



# HOME PROGRAM RENTAL GUIDE

# TABLE OF CONTENTS

---

SECTION 1. INTRODUCTION .....	1
A. HOME Allocation Staff.....	1
SECTION 2. GENERAL INFORMATION .....	2
A. Eligible Project Types.....	2
B. Eligible Rental Housing Costs .....	2
1. Maximum Subsidy Limit .....	2
2. Hard Costs.....	2
3. Soft Costs .....	2
4. Relocation Costs.....	2
C. Ineligible Rental Housing Costs .....	2
D. Rent Limits .....	2
E. Income Limits .....	2
1. Income Eligibility .....	3
2. Income Determination .....	3
F. Income Targeting .....	3
G. Maximum/Minimum HOME Assistance Per Unit .....	3
H. Proportional Share .....	4
I. Fixed/Floating Units .....	4
1. Fixed.....	4
2. Floating .....	4
J. Expenditure Timeframes .....	4
K. Match .....	4
L. Long-Term Affordability .....	4
M. Breach of Contract .....	4
N. Audit/Financial Statement .....	4
1. Audit (Non-Profit Organizations).....	4
2. Financial Statement (For-Profit Organizations).....	5
O. Community Housing Development Organizations (CHDO) .....	5
P. Lease Provisions.....	5
SECTION 3. FEDERAL CROSS-CUTTING MEASURES .....	7
A. Summary of Other Cross-Cutting Measures .....	7
B. Acquisition and Relocation .....	9
C. Civil Rights and Fair Housing.....	9
1. Affirmatively Furthering Fair Housing.....	10
2. Affirmative Action in Soliciting Minority/Women Business Enterprises.....	10
3. Section 3.....	10
4. Section 504 of the Rehabilitation Act of 1973/Americans w/Disabilities Act.....	11
D. Environmental Review.....	11
1. Dual Federal Funding .....	12
2. Incurring Costs (24 CFR Part 58.22).....	12
3. Project Aggregation (24 CFR Part 58.32) .....	13
4. The Environmental Review Record (24 CFR Part 58.38) .....	13
5. Determine Level of Review .....	13
6. Related Federal Laws and Authorities (24 CFR Part 58.5).....	14
7. Other Requirements (24 CFR Part 58.6) .....	15

8. Procedure for CEST (Categorically Excluded Subject to Other Federal Laws and Authorities) .....	16
9. Procedure for EA (Environmental Assessment).....	16
E. Davis-Bacon and All Related Acts.....	17
1. Davis-Bacon Act .....	17
2. Contract Work Hours and Safety Standards Act, As Amended .....	18
3. Copeland (Anti-Kickback) Act .....	18
4. Fair Labor Standards Act of 1938, As Amended.....	18
F. Other Department of Labor Regulations.....	18
G. Federal Contract Provision Language .....	19
H. Lead Safe Housing.....	19
1. Regulations .....	19
2. Exemptions .....	19
3. Requirements .....	19
I. Procurement and Conflict of Interest.....	20
1. Procurement .....	20
2. Conflict of Interest.....	20
3. Minority or Women-Owned Businesses .....	20
H. Violence Against Women Reauthorization Act of 2013 (VAWA) .....	20
1. Prohibited Denial/Termination.....	20
2. Lease Terms.....	20
3. Termination on the Basis of Criminal Activity .....	21
4. Confidentiality of Tenant Information Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking.....	21
5. Remedies Available to Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking .....	21
6. Limitations of VAWA Protections .....	21
7. Required Forms .....	22
SECTION 4. AFTER RECEIPT OF AWARD.....	25
A. Award Letter.....	25
B. Attend Meetings/Training Sessions.....	25
C. Read HOME Rental Guide .....	25
D. Contract Documents .....	25
E. Begin Environmental Review Process .....	25
F. Title Guaranty.....	25
G. Notice to Proceed.....	25
H. Administration Plan .....	25
I. Procure Professional Services .....	25
SECTION 5. CONSTRUCTION .....	26
A. New Construction and Rehabilitation Projects .....	26
1. Applicant Responsibilities .....	26
2. Section 504 and Fair Housing.....	27
3. Building Codes and Standards .....	27
4. Energy Reports and Requirements.....	28
5. Scope of Work .....	29
6. Capital Needs Assessment.....	29
7. Design Documents.....	30
8. Pre-Construction Conference .....	30

9. Construction Sites Visits and Observations .....	32
10. Timing of Inspections .....	32
11. Change Orders .....	33
12. Retainage .....	33
13. Draw Payment Requests .....	33
14. Final Payment and Release of Retainage.....	34
15. Contingency Funding .....	34
SECTION 6. MAXIMUM HOME RENTS .....	35
A. Maximum Allowable HOME Rents and Utility Allowances.....	35
SECTION 7. PREPARATION AND SUBMITTAL OF DRAWS.....	36
A. General Information .....	36
B. Items Needed Prior to First Draw .....	36
C. Submittal of Draws for Regular Funds .....	36
1. Complete Draw Request Form (Regular Funds).....	36
2. Submit Documents to IFA Project Manager.....	36
SECTION 8. MONITORING REVIEW .....	37
SECTION 9. CLOSEOUT PROCESS .....	38
A. Match .....	38
B. Section 3 Report .....	38
C. Final Allocation Compliance Letter.....	38

# SECTION 1. INTRODUCTION

Planning, administering and operating an affordable housing activity is a rewarding but challenging venture. The federal regulations relating to the HOME Investment Partnership Program (HOME) can be very complex. The Iowa Finance Authority (IFA), provides recipients with this HOME Program Rental Guide (Guide) as a tool to help them manage their HOME award and to assist them in staying in compliance with applicable requirements. This Guide is not a stand-alone document and needs to be utilized with other HOME sources of information for state and federal regulations. HUD regulation sections cited in this document refer to HUD Regulations 24 CFR (Code of Federal Regulations).

IFA's website lists a vast amount of information, regulations, forms, and announcements regarding the HOME Program and is one of the best tools available for recipients. The forms cited in this Guide are highlighted with a **yellow text highlight**. The state and federal HOME rules along with many of the documents referenced in this Guide can be found on the website at: [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

## A. HOME ALLOCATION STAFF

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## SECTION 2. GENERAL INFORMATION

To maintain compliance with HOME rules, property owners will need to ensure that:

- The project is being marketing to qualified applicants;
- Tenants are screened for eligibility;
- Rent and occupancy targeting are observed; and
- Adequate property maintenance is conducted.

As a general rule, students are not considered eligible tenants unless they meet HUD's student exception rule. If you have any questions, please contact IFA.

### **A. ELIGIBLE PROJECT TYPES**

- New Construction – New construction and conversion of rental housing.
- Rehabilitation - Rehabilitation of existing buildings.

### **B. ELIGIBLE RENTAL HOUSING COSTS**

#### 1. MAXIMUM SUBSIDY LIMIT

- HUD issued maximum subsidy yearly and it becomes effective immediately once released from HUD. The new limits are based on the Section 234 Condominium Housing Insurance Program and vary according to the size of the unit.
- IFA's per project limit is \$1,000,000.

#### 2. HARD COSTS

- Acquisition of land (for a specific project) and existing structures
- Site preparations or improvement, including demolition
- Construction materials and labor

#### 3. SOFT COSTS

Soft costs associated with the project. The recipient can contact the assigned IFA Project Manager with questions.

#### 4. RELOCATION COSTS

- Payment for replacement housing, moving costs and out-of-pocket expenses for existing tenants
- Advisory services
- Staff and overhead related to relocation assistance and services

### **C. INELIGIBLE RENTAL HOUSING COSTS (Not an all-inclusive list)**

- Landscaping
- Roads (constructing or road improvements)
- Extension of infrastructure and utilities to the site
- Community buildings
- Commercial area

### **D. RENT LIMITS**

HOME-assisted rental units must meet affordable rent restrictions. See Section 6 of this Guide.

### **E. INCOME LIMITS**

HOME-assisted rental units must be rented to income-eligible tenants.

#### 1. INCOME ELIGIBILITY

HOME is limited to tenants who are at or below 80% of the area median income (AMI). The Exhibit A of the recipient's contract with IFA shows the income levels the project must serve.

## 2. INCOME DETERMINATION

The recipient must assure that the household is income-eligible prior to signing a lease. The income determination is valid for **six months**.

Household income shall be calculated using the HUD's regulations at 24 CFR Part 5 (often referred to as "the Section 8 definition").

The recipient must determine annual income by reviewing source documents evidencing annual income (wage statements, interest statements, unemployment compensation, etc.) for the household.

### a. Source Documentation for Income Determinations

HOME recipients shall examine at least two months' of source documentation (e.g. wage statements, interest statements, or unemployment compensation documentation) when determining household income for all potential HOME beneficiaries. (See 2013 Rule amends §92.203(a)(1)(i) and (a)(2))

### b. Counting All Household Members' Income

The income of all persons in the household, including nonrelated individuals, shall be included in the household income determination. (See §92.203(d)(1))

These tools on the HUD Exchange website may be helpful in determining household income:

- Online Income Eligibility Calculator
- Income Eligibility Calculator User Manual
- Technical Guide for Determining Income and Allowances for the HOME Program

## F. INCOME TARGETING

HOME-assisted rental units must be rented to income-eligible tenants. The units must be rented to households with incomes at or below 80% of the area median income (AMI) for the entire affordability period. At initial occupancy, 90% of the units must be rented to households with incomes at or below 60% AMI. For projects with five or more HOME-assisted units, 20% of the units must be rented to households with incomes at or below 50% AMI throughout the affordability period.

NOTE: There are circumstances where the typical income targeting described above may vary depending on income levels specified in the contract.

## G. MAXIMUM/MINIMUM HOME ASSISTANCE PER UNIT

HUD issued maximum HOME assistance per unit yearly and is effective immediately on release from HUD. The new limits are based on the Section 234 Condominium Housing Insurance Program and vary according to the size of the unit.

The minimum investment is \$1,000 per unit.

## **H. PROPORTIONAL SHARE**

IFA requires a proportional (fair) share of HOME-assisted rental units in all mixed income rental projects. Proportional (fair) share is based upon a ratio of HOME-assisted units to total units in the project, compared to the ratio of HOME funds to total funds.

