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**2013 HOME  
Investment Partnerships  
Program Addendum**

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**Combined LIHTC & HOME Application Cycle**

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# HOME Investment Partnerships Program Addendum

## Purpose, Definitions, Guidelines and Exhibits

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### **Purpose and Intent**

The Authority's HOME Program is designed to promote partnerships among the U.S. Dept. of Housing and Urban Development (HUD) and other federal entities, state and local governments, and those in the nonprofit and for-profit sectors who build, own, manage, finance, and support low income housing initiatives. HOME provides the flexibility needed to fund a wide range of low income housing initiatives through creative and unique housing partnerships. The HOME Program was created under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990.

### **Definitions of Terms**

**"Appraisal"** means an estimated value of a piece of property by a licensed real estate appraiser. Appraisals must represent the income approach except in the case of vacant land. For vacant land the market data approach will be used.

**"Authority"** means the South Carolina State Housing Finance and Development Authority located at 300-C Outlet Point Blvd, Columbia, South Carolina, 29210.

**"Annual Income"** means the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. This definition contains income "inclusions" - types of income that can be counted and income "exclusions" - types of income not considered.

**"Applicant"** means any eligible person or entity, public or private, for-profit or nonprofit, proposing to acquire, rehabilitate, reconstruct, and/or build housing in accordance with this Addendum in order to apply for HOME program funds.

**"Community Housing Development Organizations" or "CHDOs"** means private nonprofit organizations that are organized pursuant to the definition in the HUD Regulations.

**"Contact Person"** means a person with decision-making authority for the Participant, with whom the Authority will correspond concerning the Application.

**"Division"** means the Housing Development Division of the Authority which administers the HOME Program.

**"Development Costs"** means the sum total of all costs incurred in the development of a Project all of which shall be subject to the approval by the Authority as reasonable and necessary. Specific explanation of costs can be located in the Guidelines Section for each eligible activity.

**"Developer"** means any individual, association, corporation, joint venture, or partnership which possesses the requisite skills and experience to successfully produce affordable multifamily and single-family housing.

**"Disabled Person"** means a household composed of one or more persons who has a disability, and at least one of the household members is an adult. A person is considered to have a disability if the person has a physical, mental, or emotional impairment that: 1) Is expected to be of long-continued and indefinite duration; 2) Substantially impedes his or her ability to live independently; and 3) Is of such a nature that such ability could be improved by more suitable housing conditions.

**"Draw"** means the disbursement of funds to a HOME Project.

**"Elderly"** means a person 62 years of age or older.

**"Elderly Household"** means a household whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**"Eligible Person" or "Eligible Household"** means one or more persons or a family irrespective of race, creed, national origin or sex, determined by the Authority to be of low or very low income.

**“Family”** or **“Family Household”** means a household composed of one or more persons.

**“General Contractor”** means a duly licensed entity or individual licensed by the State of South Carolina who agrees, for a specific period, to furnish all materials, labor and services related to the renovation or new construction of a building or buildings.

**“HOME”** or **“HOME Program”** means the HOME Investment Partnerships Program pursuant to the HUD Regulations of 24 CFR Part 92.

**“HOME-Assisted Unit”** means a specific unit(s) that receives HOME funds.

**“HOME Project”** means any project which receives financial assistance from the Authority under the HOME Program. A project is a site or sites together with any building or buildings located on the site(s) that are under common ownership, management and financing and are to be assisted with HOME funds as a single undertaking under this part. The project includes all the activities associated with the site and building.

**“HUD”** means the United States Department of Housing and Urban Development.

**“HUD Regulations”** means the regulations of HUD in 24 CFR Part 92 (1991) issued under the authority of Title II of the National Affordable Housing Act of 1990.

**“Income Certification”** means all households that receive HOME assistance must be income eligible as defined in 24 CFR Part 5. HOME income certifications may be dated not earlier than six (6) months prior to eligibility determination. Certification involves identifying different sources of income, evaluating the income and verifying the income through third parties.

**“Initiation of Negotiations”** means the date of an execution of an agreement covering acquisition, rehabilitation, or demolition activities.

**“Letter of Commitment”** means an original executed letter or contract from a funding source verifying that a specific Participant has a commitment of funds for a project. This letter or contract must be dated within ninety (90) days of the HOME application submission deadline if submitted with the application. This letter should include the amount of funds, expiring conditions, if any, whether funds will be provided as a loan or a grant,, loan to value ratios, and term and interest rate, if applicable.

**“Local Government”** or **“Unit of Local Government”** means any county, city, town or municipality in the State of South Carolina.

**“Low-Income”** means income which does not exceed 80% of the median income for the area, as determined by HUD, with adjustments for family size.

**“Minority Owned Business”** means a business that is at least 51% owned by a minority.

**“Marketing Plan”** means a document that consists of actions to provide information and attract eligible persons from all racial, ethnic and gender groups in a housing area to a potential affordable housing project.

**“Market Study”** means research done to review market conditions in a specified area, as well as a study of the economic forces of supply and demand and their impact on real estate returns, risks, and values.

**“Management Plan”** means a document that stipulates the duties and terms of the management company or individual handling the property.

