Alaska Housing Finance Corporation
Homeownership Development Program (HDP)

Attachment G: HDP Policy and Procedure Manual
Effective July 8, 2021

<u>AHFC reserves the right to grant waivers on AHFC policies that are not based on statute of regulatory requirements. AHFC will consider waivers at the request of the Grantee on a case by case basis.</u>

A. Program Overview

The purpose of this manual is to provide general guidelines for Grantee's of the HDP, to assist them in statutory compliance with United States Department of Housing and Urban Development (HUD) and Alaska Housing Finance Corporation (AHFC). This program meets the HUD objective of providing decent housing with improved affordability. It is always the Grantee's responsibility to administer HDP in accordance with State of Alaska Statutes and 24 CFR Part 92 the HOME Investment Partnerships Program HUD Final Rule.

By submitting an application, the applicant accepts all terms, conditions and requirements of the applicable Notice of Funding Availability (NOFA), and those contained in AHFC regulations, HUD regulations as they relate to the HOME program and are bound by Section II. HDP Policies and Procedures of the NOFA. The applicant's proposal will become part of the grant in the event the applicant is awarded program funds. The applicant will be bound by what is in the proposal, unless otherwise approved in writing by AHFC.

Omission within the NOFA package of provisions found in federal and state regulations or terms and conditions of AHFC's grant or loan agreement does not nullify or in any way relieve the applicant or AHFC of responsibility for complying with all applicable Federal and/or State Program requirements.

Proposals and other materials submitted in response to the NOFA become the property of AHFC and may be returned only at AHFC's discretion. Applications are public documents and may be inspected or copied by anyone after a Notice of Intent to Award Funds has been issued by AHFC. Financial statements included in the application may be considered public information unless a specific written request to restrict distribution is made by the applicant.

HDP awards are limited to participants in the USDA's 523 self-help homeownership program, AHFC Community Housing Development Organizations, Community Land Trusts and Habitat for Humanity organizations.

The maximum per-unit HOME subsidy for HDP developments is $40,000. The purchase price of the assisted units may not exceed the purchase price limits in paragraph B.7. Land acquisition, some site and infrastructure costs, and minimal soft costs are the only eligible costs.

The project sponsor is responsible for identifying homebuyer assistance resources that may be necessary for low-income homebuyers to purchase the home for the proposed sales price. Units assisted with HDP funds under this program are not eligible for buy down assistance under the Home Opportunity Program (HOP) but are eligible to receive down payment and closing cost assistance. The Grantee must contact the AHFC HOME Program Manager to receive approval to use HOP in conjunction with a HDP loan.

Applicants can choose to use the resale or recapture provisions for HDP projects as described in section B.16.

It is the responsibility of the Grantee to ensure that HDP is being administered in the best interest of the community(s) they are serving. To be eligible for the HDP, a homebuyer's household annual income may not exceed 80% of the area median income, as determined by HUD, adjusted for family size. The homebuyer must occupy the property being assisted with HDP funds as their principal residence.

The Grantee must conduct or contract with an outside entity to perform home inspections as described in the AHFC New Construction Inspection Guidelines.

B. General Provisions & Program Policies

1. **Eligible Activities**
   HDP funding may be used for real property acquisition and site improvements for new construction of permanent, single family housing; housing must be non-luxury housing with suitable amenities.

2. **Eligible Costs**
   The following table includes the only eligible acquisition and development hard and soft costs for HDP projects. In general, HDP funding is limited to costs related to land acquisition, site improvements and minimal soft costs. HDP soft costs may not exceed 10% of the HDP hard costs (acquisition and site work).

1.	**Acquisition Costs**
	Acquisition of Land and Buildings*
2.	**Construction Hard Costs**
	Site Work*
3.	**Construction Soft Costs**
	Contractor Overhead and Profit**
	Survey**
	Appraisal Fee(s)*
	Environmental Review**
	Affirmative Marketing & Fair Housing Implementation**
	Inspection Fees for Completion of Energy and Construction Inspections**

*** Direct Homebuyer Subsidy (amount subject to recapture)**
****Development Subsidy**

The maximum per-unit HOME subsidy for HDP developments is the lesser of $40,000, or the appraised value of the land and the onsite water and sewer utilities. In addition, the purchase price of the newly constructed HDP units may not exceed the limits described in B.7. of this document.

3. Ineligible Costs

Several types of costs are not eligible to be paid for with HOME Program subsidy funds. ***The exceptions listed below are general rules and must be evaluated for applicability by the applicants/sponsors certified accountant or tax attorney***:

a) Offsite expenses are not eligible under HOME. Examples are utility extensions of the main utility line. Generally, any cost associated with an activity outside of the property line is ineligible under HOME.

b) All costs that are not listed in 2. **Eligible Costs** above, are not eligible for HDP funding.

The project sponsor is responsible for insuring that the cost certification provided to AHFC accurately reflects eligible costs under HOME statutes.

Where the cost certification shows a decreased total cost, HDP funding will be limited to the Ratio of HDP funds to Total Development Costs per the submitted application. Where TDC is reduced, HDP funds will be reduced to maintain the application ratio. Where TDC is higher than the application amount, no additional HDP funds will be made available.

In no instance will HDP funds exceed the difference between all other available funds and the total development cost, nor shall it exceed the amount listed in the executed grant agreement.