## **I. FIXED/FLOATING UNITS**

HOME-assisted units must be designated as either fixed or floating. Fixed and floating units cannot be combined.

### **1. FIXED**

When HOME-assisted units are "fixed", the specific units that are HOME-assisted (and therefore, subject to HOME rent and occupancy requirements) are designated and never change. Units are not considered comparable to the units that did not receive HOME-assistance.

### **2. FLOATING**

When HOME-assisted units are "floating", the units that are designated as HOME-assisted may change over time as long as the total number of HOME-assisted units in the project remains constant. The units must have comparable amenities and square footage.

## **J. EXPENDITURE TIMEFRAMES**

The recipient has 24 months from the contract effective date to expend all awarded HOME funds unless an amendment to the contract for a time extension is approved.

## **K. MATCH**

IFA encourages match and as the HOME Program becomes more competitive, match may become more important. Match pledged on the recipient's application must be reflected in the **HOME Match Report** submitted at closeout. Failure to provide pledged match may result in ineligibility for future funding.

## **L. LONG-TERM AFFORDABILITY**

HOME-assisted rental units must remain affordable for a specified period of time that starts from the completion date entered in HUD's Federal IDIS computer system.

- Less than \$15,000/unit = 5 years
- \$15,000-\$39,999/unit = 10 years
- \$40,000+/unit = 15 years
- New construction = 20 years

The recipient will be required to certify and provide to IFA the tenant income eligibility and rents for the HOME-assisted units on an annual basis throughout the entire affordability period. On-site inspections will also be performed on a periodic basis to determine compliance. IFA requires the recipient to annually provide evidence of property insurance.

## **M. BREACH OF CONTRACT**

Any breach of contract may result in the repayment of the recipient's HOME funds and may prevent future awards from IFA.

## **N. AUDIT/FINANCIAL STATEMENT**

### **1. AUDIT (NON-PROFIT ORGANIZATIONS)**

The recipient's contract will contain language regarding federal audit regulations found in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Financial Guidance. As required by 2 CFR Part 200,



HOME recipients must provide applicable audit documentation to IFA within nine (9) months of EACH of their fiscal years while the project is open.

IFA will send Annual Audit Letters as well as a Final Audit Letter to remind recipients to submit their audit documentation within the required timeframe.

For non-profit organizations, the following applies:

- A **Single Audit Not Required Form** must be submitted for each fiscal year that the recipient expends up to \$750,000 in federal funds, part of which must be HOME funds.
- An audit must be submitted for each fiscal year that the recipient expends \$750,000 or more in federal funds, part of which must be HOME funds.
- The recipient must submit one copy of the applicable document for EACH contract and note the HOME contract number on the document.
- IFA reserves the right to request additional information as needed.

## 2. FINANCIAL STATEMENT (FOR-PROFIT ORGANIZATIONS)

The recipient's contract will contain language regarding federal audit regulations found in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Financial Guidance. As required by 2 CFR Part 200, HOME recipients must provide applicable audit documentation to IFA within nine (9) months of EACH of their fiscal years while the project is open.

IFA will send Annual Audit Letters as well as a Final Audit Letter to remind recipients to submit their audit documentation within the required timeframe.

For for-profit organizations, the following applies:

- A project-specific financial statement must be submitted for each fiscal year.
- The recipient must submit one copy of the applicable document for EACH contract and note the HOME contract number on the document.
- IFA reserves the right to request additional information as needed.

## **O. COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)**

A CHDO is a private, non-profit, community-based service organization whose primary purpose is to provide and develop decent, affordable housing for the community it serves. In general, the CHDO definition focuses on the legal status of the organization, its capacity and experience, the organizational structure, and the relationship of the CHDO to for-profit entities.

A CHDO must meet certain HOME requirements prior to being eligible for HOME funding. IFA must certify that an organization meets these requirements.

## **P. LEASE PROVISIONS**

- The lease between the owner and the tenant in a HOME-assisted property must be for at least one year, unless a shorter term is mutually agreed upon by the tenant and the owner.

- The lease between the owner and the tenant in a HOME-assisted property cannot contain any of the following provisions:
  - ✓ Agreement to be sued - Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
  - ✓ Treatment of property - Agreement by the tenant that the owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This provision does not apply to disposition of personal property left by a tenant who has vacated a property.
  - ✓ Excusing owner from responsibility - Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.
  - ✓ Waiver of notice - Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
  - ✓ Waiver of legal proceedings - Agreement of the tenant that the owner 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 a jury trial - Agreement by the tenant to waive any right to a trial by jury.
  - ✓ 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 court decision in connection with the lease.
  - ✓ Tenant chargeable with cost of legal actions regardless of outcome - Agreement by the tenant to pay attorney's fees or other legal costs, even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- Owners may terminate tenancy or refuse to renew a lease only upon 30 days' written notice, and only for: serious or repeated violation of the terms and conditions of the lease; violation of applicable federal, state or local law; completion of the tenancy period for transitional housing or for other good cause.
- An owner of HOME-assisted rental housing must adopt written tenant selection policies and criteria that:
  - ✓ Are consistent with the purpose of providing housing for very low-income and low-income families;
  - ✓ Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
  - ✓ Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
  - ✓ Give prompt written notification to any rejected applicant of the grounds for any rejection.

# SECTION 3. FEDERAL CROSS-CUTTING MEASURES

## A. SUMMARY OF OTHER FEDERAL CROSS-CUTTING MEASURES

SUMMARY OF OTHER FEDERAL CROSS-CUTTING MEASURES			
Other Federal Requirements	Applies to Rental Housing Programs?	Special Issues/Considerations	Regulatory Citations and References
<b>Non-Discrimination and Equal Access Rules</b>			
Fair Housing and Equal Opportunity	Yes	Recipient must affirmatively further fair housing.	<ul style="list-style-type: none"> <li>• 92.202</li> <li>• Title VI of Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.)</li> <li>• Fair Housing Act (42 U.S.C. 3601-3620)</li> <li>• Executive Order 11063 (amended by Executive Order 12259)</li> <li>• Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)</li> <li>• 24 CFR 5.105(a)</li> </ul>
Affirmative Marketing	Yes	Affirmative Fair Housing Plan must be submitted to IFA.	<ul style="list-style-type: none"> <li>• 92.351</li> </ul>
Handicapped Accessibility	Yes - if new construction, or for rehab of 15 or more HOME-assisted units	-5% mobility impairments -2% hearing/vision impaired	<ul style="list-style-type: none"> <li>• Section 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8)</li> <li>• For multi-family buildings only, 24 CFR 100.205 (implements the Fair Housing Act)</li> </ul>
<b>Employment and Contracting Rules</b>			
Conflict of Interest	Yes	Contracts include language.	<ul style="list-style-type: none"> <li>• 92.356</li> <li>• 2 CFR Part 200</li> </ul>
Section 3 Economic Opportunity	Yes - if amount of assistance exceeds \$200,000 <u>OR</u> contract or subcontract exceeds \$100,000	Include Section 3 clause in contracts and subcontracts.	<ul style="list-style-type: none"> <li>• Section 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 135)</li> </ul>
Minority/Women Employment	Yes	Must solicit Minority and Women Business Enterprises.	<ul style="list-style-type: none"> <li>• Executive Orders 11625, 12432 and 12138</li> <li>• 2 CFR Part 200</li> </ul>
Davis-Bacon	Yes - if construction contract includes 12 or more HOME-assisted units	Include language in all contracts and subcontracts.  Requirements apply to whole project not just the HOME-assisted units.	<ul style="list-style-type: none"> <li>• 92.354</li> <li>• Davis-Bacon Act (40 U.S.C. 276a - 276a-5)</li> <li>• 24 CFR Part 70 (volunteers)</li> <li>• Copeland Anti-Kickback Act (40 U.S.C. 276c)</li> </ul>

Debarred Contractors	Yes	Submit to IFA prior to signing a contract with the contractor/subcontractor.	<ul style="list-style-type: none"> <li>• 24 CFR Part 5</li> </ul>
<b>Environmental Requirements</b>			
Environmental Reviews	Yes	<p>Level of review depends on the activity.</p> <p>For rehabilitation and new construction (4 or fewer units) categorically excluded subject to 58.5.</p> <p>New construction (more than 5 units) subject to environmental assessment.</p>	<ul style="list-style-type: none"> <li>• 92.352</li> <li>• 24 CFR Part 58</li> <li>• National Environmental Policy Act (NEPA) of 1969</li> </ul>
Site and Neighborhood Standards	Yes - for new construction only		<ul style="list-style-type: none"> <li>• 24 CFR 893.6(b)</li> </ul>
Lead-Based Paint	<p>Yes - for rehabilitation of pre-1978 units</p> <p>Applies to HOME and non-HOME - assisted units</p> <p>Requirements differ depending on whether rehabilitation work is performed</p>	<p>Rehabilitation</p> <p>Notices to owners</p> <p>Paint testing of surfaces to be disturbed.</p> <p>Risk assessment, if applicable, based on level of rehabilitation assistance.</p> <p>Appropriate level-hazard reduction activity (based on level of rehabilitation assistance).</p> <p>Safe work practices and clearance.</p> <p>Provisions included in all contracts and subcontracts.</p> <p>Activities not involving rehabilitation.</p> <p>Notices to purchasers and tenants.</p> <p>Visual assessment must be performed.</p> <p>Paint stabilization must be completed (if applicable).</p> <p>Safe work practices and clearance.</p>	<ul style="list-style-type: none"> <li>• 92.355</li> <li>• Lead Based Paint Poisoning Prevention Act of 1971 (42 U.S.C. 4821 et. seq.)</li> <li>• 24 CFR Part 35</li> <li>• 982.401(j) (except paragraph 982.401(j)(1)(i))</li> </ul>

		Provisions included in all contracts and subcontracts.	
<b>Relocation</b>	Yes	<p>Displacement must be minimized; existing tenants must be provided with a reasonable opportunity to lease a dwelling unit in the building upon completion of the project.</p> <p>Reimbursement for temporary relocation, including moving costs and increase in monthly rent/utilities, must be provided, as well as advisory services.</p>	<ul style="list-style-type: none"> <li>• 92.353</li> <li>• Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655)</li> <li>• 49 CFR Part 24</li> <li>• 24 CFR Part 42 (subpart B)</li> <li>• Section 104(d) "Barney Frank Amendments"</li> </ul>

**B. ACQUISITION AND RELOCATION**

Any project being funded with IFA HOME funds that will result in either the temporary relocation or permanent displacement of current tenants must comply with the **IFA Acquisition and Relocation Assistance Policy** and with all of the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). The HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition is an informational brochure that reviews all of the requirements of the URA regulations for multiple federal programs and is considered a useful resource for compliance with these requirements.

