistance reserve remaining at the end of the compliance period must be returned as follows: a. If the HOME-ARP rental project will continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the HOME-ARP 15- year compliance period as demonstrated by enforceable restrictions imposed by the Consortium, the project can retain the operating cost assistance reserve amount to address any operating deficits associated with the HOME-ARP units occupied by qualifying households. b. If the HOME-ARP project will not continue to operate in accordance with the HOME-ARP requirements and serve qualifying households beyond the 15-year HOME-ARP compliance period and the HOME-ARP grant has expired or is closed out, the remaining operating cost assistance reserve funds must be deposited in the Consortium's local HOME 38 account and recorded as HOME program income receipt in the Integrated Disbursement and Information System (IDIS) and used for eligible costs under 24 CFR part 92.

VI. Crosscutting Requirements

This section outlines additional crosscutting requirements that must be followed in the development and implementation of HOME-ARP.

Lead-Based Paint

HUD Lead Regulation 24 CFR Part 35 covers lead-based paint poisoning prevention and applies to the HOME-ARP program. Developers must follow appropriate testing and abatement/mitigation procedures as outlined in the Phase I Environmental Site Assessment section [here](#).

Affirmative Marketing and Outreach

All project sponsors, developers, and subrecipients must undertake outreach efforts in accordance with state and federal fair lending regulations to ensure nondiscriminatory treatment, outreach, and access to the program. Projects resulting in housing units for rent or for sale must also conform to these Affirmative Marketing Guidelines. Project sponsors must inform potential applicants of the program via flyers, public notices, local media articles, or meetings with Subrecipient staff. The marketing information will include basic eligibility requirements, a general description of the program, and the appropriate Fair Housing logo.

The project sponsor's marketing approach must address: (1) how the program will be announced (e.g., which media and other sources); (2) where applications will be taken (e.g., at one site or more); (3) when applications will be accepted (e.g., daily, during normal working hours, or extended hours for a specified period); and (4) the method for taking applications (e.g. in person, by mail).

The project sponsor must maintain a file that contains all marketing efforts (e.g., copies of newspaper ads, memos of phone calls, copies of letters, etc.). The records, which help assess the results of these actions, must be available for inspection by the Consortium.

The project sponsor also has an obligation to ensure that information about the program reaches the broadest possible range of potentially qualified applicants.

To further fair housing objectives, the project sponsor should identify those households that have been determined to be "least likely to apply," and determine what special outreach activities, including placing advertisements in minority-specific media, will ensure that this population is fully informed about the program. The project sponsor should work with the Consortium to ensure that all marketing initiatives and materials adequately reflect the available assistance types.

More information about Affirmative Marketing Requirements can be found in [Section IX of HOME Policies and Procedures Manual](#)

Conflict of Interest

The federal conflict of interest provisions at 2 CFR part 200.317 and 200.3018 prohibit any employee, officer, agent, elected official, or appointed official of the Participating Jurisdiction (Skagit County) or project sponsors from participating in the award of funds for any activity if either a real or apparent conflict of interest exists. A conflict of interest would occur if any of covered persons had, or would be in a position to gain, a financial interest in any funded activity.

The HOME-ARP Program has additional conflict of interest provisions at 24 CFR 92.356. The additional provisions state that: anyone who has, or has had, any role related to the use of HOME-ARP funds, or has been in a position to participate in decision-making or obtain inside information, cannot have or obtain a financial interest or benefit from any HOME-ARP activity, or have an interest in any contract or

agreement representing themselves or anyone with whom they have a business or family relationship. The prohibition applies for one year after the person leaves the position in which they had a role related to the use of HOME-ARP funds.