4. The HOME Opportunity Program and Homeownership Development Program funds

HOME Opportunity Program (HOP) funds can be used in conjunction with HDP projects who receive direct development subsidy. However, households that receive HDP direct subsidy are not eligible for HOP buy-down funds. A household that receives HOME funding under the HDP and HOP Program is only eligible for down payment and closing cost assistance based on the guidelines found in the *HOP Policy and Procedure Manual*. The utilization of both programs may increase the affordability restrictions placed on the property. Please review Section 16 and 17 regarding affordability restrictions under the HOME program.

5. Subsidy Layering Review

A subsidy layering review is required to be performed on each project receiving HDP funds to ensure that the amount of HDP funds provided does not exceed the amount necessary to provide affordable housing. Successful applicants must notify AHFC immediately of any deviation in the sources and uses (including amounts) of funds, as identified in the application, to be contributed toward the project during its development. Changes which, in AHFC's opinion, result in more funds being contributed than the amount necessary to result in a feasible, affordable project, may result in a reduction in the HDP funds provided. In the event that all HDP funds have been disbursed, the excess amount, as determined by AHFC, must be repaid to AHFC.

A positive determination in each of the following key evaluation points is required to pass the subsidy layering review:

a) A determination that the total proposed funding (both private and public) does not exceed the total development costs for the project;
b) A determination that the costs are customary for the development of the project and reasonable in terms of industry standards;
c) A determination that the borrowers are not receiving excessive profit or windfalls from the sale.
d) A determination that the household's monthly PITI payments are at least 23% of the borrower's monthly income as qualified by the primary lender. The Grantee must provide evidence of compliance with this part prior to closing the HDP loan; the review is based on the following formula estimation: Monthly PITI > Annual income as qualified by the lender / 12 months x 23%.

All HDP awards are limited to that amount that is necessary to achieve development feasibility and borrower affordability.

6. Funding Limitations on Homebuyer Financing

HDP funds may only be used in conjunction with fixed interest rate and term, fully amortizing, first deed of trust loans. In no event may HDP funds be used to assist a homebuyer whose primary loan is a non-traditional product with features such as interest only, variable interest rates and/or terms, or balloon payments. In addition, HDP clients are required to work with an AHFC approved lender; other lenders may originate AHFC loans in partnership with an approved lender. A list of AHFC approved lenders is located at: https://www.ahfc.us/buy/prequalify/approved-lenders.

In certain circumstances this requirement can be waived by submitting an appeal to the HOME Program Manager.

Federal government lenders are eligible after the Grantee has performed a subsidy layering review. The Grantee may not commit any more HOME funds, in combination with other governmental assistance, than is necessary to make the home affordable. Before committing funds to a homebuyer the Grantee must evaluate the loan in accordance with the guidelines that it has adopted for this purpose.

7. **Maximum Purchase Limit**
The maximum purchase limit cannot exceed 95 percent of the median purchase price for that type of single-family housing for the area, as published by the Department of Housing and Urban Development. Current limits can be accessed at https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/ or by contacting the AHFC HOME Program Manager, (907) 330-8235.

Grantees must get a Broker's Opinion of Value or an appraisal in order to determine property value. Grantees who chose the value method must document in the project files the value and the basis for the value estimates. Grantees who choose the appraisal method must document the appraised value and the appraisal approach used. In no instance can the combination of primary, secondary, and non-forgiveable HOP assistance exceed either the HUD value limits or the appraised value of the real property.

8. **Affirmative Marketing Agreement and Outreach Requirements**
The Grantee must administer HDP in accordance with Affirmative Marketing requirements, including that the Grantee establish an Affirmative Marketing Plan (utilizing HUD form-935.2) which details:

a) Methods for informing the public, and potential homebuyers about fair housing laws and the owner's policies regarding compliance with fair housing laws. Projects must also include practices regarding equal opportunity lending practices.

b) A description of what the Grantee will do to affirmatively market housing assisted with HOME funds.

c) A description of what Grantee will do to inform persons not likely to apply for housing without special outreach. Based on historical data for the HOME program, the groups least likely to apply are persons who are minorities such as Hispanic, Black, and Asian or Pacific Islander, people who have Limited English Proficiency (LEP) and persons living in rural communities in the State.

d) A description of how the Grantee will maintain records documenting actions taken to affirmatively market HDP and to assess marketing effectiveness.

e) A description of how the Grantee's affirmative marketing efforts will be assessed and what corrective actions will be taken where requirements are not met.

9. **MBE/WBE and Section 3**

Grantees must establish a Section 3 and MBE/WBE plan. Minority and Women's Business Enterprise Act requirements apply to all contracts which the Grantee may enter into associated with HDP.

At a minimum, the Grantee's MBE/WBE Action Plan should include the following:

a) Create an in-house list of minority and women-owned business enterprises interested in providing services and/or supplies.
b) Use the minority and women-owned business contractor list to ensure that bids are received from such enterprises qualified to perform the needed work.
c) Implement an outreach program designed to inform minority and women-owned business enterprises of present and future contract opportunities.
d) Establish minority and women-owned business utilization goals covering contracts for services/supplies that have an estimated value above $25,000 and contain items that can be subcontracted.
e) Assist contractors and potential contractors to identify qualified minority and women-owned business enterprises to participate as subcontractors.