Due to the complexity and significance of the relocation requirements, **IFA reserves the right** to require recipients to engage qualified third-party contractors or consultants if the recipient does not have the experience or expertise to adequately administer the URA and Section 104(d) requirements.

Federal law and IFA require that all reasonable steps be taken to minimize the displacement of persons as a result of a development assisted with HOME funds. To the extent feasible, residential tenants must be provided with a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit within the building/complex upon completion of the rehabilitation of the development. Planning rehabilitation projects to include “staging” is encouraged to minimize displacement. It must be noted that IFA discourages proposals that will result in permanent displacement activity.

**C. CIVIL RIGHTS AND FAIR HOUSING**

The purpose of Affirmative Fair Housing Marketing requirements is to promote a condition in which individuals of similar income levels in the same housing market area have available to them a like range of choices in housing, regardless of the individual’s race, color, religion, sex, physical/mental disability, familial status or national origin. In Iowa you may also not discriminate based on creed, sexual orientation, gender identity and retaliation.

The recipient’s contract will list several federal and state regulations related to civil rights, equal opportunity and fair housing. The Fair Housing Act prohibits discrimination in the sale, rental, financing or other services related to housing based upon the protected classes. Fair housing also applies to any program funded in whole or in part with federal funds. When the recipient signs the contract, it certifies that it will comply with the laws listed. If the recipient does not understand the requirements, it should request the full text of the regulation from IFA and consult with IFA’s Civil Rights/Fair Housing Specialist to ensure compliance.

While some of the civil rights and fair housing regulations simply prohibit discrimination, others require the recipient to take some affirmative steps or action. These are addressed below.

### 1. AFFIRMATIVELY FURTHERING FAIR HOUSING

Title VIII of the Civil Rights Act of 1968 and Title I of the Housing and Community Development Act of 1974 require that recipients take some action to affirmatively further fair housing in their communities. This means the recipient must conduct outreach and informational efforts to those who are least likely to know about and apply for the housing assistance.

Refer to the following links on IFA's website for information and examples:

- [Affirmative Fair Housing Marketing Plan Form and Instructions \(Multifamily\)](#)
- [IFA Affirmative Fair Housing Outreach Guide](#)
- [Equal Housing Opportunity Logo](#)
- [Accessible Unit Lease Addendum - Sample](#)
- [Policy on Assistance Animals - Sample](#)
- [Federal Fair Housing Poster](#)
- [Iowa Fair Housing Poster](#)
- [Iowa Hate Crime Poster](#)
- [Equal Access to Housing in HUD Programs-Regardless of Sexual Orientation or Gender Identity](#)

When the rental project is monitored, the assigned IFA Project Manager will review the actions that the recipient took to affirmatively further fair housing. The recipient should document those activities and the results.

#### a. Affirmative Fair Housing Marketing (AFHM) Plan

HOME recipients are also required to develop an Affirmative Fair Housing Marketing Plan for the project.

Affirmative marketing analysis must be part of the ongoing monitoring of rental activities throughout the affordability period.

### 2. AFFIRMATIVE ACTION IN SOLICITING MINORITY/WOMEN BUSINESS ENTERPRISES

Executive Orders 11625, 12432 and 12138 generally require recipients to make every effort to solicit the participation of minority and women business enterprises (MBE/WBE) in their activities. Recipients must specify the outreach actions they will take to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts.

The recipient should include qualified MBE's and WBE's on its solicitation lists and solicit their participation whenever they are potential sources of goods or services that the recipient needs. A searchable database of registered MBE's and WBE's is available at Department of Inspections and Appeals – Certified Targeted Small Business. When the rental project is monitored, the assigned IFA Project Manager will review the actions that the recipient took to solicit MBE/WBE participation and the results.

### 3. SECTION 3 REQUIREMENTS

Overview: Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] and its applicability to the HOME program.

Section 3 is HUD's legislative directive for ensuring that economic opportunities resulting from HUD financial assistance, including employment, job training, and contracting are,

to the greatest extent feasible, directed to low- and very low-income persons. The regulations seek to ensure that public housing residents and low- and very low- income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities, if created.

A Section 3 Worker is defined as any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- a. The worker's income for the previous or annualized calendar year is below the applicable income limit established by HUD;
- b. The worker is employed by a Section 3 business concern; or
- c. The worker is a YouthBuild participant.

A Targeted Section 3 Worker is defined as a Section 3 worker who fits one of the following categories:

- a. A worker employed by a Section 3 business concern; or
- b. a worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
- c. Living within one mile of the project, or if fewer than 5,000 people live within one mile of the project, within a circle centered on the project that is sufficient to encompass a population of 5,000 people; or
- d. a YouthBuild participant

A Section 3 Business is defined as a business in which:

- a. At least 51% owned by low- or very low-income persons;
- b. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- c. At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very low-income residents in connection with projects and activities in their neighborhoods. **However, recipients are not required to hire or enter into contracts with Section 3 workers or businesses simply to meet the Section 3 goals—anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.**

### **When Section 3 Applies**

Section 3 applies to projects/activities involving housing (construction, demolition, rehabilitation) or other public construction—i.e. roads, sewers, community centers, etc. Section 3 applies to HOME projects when:

The recipient has contracted with subcontractors for services, housing and/or public construction activities and the HOME assistance exceeds \$200,000.

Even if HUD assistance is only a portion of the project cost, Section 3 requirements apply to the entire project once the assistance meets the threshold. Section 3 requirements do not apply to materials-only contracts.

### **Compliance with Section 3**

Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors/ subcontractors. This responsibility includes but may not be necessarily limited to:

- a. Implementing procedures designed to notify section 3 residents about training and employment opportunities
- b. Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating compliance with section 3 language in all solicitations and contracts.
- c. Facilitating the training and employment of section 3 workers and the award of contracts to section 3 businesses
- d. Estimating the number of labor hours utilized per project, and the projected number of labor hours to be worked by Section 3 workers.
- e. Assisting and actively cooperating with HUD in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 75.
- f. Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

### **Procurement & Bid Documents**

HOME recipients must include Section 3 language in all procurement and bid documents. The required language to be included in these documents can be found in the appendix to this chapter of the HOME Management Guide. In addition to the required language, recipients must include the "Intent to Comply with Section 3" form with all RFPs.

Contractors responding to bids must submit with their bid documents a signed copy of the "Intent to Comply with Section 3" form. This form will be used to collect information that recipients should use when reviewing responses to ensure compliance with Section 3 requirements.

### **Selecting Contractors with Section 3**

In addition to certifying new employees' level of income, Section 3 requires recipients make an effort to the "greatest extent feasible" to facilitate contracts to Section 3 businesses. By "greatest extent feasible," HUD means that recipients carrying out Section 3 projects should make every effort within their disposal to meet the regulatory requirements. This may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 workers and businesses for these types of economic opportunities. Suggestions on strategies for reaching Section 3 businesses is provided at the end of the HOME Management Guide.



While Iowa procurement procedures require recipients select the lowest responsible bidder when under a competitive sealed bid process, recipients may give preference to Section 3 businesses as a means of evaluation criteria for professional services contracts where proposals are solicited.

In order to give preference to Section 3 businesses during the contract awarding process, recipients must ask the contractor to certify whether or not they are a Section 3 business when soliciting for proposals. The "Intent to Comply With Section 3" form that will be provided with procurement documents and submitted by bidders will capture this information.

Remember, to be considered a Section 3 business the business must meet the definition by satisfying one of the following requirements:

1. It is at least 51 percent owned and controlled by low- or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
3. It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

Section 3 businesses must be given priority in contracting for work, to the greatest extent feasible. Recipients should use the following order of priority:

1st: Section 3 business concerns that provide economic opportunities for section 3 workers residing within the service area or neighborhood in which the section 3 project is located; and

2nd: Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

3rd: Other section 3 business concerns.

It is important to note that Section 3 requirements at 24 CFR 75, provides only preference for contracts and subcontracts to Section 3 businesses; Eligible businesses must demonstrate that they are responsible and are able to perform successfully under the terms and conditions of proposed contracts.

### **Hiring & Training with Section 3**

Recipients and their contractors/subcontractors are required to give hiring and training preference to Section 3 workers, to the greatest extent feasible, when employment and training opportunities result from a HOME funded project.

When a recipient or contractor/subcontractor has identified that new employment or training opportunity will result from the normal completion of the HOME construction and/or rehabilitation projects, the HOME Housing Production Specialist should work with that entity to assist with advertising the opportunity to Section 3 residents.

Notices of employment/training opportunities must be sent to the Iowa Chapter of the National Association of Housing and Redevelopment Officials (NAHRO). Notices should be sent to the NAHRO Chapter President. Contact information can be found here: <http://www.ianahro.org/contactus.cfm> NAHRO will share the notice with public housing authorities, in an effort to help reach Section 3 businesses. A sample notice for employment/training opportunities is provided at the end of the Management Guide.

Notices of employment/training opportunities must also be posted to HUD's Opportunity Portal (<https://hudapps.hud.gov/OpportunityPortal>). This portal may also be used by businesses seeking Section 3 workers for open employment opportunities.

Additional suggestions on strategies for reaching Section 3 residents is provided later in this section of the HOME Guide. Remember, recipients are required to document affirmative steps made to meet Section 3 benchmarks when Section 3 requirements are triggered.

When giving hiring and training preference to Section 3 workers, recipients and contractor/subcontractors should use the following order of priority:

- 1st: Section 3 workers residing in the service area or neighborhood in which the section 3 project is located.
- 2nd: Participants in HUD Youthbuild programs
- 3rd: Other section 3 residents.

### **Section 3 Benchmarks**

Federal regulations establish numerical benchmarks for employment/training for Section 3 residents and contracts to Section 3 businesses.