Covered familial relationships are limited to immediate family members, which include (whether by blood, marriage, or adoption) the spouse, parent (including stepparent), child (including stepchild), sibling (including stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

Project sponsors shall ensure that no owner, developer, or sponsor of a project assisted with HOME-ARP funds (or officer, employee, agent, elected or appointed official, or consultant of the owner, developer, sponsor, or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor) whether private, for-profit or nonprofit (including a CHDO when acting as an owner, developer, or sponsor) may occupy a HOME-ARP-assisted affordable housing unit in a project during the required period of affordability specified in § 92.252(e) or § 92.254(a)(4). This provision does not apply to an individual who receives HOME-ARP funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

Skagit County, as lead agency for the Consortium, may work with HUD to seek an exception to the provisions listed above on a case-by-case basis when the County determines that the exception will serve to further the purposes of the HOME-ARP program and the effective and efficient administration of the Project sponsor's HOME-ARP assisted project. For the County to provide this exception, the project sponsor must make a written request, and the County will make its determination based on the following factors:

- a. Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group
- b. Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question
- c. Whether the tenant protection requirements of Section 92.253 are being observed
- d. Whether the affirmative marketing requirements of Section 92.351 are being observed and followed
- e. Any other factor relevant to the County's determination, including the timing of the requested exception

If an exception is made, the Consortium will request the exception from HUD in the form of a letter and documents providing the following information in order to be granted the exception. Consortium staff will:

- a. Document the full nature of the conflict and submitted proof that the disclosure has been made public, and
- b. Provide a legal opinion stating that there would be no violation of state or local law if the exception were granted.

Project sponsors must maintain a written code of standards of conduct that will govern the performance of its officers, employees, or agents engaged in the award and administration of contracts funded with federal dollars (2 CFR 200.318). The written standards of conduct must also provide for internal controls

and procedures to require a fair and open selection process for awarding HOME-ARP funds pursuant to the Notice.

Program Accessibility

Section 504 of the Rehabilitation Act of 1973 requires that a HOME-ARP funded activity, when viewed in its entirety, is usable and accessible to persons with disabilities. The obligation to provide accessible units, in accordance with 24 CFR 8.22 and 8.23 is broader and includes the following:

- All program activities, including public hearings, homebuyer briefings, counseling sessions, and meetings should be held in locations that are accessible to persons with disabilities.
- Information about all programs and activities should be disseminated in a manner that is accessible to persons with disabilities. Auxiliary aids and special communication systems should be used for program outreach, public hearings related to housing programs, and other program activities.
- Reasonable steps should be taken to provide information about available accessible units to eligible persons with disabilities. Program advertising should acknowledge that the program will work with households with accessibility needs.
- Information about the accessibility requirements of HOME-ARP-funded multifamily housing is included in the rental housing chapter of this manual.

Non-Discrimination

No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with HOME-ARP funds on the basis of religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status, physical or mental disability, gender identity or expression, national origin, ancestry, military status, or other arbitrary cause.

Reasonable Accommodations for Persons with Disabilities

Employers receiving HOME-ARP funds may not discriminate against prospective or current employees with disabilities. Employers must remove physical and administrative barriers to employment and make reasonable accommodations for employees with known disabilities.

If a subrecipient has 15 or more employees, it must designate a Section 504 Coordinator and notify program participants and employees of its non-discrimination policies.

Business Enterprises Owned by Minorities, Women and Disadvantaged Business Enterprises

The Skagit County HOME Consortium encourages participation by business enterprises owned by minorities and women, and disadvantaged business enterprises (M/W/D-BE). Contracts for the procurement of services should be awarded to the maximum extent possible to M/W/D-BE. Under Executive Orders 11625, 12432, and 12138 (Minority/Women's Business Enterprise), the Consortium must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts. (See 24 CFR 85.36(e) for procurement procedures and requirements).

2 CFR 200.231 of the Uniform Administrative Requirements outlines recommended steps for achieving participation goals.

Procurement

Subrecipients receiving HOME-ARP funds must comply with the procurement requirements of 2 CFR Part 200 including equal Employment Opportunity. A public agency or nonprofit organization that receives HOME-ARP funds solely as a developer or owner of a housing project is not a subrecipient (24 CFR Part 92 subpart A), and therefore not subject to federal procurement requirements. To ensure equal opportunity in employment and contracting, the Consortium must comply with Executive Order 11246, as amended (Equal Employment Opportunity), which prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000. Implementing regulations may be found at 41 CFR Part 60.