The Central Contractor Registration website can help identify and verify MBE/WBE businesses: https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf.

Grantees of HOME funds exceeding $200,000 are subject to Section 3 Act requirements in their own hiring practices. Additionally, each construction or professional service contract exceeding $100,000 which the Grantee enters into for any purpose associated with HDP is also subject to Section 3 Act requirements. For instance if the Grantee enters into a contract exceeding $100,000 with a general contractor who will build the homes to be purchased by HDP home buyers, that contract is subject to Section 3 Act requirements.

The Grantee's Section 3 plan should demonstrate how it will contribute to AHFC's Section 3 goals, as listed below:

a) Training and Employment: 10 percent of new hires
b) Contracts: 10 percent of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction, and three percent (3%) of the total dollar amount of all other Section 3 covered contracts.

At a minimum, the plan should include:

a) Procedures designed to notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
b) Notifying potential contractors for Section 3 covered projects of the requirements under Section 3, and incorporating the Section 3 Clause in all solicitations and contracts.
c) Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns by undertaking activities such as

described in the Appendix to 24 CFR Part 135, as appropriate, to reach the numerical goals stated above.

d) Assisting and actively cooperating with HUD (and AHFC) in obtaining the compliance of contractors and subcontractors with the requirements of the Section 3 Act, and refraining from entering into any contract with any contractor where the recipient has notice of or knowledge that the contractor has been found in violation of the regulations in 24 CFR Part 135.

e) Documenting actions taken to comply with the requirements of the Section 3 Act, the results of actions taken and impediments, if any.

10. Changes to Applications After an Award is Made

AHFC will not approve any project changes pertaining to rating criteria that would modify the order in which applications were ranked during the rating process. For requested changes which would not affect the ranking order, AHFC will consider such changes only if there is substantive reason(s), in AHFC's opinion, to believe that in not approving the change, the financial feasibility of the project will be compromised.

If the Corporation determines that a proposed change has a significant impact on the ranking and or financial evaluation of the application, it may revoke the reservation or allocation (15 AAC 151.700-890).

11. Debarment and Suspension

Neither applicant, nor its principals, may be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any State and/or Federal programs. In addition, the applicant is responsible to ensure that each contractor and subcontractor performing work on the assisted housing is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any State and/or Federal programs. See federal "Excluded Parties Listing System" at:
https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf.

If awarded HDP funds, the recipient must obtain a certification, utilizing an appropriate form provided by AHFC, from each contractor or subcontractor which performs work on the assisted property. A copy of the certification must be maintained by the recipient in the development file. The recipient may rely on the certification received from the contractor or subcontractor, unless it knows the certification is erroneous.

12. Project Leveraging and/ or "Matching" Contributions

AHFC encourages applicants to explore other sources of local, state, federal, and private funding which may be used in conjunction with HDP funds.

Some sources of funds contributed as part of the development's financing package which constitute leveraging, may not qualify as a "match" contribution. Forms of "matching" contributions, and examples of the way in which match contributions are calculated, are available from AHFC.

HDP Grantees may be required to report on and supply AHFC with supporting documentation pertaining to the amount of HOME "match" incurred each quarter. "Matching" contributions are defined at 24 CFR Part 92; HUD Notice CPD 97-03 provides guidance in identifying eligible sources of matching contributions and calculating the value of matching contributions and can be downloaded at: https://www.hudexchange.info/resource/2676/notice-cpd-97-03-home-program-match-guidance/

13. Minimum Required Property Standards

All codes and standards must be met prior to occupancy. Housing that is constructed or rehabilitated with HDP funds must meet the requirements of the AHFC New Construction Inspection Guidelines, available at: https://www.ahfc.us/pros/builders/alaska-minimum-construction-standards/, in addition to the below listed requirements:

a) All residential buildings with four or more units must obtain a permit from the Alaska State Fire Marshall, as per AS 18.70.010-18.70.100. In communities that have accepted a deferral for full code enforcement, plans should be submitted directly to the city (Anchorage, Juneau, Fairbanks, Kenai, Seward, Kodiak, Sitka and Soldotna). For more information, contact the Alaska State Fire Marshall.

b) If an applicant proposes to rehabilitate a building built before 1978, a lead based paint inspection and risk assessment performed by an EPA-certified lead-based paint inspector/risk assessor must be completed, and the abatement of all present lead-based paint in the project must be included as part of the project.

e) No T1-ll, board and batten, or similar type of wood siding may be used on any exterior wall surfaces. Allowable wood siding must be of a lapping type, where vertical joints/grooves are limited to end to end connections of vertically overlapping planks, shakes, or similar applications.

f) Space and Domestic Hot Water appliances must be sealed combustion and shall not take combustion air from inside the building.

g) Universal Design per attachment I.

h) All properties will meet minimum requirements for BEES compliance. Grantees may only exceed the minimum score requirement if it is deemed cost effective through completion of the Optimal Star Selection process detailed in the current HDP Notice of Funding Availability & Rating Criteria.