Recipients, their contractors and subcontractors will be considered to have complied with Section 3 requirements when:

1. Twenty five percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers, as defined herein; and
2. At least five percent of the total number of labor hours worked by all workers are Targeted Section 3 workers

A recipient that has not met the numerical goals must demonstrate that it complied with the order of priority outlined herein, and explain why it was not feasible to meet the established numerical goals set forth in this section. Please refer to "Reporting requirements/ reporting forms" for more information.

Note: It is important to document efforts made to comply with Section 3. Recipient files should contain any memos, correspondence, advertisements, etc. illustrating attempts to meet Section 3 goals (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). HOME staff will review this documentation during the project on-site monitoring visit.

### **Penalties for Non-Compliance**

Recipients of HOME funding have the responsibility of complying with Section 3 regulations and ensuring compliance among its contractors and subcontractors. Federal code established penalties for Section 3 violations and non-compliance. (See 75.33(c))

Communities and contractors found in noncompliance with Section 3 requirements may result in:

- a. Sanctions from HUD
- b. Termination of contract for HOME funds
- c. Debarment or suspension from future HUD assisted (HOME) contracts

Non-compliance with Section 3 can impact a community's ability to receive HOME funding in the future. The state of Iowa may not enter into a contract with any entity when the state has knowledge that the entity has been found in violation of the Section 3 regulations.

### **Reporting Requirements & Forms**

To report Section 3 data, recipients must analyze the number of labor hours worked on a Section 3 project, how many labor hours were worked by Section 3 Workers, and how many labor hours worked were by Targeted Section 3 Workers. Even if no labor hours worked were by Section 3 or Targeted Section 3 workers, this information must be reported to IEDA.

For all Section 3 projects employing Section 3 workers or Targeted Section 3 workers, the recipient/contractor must maintain self-certification forms indicating the Section 3 status of the worker. If the worker's household income is less than 80% of area median income, they are considered a Section 3 worker. Income limits by County are available on HOME's web site.

Other certifications of Section 3 workers include certification from a PHA that the worker is a participant in one of its programs; certification from an employer that the worker's income from the employer is within the income limits if annualized; certification from an employer that the worker is employed by a Section 3 business concern. Please use the appropriate Certification Forms, found in the appendix to this chapter

To report Section 3 data to IFA, recipients will report annually to IFA. This report will be submitted to Housing Production Specialist, Fabian Awanyai at [Fabian.awanyai@iowafinance.com](mailto:Fabian.awanyai@iowafinance.com) and will be due by **December 31<sup>st</sup>** of each year. As part of this report, recipients will need to report Section 3 accomplishments and/or provide a detailed explanation of why Section 3 goals were not met. Such an explanation should discuss efforts taken to comply with Section 3 and any impediments the recipient experienced in meeting Section 3 goals.

### **Section 3 Business Registry/Opportunity Portal**

The Section 3 Business Registry and Opportunity Portal are two online registries that connect residents to training and employment opportunities and businesses to contracting opportunities. Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses.

Section 3 workers are encouraged to use the Opportunity Portal to identify businesses that may have HUD- funded employment opportunities available. Section 3 businesses are encouraged to post their training, employment and contracting opportunities to the Opportunity Portal.

HOME recipients should utilize HUD's Section 3 Business Registry and Opportunity Portal to find Section 3 businesses that may be able to participate in the HOME project. Recipients can search through HUD's Section 3 registry here:

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/SearchBusiness>

Businesses may register as a Section 3 Business through HUD's website here:  
<https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>

The Opportunity Portal can be accessed through HUD's website here:

<https://hudapps.hud.gov/OpportunityPortal/>

It is important to note that Section 3 businesses and Section 3 workers are not entitled to receive contracts or employment opportunities simply by being listed in HUD's Section 3 Business Registry database or Opportunity Portal.

### **Additional Section 3 Resources**

More information and resources on Section 3 can be found on HUD's Section 3 website here:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3)

1. Section 3 regulations (24 CFR Part 75) <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>
2. Steps for Section 3 Compliance <https://www.iowaeda.com/UserDocs/S3-4-StepsForSection3compliance.doc>
3. Section 3 Clause (to be included in all HOME related contracts) <https://www.iowaeda.com/UserDocs/S3-6-Section3ProcurementLanguage.doc>
4. Sample Section 3 Employment Notice <https://www.iowaeda.com/UserDocs/S3-12-SampleSec3EmployNotice.doc>
5. Intent to Comply with Section 3 Requirements Form (to be included with all procurement materials) <https://www.iowaeda.com/UserDocs/S3-8-IntentToComplySec3Req.doc>
6. Section 3 Business Certification form <https://www.iowaeda.com/UserDocs/S3-10-Sec3BizCertificationForm.doc>
7. Section 3 Worker Self-Certification form
8. Frequently Asked Questions on Section 3 (from HUD Section 3 website) <https://www.hud.gov/sites/documents/11SECFAQS.PDF>
9. "Understanding Section 3" Training Curriculum <https://www.hudexchange.info/trainings/section-3/>
10. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns: <https://www.iowaeda.com/UserDocs/S3-5-ExamplesProcurementPrefSection3biz.pdf>
11. Language for RFP/RFQ Advertisement and Bid Documents <https://www.iowaeda.com/UserDocs/S3-6-Section3ProcurementLanguage.doc>
12. Examples of Efforts to Award Contract to Section 3 Business Concerns: <https://www.iowaeda.com/UserDocs/S3-9-ExamplesEffortsToAwardContractsSection3biz.pdf>
13. Example of Efforts to Offer Training and Employment Opportunities to Section 3 Residents: <https://www.iowaeda.com/UserDocs/S3-11-ExampleEffortsOfferEmployAndTrain.pdf>
14. New Hire Compliance Report Form: <https://www.iowaeda.com/UserDocs/S3-13-Sec3NewHireComplianceForm.doc>

4. SECTION 504 OF THE REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT (ADA)

Section 504 and the ADA require accessibility of HOME activities to persons with disabilities.

a. New Housing Construction

New construction of multi-family rental housing with five or more units shall be designed and constructed to be readily accessible to and usable by persons with disabilities. A minimum of five percent (5%) of total dwelling units or at least one unit in a multi-family housing project (whichever is greater) shall be made accessible for persons with mobility impairments. An additional two percent (2%) of units (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairments.

b. Substantial Rehabilitation

If alterations are undertaken to an existing housing structure with 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, then the provisions for new construction (above) apply.

Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made accessible to and usable by individuals with disabilities. Recipients are not required to make a dwelling unit, common area, facility or any element thereof accessible if doing so would impose undue financial and administration burdens on the operation of a multi-family housing project.

The recipient should work closely with an architect or engineer to ensure the project's plans comply with Section 504 and American with Disabilities Act (ADA), if applicable.

**D. ENVIRONMENTAL REVIEW**

The National Environmental Policy Act of 1969 (NEPA) establishes national policies, goals and procedures for protecting, restoring and enhancing environmental quality. HOME recipients must comply with this law and with related federal regulations, which are referenced in 24 CFR Part 58. The HOME recipient is responsible for evaluating how existing environmental conditions may impact the project and how the project's activity will affect the environment, by complying with the requirements set forth in 24 CFR Part 58. The requirements are complex and require time for the process to be completed. Depending on the "level of review", it can take more than 60 days to complete the NEPA process.

The environmental process is a mindset that is process-driven, analytical, and interdisciplinary. Building a strong foundation of knowledge will ensure your project will not have a negative impact on the environment nor will the environment have a negative impact on your project. To build this knowledge:

- Understand NEPA and related environmental authorities;
- Compliance - follow procedures for carrying out the environmental review responsibilities;
- Quality - achieve genuine environmental protection;
- Efficiency - focus results on relevant issues and avoid missteps.

The IFA Environmental Specialist will meet with each recipient to provide guidance on the

environmental review process. Current forms will be provided along with instructions on how to complete the correct level of review for the NEPA process. This meeting will be scheduled following the award of HOME funds.

The HOME recipient must determine which environmental level of review category applies to their HOME project. A rental project level of review will either be categorically excluded subject to other federal laws and authorities (CEST) or will require an environmental assessment (EA). To determine which level of review your project will require, you need to define: **who** is undertaking the project, **what** specific activities are proposed; **where** is the proposed action located; **when** will proposed action occur; and **why** is project being considered.

IFA is now using the HUD online environmental system (HEROS) to complete the NEPA process for each project funded by HOME. There are partner worksheets that have to be completed by the recipient to assist in this process. Along with the worksheets, all supporting documentation must be forwarded to IFA to complete the information in the HEROS system. The worksheets can be found on IFA's website for the HOME Rental program under the "Forms & Information – Environmental Review (Federal Regulations)" tab.

1. DUAL FEDERAL FUNDING

If another federal agency has funds in the recipient's project and is required to complete the NEPA process, this information can be used to assist in filling out the worksheets and supporting documentation for HOME. This will help in eliminating any unnecessary duplication of effort. The recipient should ensure the process of determination is adequate to meet responsibilities under CFR Part 58 before using another agency's determination of level of review. The recipient must still fulfill the publication and comment period requirements of NEPA.

2. INCURRING COSTS (24 CFR PART 58.22)

Completion of the environmental review process is MANDATORY before taking ANY action on a specific site, or making a commitment or expenditure of HUD or any other non-HUD project funds for property acquisition or transfer, rehabilitation, conversion, lease, repair, inhabiting a property or construction activities. 24 CFR Part 58.22 describes limitations on activities pending clearance as (a) neither a recipient nor any participant in the development process, including public or private non-profit or for-profit entities, or any of their contractors, may commit HUD or non-HUD assistance under a program listed in 58.1(b) on an activity or project until HUD has approved the recipient's Request of Release of Funds (RROF) and IFA has issued the certification to use HOME funds to the recipient. This certification will come in a letter through email addressed to the recipient's contact person. If a violation occurs resulting in adverse environmental impact or limiting the choice of reasonable alternatives during this vital step in the NEPA process, funds will not be able to be utilized for the site that violated NEPA

NOTE: A choice limiting action is ANY action done prior to the certification being issued by IFA. This is not an all-inclusive list of choice limiting actions: acquisition, purchase, moving tenants or homebuyers into property, rehabilitation, ground work, lease, repair, demolition, landscaping, etc. The recipient is to use "due diligence" that a violation does not occur during this step of the NEPA process or the funds will be lost to the project site.