Additionally, the Consortium reserves the right to request additional documentation of procurement processes throughout project development and approval of HOME-ARP expenditures may be subject to Consortium approval of procurement documentation.

Public Records

Materials and information submitted to the Consortium are subject to public disclosure unless otherwise exempt from disclosure under the Washington Public Records Disclosure Act (RCW 42.17 et seq.). No assurances can be given that any materials provided can be protected from public review and copying.

Monitoring and Recordkeeping and Retention of Records

Records related to HOME-ARP funded projects and programs must be retained for at least five years as outlined in section VIII.F. of HOME-ARP CPD Notice 21.10. For rental development projects, general records must be kept for five years after project completion, and tenant data must be maintained five years after the conclusion of the affordability period. Additionally, written agreements must be retained for five years after the agreement terminates.

All records containing personally identifying information of any individual or family who applies for and/or receives HOME-ARP assistance will be kept secure and confidential. Further information on confidentiality can be found in [this section](#) of this manual.

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

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

Violence Against Women Act

Per Section VII.A. of the HOME-ARP CPD Notice 21.10, the Consortium must comply with the Violence Against Women Act (VAWA) requirements set forth in 24 CFR 92.359. The 2013 reauthorization of the Violence Against Women Act (VAWA) expands housing protections to all of HUD's housing programs, as well as provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. Despite its name, VAWA applies to people of all genders. VAWA applies to all rental projects and all Tenant Based Rental Assistance activities with a commitment date on or after December 16, 2016. Requirements apply for the entire period of affordability of the project or activity.

Notice to Applicants and Tenants

All HOME housing providers shall provide to each applicant and tenant the [Notice of Occupancy Rights and the Certification Form](#) (the form may be customized as long as it contains the same information and language contained in the model form). The Notice of Occupancy Rights explains the VAWA protections under 24 CFR Part 5. Housing providers must provide the Notice of Occupancy Rights to an applicant or tenant at each of the following times:

1. At the time the applicant is denied assistance or admission under a covered housing program;
2. At the time the individual is provided assistance or admission under a covered housing program;
3. With any notification of eviction or notification of termination of assistance.

The Notice of Occupancy and the Certification Form shall be made available in multiple languages.

Prohibited Basis for Denial or Termination of Assistance or Eviction

An applicant for assistance or tenant assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. A tenant in a covered housing program may not be denied tenancy or occupancy rights solely based on criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

1. The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and
2. The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

Construction of Lease Terms and Terms of Assistance

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall *not* be construed as:

1. A serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or
2. Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

Lease Provisions

All tenants residing in a HOME-ARP Program unit or tenants receiving HOME Program Tenant-Based Rental Assistance shall have a VAWA lease addendum incorporating the requirements of 24 CFR Parts 5 & 92. Specifically, the lease addendum shall allow the tenant to terminate the lease without penalty if the conditions for an emergency transfer (below) are met. For tenants receiving Tenant-Based Rental Assistance, the lease addendum shall require the owner to notify Skagit County before the owner bifurcates the lease, as described below, or provides notification of eviction to the tenant. If HOME Program Tenant-Based Rental Assistance is the only assistance provided, the VAWA lease addendum may be written to expire at the end of the rental assistance period. HUD provides an example Lease Addendum ([HUD Form 91067](#)) that housing providers are encouraged to use.

Limitations of VAWA

This policy in no way limits the authority of a covered housing provider to comply with a court order, or to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking. Additionally, this policy does not limit a housing provider's ability to evict or terminate assistance if the housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property.