14. Property Standards Inspections

The Grantee must conduct or contract with an outside entity to perform home

inspections. The property inspection must be completed by a person who is: approved or certified to perform residential inspections with the State of Alaska under AS 08.18, is an architect registered under AS 08.48, or is an engineer registered under AS 08.48
(please see http://www.touchngo.com/lglcntr/akstats/Statutes/Title08/Chapter18.htm). The Grantee must verify that the contractor is licensed by conducting a search or by downloading an entire listing of State certified home inspectors at https://www.commerce.alaska.gov/cbp/main/ . This information should be kept on file. The Grantee may not rely on an inspection conducted by a third party such as a homebuyer inspection or FHA appraiser. If necessary, Grantees should discuss recommended repairs with the homebuyer, and include necessary repairs as requirements in an amended earnest money agreement. All repairs included in the earnest money agreement must be evidenced as completed before closing.

15. Homeownership Resale and Recapture Model

All HDP projects will use the recapture model unless the applicant requests to employ the resale method at the time of application for funding and receives AHFC authorization.

A. Homeownership Resale Model

The resale model requires that when a homeowner sells their home, he or she sells it for a restricted price to a low income household (80% below the median income). HOME funds up to $40,000 may be provided in assistance. HOME Opportunity Program (HOP) funds can only be used for down payment and closing cost assistance in a HPD assisted project, interest buy downs are not an eligible cost. For purposes of the HOME program, acceptable HDP projects using the resale option must include the following features:

- Homeownership restrictions must remain in place for the minimum period of affordability. The resale affordability period will be determined by amount of direct development assistance provided under the HDP in addition to any HOP assistance provided to the original homebuyer. The affordability period is based on the amount of assistance and is as follows:

Less than $15,000	5 years
$15,000 to $40,000	10 years
More than $40,000	15 years

For example, a unit may receive $40,000 in HPD development subsidy and $10,000 in down payment assistance from the HOP program. The total HOME assistance is $50,000 and the affordability period is 15 years. All subsequent homebuyers for 15 years will need to be 80% below the median income.

- An assistance agreement with the original homebuyer and all subsequent homebuyers must be established based on the affordability period.

- In the event that the original homebuyer sells the home and the subsequent homebuyer receives HOP assistance the resale period restarts, based on the amount of new HOP assistance received. For example, the original homebuyer received $50,000 in HOME assistance (development subsidy + down payment assistance) and the affordability period was 15 years. The homebuyer sold the home after owning it for 5 years and the new homebuyer received $10,000 in HOP assistance. The affordability period would restart at time of sale and would now be 5 years.
- A sample ground lease for the property must be approved by AHFC before any Assistance will be approved. The lease must specify the Grantees first right of refusal, the homeowner's maximum share of appreciation, resale formula, and other restrictions required by 24 CFR Part 92.
- The resale formula may allow the homeowner to realize a maximum of 50 percent of the home's (market) appreciation. Increased home value due to the homeowner's capital investment in the home may be retained in full by the homeowner.
- The remaining (market) appreciation (at least 50 percent) must be factored into the resale formula to reduce the home's subsequent sales price, making the home increasingly more affordable over the 99 year lease period.
- The Grantee must agree to exercise a first right of refusal in any subsequent sales of the home.
- The Grantee must agree to verify incomes of the original homebuyer and any subsequent homebuyers, and provide documentation of income verification to AHFC during the affordability period.

B. Homeownership Recapture Model

Under the recapture model the first $10,000 in direct homebuyer assistance is provided as a forgivable loan. Direct homebuyer assistance consists of any financial assistance, including additional HOP funds, that reduces the purchase price from fair market value to an affordable price, or otherwise directly subsidizes the purchase by the homebuyer (e.g., down payment or closing cost assistance, subordinate financing). For every year after the commencement of the affordability period the homeowner continues to own the home and make it his or her primary residence, the loan will be forgiven by a maximum of $2,000, or twenty percent (20%) of the loan, whichever is less. Any remaining homeownership development assistance provided will be secured against the home as a loan with zero percent (0%) interest, repayable at the time the homebuyer no longer owns or occupies the home as a primary residence. The recapture provisions will be triggered by a sale prior to the completion of the affordability period. The amount subject to recapture is the total amount of direct assistance less the prorated amount of the first $10,000 forgiven per the terms described above plus, any amounts unforgiven.

If the net proceeds of the sale (voluntary or otherwise) are not sufficient to recapture the HOME investment owed to AHFC, this amount may be reduced. The homeowner must show that the appraised value of the home is not sufficient to pay off the HOME loan(s) in addition to any other lien in superior position, and standard and customary seller's closing costs. Net proceeds are calculated by the sales price less any non-HOME loans or repayments less closing costs. In the event of foreclosure, the amount of funds required to be repaid is the amount that would be recaptured and are subject to net proceeds provisions.

16. Periods of Affordability

A recipient of HOME funds must agree to a "*period of affordability*", or period of compliance or obligation. The HDP homebuyer must continue to own and occupy the assisted property as their primary residence throughout the period of affordability. The chart below shows the period of affordability for projects that receive any HOME assistance.

Applicable Minimum Periods of Affordability:

Type of Activity/ Per Unit Subsidy	Period of Affordability HOME
Under $15,000	5 years
$15,000 to $40,000	10 years
$ Over $40,000	15 years

The period of affordability begins on the date that AHFC has entered the project completion information and closed the activity in HUD's disbursement and information system. AHFC will notify the HDP homebuyer in writing to inform them of the date the period of affordability commences. Generally, AHFC will close the project in HUD's disbursement and information system within thirty (30) days after AHFC's acceptance of the final closeout of the Grantee's HOME grant.