**“Near Elderly Household”** means a household whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**“Nonprofit”** means a qualified entity that has a tax exemption ruling from the Internal Revenue Service under section 501 (c)(3) or 501 (c)(4) of the Internal Revenue Code and has been incorporated to operate in the State of South Carolina.

**“Note”** means a unilateral agreement containing an express and absolute promise to pay to the Authority a principle sum of money for the HOME Program loan together with interest on a specified date. The Note will provide the interest rate and will be secured by a mortgage.

**“Participant”** means any **Applicant** that has been awarded HOME program funds.

**“Principal”** means any Applicant, owner, developer, guarantor, financial guarantor, or any other person, corporation, partnership, joint venture, or other entity, including any affiliate thereof, or any other person, firm, corporation, or entity of any kind whatsoever that is involved directly or indirectly with a project that receives a HOME award. NOTE: Consultants are not considered Principals.

**“Single Room Occupancy”** or **“SRO”** means housing (consisting of single room dwelling units) that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both). If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants.

**“Very Low-Income”** means income which does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for family size.

### **Eligible Participants and Activities for HOME Funding**

**HOME** funds are available for the development, rehabilitation and new construction of affordable housing, serving persons at 50% of median income or less. Complete this addendum to the general application if you have identified property that you are seeking to construct, acquire, and/or rehabilitate for affordable rental housing (project specific) with HOME funds.

Eligible Participants Include:

- ✓ Units of General Local Governments
- ✓ Community Housing Development Organizations (CHDOs)
- ✓ Nonprofit Organizations
- ✓ For-profit Organizations
- ✓ Public Housing Authorities

### **Terms and Limits of Financial Assistance**

**HOME** funds can be applied for and combined with Low Income Housing Tax Credits only in conjunction with the LIHTC application cycle. HOME funds will be awarded to tax credit developments based on the following conditions:

1. HOME funds, if available, will be awarded only to developments receiving an award of LIHTC.
2. HOME funds may be requested **ONLY** during the tax credit funding cycle.
3. The maximum HOME award any one (1) development can request is \$350,000. These awards will be available as deferred permanent loans with a one half percent (1/2%) interest rate and a term and amortization period of no longer than thirty (30) years. Both principal and interest will be deferred for thirty (30) years.
4. HOME funds will be provided to the set-asides as follows: General- up to \$900,000; Underserved Counties- up to \$1,404,000; Rehabilitation- up to \$504,000; RHS- up to \$288,000 and Nonprofit- up to \$504,000. HOME funds will be awarded in descending point score order by set-aside until the HOME funds are exhausted. A development will be awarded HOME funds only if the HOME amount, as calculated by the Authority, is at least ninety percent (90%) of the unreduced amount that the development would have otherwise received. HOME funds not initially awarded in a Set-Aside will roll to the General Set-Aside. If HOME funds remain after all General Set-Aside awards are made then remaining funds may be applied to developments in the other Set-Asides. The Authority reserves the right to reduce the amount of HOME funds requested based on an underwriting analysis.
5. HOME funds may be awarded to any LIHTC development if, and only if, at least twenty percent (20%) of the development’s total units are rent and income restricted and HOME restricted, based on the fifty

percent (50%) Area Median Income. The maximum HOME subsidy per unit cannot exceed the per unit HUD 221(d) limits by bedroom size (See **Exhibit 2**).

6. Only one HOME award will be allocated per development.
7. A Phase I Environmental Site Assessment Report prepared by a third party independent environmental professional and addressed to the SC State Housing Finance & Development Authority, must be submitted with the Tax Credit Application. The report must be prepared in accordance with the American Society for Testing and Materials Practice Standards E-1527-05, or as may be amended. For developments with existing buildings, results from lead-based paint testing must also be submitted: If the Phase I indicates that there are environmental issues at a site which will require a Phase II ESA then the applicant must submit not only a Phase I ESA but also a Phase II ESA. The report(s) must be accompanied by a certification from the Applicant stating that any and all environmental issues discovered have been reviewed. HOME funds will not be awarded to projects which require mitigation of any hazardous materials, other than lead-based paint and/or asbestos, found on, within, or adjacent to the proposed site.
8. In order to receive a reservation of HOME funds in conjunction with LIHTC, each of the following provisions are applicable and must be met by the principle by February 1, 2013:
  - All 2010 HOME and previous state HOME awards must be officially closed out; and
  - All 2011 HOME awards must have a minimum of seventy-five percent (75%) of the funds drawn or seventy-five percent (75%) of the development completed; and
  - The completion percentage for previous HOME awards must be met by February 1, 2013. Written confirmation (completed and executed Form M47), regarding HOME award completion percentages must be provided with the tax credit application submission from the Awards Management Manager.

### **Completing the Addendum**

Before preparing your application, review the appropriate definitions, guidelines, and thresholds that the Authority will use to accept and fund applications.

For questions concerning the applications, contact Fran Ellington, Applications Management Manager, at (803) 896-9248 or via email at [fran.ellington@schousing.com](mailto:fran.ellington@schousing.com).

