

# **APPENDIX C**

## **2018 HOME Program Policies and Procedures**

**Hudson County**  
**Division of Housing and**  
**Community Development**



**HOME Program**  
**Policies and Procedures**



Revised January 2018

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## I. Introduction

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The HOME Program was created by the National Affordable Housing Act of 1990 (NAHA) and is designed to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing.

HOME funds are used to achieve the following objectives:

- To provide decent affordable housing to lower-income households.
- To expand the capacity of non-profit housing providers.
- To strengthen the ability of state and local governments to provide housing.
- To leverage private sector participation.

Eligible activities are defined in accordance with the following categories:

- Housing rehabilitation,
- Homebuyer activities,
- Rental housing activities, &
- Tenant-based Rental Assistance (TBRA).

The HOME Investment Partnership Program (HOME) is designed to assist communities- often in partnership with local, non-profit projects. The Hudson County Consortium (the “Consortium”) for the HOME Program includes the eleven communities in the Hudson Urban County, East Newark, Guttenberg, Harrison, Kearny, Secaucus, Weehawken and West New York as well as the Entitlement municipalities of Bayonne, Hoboken, Union City, and North Bergen. The City of Jersey City is the direct recipient of HOME funds and is not included in the Consortium.

The Hudson County Consortium utilizes its HOME Program allocation to carry out activities that provide funds for the rehabilitation of very low and low income homeowners' units; to increase homeownership opportunities for very low and low income persons and families; and to increase the supply of affordable rental units for very low and low income persons at or below 80% of the Jersey City, New Jersey HUD Metropolitan area median income. These activities are consistent with the priorities set forth in the Hudson County Consortium's Consolidated Plan.

Although many types of activities are eligible under the federal HOME Investment Partnership Program (HOME) regulations, applications for funds must be in conformance with the housing priorities in the Consortium’s submitted 2015-2019 Consolidated Plan. These priorities include:

- Supporting the creation of new rental units through new construction or rehabilitation. Within this priority, there is also a focus on creating housing for individuals and families (under 55) and permanent housing for homeless individuals and families.
- Priority will be given to any project that is consistent with County initiatives, including but not limited to: ending veteran homelessness, housing for the very-low and extremely-low income, and redevelopment of foreclosed or abandoned properties.

## II. Distribution of Funding

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The Consortium distributes HOME funds geographically within the 11 municipalities listed above and among different categories of housing need, according to the priorities identified in its approved consolidated plan. The Consortium only invests HOME funds in eligible projects within its boundaries, or in joint projects within the boundaries of contiguous local jurisdictions, which serve residents from both jurisdictions.

The Hudson County Consortium municipalities include all Hudson County municipalities except the City of Jersey City which has its own HOME allocation and may only be funded by the Hudson County Consortium in select circumstances. In order for the Division to fund projects in the City of Jersey City, the applicant must have a documented commitment from Jersey City and units developed must be for populations that are consistent with the County's priorities such as homeless veterans and families.

Applications for Hudson County HOME funds are accepted on a rolling basis. Before committing funds to a project, the County of Hudson evaluates the project and will not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing.

Recognizing that Hudson County HOME funds are limited, funds are typically intended to provide gap financing for development projects and to fund projects that would otherwise not be available in the community.

A link to Hudson County's online HOME application may be found [through this link](#) or a paper copy may be requested by contacting the Housing & Community Development office.

### III. Eligible Projects

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#### A. Eligible Activities

HOME funds may be used to develop and support affordable rental housing and homeownership units. HUD regulations mandate that all housing supported with HOME funds must be permanent. Below is a list of eligible activities:

- New construction
- Rehabilitation
- Reconstruction
- Conversion
- Site improvements
- Acquisition of property
- Acquisition of vacant land if construction will begin on a HOME project within 12 months of purchase. Land banking is prohibited.
- Demolition of an existing structure may be funded through HOME only if construction will begin on the HOME project within 12 months.
- Relocation costs
- Refinancing
- Initial operating reserve
- Project-related soft costs
- Community Housing Development Organization (CHDO) Costs

#### B. Eligible Property Types

Both single site and scattered site developments are eligible for the HOME program. Single site developments are one or more buildings on one site that are under common ownership, management, and financing. Buildings scattered on more than one site as long as the sites are under common ownership, management, and financing, are eligible to received HOME assistance as part of a single undertaking.