Emergency Transfers

In accordance with VAWA, Skagit County allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available to all tenants, regardless of sex, gender identity, sexual orientation, race, color, national origin, religion, familial status, disability, or age. The ability of Skagit County to honor such a request for tenants, however, depends upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether there is another unit available *and* is a safe unit for the tenant to occupy.

Emergency Transfers Eligibility and Priority

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR Part 5, Subpart L, is eligible for an emergency transfer if the tenant expressly submits a written request for a transfer and reasonably believes that there is a threat of imminent harm from further violence if the tenant remains in the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90 calendar-day period preceding a request for an emergency transfer.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements of this plan. To the extent permitted by local, state, and federal law, tenants requesting an emergency transfer under this plan shall have priority over other tenants seeking transfers and individuals seeking placement on waiting lists.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall submit a written request to their landlord. Within forty-eight (48) hours, the landlord shall notify Skagit County of all requests received under this plan. All notifications to the County shall abide by the confidentiality requirements of this plan. The tenant's written request must include one of the following:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain the same dwelling unit; or
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding a request for an emergency transfer.

The housing provider may request, in writing, documentation of the incident from the applicant or tenant. *It is at the discretion of the applicant or tenant what documentation to provide.* The applicant or tenant shall have a minimum of 14 days to provide documentation. The housing provider is in no way required to request documentation. The following are acceptable forms of documentation:

1. The Certification Form; or
2. A document (i) signed by the applicant or tenant, (ii) signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and (iii) that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003.
3. A record of a federal, state, tribal, territorial, or local law enforcement agency, court, or administrative agency; or
4. A statement or other evidence provided by the applicant or tenant

The housing provider may request third-party documentation if conflicting documentation is received after the original request for documentation. The applicant or tenant shall have 30 days to provide the documentation in such a situation.

Confidentiality

The Consortium and all housing providers shall keep any information submitted, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, in strict confidence. The Consortium and all housing providers shall not allow any individual administering assistance on behalf of the entity, or any persons within their employ, or any individual in the employ of the County or the housing provider, to have access to confidential information unless explicitly authorized for reasons that call for such individuals to have access to this information under applicable federal, state, or local law.

The Consortium and all housing providers will keep confidential any information that the tenant submits in requesting an emergency transfer and information about the emergency transfer unless:

1. The tenant gives Skagit County or the landlord permission to release the information on a time limited basis; or
2. Disclosure of the information is required by law; or
3. Disclosure of the information is required for use in an eviction proceeding or hearing regarding termination of assistance from the HOME-ARP Program.

Emergency Transfer Timing and Availability

Neither the Consortium nor housing providers can guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Consortium will require housing providers to act

as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a safe unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The housing provider may be unable to transfer a tenant to a unit if the tenant has not or cannot establish eligibility for that unit.

If a housing provider has a safe unit immediately available, the housing provider must allow the tenant to make an internal emergency transfer. An internal emergency transfer is an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; the tenant may reside in the new unit without having to undergo an application process. A safe unit is a unit that the tenant requesting the transfer believes is safe. If a housing provider has no safe units available, the housing provider shall give the tenant priority above all others when the next unit becomes available. The housing provider shall also notify the Consortium that no internal emergency transfer is available.

If a housing provider has no safe units available for which a tenant who needs an emergency is eligible, the Consortium will assist the tenant in an external emergency transfer by identifying other housing providers who *may* have safe units available to which the tenant could move. When possible, the Consortium will maintain a list of HOME-ARP units and make the list available to tenants requesting an emergency transfer. An external emergency transfer is an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; the tenant must undergo an application process in order to reside in the new unit.

Tenants may seek an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available. At the tenant's request, the housing provider and Skagit County will also assist tenants in contacting a secure domestic violence shelter or other organizations aiding victims of domestic violence, dating violence, sexual assault, or stalking.