The ONLY things that can be initiated prior to IFA releasing funds are contracting for preliminary architectural/engineering fees, and costs associated with the environmental review process. Keep in mind, even these exempt costs can only occur after the effective date of the contract. No costs incurred or obligated prior to the contract effective date are allowable HOME costs and could result in the loss of the recipient's HOME award. When a recipient spends money on these exempt costs, they are taking

a financial risk because if the environmental review concludes that a site is not eligible, the recipient will not be reimbursed for those costs spent.

For all other activities, recipients cannot obligate or incur costs or draw down funds until the environmental review requirements are satisfied and IFA has released funds to the project.

3. PROJECT AGGREGATION (24 CFR PART 58.32)

Recipients must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions. When grouping activities, the recipient should be aware that several sites, each requiring some degree of environmental review, actually might be considered one project (40 units being rehabilitated within a target area). The recipient is well served by grouping activity by projects, common locations and functions, and activity phasing. Some factors can be considered on an activity-wide basis, while others require site-by-site analysis.

4. THE ENVIRONMENTAL REVIEW RECORD (24 CFR PART 58.38)

Each HOME activity or project must have a written record of the environmental review process that documents the steps taken for the project that completed the NEPA process according to rules and authorities. This is the Environmental Review Record (ERR), which must be available for public review. The ERR must contain a description of the activity and its project's determination of level of review; a map of the activity/project area; documentation of compliance with environmental laws; other relevant documents, notices or information; and public comments on the recipient's environmental review. Public comments and the recipient's responses to those comments are extremely important and must be documented in the ERR. The ERR will vary in length and content by activity or project.

5. DETERMINE LEVEL OF REVIEW

IFA will determine which level of review (CEST or EA) will be required for the rental project according to 24 CFR Part 58 definitions. It will either be a CEST or an EA level of review.

a. Categorically Excluded Subject To Other Federal Laws and Authorities (CEST)

If the project is a rental rehabilitation or rental small (four or less) new construction project, the level of review is CEST (24 CFR Part 58.5). In order for your project to be CEST, it must meet one of the categories listed below:

- Special projects directed to the removal of material and architectural barriers;
- Rehabilitation of buildings and improvements when the following conditions are met:
  - In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased, and the project is not in a floodplain or wetland.
  - In the case of a multifamily residential building, unit density is not changed more than 20%; the project does not involve changes in land use from residential to non-residential or vice versa; and the estimated cost of rehabilitation is less than 75% of the total estimated cost of replacement after rehabilitation.
- An individual action on up to four dwelling units where there is a maximum of four

units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between;

- An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site. The housing needs to be constructed or under construction at the time of application for HOME funds;
- Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- Combinations of the above activities.

If the activities in the recipient's project do not meet the above standards, then the recipient will need to move up to the next level of review, an environmental assessment (24 CFR Part 58.36).

b. Environmental Assessment (EA)

If a project is not CEST, then an EA must be prepared for the project. New construction of rental units (over four units on one site or five on scattered sites) will be required to do an EA. Also, conversion of a building from non-residential is considered to be new construction by NEPA's definition and would require an EA.

6. RELATED FEDERAL LAWS & AUTHORITIES (24 CFR PART 58.5)

In addition to following NEPA procedures and assessing the impact of the activity on the human environment (an integral part of the NEPA process), recipients must certify that they are in compliance with the following laws and authorities:

Air Quality (40 CFR Parts 6, 51, 93)

Coastal Zone Management Act (Coastal Zone Management Act, Sections 307(c) & (d))

Contamination and Toxic Substances (24 CFR Parts 50.3(i) & 58.5(i)(2))  
Radon, asbestos and lead need to be evaluated under this regulation.

Endangered Species Act (50 CFR Part 402)

Explosive and Flammable Hazards (24 CFR Part 51 Subpart C)

Farmland Protection (7 CFR Part 658)

Floodplain Management (24 CFR Part 55)

Historic Preservation (36 CFR Part 800) (Programmatic Agreement between IFA and SHPO)

Noise Abatement and Control (24 CFR Part 52 Subpart B)

Sole Source Aquifers (40 CFR Part 149)

Wetlands Protection (EO 11990)



Wild and Scenic Rivers Act

Environmental Justice (EO 12898)

7. OTHER REQUIREMENTS (24 CFR PART 58.6)

In addition to the duties under the laws and authorities listed above, the recipient must comply with the following requirements:

Airport Hazards (24 CFR Part 51 Subpart D)

Coastal Barrier Resources Act (16 USC 3501)

Flood Insurance (42 USC 4001-4128 & 42 USC 5154a)

NOTE: The Iowa Finance Authority does not allow rental housing (critical action) or single family rental to be located within a floodplain or wetland.

8. PROCEDURE FOR CEST (CATEGORICALLY EXCLUDED SUBJECT TO OTHER FEDERAL LAWS AND AUTHORITIES)

a. Document in the ERR in writing, the process for making the CEST determination.

- Complete the “Level of Review” determination
- Sign, date and place in ERR
- Include clear project description

b. Prepare the **Categorically Exclusion Projects Statutory Checklist** and the partner worksheets. While completing this information, you will see that the Section 106 consultation with SHPO needs to be completed during this step. IFA does have a **Programmatic Agreement (PA)** with SHPO and if your project meets the criteria for the PA, then an **Excluded from State Historic Preservation Office Review** form needs to be completed and included as supporting documentation for your checklist and worksheets. If your project does not meet the criteria of the PA, then all of the documentation needed is listed on IFA’s website for the HOME Rental program under the “Forms & Information – Environmental Review (Section 106)” tab.

c. Document compliance with the requirements of CFR Part 58.6.

d. If the rental project has five or more units, a Phase I Environmental Site Assessment (ESA) is required. The Phase I ESA is a document prepared by an Environmental Professional that utilizes a uniform standard to identify environmental findings and provides a conclusion/opinion regarding the potential for contamination concerns on a potential site. The Iowa Department of Natural Resources (IDNR) and IFA have a Memorandum of Understanding (MOU) with each other that shows the cooperation between them supporting land clean of contamination for low-income housing. IDNR will review the Phase I for IFA HOME rental projects.

If the Phase I raises concerns with a site, a Phase II ESA will be completed for the site which will also be reviewed by IDNR. A Phase II will identify if a discovered contaminant requires remediation/further action. The Phase I, Phase II (if applicable) and IDNR comments and conclusions will be uploaded into HEROS.

e. The recipient must publish the Notice of Intent to Request Release of Funds (NOI/RROF) in the local newspaper of general circulation for the project site. If a project has to post, please contact IFA for directions. The public must be given at

least seven days to comment before moving to the next step. The recipient must use the HUD template for the publication. IFA will provide the template.

- f. IFA will complete the HUD form 7015.15 and send it to you for your signature during the comment period. After the state's seven-day comment period has elapsed, submit the Request for Release of Funds and Certification HUD form 7015.15 to IFA along with the proof of publication. These documents will be uploaded into the HEROS system for HUD's 15-day comment period.

Once HUD's 15 days have elapsed, HUD will provide IFA with a 7015.16 which is the certificate to use HOME funds for the project. IFA will then send out notification to the contact person for the project that the project can move forward.

**NOTE:** If an amendment or change to the activity happens, the recipient must re-evaluate its CEST finding of no significant impact. If there is a change, the recipient must amend the original CEST and update the ERR.

## 9. PROCEDURE FOR EA (ENVIRONMENTAL ASSESSMENT)

- a. Document in the ERR in writing, the process for making the EA determination.
  - Complete the "Level of Review" determination
  - Sign, date and place in ERR
  - Include clear project description
- b. Prepare the **Categorically Exclusion Projects Statutory Checklist** and the partner worksheets, and include supporting source documentation. While completing this information, you will see that the Section 106 consultation with SHPO needs to be completed during this step. IFA does have a **Programmatic Agreement (PA)** with SHPO and if your project meets the criteria for the PA, then an **Excluded from State Historic Preservation Office Review** form needs to be completed and included as supporting documentation for your checklist and worksheets. If your project does not meet the criteria of the PA, then all of the documentation needed is listed on IFA's website for the HOME Rental program under the "Forms & Information – Environmental Review (Section 106)" tab. The SHPO submittal packet must be sent to IFA then IFA will sign and forward it to SHPO. IFA will send letters and a packet of information to the Tribal contacts asking them if they want to consult with the project. If your project is developing vacant land, there will also need to be an Archeological Desktop Review completed to send in the SHPO packet. Once you have completed the ALL of the SHPO information please send to IFA and it will be uploaded into SHPO's new portal for Section 106 review "ESHPO".
- c. Document compliance with the requirements of CFR Part 58.6.
- d. If the rental project has five or more units, a Phase I Environmental Site Assessment (ESA) is required. The Phase I ESA is a document prepared by an Environmental Professional that utilizes a uniform standard to identify environmental findings and provides a conclusion/opinion regarding the potential for contamination concerns on a potential site. The Iowa Department of Natural Resources (IDNR) and IFA have a Memorandum of Understanding (MOU) with each other that shows the cooperation between them supporting land clean of contamination for low-income housing. IDNR will review the Phase I for IFA HOME rental projects.

If the Phase I raises concerns with a site, a Phase II ESA will be completed for the site which will also be reviewed by IDNR. A Phase II will identify if a discovered contaminant requires remediation/further action. The Phase I, Phase II (if applicable)

and IDNR comments and conclusions will be uploaded into HEROS.

- e. The recipient must publish the Concurrent Notice to the Public of Finding of No Significant Impact and the Notice of Intent to Request Release of Funds (NOI/RROF) in the newspaper of general circulation for the project site. If a project has to post, please contact IFA for directions. The public must be given at least 15 days to comment before moving to the next step. The recipient must use the HUD template for the publication. IFA will provide the template.
- f. IFA will complete the HUD form 7015.15 and send it to you for your signature during the comment period. After the state's 15-day comment period has elapsed, submit the Request for Release of Funds and Certification HUD form 7015.15 to IFA along with the proof of publication. These documents will be uploaded into the HEROS system for HUD's 15-day review.

Once HUD's 15 days have elapsed, HUD will provide IFA with a 7015.16 which is the certificate to use HOME funds for the project. IFA will then send out notification to the contact person for the project that the project can move forward.