#### *Single Room Occupancy (SRO)/Group Housing*



Permanent SRO's and group housing are eligible under the HOME Program, though they will not receive priority points. SROs are subject to more stringent underwriting guidelines and, minimally, must provide a set-aside of units with deep affordability for extremely low income persons. SROs must generally comply with rental housing guidelines. Specific guidance is available through CPD Notice 94-01 "Using HOME funds for Single Room Occupancy (SRO) and Group Housing" available from the County. Please request this notice if you are applying for such a project.

### ***Mixed-Income/ Mixed-Use Projects***

Mixed-income and mixed-use (i.e. residential and commercial) are eligible for HOME funds in the affordable portions of the building. However, project costs must be allocated on a rational, documented basis in accordance with the actual unit-by-unit expenditures; or prorating of expenditures reflecting the proportion of HOME units in the project; or a combination of both.

In a mixed-income project, designated HOME-assisted units may change over time (called "floating units as long as the total number of affordable units remains the same and the substituted units are comparable in size, features, and number of bedrooms).

### ***Tax Credit Funded Properties***

Tax credits and HOME funds may be used together and for the most part the rules are compatible. The general rule is that when Tax Credit and HOME rules conflict Tax Credit rules are to be followed. Any project receiving Tax Credit and HOME funds requires a layering review to ensure that the project is not receiving an excess amount of subsidy.

Ineligible properties include: projects assisted under title VI of NAHA- Prepayment of Mortgages Insured under the National Housing Act; Public Housing projects; Rental Rehabilitation Program funded projects; properties with existing obligations to any federal, state, or local housing program.

## **C. Site and Neighborhood Standards**

Housing provided through the HOME program must promote greater choice of housing opportunities. Specifically:

- HOME funded housing must be suitable from the standpoint of facilitating and furthering full compliance with Title VI of the Civil Rights Act- 1964, the Fair Housing Act and Executive Order 11063.
- New construction rental projects must meet the site and neighborhood standards from 24CFR 983.6(b), which places limiting conditions on buildings in areas of minority concentration and that are racially mixed.

The Consortium will consider siting and neighborhood standards during the application process. Neighborhood amenities such as access to transportation, healthcare facilities, supportive services, targeted development areas, environmentally safe areas, and access to grocery stores and banking will be considered.

The Consortium will also place priority on project sites that do not have any known environmental hazards. The County must conduct an environmental review on every project. It is the responsibility of the owner to ensure that the County has all the information necessary to complete the review. Project may not begin and funds may not be expended until the review is completed and funds are released by HUD.

#### **D. Forms of Subsidy**

HOME allows for a variety of forms of financial assistance to be provided for eligible projects and to eligible beneficiaries. The Consortium's approach to providing HOME funds is to provide the "gap" financing necessary to make the project affordable under the HOME rental / purchase and income guidelines. The focus of this type of underwriting is to maximize private financing and minimize HOME funds. Some forms of assistance will require legal instruments for implementation. HOME regulations list the following forms of assistance as eligible:

- Interest or non-interest bearing loans or advances
- Deferred Loans (forgivable or repayable)
- Grants
- Interest Subsidies
- Equity Investments

Applicants may propose any of the forms listed above; however the Division determines what forms of assistance it will provide. In general the Division provides funds in the form of loans. Projects that can be completed solely with private financing are not eligible.

Detailed underwriting standards for rental housing projects are noted under the rental housing section of these guidelines.