Lease Bifurcation

Housing providers may choose to bifurcate the lease, or remove a household member from a lease in order to evict or terminate assistance to a household member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking. Lease bifurcation shall be carried out in accordance with any requirements or procedures by federal, state, or local law for termination of assistance or leases, and any requirements under the HOME-ARP Program. If a housing provider chooses to bifurcate a lease, any remaining tenant(s) shall have ninety (90) calendar days to (i) establish eligibility under the same housing program, (ii) establish eligibility under another housing program, or (iii) find alternative housing.

Following a lease bifurcation, tenants within a HOME-ARP Program unit shall be allowed to remain in that unit and are not subject to the 90-day limitation; similarly, households receiving HOME Program Tenant-Based Rental Assistance shall continue to receive the rental assistance. The Consortium shall decide if the removed tenant shall continue to receive HOME Program rental assistance, so long as the removed tenant has not engaged in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the housing provider shall inform the tenant of the following resources and urge the tenant to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233 or A Safe Place Hotline at 847-249-4450 for assistance in creating a safety plan. For persons with hearing impairments, the national hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's national Sexual Assault Hotline at 800-656-HOPE or visit the [online hotline](#).

Tenants who are or have been victims of stalking and are seeking help may visit the National Center for Victims of Crime's [Stalking Resource Center](#).

Recordkeeping and Reporting

Skagit County shall keep data on emergency transfers requested under the covered housing programs and their outcomes. Skagit County shall report this data as required by HUD.

Prevailing Wage and Labor Requirements

Applicants should assume that state prevailing wage rates (Chapter 39.12 RCW) will apply and build the requisite costs into all project development budgets, unless they obtain a determination otherwise from the Washington State Department of Labor and Industries (L&I). Applicants are advised to consult with L&I and/or private legal counsel prior to applying for funding to determine whether prevailing wages must be paid and, if so, whether commercial or residential rates apply.

If an applicant receives a loan that is incurring interest, is not forgivable, and is required to be repaid in full, such loan in and of itself is not expected to trigger a requirement that prevailing wages be paid on the project. However, if the applicant is receiving other public funds and/or is a public entity (e.g., housing authority), it may be required to pay state prevailing wages on the project. A definitive determination regarding the applicability of state Prevailing Wage law can only be obtained from L&I.

Federal Davis Bacon prevailing wages apply to all projects with 12 or more HOME- and/or HOME-ARP units regardless of whether HOME/HOME-ARP funds were used for construction or other projects costs. When triggered, Davis Bacon wages apply to the entire project. When federal funds trigger prevailing wages determined under the Davis-Bacon Act in a project, the higher of either the State Residential Prevailing Wage Rates (unless modified as stated below) or Davis-Bacon wage rates will apply to each job classification, unless applicable law requires otherwise. In cases where Davis-Bacon wages are triggered, Davis-Bacon monitoring procedures are followed.

Debarred Contractors

Prior to entering into a contract with contractor or subcontractor, the applicant must verify that they are not listed in the federal publication of debarred, suspended and ineligible contractors. HOME-ARP funds may not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of a contractor during a period of debarment, suspension, or ineligibility.

HOME-ARP funds 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. The Consortium will check all contractors and subrecipients against publicly accessible debarred contractors lists and/or data sources and require all contractors, subcontractors, and subrecipients to verify the eligibility status of all contractors and subcontractors.

Section 3 Economic Opportunity

The purpose of Section 3 is to ensure that employment (e.g., new hires) and other economic opportunities generated by this HUD financial assistance shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low-income persons. Section 3 requirements apply to construction projects that receive HUD Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources (e.g., HOME, HOME-ARP, CDBG, HTF), per 24 CFR §75. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction. Section 3 also applies to the participating jurisdiction if it uses its HUD allocation to hire new staff to perform work related to housing construction, rehabilitation, or other public construction.

The Consortium will monitor covered contracts for Section 3 compliance through data and documentation collected in periodic program reports and on-site monitoring.