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## General HOME Guidelines

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### Funding Consideration

The South Carolina State Housing Finance and Development Authority (the Authority) will award a reservation of funds to eligible Applicants that propose eligible construction, acquisition, and/or rehabilitation of affordable rental housing projects. Applicants that have identified a specific site or project should complete this addendum. All HOME funds are subject to the U.S. Department of Housing and Urban Development (HUD) regulations and all other applicable federal and state requirements. Applications will be reviewed according to the LIHTC/HOME ranking process outlined in the 2013 Low-Income Housing Tax Credit QAP/Manual. In the back of this addendum please find a checklist, **Exhibit 1**, which identifies documentation required to apply for HOME funds.

### Amount of HOME Assistance

The minimum amount of HOME dollars invested cannot be less than \$1,000 per **HOME-assisted** unit.

### Maximum HOME Subsidy Per Unit

The maximum amount of HOME dollars invested is based on a per unit limit by bedroom size which varies by jurisdiction. (**See Exhibit 2**)

### Eligible Properties

Properties may consist of a single building or scattered sites. To qualify as a project these properties **must** be:

- ✓ One or more buildings on a single site; under common ownership, management, and financing; or
- ✓ Scattered on more than one site, under common ownership, management and financing and receive HOME assistance as a single undertaking.

There are no limits on the number of units per project and properties may be privately or publicly owned.

### Ineligible Properties

- ✓ Public housing units
- ✓ Projects assisted under Title VI of NAHA (*Prepayment of Mortgages Issued by HUD*)
- ✓ Commercial Properties (*except when converted to residential*)
- ✓ Homeless Shelters

### Property Standards

Participants must adhere to the written standards and specifications developed by the Authority and to all local standards in order to use HOME funds for any activity.

Authority staff may conduct site evaluations for each LIHTC/HOME application. If the Authority determines any detrimental site characteristics exist on, adjacent to, or within unallowable distances from the site, the Authority may reject the application. Use the Site and Neighborhood Certification, **Form M-40**, as guidance along with the following:

1. proposed sites for new construction units must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
2. adequate utilities and streets must be available to service the site;
3. the site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

### Construction Requirements

**Each Participant** must provide a description of all work to be undertaken. Preliminary plans and specifications shall be submitted for new construction. Most architects have a standard form for including all contract items and all line item costs that can be submitted to meet this requirement.

A preliminary work write-up, specifications for each item and a line item cost estimate shall be included for all rehabilitation projects. See the *HOME Construction Manual* for sample work write-up forms.

## **Environmental Review Requirements**

In accordance with 24 CFR Part 58 participants, recipients, owners, developers, sponsors or any third party partners CAN NOT take any physical actions on a site, begin construction, commit, expend, or enter into any legally binding agreements that constitute choice limiting actions for any HUD or non-HUD funds before the environmental review process has been completed and an "Authority to Use Grant Funds" has been received from HUD. Any violation of the statutory regulation will result in the automatic removal of an application from funding consideration and/or de-obligation of a HOME award.

For projects involving acquisition, an option agreement on a proposed site or property is allowable prior to the completion of the environmental review **if and only if** the option agreement is conditional in nature so as not to provide legal claim to any amount of HOME funds to be used for the specific project or site until the environmental review process is satisfactorily completed. Sample language to meet this requirement is provided in the *Environmental Review Manual*.

## **Lead Based Paint Requirements**

HOME-assisted projects must comply with Lead-Based Paint Regulations. Effective September 15, 2000, the U.S. Department of Housing and Urban Development (HUD) issued a new regulation designed to protect young children from lead-based paint hazards in housing that is financially assisted by the federal government or being sold by the government. The regulation, "Requirements for Notifications, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance," was published in the Federal Register on September 15, 1999. This regulation appears within title 24 of the Code of Federal Regulations as part 35 (24 CFR Part 35). The requirements apply to housing built before 1978, the year lead-based paint was banned nationwide for consumer use. The regulation sets hazard reduction requirements that give a much greater emphasis than previous regulations to reducing lead in house dust. The regulation requires dust testing after paint is disturbed to make sure the home is lead-safe. Specific requirements depend on whether the housing is being disposed of or assisted by the federal government, and also on the type and amount of financial assistance, the age of the structure, and whether the dwelling is rental or owner-occupied.

### ***Types of Housing Covered***

- Federally-owned housing being sold
- Housing receiving a federal subsidy that is associated with the property, rather than with the occupants (project-based assistance)
- Public housing
- Housing occupied by a family (with a young child) receiving tenant-based subsidy (such as a voucher or certificate)
- Multifamily housing for which mortgage insurance is being sought
- Housing receiving federal assistance for rehabilitation, reducing homelessness, and other special needs

### ***Types of Housing Not Covered***

- Housing built since January 1, 1978, when lead paint was banned for residential use
- Housing exclusively for the elderly or people with disabilities, unless a child under age 6 is expected to reside there
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks
- Property that has been found to be free of lead-based paint by a certified lead-based paint inspector
- Property where all lead-based paint has been removed
- Unoccupied housing that will remain vacant until it is demolished
- Non-residential property
- Any rehabilitation of housing improvement that does not disturb a painted surface

See the *HOME Construction Manual* for information regarding HOME lead-based paint requirements. All combined LIHTC & HOME Application cycle applicants must complete and submit Lead-Safe Housing Rule Applicability (Form M-7B).