17. Applicant Eligibility

A. General Requirements

i. The applicant must intend to occupy the property to be purchased as his/her **primary residence for a term not less than the Minimum Period of Affordability.** To conclude that this will be the case, the Grantee should review with and have the applicant sign the Assistance Agreement. Please note that if the homebuyer fails to meet the principal residence conditions the entire principal of the HDP subsidy is due to AHFC within 30 days of notification of noncompliance.

ii. The applicant's **annual income must not exceed the HDP limit**, utilizing the annual income definition and verification methods identified in the Income Eligibility section below.

iii. The applicant **must not be delinquent (in arrearage) on any child support obligation.** The Grantee must send AHFC Form #UND-22 or the Verification Form #04-0950 (found on CSED's website) to the Child Support Enforcement Division to verify this fact.

iv. **Homeowner's Insurance.** Homebuyers receiving HDP assistance must agree to list AHFC as a loss of payee on their homeowner's insurance for the duration of the affordability period.

The policy must contain the insurance industry's standard loan clause. Such clause must provide notification to the named loss payee at least ten (10) days before any reduction in coverage or cancellation of the policy. A mortgagee clause that amounts to a mere loss payable clause is not acceptable. A mortgagee clause should read "Name of Servicer, its successors and assigns."

In the event a Policy is changed, transferred, or otherwise modified, AHFC must be informed of all changes an listed as a loss payee.

v. **Homebuyer Counseling.** Homebuyers receiving HOME assistance must agree to participate in a homebuyer counseling program. A homebuyer counseling program must be conducted for a minimum of eight (8) hours by a certified counselor (the AHFC HomeChoice class meets this requirement). In exceptional circumstances this requirement can be waived by submitting an appeal to the HOME Program Manager. Subject matter for homebuyer counseling may include, but is not limited to, the following:

(a) Instruction in financial management;
(b) Homebuyer education;
(c) Credit management; and
(d) Job training and/or placement.

The Grantee must retain documentation in the Project File pertaining to attendance, counseling, and/or training used to guide the homebuyer toward homeownership.

B. Income Eligibility

All homes that will benefit from a HOME subsidy must be restricted to persons/families whose annual income does not exceed 80% of the area median income. Income limits are adopted specifically for the HOME Program and can be obtained by contacting the AHFC HOME Program Manager or at:
https://www.hudexchange.info/manage-a-program/home-income-limits/

In order to insure that the families are income qualified, (i.e. have incomes less than 80% of the median) project sponsors are required to verify total family income prior to occupancy. Income eligibility determinations are valid for six months prior to the date that HOME funds are invested in the property. A family's gross income, which determines their eligibility, must be calculated using the guidelines of the adjusted gross income as defined by the IRS Form 1040 series for individual Federal annual income tax reporting purposes. A compliance manual is available from AHFC upon request or can be accessed at

https://www.hudexchange.info/resource/3002/homefires-vol3-no8-impact-of-changes-to-section-8-income-calculation-methodology/ .
AHFC strongly recommends that applicants review the compliance manual before deciding to apply for Homeownership Development Program funding.

18. Project Commencement and Completion Deadlines & Requirements

Use of HOME funding requires that certain development milestones be achieved in order to retain these forms of federal funding. Refer to the HDP Notice of Funding Availability for specific timeframes and deadlines that are applicable to the current funding year. In general, the following timeframes and deadlines apply to all HDP projects: applicants are required to submit all Environmental Review Record (ERR) documentation within sixty (60) days of AHFC's issuance of the HDP Notice of Intent to Award; AHFC may terminate a grant in which no funds have been disbursed within twelve (12) months following the commencement of the performance period.

19. Project Termination

HOME funds disbursed to a project which is terminated before it is completed, whether voluntarily by AHFC or the recipient, or otherwise, will be recaptured by AHFC. HOME funds must be repaid to AHFC (24 CFR Part 92.252).

20. Revocation or Recapture of HOME Fund Awards

HDP fund awards may be revoked or recaptured, at AHFC's discretion, for violations of program rules, regulations, or statutes; inability of the applicant/sponsor to complete the project on time; failure of the sponsor/applicant /owner to meet deadlines or other reporting requirements during the development phase of the project; fraudulent activities; performance on previous AHFC financed or funded projects; or knowingly mislead AHFC through actions or statements concerning the award of HOME funds.

If AHFC determines that the award of HOME funds must be revoked or recaptured the grantee will receive a written explanation detailing the following items:

a) The reason for the action;
b) The federal or state rules, regulations or statutes violated;
c) AHFC remedy for the action; and
d) The appeal process that is available to the project sponsor or recipient of HOME funds.

21. Restricted Use Agreements

Successful applicants to HDP will be required to execute Declaration of Covenants, Conditions, and Restrictions (DCCR), and/or Note and Deed of Trust (DOT), as appropriate, prepared by AHFC, to be recorded and run with the real property. These documents, as applicable, shall identify all, or part, of the provisions of the Homeownership Award, including affordability provisions, and any other agreements made between the project sponsor/owner and AHFC.