Affordability Period

HOME-ARP units must comply with HOME-ARP requirements for a minimum period of 15 years, irrespective of the amount of HOME-ARP funds invested in the project or the activity being undertaken.

Site Control

Site control is typically required at the time of application for development projects. Site control documentation includes the following: a deed of trust, current option, current purchase and sale agreement, a current title report showing the entity holding fee simple title, an executed lease agreement for the length of the commitment to serve low-income households, or an executed disposition or development agreement.

Environmental Review

Submission of an application for HOME-ARP funding for development projects constitutes a Federal Nexus, at which point the project is considered federal and subject to the environmental review requirements of 24 CFR Part 58, the National Environmental Policy Act (NEPA), and other related laws and authorities. Prior to entering into a contract with a Project Sponsor, Skagit County, as lead agency for the Consortium, will complete a federal Environmental Review in compliance with 24 CFR Part 58, NEPA, and other related federal and state environmental laws. No choice-limiting activities, as defined in 24 CFR 58.22, may be undertaken by the applicant (or any other project participant) using federal, state, local, or private funds during the time between submission of an application for funding and completion of the Environmental Review (receipt by Skagit County of Authority to Use Grant Funds from the Department of Housing and Urban Development). Applicants will be expected to assist Skagit County in

completing the Environmental Review, including but not limited to provision of adequate project plans as needed and completion of Partner Worksheets.

Skagit County will conduct a threshold review of the environmental risks and feasibility of all project applications. As the Responsible Entity for all environmental review of Skagit HOME Consortium activities, Skagit County reserves the right to deny a project application based upon the environmental risks of the project.

Phase I Environmental Site Assessment

Development projects must provide a Phase 1 Environmental Site Assessment (ESA) at the time of application to ensure that any environmental hazards are recognized and mitigated. The Phase I ESA should be prepared in accordance with the requirements of ASTM E1527-21 “Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessment Process,” and must clearly document compliance with 24 CFR 58.5(i)(2) or 50.3(i). Each assessment will include limited surveys of lead-based paint, asbestos, mold, and wetlands as applicable. If any hazards are identified, they will be abated or mitigated before occupancy. The Phase I ESA must be dated six months or fewer from the due date of the Consortium application. If, at the time that Skagit County undertakes the federal Environmental Review, the Phase I ESA is more than six months old, an update will be required. If the Phase I ESA is more than a year old at the time that Skagit County undertakes the federal Environmental Review, a new Phase I ESA must be completed. Development projects must also meet state requirements under the State Environmental Policy Act (SEPA) and federal environmental review requirements under the National Environmental Policy Act (NEPA) as applicable.

Relocation

HOME-ARP funded projects are subject to relocation requirements contained in the URA and, in some cases, Section 104(d) (as modified by the HOME-ARP Notice) of the Housing and Community Development Act (also known as the Barney Frank Amendments). URA relocation requirements are triggered whenever displacement occurs as a direct result of rehabilitation, demolition, or acquisition of a HOME-ARP assisted project. Displacement includes residential and commercial tenants and owners. More information is available in HUD Handbooks 1378 and 1374.

As a practical matter, the Consortium discourages applications that involve permanent displacement because of the impact on residents, the cost, and the delay.

Costs Associated with Skagit County Administration of Development Projects

Skagit County, as lead agency for the Consortium, incurs costs associated with the oversight and administration of individual development projects, including both those that occur during the development phase (e.g., environmental review, underwriting, subsidy layering analysis, loan processing, and construction inspection/oversight) and those that occur during the HOME-ARP and Consortium affordability periods (e.g., monitoring and inspections). Skagit County may charge these costs to individual projects.

The costs incurred during the development phase will be included in the project’s per-unit subsidy and match calculations, but they will not be included in any indebtedness incurred by the project sponsor and thus are not included in the loan amount. Costs incurred during the affordability periods will be

charged as they are incurred by Skagit County. The project sponsor must include the estimated monitoring fee (as established by Skagit County) as an allowable operating cost in their operating budget for the project.