**NOTE:** If an amendment or change to the activity happens, the recipient must re-evaluate its EA finding of no significant impact. If there is a change, the recipient must amend the original EA and update the ERR.

Here is the link to Partner Worksheets that need to be completed for rental projects funded with HOME: <https://www.hudexchange.info/resource/5119/environmental-review-record-related-federal-laws-and-authorities-partner-worksheets/> These worksheets need to be completed and sent to [Rita.eble@iowafinance.com](mailto:Rita.eble@iowafinance.com) as soon as possible to get the environmental process started. The Phase I will also need to be sent to IFA.

## **E. DAVIS-BACON AND ALL RELATED ACTS (40 USC 276(A)-7)**

Federal labor standards requirements are made applicable in HUD program activity, primarily, because of language written into the legislation that authorizes the program(s). Legislation that contains language imposing Davis-Bacon wage and reporting requirements are referred to as Related Acts, as in the Davis-Bacon and Related Acts or DBRA.

The labor standards provisions contained in the HUD Davis-Bacon Related Acts effect whether and to what extent prevailing wage requirements are applicable and ensures that mechanics and laborers employed in construction working under federally-assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance, and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.

### **1. DAVIS-BACON ACT**

Davis-Bacon applies to HOME contracts in excess of \$2,000 for the construction, alteration and/or repair of residential structures with 12 or more HOME-assisted units. HUD has provided additional assistance for compliance with Davis Bacon requirements in the Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects guidebook.

#### **a. Wage Rate Determinations**

Recipients obtain wage rate determinations by submitting a **Request for Wage Determination** form to the IFA Labor Standards Compliance Officer. The request should be submitted 30 days in advance of the bid advertisement date or 30 days in advance of contract award in the case of a for-profit development. Upon receipt of the request, IFA will review the information provided and issue the appropriate wage

rate determination. Contact IFA regarding any specific questions regarding Davis-Bacon.

b. Labor Standards Compliance Officer

The labor standards described are complicated and require thorough documentation. Each recipient must designate a Labor Standards Compliance Officer. The Officer has overall responsibility for labor compliance and for maintaining the project's labor files.

2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, AS AMENDED  
(40 USC 327-333)

This Act provides that mechanics and laborers employed on federally-assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This Act also addresses safe and healthy working conditions.

3. COPELAND (ANTI-KICKBACK) ACT (40 USC 276c)

This Act governs the deductions from paychecks that are allowable; makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled; and requires all contractors to submit weekly payrolls and statements of compliance.

4. FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED (29 USC 201, etc. seq.)

This Act establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work, and establishes child labor standards.

Additional guidance on the application of Federal Labor Standards to HOME projects is provided in the Labor Relations Letters Letter No. LR-96-02 and on the HUD Office of Labor Relations [website](#).

**F. OTHER DEPARTMENT OF LABOR (DOL) REGULATIONS**

Other DOL regulations with which recipients and their contractors and subcontractors must comply include the following:

- The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all labor provisions. The general contractor should submit a **Weekly Report of Subcontractors on Jobsite** form for each week where construction has been completed on the jobsite.
- Contractors must make pertinent records available for review and permit on-the-job interviews of employees by IFA staff.
- Contractors and subcontractors may be terminated for noncompliance with labor standards and will be liable for any excess cost involved in completing the work.
- Contractors must be able to furnish certificates from the Bureau of Apprenticeship and Training for apprentices or trainees employed on a particular project. All apprentices must be identified in each payroll submission. The ratio of apprentices to journeymen must not exceed the approved ratio under their respective program and their wage rate must not be less than prescribed under those programs. A DOL Summer Youth Program allows contractors to hire 18-22 year-old workers at lower than the prevailing wage. Contractors must secure IFA approval before using these workers and the lower pay scale.

## **G. FEDERAL CONTRACT PROVISION LANGUAGE**

The recipient must certify that all federal requirements listed in its contract with IFA are satisfied. Further, the certifications must be part of every contract and subcontract funded in whole or in part with HOME funding.

The recipient must ensure that all contracts include the provisions outlined in the **Contract Provisions Checklist**.

## **H. LEAD SAFE HOUSING**

### **1. REGULATIONS**

The HOME Program is impacted by HUD's Lead Safe Housing Regulations. This legislation is formally known as the "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule" (24 CFR, Part 35, etc. al.). HUD has also issued "interpretive guidance" to Lead Safe Housing Regulations.

The recipient is encouraged to read and become familiar with the subparts of this legislation that apply to its activity. Be aware that more than one subpart may apply. If this is the case, the most restrictive subpart takes precedence. Everyone should become familiar with Subpart B (definitions of terms) and Subpart R (details specific requirements and procedures for reducing or abating lead-based paint hazards).

HUD's Lead Safe Housing Regulations apply to all residential property constructed prior to January 1, 1978 (commonly referred to as "target housing") being assisted with HUD funds. These requirements also apply to non-residential structures being converted into residential use (e.g. converting an old school building into multi-family, rental housing).

### **2. EXEMPTIONS**

There are a number of exemptions to the regulations:

- a. Structures constructed after January 1, 1978;
- b. Certain emergency action activities;
- c. Residential properties free of lead-based paint (documented through a specific inspection protocol);
- d. Residential properties where all lead-based paint and hazards have been completely abated and documented accordingly;
- e. Unoccupied residential properties to be demolished;
- f. Properties not used for human residential habitation (e.g. commercial, industrial, etc.);
- g. Any rehabilitation to a pre-1978 structure not disturbing painted surfaces;
- h. Single Room Occupancy (SRO's) housing (such as barracks or dormitory style housing); and
- i. Housing specifically designated for (or limited to) elderly and/or disabled.

### **3. REQUIREMENTS**

The regulations detail five standard approaches to compliance with the HUD Lead Safe Housing Rule. The five approaches for achieving compliance to the specific requirements are:

- Notification
- Identification
- Reduction
- On-Going Maintenance

- Response to a Child with an Elevated Blood Level

## **I. PROCUREMENT AND CONFLICT OF INTEREST**

### **1. PROCUREMENT**

Non-profits must follow the procurement standards under 2 CFR §200.318. There are no HUD regulations regarding procurement by for-profit entities.

### **2. CONFLICT OF INTEREST**

All recipients of HOME funds must maintain written standards of conduct covering conflicts of interest, including organizational conflicts of interest. “Organizational conflicts of interest” means that, because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

### **3. MINORITY OR WOMEN-OWNED BUSINESSES**

All projects utilizing HOME funding must take affirmative steps to use small businesses and minority- or women-owned businesses as sources of supplies, equipment, construction, and services. A searchable database of registered MBE’s and WBE’s is available at Department of Inspection and Appeals – Certified Targeted Small Business.

## **H. VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2012 (VAWA)**

The Violence Against Women Act of 1994 (VAWA) is a United States federal law that provides funding and rules designed to investigate and prosecute violent crimes and to protect victims of such crimes.

VAWA was reauthorized in 2000, 2005 and 2013. The 2005 version first introduced provisions that applied to housing. Specifically affected were the Section 8 programs and public housing.

The 2013 reauthorization greatly expanded the housing programs covered by the Act to include HOME-funded Tenant-Based Rental Assistance. Final guidance was released by HUD in the Federal Register (Vol. 81, No. 221) on November 16, 2016.

Despite its name, VAWA protects both male and female victims.

A victim is not protected from eviction or termination based on their own lease violations or good cause unrelated to the violence of which they were a victim.

### **1. PROHIBITED DENIAL/TERMINATION**

Subrecipient shall ensure that any applicant for or tenant of HOME-assisted housing may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

### **2. LEASE TERMS**

Subrecipient shall ensure that an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

- a. A serious or repeated violation of a lease for HOME-assisted housing by the victim or threatened victim of such incident; or
- b. Good cause for terminating the assistance, tenancy or occupancy rights to HOME-assisted housing of the victim of such incident.

3. TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY

No person may deny assistance, tenancy, or occupancy rights to HOME-assisted housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

4. CONFIDENTIALITY OF TENANT INFORMATION RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The subrecipient shall ensure that any information submitted to the subrecipient and or staff of HOME-assisted housing including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is:

- a. Requested or consented to by the individual in writing;
- b. Required for use in an eviction proceeding against any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking; or
- c. Otherwise required by applicable law.

5. REMEDIES AVAILABLE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The subrecipient may bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual:

- Without regard to whether the household member is a signatory to the lease; and
- Without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.

A lease bifurcation shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases. If a family who lives in a HOME-assisted rental unit separates under 24 CFR 5.2009(a), the remaining tenant(s) may remain in the HOME-assisted unit.

6. LIMITATIONS OF VAWA PROTECTIONS

VAWA as applied does not limit the authority of the subrecipient, when notified of a court order, to comply with a court order with respect to:

- The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
- The distribution or possession of property among members of a household.

VAWA as applied does not limit any available authority of the subrecipient to evict a tenant for any violation not premised on an act of domestic violence, dating violence,

sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, the subrecipient must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.

VAWA as applied does not limit any available authority of the subrecipient to terminate assistance to or evict a tenant under a covered housing program if the subrecipient can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the Project would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the standards provided in the definition of “actual and imminent threat” in 24 CFR 5.2003.

Any eviction or termination of assistance, should be utilized by the subrecipient only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns

## 7. REQUIRED FORMS

### Appendix A: HUD-5380 Notice of Occupancy Rights under the Violence Against Women Act

The subrecipient must ensure that notice of occupancy rights which is set forth in Form HUD-5380 is provided to each of its applicants and to each of its tenants. It is to be provided to TBRA applicants and households as follows:

- When the TBRA applicant’s rental assistance is approved or denied
- When the subrecipient provides the tenant with notification of termination of the HOME TBRA assistance
- When the subrecipient learns that the tenant’s housing owner intends to provide the tenant with notification of eviction.

### Appendix B: HUD-5381 Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The subrecipient must use and implement the emergency transfer plan set forth in Form HUD-5381 and must make the determination of whether a tenant qualifies for an emergency transfer under the plan. The subrecipient may provide Form HUD-5383 to a tenant that is requesting an emergency transfer. With respect to tenants who qualify for an emergency transfer and who wish to make an external emergency transfer when a safe unit is not immediately available, the subrecipient must provide a list of properties in the jurisdiction that include HOME-assisted units. The list must include the following information for each property: The property's address, contact information, the unit sizes (number of bedrooms) for the HOME-assisted units, and, to the extent known, any tenant preferences or eligibility restrictions for the HOME-assisted units. In addition, the subrecipient may:



- Establish a preference under the grantee's HOME program for tenants who qualify for emergency transfers under 24 CFR 5.2005(e); and
- Coordinate with victim service providers and advocates to develop the emergency transfer plan, make referrals, and facilitate emergency transfers to safe and available units.