## **Income Targeting**

A HOME Participant must determine that each potential tenant is income eligible by determining the family's gross annual income. This income must be examined and verified by using third party source documents evidencing annual income (e.g., wage statement, interest statement, and unemployment compensation statement) for the family. When verifying incomes for potential HOME beneficiaries, Participants should use the Part 5 Definition as defined in the *“Technical Guide for Determining Income and Allowances for the HOME Program”* provided by the U.S. Department of Housing and Urban Development. Free copies of this manual can be downloaded from the Authority's web site at [www.schousing.com](http://www.schousing.com), or by calling *Community Connections* at 1-800-998-9999. HOME income limits are updated annually by HUD in March. Current HOME Income limits can be downloaded from the Authority's web site at: [www.schousing.com](http://www.schousing.com).

## **HOME Occupancy Requirements**

HOME Rental housing developments funded in conjunction with LIHTC will qualify as affordable only if the project has:

- At least twenty percent (20%) of the HOME-assisted units will be occupied by households at or below fifty percent (50%) of the AMI.

**NOTE:** Rental projects containing less than five HOME-assisted units are not restricted to the low HOME rent designations and can be occupied by families who have annual incomes that are sixty percent (60%) or less of the median income adjusted for family size.

**NOTE:** Typically, in a HOME-assisted project, tenants whose annual incomes increase to over eighty percent (80%) of median area income may remain in occupancy but must pay no less than thirty percent (30%) of their adjusted monthly income for rent and utilities. **When projects are financed with HOME and LIHTC, the HOME rules defer to the LIHTC rules, and in no case can the rent exceed limits set by the LIHTC program.**

## **Rent Levels**

Rents for HOME-assisted units are controlled for the length of the applicable affordability period. These rents are determined on an annual basis by the U.S. Department of Housing and Urban Development (HUD). The HOME Participant will be provided with these rents, which include all utilities at an implementation meeting, if awarded HOME funds. The utilities paid by tenants shall be subtracted from the rents provided to determine the maximum allowable rents. Rents may increase or decrease from year to year. HOME rents are not necessarily representative of market conditions. Rather, these rents represent the following:

### **High HOME Rents**

The lesser of the Fair Market Rents for existing units as determined by HUD or thirty percent (30%) of sixty-five percent (65%) of median income, adjusted for family size.

### **Low HOME Rents**

The lesser of the Fair Market Rents for existing units as determined by HUD or thirty percent (30%) of fifty percent (50%) of median income, adjusted for family size.

HOME rent limits are updated annually by HUD. Current HOME Rent limits can be downloaded from the Authority's web site at: [www.schousing.com](http://www.schousing.com).

Each Participant should be aware of the market conditions in the areas where projects are proposed. Each project should show market feasibility not based upon the High and Low HOME rents, but rather upon housing markets and HOME occupancy requirements which demand occupancy by low and very low-income persons. Rents shall not exceed the published High or Low HOME rents, adjusted for utility arrangements and bedroom size. However, because these rents must also be attractive to lower income tenants, actual rents may be lower than published High and Low HOME rents. Project budgets should be calculated in such a way that they take into consideration the market feasibility as well as financial feasibility.

## **Affordability Terms**

HOME-assisted units must remain affordable for varying terms, depending on the amount of HOME funds invested per unit:

For rehabilitation or acquisition of existing housing, affordability terms are:

<b>HOME Investment per Unit</b>	<b>Period of Affordability</b>
Under \$15,000 per unit	5 years
\$15,000 to \$40,000 per unit	10 years
Over \$40,000 per unit	15 years
For new construction or acquisition of new housing	20 years

HOME-assisted units must remain affordable throughout the affordability period. HOME-assisted units may be substituted over time (called "floating units") as long as the total number of affordable units remains the same and the substituted units are comparable in terms of size, features, and number of bedrooms. However, the "fixed" or "floating" designation must be elected by the Participant at the time of application.

### **Financial Assistance**

The maximum HOME award any one (1) development can request is \$350,000.

A note and mortgage will be recorded in all cases where HOME assistance is provided. This may be in a junior lien position to private lender financing. Upon project completion, the rent and occupancy requirements will be enforced by a recorded restrictive covenant(s) running with the property(s) for the duration of the affordability period.

State HOME funds are a permanent financing source and therefore may not be used during the course of project construction. HOME funds may only be requested once the following criteria has been met:

1. The project is 100% complete and a certificate of occupancy has been issued by the local City/County officials; and
2. The HOME final inspection has been requested, completed, and approved; and
3. The HOME loan has closed and, at a minimum, Authority staff is in receipt of a copy of the recorded or clock marked date stamped HOME Mortgage.

**All financial commitments must be obtained within ninety (90) days from the date of your reservation letter.**

### **Eligible Costs**

Eligible soft costs Include:

The project's soft costs must be "reasonable and necessary."