Special Case for HOME-Assisted Homeownership Projects with Resale Restrictions

Under the HOME-funded home ownership component, the restrictive covenant must restrict the transfer of title of the property to income-eligible households at or below 80% of the median family income for the area, adjusted by household size, as determined by HUD throughout the "period of affordability". These restrictions, called "resale restrictions", must also ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's original investment and any subsequent homeowner investment in capital improvements). Resale restrictions must be proposed by the CHDO developing the homes and approved by AHFC in advance.

Special Case for HOME-Assisted Homeownership Projects with Recapture Restrictions

HOME-funded HDP projects that have chosen in their Application to use the recapture option must sell the property must be sold to an income-eligible household at or below 80% of the median family income for the area, adjusted by household size, as determined by HUD. A Note and Deed must be recorded on the property that ensures that funds will be repaid to AHFC, if the affordability conditions are not met. AHFC may also determine that other funds must be repaid to AHFC when the property is sold in order to recycle the HOME assistance as program income and help other future program participants. When the recapture method is used, it is AHFC's responsibility to service the lien that has been placed on the property.

22. Reporting Requirements

All projects receiving HOME funds, must comply with the reporting requirements that are specified in any grant agreements, award letters/documents or loan documents. These reporting requirements are detailed in the documentation provided to successful HDP recipients. These requirements generally fall into one of four categories:

1. **Quarterly Progress Report.** Until the project is 100% complete and all required final reports are submitted to AHFC, the recipient must submit a quarterly progress report. The content of this report will be specified in the grant agreement.

2. **Homebuyer Eligibility Approval Form.** Grantees are required to submit this form to AHFC at least thirty (30) days prior to the closing of the individual household HDP loan.

3. **Resolution Report of Monitoring Findings.** During the course of project development, AHFC may perform administrative monitoring of the recipient, which may include on-site monitoring of the development.

   i. The recipient shall prepare a Resolution Report that addresses any problems found by AHFC during the review. This report shall be provided to AHFC within a timeframe specified by AHFC, up to 45 calendar days following the date of the monitoring report.

4. **Final Cost Certification and Closeout Documentation Checklists.** Before payments of any funding retainages, the recipient shall provide to AHFC a Certified Public Accountant or Tax Attorney's certified audited statement of Final Development Costs. The requirements of this final cost certification are contained with in the AHFC publication Guide to Performing Cost Certifications available from AHFC or by downloading it from AHFC's web page at http://www.ahfc.us . Recipients must also submit other closeout documentation specified within the grant and/or loan agreements.

5. **A Financial Audit** as may be applicable under State or Federal laws.

23. Post-Completion Compliance Monitoring

AHFC monitors all HOME assisted projects constructed in Alaska for compliance with all applicable federal and state laws for the duration of the period of affordability. Compliance audits are conducted annually and cover all facets of the home buyer selection and qualification process, property standards, and rules established under federal law for the HOME programs. In addition, any representations made to AHFC by the sponsor/owner that are included in the *Restricted Use Agreements and Covenants* will also be audited.

24. Record Keeping

Grantees shall be responsible to establish and maintain sufficient records to enable AHFC and/or HUD to determine whether the Grantee has met the requirements of the Grantee Agreement and the Policies and Procedures outlined in this Manual. Additionally, project files must be set up in a manner prescribed by AHFC, unless approved by AHFC in advance. At a minimum, the following records are required to be kept by the Grantee:

Homebuyer Records

- A file checklist created by the Grantee
- Homebuyer application
- Inspection records
- Income calculation worksheet
- Income eligibility verification documents
- BEES certification
- Appraisals/ Broker's Opinion of Value
- Note
- Deed of Trust
- Assistance Agreement
- Copy of fully executed purchase agreement
- Addendums to the purchase agreement

- Final Settlement Statement (HUD-1)
- AHFC Subordination Agreement signed by homebuyer
- Verification from CSED that applicant is not delinquent (in arrearage) on any child support obligation.
- Evidence that AHFC is listed as a loss of payee on the homeowner's insurance.
- Records demonstrating that each project meets the property standards established within the AHFC Minimum Construction Inspection Guidelines.
- Records demonstrating that the value of the property, at the time of purchase, did not exceed the Single Family Mortgage Limits under Section 203(b) of the National Housing Act.
- Records demonstrating that any applicable homebuyer counseling obligations were meet.

Programmatic and Administrative Records:

- Records which identify all sources and amounts, and application of funds contributed to the project, including the type of primary loan and any other grants, loans or owner contribution to the project.
- For programs operating under the resale option, records demonstrating the income eligibility of any homebuyer purchasing the home during the required ownership and occupancy period, and records demonstrating that the resale price was in accordance with the resale formula approved in advance by AHFC.
- Records identifying the source and application of program income, repayments and recaptured funds.
- Records demonstrating adequate budget control, in accordance with 24 CFR 85.20, including evidence of periodic account reconciliation.
- Records demonstrating compliance with the Grantee Agreement.
- Records demonstrating compliance with applicable uniform administrative requirements identified within the Policy and Procedure Manual.
- Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.
- Equal Opportunity, Fair Housing and Affirmative Marketing Records.
- If applicable, records supporting requests for waivers of the conflict of interest prohibitions identified in 24 CFR Part 92.356.
- Records of certifications concerning debarment and suspension required by 24 CFR Part 24 and 91.
- Records demonstrating compliance with the labor requirements of 24 CFR Part 92.354, including contract provisions and payroll records (required for all contracts involving 12 or more HOME-assisted units).