#### **E. Subsidy Limits**

The minimum amount of HOME funds that must be invested in a project involving rental housing or home ownership is \$1,000 times the number of HOME-assisted units in the project. Maximum per unit subsidy amounts are included in Appendix 2: Subsidy Limits.

Actual funding levels will vary project by project and may be lower based on cost reasonableness and needs of project.

#### **F. Eligible Beneficiaries/Residents**

The Hudson County HOME Program is designed to provide affordable housing to low and very-low-income households and individuals living in Hudson County. For local income limits and Fair Market Rents as defined by HUD, please see Appendix 3: HUD Area Income Limits.

While different restrictions apply to each type of activity, the method for calculating income is the same. The annual income definition found at 24 CFR Part 5 is used by a variety of Federal programs including Section 8, public housing and the Low-Income Housing Tax Credit Program and will be used as the qualifying standard for all County of Hudson HOME programs.

The Part 5 definition of 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 by all adult household members (everyone 18 years of age and older).

Detailed instructions for calculating annual income and determining eligibility for residents can be found in Appendix 6: Calculating Income Eligibility or completed using HUD's online calculator at <https://hudexchange.info/incomecalculator>.

### ***Rental Projects***

For rental projects with four or fewer HOME units, all households must be at or below 60% of Area Median Income (AMI). For projects with five or more units, 20% of the households must be at or below 50% of AMI and the remaining 80% of the units must be at or below 60% of AMI.

Units with multiple sources of funding may be governed by HOME rules as well as other restrictions. In these cases, the stricter of the two regulations will apply. For example, tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42.

To ensure ongoing compliance owners must establish systems to re-certify tenant income on an annual basis. Recertification documents will be monitored by the Division. Units must remain affordable for the duration of the affordability period. These provisions are provided in Section G below. For additional guidance, please see the Rental Compliance Monitoring Guide in Appendix 7: Rental Compliance Monitoring Guide.

### ***Homeowner Projects***

Eligible homebuyers must meet the following requirements:

- Household must be at or below 80% of area median income (*At time of purchase*);
- Household will ultimately use the dwelling unit as their principal residence; and
- Household will ultimately legally own the dwelling unit/property (as evidenced through a fee simple title, 99 year leasehold interest, or equivalent form of ownership approved by the County of Hudson)

### ***Hudson County Continuum of Care***

The Hudson County Alliance to End Homeless (HCAEH), the local administrator of the Continuum of Care, operates under Coordinated Assessment. All supportive housing for the homeless constructed with Hudson County HOME funds must fill those units through the Coordinated Assessment process. All HMIS data collection and usage must maintain compliance with the Dept. of Housing and Urban Development's HMIS Requirements and NJ Housing and

Mortgage Finance Agency's statewide NJ HMIS Policies and Procedures Manual. Please see the Coordinated Assessment Policies under the Library Tab. The U.S. Department of Housing and Urban Development is encouraging communities to use resources such as the HOME Program to assist in the creation of permanent housing for the homeless with a focus on the chronically homeless. As such the creation of such housing is a priority in our Consolidated Plan and the HOME application review.

In addition, the Veteran Committee of the HCAEH has established a working list of homeless veterans in Hudson County. All projects proposing to serve homeless veterans must work with the Committee and only take referrals from this list.

If you would like further information on how to use HOME funds to assist the homeless please refer to CPD Notice 03-08 which is available at the following website:  
<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/index.cfm>

## IV. Long Term Affordability and Occupancy Requirements

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### A. Rental Projects

The Consortium will provide initial maximum rent limits for each funded project, which may not exceed the published HOME Rents. For projects with five or more HOME units, 20% of the units must be at or below the following Low HOME rent and the remaining units must be below the High HOME rents. The Consortium may designate more than the minimum HOME units in a rental housing project to have Low HOME rents. The rent limit includes both rent and a utility allowance. If an applicant chooses to not include utilities in the rent, the rents must be reduced by the applicable allowances. Allowances are based on building type. Current rent limits and utility allowances are attached in Appendix 4 and Appendix 5.