1. Professional Related Costs
  - Origination fees
  - Credit reports
  - Title reports and updates
  - Recordation fees
  - Preparation and filing legal documents
  - Appraisals
  - Attorney's fees
  - Loan processing fees
  - Developer fees
2. Construction Related Costs
  - Architectural fees
  - Engineering fees
  - Preparation of Work write-ups/Cost estimates
  - Builders fees
3. Project Audit Costs
4. Affirmative marketing and fair housing

### **Eligible Hard Costs**

The actual costs of constructing or rehabilitating the project include the following:

**For Rehabilitation**

- costs to meet the applicable rehabilitation standards in effect at the time a building permit is obtained from the locality;
- costs to make essential improvements including the actual costs of construction or rehabilitation;
- energy-related repairs or improvements;
- improvements necessary to permit use by handicapped persons;
- abatement of lead-based paint hazards; and
- costs to repair or replace major housing systems in danger of failure.

**For New Construction and Substantial Rehabilitation**

- costs to demolish existing structures;
- costs for improvements to the project site that are comparable with the surrounding standard developments; and
- costs to make limited utility connections.

**For New Construction**

- costs to meet the new construction standards in effect at the time a building permit is obtained from the locality.

**Conversion/Acquisition Costs**

- reasonable costs of acquiring improved or unimproved land for new construction or substantial rehabilitation;
- an appraisal that is no more than six (6) months old - a property appraisal is required to ensure that the potential Participant does not purchase the property for more than the fair market value. A "Notice to the Seller" is required. A sample of this "Notice" is included as **Exhibit 4**.

**Acquisition or Conversion without Rehabilitation**

Under limited circumstances funds may be reserved to convert commercial properties to affordable units available to low income households. Funds may also be used to enable CHDOs and other eligible 501(c)3 or 4 nonprofit organizations to salvage troubled projects.

**Operational Expenses -- CHDOs Only**

CHDOs awarded 2012 HOME project funds are eligible and may qualify to receive CHDO operating funds. Funds are awarded based on the amount of available operating funds. CHDOs receiving a HOME award of \$100,000 or less, may receive operating funds of up to 50% of the amount of the HOME funds awarded. CHDOs awarded more than \$100,000 in HOME funds may receive up to \$50,000 in operating funds. Please note that CHDOs cannot receive more than \$50,000 in operating funds in any one calendar year. Eligible operating costs include: salaries, wages, and other employee compensation and benefits; employee education, training, travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies. CHDOs must be Authority designated CHDOs at the time of application to be eligible to receive operating funds.

Note: If a CHDO has previously received two (2) operating awards, it is no longer eligible to receive operating funds.

**Mixed Income Developments**

All HOME funds used in conjunction with a mixed income development shall be used solely for the benefit of the affordable units in the development. Housing that accounts for less than 100 percent of the dwelling units in a development qualifies as affordable housing if the HOME-assisted units meet the rent and occupancy limitations as previously stated. Common area costs will be prorated based upon the number of affordable units and other units.

**Mixed Use Developments**

A building that is designed in part for other than residential housing may qualify as affordable housing under the HOME program if, at least fifty-one percent (51%) of the total space is residential and meets the rent and occupancy limitations. A development that contains laundry and/or community facilities for the exclusive use of the development residents and their guests is considered residential use. Costs for common areas shared by both

residential and commercial tenants shall be prorated. Each building in a development must contain residential living space.

### **Prohibited Costs**

*Project Termination before completion:*

- In the event a project is terminated prior to completion, all expended HOME funds must be repaid to the Authority.

### **No Double Dipping on HOME projects:**

- Except for the first year after completion, additional HOME funds may not be used to benefit a HOME-assisted project during its required period of affordability.

### **Ineligible HOME Costs:**

- Project Reserves (operating, rent-up and replacement)
- Utility Connections (i.e. tap fees, lift or pump stations)
- Delinquent Property Taxes
- Playground Equipment

**NOTE: If liens are recorded against a property, HOME funds may not be used for that property.**

### **Relocation**

#### **Tenant Protections**

All residential tenants in place prior to the submission of this application must be provided with the opportunity to lease and occupy a suitable, decent, safe, sanitary and affordable dwelling unit in the building or development upon completion of the project. If the rehabilitation is such that it will require the tenant to be temporarily relocated, the associated costs are an eligible cost of the project. Relocation payments are eligible HOME project costs.

All HOME projects are subject to the Uniform Relocation Act (URA). As such, tenants that are the legal residents of a project at the time of application must be provided certain protections. The following information must be provided to all legal residents prior to tax credit application submission:

- Written Notice of the right to remain or the need to relocate;
- Payment of the cost of temporary relocation;

**As part of the HOME application, Participants are required to include proof that ALL residents who were legally occupying units prior to the tax credit application submission were given a General Information Notice.** The required GIN Notices are included as **Exhibits 5 and 6**. These Notices must be sent by certified mail, return receipt requested, or by personal service. Documentation of the method of service used, as well as the tenants served, **MUST** be submitted as part of the HOME Addendum. In addition, a complete **Tenant Profile Form (Form M39)** must be submitted for each unit along with a Certified Rent Roll. **Failure to follow these requirements exactly as described above will result in removal of the application from further consideration.**

A tenant is considered displaced if they move from the real property, permanently, as a direct result of rehabilitation, demolition, or acquisition of a HOME-assisted project.