25. Period of Record Retention

If multiple funding sources are involved in a project, then the most restrictive requirement must be followed.

HOME-assisted project records, except as provided in a), b), or c) below, must be retained for five years after AHFC closes out the applicable federal fiscal year funding with HUD.

a) If any litigation, claim, negotiation, audit, or other action has been started before the expiration of the regular period specified above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period, whichever is later.

b) Records regarding project requirements (property standards, affordability, and applicant eligibility records) and Equal Opportunity and Fair Housing, Affirmative Marketing, and Flood Insurance, and the written agreement and inspection and monitoring reports must be retained for five years after the required period of affordability.

c) Records covering displacements and acquisition must be retained for at least five years after the date by which 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 Part 92.353.

26. Access to Record(s)

The recipient must provide AHFC, HUD, the Comptroller General of the United States, or any of their representatives, with reasonable access to all and any records pertaining to the recipient's administration of HDP funds provided by AHFC.

27. Program Fees

There are presently no required fees under the HDP, however AHFC reserves the right to charge $100 per day late fees for late filings of closeout documentation.

C. Other Federal Rules

1. Davis-Bacon Act

(40 U.S.C. 276a - 276a5)/Contract Work Hours and Safety Standards Act (40 U.S.C. 327 - 332) Developments which involve the construction (rehabilitation or new construction) of housing that includes **twelve (12)** or more HOME-assisted units must comply with Davis-Bacon Act wage requirements, as well as the provisions of the Contract Work Hours and Safety Standards Act.

In the event that the development's final development costs, as identified in the Final Development Cost Certification results in a determination that the development contains twelve (12) or more HOME-assisted units (wherein the initial determination, based on original development cost data provided as part of the grant application, did not), the recipient will be required to provide a written certification, signed by the Grantee's

Executive Director (or equivalent) certifying that the requirements of these Acts have been met.

2. Section 504 Compliance

General Construction and Rehabilitation Requirements: The Grantee must comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with implementing regulations at 24 CFR Part 8.

This requirement applies to the entire project, not just HOME-assisted units within the Project.

Section 504 requirements are mandatory for all new construction of projects with five or more units, and for rehabilitation projects with more than fifteen units and where the cost of rehabilitation is 75% or more of the replacement cost of the completed housing project.

For applicable projects, a minimum of 5% of the total number of units or at least one unit in a multi-family housing project, whichever is greater, must be accessible to persons with mobility impairments. In addition, for newly constructed housing units, a minimum of 2% of the total number of project units, but not less than one, must be made accessible to persons with hearing or vision impairments.

Appraisal Completion for Rehabilitation Projects: To establish whether Section 504 requirements are applicable, for rehabilitation projects which contain more than fifteen units and which do not propose to meet Section 504 requirements, prior to executing the HOME agreement, the developer must provide AHFC with a current appraisal, completed by an independent, appropriately certified, appraiser. The appraisal must establish the replacement value of the as-to-be completed development. If the appraisal establishes that the cost of rehabilitation is 75% or more of the replacement costs of the as-to-be completed housing development, the requirements of Section 504 must be met.

3. Flood Disaster Protection Act

HOME recipients are subject to the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), which provides that HOME funds may not be used with respect to acquisition, new construction, or rehabilitation of a project located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- The community in which the area is situated is participating in the National Flood Insurance Program (44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and
- Flood insurance is obtained as a condition of approval of the assistance.

4. The Fair Housing Act (42 U.S.C. 3601-20)

And implementing regulations at 24 CFR part 100.

5. Executive Order 11063

As amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., page 652 and 3 CFR, 1980 Comp., page 307) (Equal Opportunity in Housing), and implementing regulations at 24 CFR part 107.

6. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d)

(Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1; Executive Order 11246 (3 CFR 1964-65, Comp., page 339)(Equal Employment Opportunity), as amended by Executive Orders 11375 and 12086, and the implementing regulations issued at 41 CFR chapter 60.

Under these acts, no person shall on the grounds of race, color, religion, sex, national origin or age be excluded from participation in, be denied the benefits or be otherwise subject to discrimination under this program. The recipient will adopt affirmative marketing steps, as described in 24 CFR Part 92.351, consisting of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing.

Please note that HOME funds may not be utilized to pay for any activities that are procured through bid documents that include a specific minority preference, even if such a preference is lawful or required under another source of funds' statute or implementing regulations (such as the Native preference often used with funds associated with the Native American Housing and Self Determination Act (NAHASDA)).

7. Age Discrimination Act of 1975 (42 U.S.C. 6101-07)

And implementing regulations at 24 CFR Part 146.

8. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u)

The purpose of which is to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons, particularly those who are recipients of government assistance for housing.

9. Executive Orders 11625, 12432 and 12138 (Minority Business Enterprise and Women's Business Enterprise)

Which state that program participants shall take affirmative action to the maximum extent possible to encourage participation by businesses owned and operated by minority groups and women in all contracts entered into with such persons or entities, public and private, in order to facilitate the activities to provide affordable housing under this Agreement.