The tenant must expressly request the transfer and reasonable confidentiality measures must be incorporated to prevent the perpetrator from discovering the location of the new unit. Situations where a transfer would be allowed might include:

- Tenant reasonably believes that they are threatened with imminent harm of further violence if they remain in their current unit.
- A sexual assault occurred on the premises within 90 days prior to the request for transfer.

The plan must establish recordkeeping and reporting requirements. Documentation relating to a victim must be maintained in confidence and may not be entered into any shared database or disclosed to any other entity. Exceptions are applicable if:

- The victim requests or consents to disclosure
- The documentation is required in the bifurcation eviction proceedings, or
- Otherwise, as required by applicable law.

#### Appendix C: HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation

The HUD-5382 form must be provided to the applicant or tenant at the time that you distribute the HUD-5380.

- The form may be completed by the applicant or tenant seeking to invoke their VAWA rights or someone doing so on their behalf.
- The form states that the household member may be asked (but not required) to provide third-party documentation if doing so potentially puts them at risk of further violence.
- This form must be used "as is" and care must be taken that the most current version is being used.

#### Appendix D: HUD-5383 Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The HUD-5383 form is to be distributed to and completed by any household member who is seeking an emergency transfer while receiving HOME TBRA.

HUD advised that the subrecipient MAY require tenants to provide a written emergency transfer request. You may also accept other written or oral requests for a transfer. IFA suggests that this policy be made clear in your tenant selection plan and applied consistently.

You MAY ask for, but MAY NOT require third-party documentation if they refuse or do not have the documentation; the form lists a variety of acceptable documentation. The form advises the tenant that they only need to provide documentation if it is safe for them to do so.

### **HUD 91067 Lease Addendum**

The subrecipient must ensure that each tenant has the VAWA lease addendum form required by IFA that incorporates all requirements that apply to the owner or lease of HOME-assisted rental housing under 24 CFR part 5, subpart L, and 24 CFR 92.359(e), including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). This VAWA lease term/addendum must also provide that the tenant may terminate the lease without penalty if it is determined that the tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e).

- The lease addendum must be signed by all adult household members that are required to sign the lease agreement according to your policy.
- The lease addendum must also be signed with the same frequency as your other lease addendum. It is a good practice to review this policy with your tenants annually during the lease renewal process.

### **Acknowledgement of Receipt of HUD Forms 5380 and 8382**

Each adult household member must be given IFA Form Acknowledgement of Receipt of HUD Forms 5380 and 8382 at the prescribed times above. An attempt must be made to obtain the signature of the appropriate household members and the subrecipient representative to indicate their receipt of the VAWA forms.

## **SECTION 4. AFTER RECEIPT OF AWARD**

### **A. AWARD LETTER**

The recipient will receive a conditional award letter. Upon receipt of the letter, the recipient must sign and return the Award Acceptance page acknowledging and accepting the award. The form also needs to have the dates of your fiscal year inputted.

### **B. ATTEND MEETINGS/TRAINING SESSIONS**

The recipient shall attend meetings/trainings as specified by IFA.

### **C. READ HOME RENTAL GUIDE**

### **D. CONTRACT DOCUMENTS**

When the recipient receives the contract documents, it should review them carefully, obtain the required signature(s) and return it to IFA. IFA will execute the contract and return a copy to the recipient.

Rents and income targeting requirements will be enforced by covenants and deed restrictions filed with the County Recorder's Office on the land and specifying remedies for breach of the provisions.

### **E. BEGIN ENVIRONMENTAL REVIEW PROCESS**

The environmental review process is required by federal law and has some built-in time constraints. The recipient should begin the environmental review immediately following receipt of the award letter. The recipient takes on the responsibilities to evaluate how its project will affect the environment by complying with the requirements set out in 24 CFR Part 58. Varying requirements for this process depend on the recipient type (i.e. for-profit, non-profit).

**NOTE:** The recipient must have IFA's Request for Release of Funds letter **BEFORE** it starts the rental project. Do **NOT** purchase the property prior to receipt of this letter. There can be "no site limiting actions".

### **F. TITLE GUARANTY**

The recipient must contact IFA's Title Guaranty Division to begin the title certificate and closing process.

### **G. NOTICE TO PROCEED**

The recipient will receive the IFA Notice to Proceed letter.

### **H. ADMINISTRATION PLAN**

The recipient will prepare and submit its Administration Plan and ensure the project's compliance with federal laws, regulations, state administrative rules provisions and providing the project's "blueprint". The recipient must describe its operational policies, procedures and standards, and operation consistency. IFA will monitor the recipient's project based on its Administration Plan.

### **I. PROCURE PROFESSIONAL SERVICES**

Rental projects may require professional and/or preliminary architectural and engineering services. If an outside entity is used, non-profit recipients must procure such services through a competitive process, preferably from three or more firms or individuals. Ideally, the firms or individuals are familiar or experienced with HOME or similar programs, competent in the required technical areas and able to provide timely services.

# SECTION 5. CONSTRUCTION

## A. NEW CONSTRUCTION AND REHABILITATION PROJECTS

See **Construction Flow Chart** on IFA's website.

### 1. APPLICANT RESPONSIBILITIES

Do not commence with any work or furnish materials to the project until after the mortgage has been recorded and the IFA inspector has verified compliance with this requirement.

- a. Davis Bacon (if applicable)
- b. Proof of insurance on the contractor must be maintained in the project file.
- c. Pre-construction meeting.
- d. Schedule - A schedule showing:
  - 1) Planned work progress
  - 2) That appropriate inspections are done at key points in the process to ensure code and standards compliance
- e. Quality - The IFA HOME Program Design Criteria must be adhered to during construction, including materials used and the methods of installation.
- f. Execute and comply with the HOME contract.
- g. Cost and Expenditures – Track the budget on a regular basis. All costs should be reasonable as based on the original budget projections.
- h. Review payment requests from contractors and subcontractors. Contractors and subcontractors should receive appropriate payment for completed work and not be overpaid or compensated for unfinished or incomplete work.
- i. Review and approve change order requests. By reviewing these requests, the recipient will be able to approve appropriate and necessary changes and to reject those that are not.
- j. Reporting - Every project should have written construction monitoring and reporting procedures. The procedures should be referenced in, and attached to the written agreements, loan documents, and the construction contract. The purpose of monitoring is to keep the project team working toward the final deadline within the approved budget.

Reporting can include:

- 1) Progress reports from the architect (monthly, quarterly or with each payment request) that should document any decisions that have been made in the field, including changes to the scope of the work, schedule, and resolutions to problems or disputes.
- 2) Construction progress meeting minutes including inspections, change orders, and any problems or disputes that have occurred during construction.
- 3) Requiring notification before any work is concealed so that it can be inspected.
- 4) Requiring notification prior to a state or local code inspection.

## 2. SECTION 504 AND FAIR HOUSING

Section 504 and Fair Housing rules impact the design of the recipient's project by setting standards for the appropriate number and characteristics of accessible units in the project. The applicability of these standards depends on the size and type of project. The main areas covered by these are listed below:

- a. Accessible Building Entrance on an Accessible Route – The main entry doors to the building are on an accessible route. In addition, there is an accessible route to public streets and sidewalks.
- b. Accessible and Usable Public and Common Use Areas – There is an accessible route to all public and common areas. The areas include the following – parking, office, and mailbox areas.
- c. Usable Doors – All public and common use area doors exceed the 32" minimum clear width. In addition, the entry doors are 3'0". The usable doors, which pertain to the bedroom and bathroom doors of the units, provide 32" nominal clear width and have low or no thresholds.
- d. Accessible Route Into and Through the Covered Unit – The accessible units provide an accessible route starting at the entry door and continuing through all rooms in the unit. The route is over 36" wide, except at doors, where it is only 33" wide. There is at least a 30" x 48" clear space at all kitchen appliances and bathroom fixtures. In addition all rooms are on the same level.
- e. Light Switches, Electrical Outlets, Thermostats and Other Environmental Controls in Accessible Locations – All light switches, electrical outlets and thermostats are located between the required 15"-48". In addition, the controls are all located in an accessible location.
- f. Reinforced Walls for Grab Bars – All accessible units provide reinforcement in the bathroom walls to allow later installation of grab bars around toilet and tub or currently have grab bars installed.
- g. Usable Kitchen and Baths –
  - 1) Kitchens – The accessible units have the required 30" x 48" clear floor space at each appliance. In addition there is at least 40" between all opposing base cabinets, countertops, appliances and walls.
  - 2) Baths – All accessible units provide a maneuvering space with the bathroom to permit a person using a mobility aid to enter the room, close and reopen the door and exit. In addition, there is a clear space that exceeds the required 30" x 48" to allow a person using a mobility aid to approach and use fixtures.

## 3. BUILDING CODES AND STANDARDS

Newly constructed or rehabilitation multi-family housing shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the Iowa State Building Code shall apply. All single-unit rental rehabilitation shall meet applicable local codes or standards or **Iowa's Minimum Housing Rehabilitation Standards**, whichever is more restrictive. **Iowa's Minimum Housing Rehabilitation Standards** do not apply to communities over 15,000 in population.

- a. **2015 International Building Code** adopted and published by the International Code Council.
- b. **2015 International Existing Building Code** adopted and published by the International Code Council.
- c. **2015 International Residential Code** adopted and published by the International Code Council.
- d. **2015 International Fire Code** adopted and published by the International Code Council.