**NOTE: Relocation requirements shall apply to all occupants of a project for which HOME assistance is sought, even if less than 100% of the units are HOME-assisted.**

A tenant is not considered displaced if:

- The tenant is evicted for cause, assuming the eviction was not undertaken to evade URA obligations.
- The person has no legal right to occupy the property under State or local law (e.g., squatter).
- Tenant is being temporarily relocated (can't exceed one year).
- The tenant moved in after the application was submitted, and before commencing occupancy was provided written notice of the planned project, warned of the possible impact (e.g., the tenant may be displaced, temporarily relocated, or experience a rent increase), and informed they would not qualify as a "displaced person" as a result of the project.

- Others who the Authority (with HUD's approval) determines are not displaced.

### How displacement may be triggered

#### ***Before Application:***

A tenant moves out permanently from a property before the Participant submits an application for HOME assistance and the Authority or HUD determines that the displacement was a direct result of the proposed rehabilitation, demolition, or acquisition of the HOME project (e.g., the Authority determines that the Participant displaced tenants in order to propose a vacant building for HOME assistance).

#### ***After Application or Approval:***

A tenant moves out permanently from a property after submission of a HOME application because:

- The Participant requires the tenant to move out permanently because of unit size or the unit is eliminated;
- The Participant fails to provide required notices to the tenant in a timely manner;
- The tenant is required to move temporarily and the Participant does not pay all actual, and reasonable out-of-pocket expenses;
- The tenant is required to move temporarily and the Participant does not pay because the conditions of the move are unreasonable;
- The tenant moves permanently from the project because the tenant is not provided the opportunity to lease and occupy a suitable decent safe, and sanitary dwelling in the same building/complex upon the completion of the project;
- The tenant moves permanently from the project because the tenant is not provided a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or thirty percent (30%) of the household's average gross income. A tenant that moves permanently from the project because they cannot afford to pay the higher rent charged after the completion of the project is considered to be "economically displaced".
- Temporary relocation exceeds 12 months.

**NOTE: Participants must make every effort not to trigger displacement. Relocation costs are very expensive. The Authority does not encourage displacement of tenants. Participants should offer the tenants the opportunity to lease an affordable comparable unit within the project if possible. Affordable is generally defined as housing payments (rent and utilities) which do not exceed 30 percent of the tenants' adjusted income.**

All Participants must become familiar with the URA and 104(d) (Barney Frank) relocation requirements. Questions about these requirements should be directed to a HOME staff person.

### **Tenant Lease Protections**

A HOME Participant is required to follow the provisions of 24 CFR Part 92.253 of the HOME regulations for tenant lease protections.

The Participant and tenant are required to execute a lease agreement for a minimum of twelve (12) months, unless the Participant and tenant mutually agree to a lesser term. A Participant may not terminate a tenancy or refuse to renew the lease of a tenant except for serious or repeated lease violations; for violation of applicable federal, state or local law; or for other good cause. Any termination or refusal to renew must be preceded at least 30 days by service of a written notification specifying the grounds for the action.

Participants may not refuse, except for just cause, to lease a HOME-assisted unit to a family which holds a rental certificate or rental voucher or a comparable document under the HOME Program.

*Certain lease terms are prohibited. These include:*

- ***Agreement to be Sued*** -- Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Participant in a lawsuit brought in connection with the lease.
- ***Treatment of Property*** -- Agreement by the tenant that the Participant may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the

housing unit after the tenant has moved out of the unit. The Participant may dispose of this personal property in accordance with State law.

- **Excusing the Participant from Responsibility** -- Agreement by the tenant not to hold the Participant or the Participant's agents legally responsible for actions or failure to act, whether intentional or negligent.
- **Waiver of Notice** -- Agreement by the tenant that the Participant may institute a lawsuit without notice to the tenant.
- **Waiver of Legal Proceedings** -- Agreement by the tenant that the Participant may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties.
- **Waiver of Legal Trial** -- Agreement by the tenant to waive any right to a jury trial.
- **Waiver of Right to Appeal Court Decision** -- Agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court a decision in connection with the lease.
- **Tenant Chargeable with Cost of Legal Actions Regardless of Outcome** -- Agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins the court proceeding by the Participant against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

### Tenant Selection Procedures

**HOME** Participants must provide tenant selection policies and criteria in a formal written plan that addresses all of the following:

- the purposes of providing housing for very low and low-income families;
- reasonableness, given HOME Program eligibility and acceptance requirements;
- housing needs of families with federal preferences for admission to Section 8 and public housing;
- tenant selection from a written waiting list in chronological order;
- written notification of rejection and the grounds for such in a timely manner.

### Procurement Requirements

New construction project Participants shall submit detailed, final plans, specifications and an independent cost analysis on a date to be determined. A cost analysis by the architect or by a general contractor who will not bid on the project is acceptable. Rehabilitation project Participants shall submit a complete work write-up with specifications for each item and a Public Body Estimate.