The Division will allow the developer to determine if the assisted units are “fixed” or “floating”.

- A “fixed” unit is when the owner applies funding requirements to specific units throughout the affordability period.
- A “floating” unit is when the units designated as HOME assisted may change over the term of affordability, as long as the number of HOME assisted unit in the project remains constant.

Whether units are fixed or floating, there always has to be the required amount of designated HOME units in the projects.

Every unit assisted with HOME funds is subject to annually updated rent limits. The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

The Division must review and approve rents for each HOME-assisted project annually. The Developer must submit proposed rents to the Division each year (during the period of affordability) for review and approval. Undue rent increases from year to year are prohibited.

If the assisted unit has multiple subsidies, e.g. HOME and LIHTC the more restrictive guidelines must be met for the rent and income limits. Any increase in rents for HOME-assisted 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.

Additional information on rent limits can be found in the Consortium's Rental Compliance Guide included in Appendix 6.

### ***Lease Requirements***

The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by mutual agreement between the tenant and the owner. There are a number of prohibited lease provisions. Lease requirements can be found at §92.253.

Further lease and compliance information may be found in the Consortium's Rental Compliance Monitoring Guide found in Appendix 6.

### ***Affordability Compliance Period***

The minimum length of an affordability period depends on the amount of the HOME Investment in the property and the nature of the activity:

<b>HOME Investment per Unit</b>	<b>Minimum Affordability Period</b>
Less than \$15,000	5 years
\$15,000-\$40,000	10 years
More than \$40,000	15 years
New Construction or acquisition of newly constructed <b>rental</b> housing	20 years
Refinancing of <b>rental</b> housing	15 years

The Division reserves the right to impose longer affordability periods on a case by case basis.

Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent. In projects in which the HOME units are designated as floating, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

Tenants who no longer qualify as low-income (exceeding 80% of Area Median Income) families must pay as rent:

1. The lesser of the amount payable by the tenant under State or local law; or
2. 30 percent of the family's adjusted income.

## **B. Homeowner Projects**

All units must be sold at or below the HOME Unit Sale Limits (95 percent of the median purchase price for the area for the specified housing type) to an eligible buyer at or below 80

percent area median income. The sale price must be such that the amount of Principal, Interest, Taxes, and Insurance does not exceed 35 percent of the Buyer's annual income.

Unit prices may vary (underneath this limit) based on neighborhood trends, target buyers, and project underwriting.

The sale of a property and any assistance to a homebuyer require that the buyer be underwritten according to the County's HOME project underwriting guidelines for homebuyers. This underwriting will include standards for the first mortgage and establish the terms for any subordination of the HOME loan.

If HOME funds are used to help a purchase/acquire one or more rental units along with the homeownership unit, the HOME rental affordability requirements apply to the rental units.

The ownership interest may be subject only to the following:

- Mortgages, deeds of trust or other debt instruments approved by the County of Hudson; or
- Any other encumbrances or restrictions that do not impair the marketability of the ownership interest, other than the HOME Program restrictions on resale.

All homeowners must be provided homebuyer counseling prior to purchase.

Forgiveness of homebuyer debt will be conditioned on the requirement that the properties must be maintained in accordance with minimum local codes and standards throughout the affordability period.

### ***Resale and Recapture Policy***

To ensure investments provide affordable housing over the long term occupancy restrictions continue throughout the period of affordability. If a home purchased with HOME assistance is sold during the period of affordability ***resale provisions*** apply to ensure the continued provision of affordable housing over the entire period of affordability. Resale provisions are used because the Hudson County HOME program does not provide direct assistance to the homebuyer.

If the housing does not continue to be the principal residence of the family for the duration of the period of affordability, that housing must be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as its principal residence.