10. Drug Free Workplace Act of 1988 (41 U.S.C. 701)

Sponsors must comply by:

a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b) Establishing an ongoing drug-free awareness program to inform employees about:

   i. The dangers of drug abuse in the workplace;
   ii. The applicant's policy of maintaining a drug-free workplace;
   iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
   iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c) Making it a requirement that each employee to be engaged in the performance of the HOME funded activity be given a copy of the statement required by paragraph a);

d) Notifying the employee in the statement required by paragraph a) that, as a condition of employment under the HOME funded activity, the employee will:

   i. Abide by the terms of the statement; and
   ii. Notify the employer in writing of his or her conviction for a violation of the criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title to every grant officer or other designee whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of the affected HOME funds;

f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(ii), with respect to any employee who is so convicted:

i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f);

h) Providing the street address, city, county, state, and zip code for the site or sites where the performance of work in connection with the HOME funds will take place. For some applicants who have functions carried out by employees in several departments or offices, more than one location may need to be specified. It is further recognized that some applicants who become HOME fund recipients may add or change sites as a result of changes to program activities during the course of the HOME funded activities. Applicants, in such cases, are required to advise AHFC by submitting a revised "Place of Performance" form. The period covered by the certification extends until all funds under the specific HOME funding has been expended.

11. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) *(Revised 7.1.2010)*

As amended, and the implementing regulations at 49 CFR Part 24; **HOME policies for relocation assistance (24 CFR part 92.353).** For SRO projects, recipients must comply with 24 CFR 882.803(d).

49 CFR Subpart B sets forth the real property acquisition requirements for Federal and federally-assisted programs and projects under the URA. Generally, the URA regulations have different requirements for acquisitions of a voluntary nature and for acquisitions under threat or use of eminent domain (condemnation). For ease of understanding, this HUD Handbook 1378 refers to the different types of acquisitions as: 1) Voluntary acquisitions (transactions with no threat or use of eminent domain meeting the criteria set forth in 49 CFR 24.101(b)(1) through (5)); and 2) Involuntary acquisitions (acquisitions subject to threat or use of eminent domain). Under the URA, voluntary acquisitions which satisfy the requirements of 49 CFR 24.101(b)(1)-(5) are not subject to the acquisition requirements of 49 CFR Part 24 Subpart B. A common misconception is that a "willing seller" or "amicable agreement" means a transaction is "voluntary." This is not necessarily true under the URA and the applicable requirements of 49 CFR 24.101(b)(1)-(5) must be satisfied for a transaction to be considered a "voluntary acquisition" for purposes of the URA.

In cases where persons (e.g., private developer, agent, non-profit organization, etc.) pursue the acquisition of real property "officially or unofficially" on behalf of an agency for a federally-funded project, such persons must satisfy the applicable voluntary acquisition requirements of 24.101(b)(1)-(5).

Under these acts, the recipient must take all reasonable steps to prevent or minimize the displacement of families, individuals, or businesses. If displacement or relocation will occur, the recipient must certify that it has officially adopted and will follow an anti-displacement and relocation assistance plan, submitted to and approved by AHFC prior to any displacement. Additionally, see application instructions for further application requirements regarding notices required to be submitted to all tenants occupying a unit in the building at the time of application.

In instances where the cash rental assistance payments under the URA do not exceed $500, at least three installments will be required. Please refer to HUD's prohibition on lump sum payments in 42 USC Section 3537c for further information.

12. Environmental Review (25 CFR Part 58).

The applicant will not enter into a contract for, or otherwise commit HOME funds for acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under this grant, prior to AHFC's completion of an environmental review in accordance with 25 CFR Part 58.

13. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and the implementing regulations at 24 CFR part 35.

The use of lead-based paint is prohibited whenever HOME funds are used directly or indirectly for the construction, rehabilitation, or modernization of residential structures. Immediate lead-based paint hazards existing in residential structures assisted with HOME funds must be eliminated, and purchasers and tenants of assisted structures constructed prior to 1978 must be notified of the hazards of lead-based paint poisoning. For rehabilitation projects involving housing built before 1978 using HOME funds, extensive regulations apply to the manner in which housing is inspected, rehabilitation work is completed, and lead based paint clearance is achieved. See 24 CFR part 35 for more details.

<u>If an applicant proposes to rehabilitate a pre-1978 building with the use of HOME funds, a lead based paint inspection and risk assessment performed by an EPA-certified lead based paint inspector/risk assessor, and the abatement of all present lead-based paint in the project must be included as part of the project.</u>

14. Uniform Administrative Requirements (24 CFR 92.205)

a) Government entities must meet requirements of 24 CFR part 85;

b) Non-profit organizations must meet requirements of 24 CFR part 84.

15. Debarred, Suspended or Ineligible Contractors (24 CFR Part 24)

A Grantee, including its principals, may not be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any Federal programs. In addition, the Grantee is responsible to ensure that each contractor and subcontractor performing work on the assisted housing is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any Federal programs. A Grantee may rely on a web search conducted at http://www.epls.gov/ to certify that the contractor is not currently on the Federal Excluded parties list. The Grantee needs to have a printout version of the screen stating that the contractor was not found in the database.

16. Conflict of Interest ((24 CFR 92.356(f))

No owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, developer or sponsor) whether private, for-profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an individual who receives HOME 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. Certain exceptions may apply upon application to AHFC.