A minimum of three bids is required. The bids must be from general contractors who are licensed in the State of South Carolina. All bids shall be submitted with line item costs. The acceptable bid shall be no more than 10% higher than the independent cost analysis or the Public Body estimate. Exceptions to the above must be approved in writing by the Authority prior to bid selection. Procurement policies and bid selection procedures must comply with the regulations of Section 3, MBE/WBE, minority outreach requirements, and federal labor standards when applicable. See the HOME Construction Manual for bidding and contractual criteria.

### Davis-Bacon Requirements

**All HOME-assisted projects containing 12 or more units must comply with the Davis-Bacon Act.** The Davis-Bacon Act provisions require the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor, to all laborers and mechanics employed in the development of HOME housing. A HOME Participant is required to enforce labor standards, provide on-site inspections (employee interviews), process weekly payroll forms, and include the Federal Labor Standards Provisions and Wage Rates in all applicable contracts. Refer to the *HOME Construction Manual* for more details.

Every contractor participating in the HOME Program must be cleared by the Authority to ensure that they are not on the list of Parties Excluded from Federal Procurement or Non-Procurement Programs as published by the U. S. General Services Administration and HUD Regional and Field Offices' Limited Denials of Participation lists.

### Section 3 Requirements

Section 3 regulations apply to the following HOME- assisted projects:

- Projects assisted with HUD funds for construction and rehabilitation activities in excess of \$200,000.

- Contracts and subcontracts exceeding \$100,000 that were awarded in connection with projects assisted with HUD funds for construction and rehabilitation activities in excess of \$200,000.

If a new construction or rehabilitation project is assisted with any HUD program funds in excess of \$200,000 but no single contractor or subcontractor is awarded more than \$100,000 in association with the project then only the organization that directly received the HOME assistance is subject to comply with the Section 3 Regulations concerning training, employment and contracting activities. If there are contracts and subcontracts awarded in conjunction with the Section 3 applicable project, then Section 3 regulations apply to the organization that directly received the HOME funds as well as all the contracts and subcontracts awarded in connection with the HOME project that are in excess of \$100,000. These include **all** contracts and subcontracts awarded in excess of \$100,000, even those not funded with HOME funds and those that are for non-construction related activities.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 135), as amended, 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.” To the greatest extent feasible, HOME participants and their contractors and subcontractors must provide opportunities for job training, employment, contracting and subcontracting to Section 3 residents and businesses. Refer to the *HOME Construction Manual* for more details.

### **Section 504 Requirements**

HOME-assisted multi-family housing must meet the accessibility requirements of **Section 504 of the Rehabilitation Act of 1973**. The Act prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. HUD regulations implementing **Section 504** contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities.

**New Construction** projects with five (5) or more units must have a minimum of five percent (5%) of the units accessible to individuals with mobility impairments and an additional two percent (2%) of the units accessible to individuals with sensory impairments.

**Rehabilitation** projects with fifteen (15) or more units and rehabilitation costs that will be seventy-five percent (75%) or more of the replacement costs of the completed facility must have a minimum of five percent (5%) of the units accessible to individuals with mobility impairments and an additional two percent (2%) of the units accessible to individuals with sensory impairments.

### **Other Federal Requirements**

Participants shall comply with all other federal requirements as outlined in 24 CFR Part 92, Subpart H including but not limited to: Affirmative marketing, Equal opportunity and fair housing, Environmental review, Displacement, Relocation and Acquisition, Labor, Lead-based paint, Conflict of interest, Debarment and suspension, Flood insurance and Executive Order 12372.

### **Monitoring and Compliance**

Maximum monthly rents and utility allowances must be recalculated annually upon the anniversary of lease renewals. HOME Participants must annually review rent and utility allowances. The annual income of tenants in HOME projects must also be re-examined each year. Procedures for determining income will be provided by the Authority during an implementation meeting. The Section 8 Part 5 definition of income will apply. In addition, Participants shall conduct on-site inspections for compliance with Section 8 Housing Quality Standards annually.

The Authority will monitor HOME Participants to ensure compliance with HOME program requirements. Program compliance will be assessed through annual inspections and periodic site visits by HOME staff. The Authority will provide Participants with a Compliance Manual after awards are made detailing required responsibilities for program compliance.

### **General**

No member, officer, agent, or employee of the Authority shall be personally liable concerning any matters arising out of or in relation to, the commitment of HOME Program funds with regard to feasibility or viability of the proposed development.

**South Carolina State Housing Finance and Development Authority  
HOME Program**

**HOME Addendum Application Checklist**

Participant Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Participants must initial each category for which documents are included and complete.**

<i>Attachment Item</i>	<i>Initial</i>
<b>HOME Addendum</b>	
<b>CHDO Designation Letter</b> <i>(if applicable)</i>	
<b>HOME Eligibility Certification (Form M-47)</b>	
<b>Property Appraisal Notice to Seller (Exhibit 4)</b>	
<b>Relocation Requirements</b> <i>(Rehabilitation Only):</i> <b>General Information Notices (Exhibits 5 and 6)</b> <b>Tenant Profile Form (Form M-39)</b> <b>Certified Rent Roll (Rehabilitation only)</b>	
<b>Site and Neighborhood Standards Certification (Form M-40)</b> <i>(new construction projects only)</i>	
<b>Lead-Safe Housing Rule - Applicability Form (Form M-7B)</b>	

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## Exhibit 2 - HOME Program Per Unit Subsidy Limits

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### **Section 221(d)(3) Subsidy Limits**

0 bedroom - \$49,914  
1 bedroom - \$57,216  
2 bedroom - \$69,575  
3 bedroom - \$90,006  
4 bedroom - \$98,799

The above limits apply to all counties in South Carolina. Section 221(d)(3) limits are determined by HUD's Office of Multi-family Housing.