The minimum length of an affordability period depends on the amount of the HOME Investment in the property and the nature of the activity:

<b>HOME Investment per Unit</b>	<b>Minimum Affordability Period</b>
Less than \$15,000	5 years
\$15,000-\$40,000	10 years



More than \$40,000	15 years
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The Division reserves the right to impose longer affordability periods on a case by case basis.

All designated HOME-assisted property sales or transfers under the resale provision during the period of affordability shall meet the following criteria:

1. Sales prices shall be set such that the amount of Principal, Interest, Taxes, and Insurance does not exceed 35 percent of the new Buyer's annual income. Exceptions may be made for multi-unit HOME-assisted housing to account for rental income as needed.
2. The new purchaser must meet the criteria of low income, having an income between 60% and 80% of AMI, and occupy the property as the family's principal residence.
3. Net proceeds from the sale must provide the original homebuyer, a "fair return" on his/her investment (including any down payment and capital improvement investment made by the seller since purchase). The sales price may encompass the following in its formula:
  - a. The cost of any capital improvements documented with receipts including but not limited to the following:
    - i. Any additions to the home such as a bedroom, bathroom, or garage;
    - ii. Replacement of heating, ventilation, and air conditioning systems;
    - ii. Accessibility improvements such as bathroom modifications for disabled or elderly which were not installed through a federal, state, or locally funded grant program; and
    - iv. Outdoor improvements such as a new driveway, walkway, retaining wall, or fence.
  - b. The increase in the value of owner equity and investment as calculated by the cumulative percentage of change as calculated by the Housing Price Index (HPI) calculator of the Federal Housing Finance Agency <http://www.fhfa.gov/DataTools/Tools/Pages/HPI-Calculator.aspx> and projects what a given house purchased at a point in time would be worth today if it appreciated at the average appreciation rate of all homes in the area.

The resale policy is enforced through the use of restrictive covenants. The restrictive covenant will include the following:

1. Length of affordability;
2. Requirement that the home remain the buyer's principal residence throughout the affordability period; and
3. The conditions and obligations of the owner, should the owner wish to sell before the affordability period has expired, including:
  - a. Owner must notify the Hudson County Division of Housing and Community Development in writing if the wish to sell a HOME-assisted unit during the affordability period;



- b. The subsequent purchaser must be between 60% and 80% AMI and occupy the home as their primary residence;
- c. The sales price must be affordable to the subsequent purchaser; affordable is defined as limiting the principal, interest, taxes and insurance total amount to no more than 30% of the new purchaser's monthly income.

Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent.

## V. Funding and Underwriting

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### A. Application

Applications to the HOME program are accepted on a rolling basis. The application may be found and completed online [through this link](#). Please contact the Hudson County Consortium directly to receive a paper copy. Only complete applications will be reviewed.

Applicants and developers must be in compliance at all existing Hudson County Consortium funded developments in order to be eligible for new funding.

### B. HOME Subsidy Layering and Underwriting Policy

Before committing funds to a project, the Consortium will evaluate each application to determine the feasibility and eligibility. The experience of the project sponsor or developer in the field of housing development, rehabilitation and/or housing management will be assessed. In addition, the financial stability and quality of the project will be evaluated by the Division. This will include, at a minimum, an examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and an assessment of the current market demand in the neighborhood in which the project will be located, level of site control, amount of funding required, level of displacement and firm written financial commitments for the project.

#### ***General Underwriting Guidelines***

- a. Debt Service Coverage Test. Net operating income, after vacancy reserve and expenses, must be at least 115 percent (1.15 DCR) of the total annual debt service payments due from loan financing, if applicable.
- b. Minimum vacancy allowances of at least 5% will be used for underwriting purposes. Higher vacancy allowances may be used for smaller projects, consistent with sound underwriting practice.
- c. The Division will underwrite stabilized operating expenses as if the property were owned and managed at “arm’s length”, as in foreclosure. Management fees of 4-6% annually will be based on those commonly available in the market, and appropriate reserves based on scale and construction type will be used for replacement of capital items.