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Exhibit 5- General Information Notice  
Residential Tenant that WILL NOT BE DISPLACED

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GENERAL INFORMATION NOTICE  
RESIDENTIAL TENANT NOT DISPLACED

Participant's Letterhead

(date)

Dear \_\_\_\_\_:

\_\_\_\_\_(Participant)\_\_\_\_\_, is interested in rehabilitating the property you currently occupy at \_\_\_\_\_(address)\_\_\_\_\_ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the HOME Investment Partnerships Program.

The purpose of this notice is to inform you that you will not be displaced in connection with the proposed project.

If the project application is approved and federal financial assistance provided, you may be required to move temporarily so that the rehabilitation can be completed. If you must move temporarily, suitable housing will be made available to you and you will be reimbursed for all reasonable out of pocket expenses, including moving costs and any increase in housing costs. You will need to continue to pay your rent and comply with all other lease terms and conditions.

Upon completion of the rehabilitation, you will be able to lease and occupy your present apartment or another suitable, decent, safe and sanitary apartment in the same building/complex under reasonable terms and conditions not to exceed the greater of (a) your current rent/average utility costs, or (b) 30% of your average monthly gross household income.

If federal financial assistance is provided for the proposed project, you will be protected by a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). One of the URA protections for persons temporarily relocated is that such relocations shall not extend beyond one year. If the temporary relocation lasts more than one year, you will be contacted and offered all permanent relocation assistance as a displaced person under the URA. This assistance would be in addition to any assistance you may receive in connection with temporary relocation and will not be reduced by the amount of any temporary relocation assistance previously provided. You will also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered.

**(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)**

We urge you not to move at this time. If you choose to move, you will not be provided relocation assistance.

Please remember:

- This is **not** a notice to vacate the premises.
- This is **not** a notice of relocation eligibility.

You will be contacted soon so that we can provide you with more information about the proposed project. If the project is approved, we will make every effort to accommodate your needs. In the meantime, if you have any questions about our plans, please contact:

(name) \_\_\_\_\_, (title) \_\_\_\_\_,  
(address) \_\_\_\_\_, (phone) \_\_\_\_\_.

Sincerely,

(name and title) \_\_\_\_\_

=====NOTES.

1. The application must include documentation of the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3 I of Handbook 1378.)
2. This is a guideform. It should be revised to reflect the circumstances.

GENERAL INFORMATION NOTICE  
RESIDENTIAL TENANT TO BE DISPLACED

Participant's Letterhead

(date)

Dear \_\_\_\_\_:

\_\_\_\_\_ (Participant) \_\_\_\_\_, is interested in \_\_\_\_\_ (acquiring, rehabilitating, demolishing) \_\_\_\_\_ the property you currently occupy at \_\_\_\_\_ (address) \_\_\_\_\_ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the HOME Investment Partnerships Program.

The purpose of this notice is to inform you that you may be displaced as a result of the proposed project. This notice also serves to inform you of your potential rights as a displaced person under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). You may be eligible for relocation assistance and payments under the URA, if the proposed project receives HUD funding and if you are displaced as a result of acquisition, rehabilitation or demolition for the project.

- **This is not a notice to vacate the premises.**
- **This is not a notice of relocation eligibility.**

If you are determined to be eligible for relocation assistance in the future, you may be eligible for: 1) Relocation advisory services including help to you find another place to live; 2) At least 90 days advance written notice of the date you will be required to move; 3) Payment for your moving expenses; and 4) Replacement housing payments to enable you to rent, or if you prefer to purchase, a comparable replacement home. You will also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered. The enclosed HUD brochure, "Relocation Assistance To Tenants Displaced From Their Homes" provides an explanation of this assistance and other helpful information.

**(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)**

Please be advised that you should continue to pay your rent and meet any other obligations as specified in your lease agreement. Failure to do so may be cause for eviction. If you choose to move or if you are evicted prior to receiving a formal notice of relocation eligibility you will not be eligible to receive relocation assistance. It is important for you to contact us before making any moving plans.

**Again, this is not a notice to vacate the premises and does not establish your eligibility for relocation payments or assistance at this time.** If you are determined to be displaced and are required to vacate the premises in the future, you will be informed in writing. In the event the

proposed project does not proceed or if you are determined not to be displaced, you will also be notified in writing.

If you have any questions about this notice or the proposed project, please contact:

(name)\_\_\_\_\_, (title)\_\_\_\_\_,  
(address)\_\_\_\_\_, (phone)\_\_\_\_\_.

Sincerely,

(name and title)\_\_\_\_\_

Enclosure

=====NOTES

1. The application must include documentation of the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3 I of Handbook 1378.)
2. This is a guideform. It should be revised to reflect the circumstances.