- e. **2015 International Mechanical Code** adopted and published by the International Code Council.
- f. **2015 Uniform Plumbing Code** adopted by the International Association of Plumbing and Mechanical Officials.
- g. **2014 National Electric Code** adopted by the National Electrical Code Committee and published by the National Fire Protection Association, Inc.
- h. **2015 International Energy Conservation Code** adopted by the International Code Council.
- i. **Iowa Administrative Code Chapters: 300 (Administration), 301 (General Provisions), 302 (Accessibility of Building), 303 (Energy Conservation), and 350 (State Historic Building), and 25 (State Plumbing Code). Most current version.**
- j. **Uniform Federal Accessibility Standards provided in 24 CFR Part 8 and delineated in the American National Standards Institute Standard 2003 A117.1.**
- k. **The Americans with Disabilities Act 1990** provided by the Federal Department of Justice.
- l. **The Federal Fair Housing Act of 1988** including Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Title VIII of the Civil Rights Act of 1968, Section 3 of the Housing and Urban Development Act of 1968, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973.
- m. For adaptive reuse/rehabilitation, the **Lead Base Paint Poisoning Prevention Act**, the Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead Based Paint Hazards, Environmental Protection Administration (EPA) and Occupational Safety and Health Act (OSHA) provisions shall apply when applicable.

For adaptive reuse/rehabilitation, **State Historic Preservation Office (SHPO) clearance Section 106 of the National Historic Preservation Act, 36 CFR Part 800** for projects receiving any direct federal funding (HOME or categorical grant) or affecting properties listed in the National Register of Historic Places, or in a designated historic preservation district or zone.

#### 4. ENERGY REPORTS AND REQUIREMENTS

##### a. New Construction

New HOME construction developments must meet or exceed Energy Star standards and receive a Home Energy Rating Systems, (HERS) Index of 70 or less from a certified rater in Iowa based on the 2009 International Energy Conservation Code (IECC).

A home energy rating performed by a certified HERS rater is required on each project after it is completed to verify that actual construction meets Energy Star requirements. The contract for the determination of the HERS index must be between the certified rater and the Ownership Entity. If upon completion, a project does not meet the HERS index of 70 or less, additional steps must be taken by the recipient to obtain the HERS index of 70.

On multi-unit projects, five (5) units with different floor plans and orientations for complexes of less than 50 units and 5% or at least 10 units in complexes of 50 or more units must be rated prior to final payment and final inspection by IFA.

New construction developments with four stories or more must meet ANSI/ASHRAE/IES Standard 90.1-2010. Supporting documentation shall be provided by an independent licensed engineer. If upon completion, a project does not meet ANSI/ASHRAE/IES Standard 90.1-2010, additional steps must be taken by

the Ownership Entity to meet this requirement prior to final payment.

b. Existing Structures

For existing structures that receive HOME funding, an energy audit conducted by a certified home energy rater must be provided on each building **prior** to the preparation of the final work rehabilitation order or design documents.

At the completion of rehabilitation, a follow-up energy report by a certified energy rater is required to verify that the rehabilitation work on each building meets the standards of IECC or includes recommended energy performance measures designed to achieve energy use reductions projected as a part of the initial performance audit and consultation. The contract for the determination of the energy audit must be between the certified rate and the ownership entity. If upon completion, a project does not verify that the project has met the specified energy improvements, additional steps must be taken by the ownership entity prior to the issuance of Form 8609.

5. SCOPE OF WORK (Rehabilitation, Preservation and Adaptive Reuse Projects)

All rehabilitation and renovation projects require a written scope of work outlining specific requirements to be included in the construction work.

6. CAPITAL NEEDS ASSESSMENT (Rehabilitation, Preservation and Adaptive Reuse Projects of 26 or more total units)

Capital Needs Assessment means an assessment of the rehabilitation needs of an existing structure that is prepared by a competent third party, such as a licensed architect or engineer. The third party may be a member of the development team with prior approval by IFA, but may not be the ownership entity/recipient. The assessment must include a site visit and physical inspection of the interior and exterior of units and structures, as well as an interview with available on-site property management and maintenance personnel to inquire about past repairs/improvements, pending repairs, and existing or chronic physical deficiencies. The assessment must also consider the presence of hazardous materials on the site.

The assessment must include an opinion as to the proposed budget for recommended improvements and should identify critical building systems or components that have reached or exceeded their expected useful lives. The assessment must include a projection of recurring probable expenditures for significant systems and components impacting use and tenancy, which are not considered operation or maintenance expenses, to determine the appropriate replacement reserve deposits on a per unit per annual basis. The following components should be examined and analyzed for a Capital Needs Assessment:

- a. Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utilities and lines;
- b. Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage;
- c. Interiors, including unit and common area finishes (carpeting, vinyl tile, plaster walls, paint conditions, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors; and
- d. Mechanical and electrical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection, and elevators.

## 7. DESIGN DOCUMENTS

- a. Final Approval of Plans and Specifications - IFA requires that plans and specifications are submitted for final review and approval. The following must be addressed prior to approval:
  - 1) The final plans and specifications must be consistent with the scope of work defined in the recipient's agreement with IFA. Construction should not begin until plans and specifications for the project have been reviewed by IFA, corrected by the recipient and approved by IFA.
  - 2) The plans and specifications must include detailed drawings and specifications as needed to fully explain all aspects of the scope. The following is the minimum for a new construction project. Renovation and rehabilitation projects will require many but not all of the items, depending on the scope of the work. The recipient and/or architect can review requirements with IFA to determine what should be completed.
- b. Site plans including grading, site utilities, landscaping, paving and all site features, accessible routes.
- c. Architectural plans including all floors, roof plans, reflected ceiling plans, exterior elevations of all parts of the building, building sections, wall sections, details to adequately describe all components of the structure, door schedules, window schedules, finish schedules, signage, HC features, audio and visual enhancement features at the required units, interior elevations of kitchens and bathrooms.
- d. Complete structural drawings showing all plans, beam schedules, lintel schedules, details for all foundation conditions and all major framing conditions. They should show all connection requirements for wind loading, strong ties, etc., sheathing requirements, all framing sizes and spacing.
- e. Mechanical drawings showing all floors and under slab work. A site utilities plan if not provided by civil. Location of all equipment with adequate clearances indicated, ductwork routes and sizes, all HVAC piping shown enlarged equipment room plans, equipment schedules with Energy Star information and efficiency information included.
- f. Plumbing drawings showing all floors and under slab work. A site utilities plan if not provided by civil. Location of all equipment with adequate clearances indicated, pipe routes and sizes, enlarged equipment room plans, equipment schedules with Energy Star information and efficiency information included.
- g. Electrical drawings showing all floors and under slab work. Complete power and signal plans, complete lighting plans, fixture schedules with Energy Star information included, site lighting.
- h. Complete specifications for the entire project.
- i. Complete General conditions including the contract for construction to be used.

Completed documents must be submitted and approved before any construction work is reimbursed.

## 8. PRE-CONSTRUCTION CONFERENCE

The architect or a representative of the HOME Program recipient shall coordinate scheduling the pre-construction conference with all applicable parties.

At a minimum, 10 days' notice shall be given to IFA and the following persons who will attend the pre-construction conference:



- a. A pre-construction conference should be held with a representative of each party involved:
- 1) Recipient staff;
  - 2) Non-profit entity (if applicable);
  - 3) Developer/owner, if different from IFA HOME recipient;
  - 4) General contractors and major subcontractors;
  - 5) If applicable, the architect (especially the person representing the firm and the resident observer);
  - 6) Representatives of IFA and all other funding agencies.

Copies of the minutes with an attached attendance list should be distributed by email to applicable parties.

If it is suitable, the conference should be held at the site.

- b. The timing of a pre-construction conference is after:
- 1) Environmental Review and Release of Funds have been completed; and
  - 2) Relocation notices have been sent (if applicable);
  - 3) Construction documents, CNA, (if applicable) and energy audits or preliminary reports have been received, reviewed and approved.
- c. The purpose of a pre-construction conference is to:
- 1) Communicate the goals of the project;
  - 2) Identify deadlines and critical phases of the work (project schedule);
  - 3) Review the scope of work and schedule;
  - 4) Explain basic operating procedures, including reports, meetings and other communications required and expected during construction;
  - 5) Review applicable programmatic and federal requirements, such as Davis-Bacon, labor standards, and Lead Safe Housing Rules;
  - 6) Review procedures for:
    - a) Inspections – when they must occur and who initiates them;
    - b) Payment requests – when they should be submitted, who receives them; what they must include, when payment will be made if satisfactory;
    - c) Change orders – the process for requesting one; what would/ would not be considered in weighing the request;
    - d) Lien releases – the process and who is involved;
    - e) Monitoring of progress and reporting;
    - f) Dispute resolution; and
    - g) Closing out the project.
  - 7) Review the construction contract and ensure all parties have read, understood, and signed it;
  - 8) Confirm that subcontractors' names, addresses, and phone numbers are accurately listed;
- d. For occupied structures:
- 1) Discuss the handling of service shut-offs and restricting access to bathrooms; kitchens, etc. during lead-paint work as well as other relevant rehabilitation work;
  - 2) Define moving and relocation roles and schedules; and
  - 3) Review/discuss safety and security measures during construction.

## 9. CONSTRUCTION SITE VISITS AND OBSERVATIONS

Progress inspections are important because:

- a. HUD requires that inspections be documented and include the signature of the inspector and the date;
- b. An inspection will determine if work completed corresponds to the design criteria, the construction contract and the schedule before payment is made to the contractor;
- c. They help ensure that safety and security measures are being taken and that necessary inspections by local jurisdictions have occurred;
- d. They allow IFA to view the project at key construction points.

## 10. TIMING OF INSPECTIONS

The construction schedule (new construction or rehabilitation) will determine the expected times for progress inspection

### a. New Construction

Site visits by IFA for new construction will occur typically at:

**Foundations:** An inspection should occur when reinforcing bars are installed and any under slab wiring, plumbing, and insulation are in place.

**At rough-in:** Before sheet rock and insulation, to view mechanical and electrical installation.

**At insulation:** If no energy consultant is involved to help ensure a class 1 installation.

**Final inspection:** After all punch list items are completed, contractor trailers are off the site and landscape is installed.

### b. Rehab Projects

Rehab projects will have two to three progress checks and a final inspection.

A final inspection must also be made by the appropriate jurisdiction and work must pass this inspection before the final payment is released to the contractor.

- The recipient will schedule a final inspection to be attended by the owner, project administrator/consultant, contractor(s) and IFA Inspector.
- Notice of this inspection must be scheduled with IFA at least 3-5 days prior to the scheduled date.

After completion of the punch list items, or (if appropriate) the architect's notice of completion, the recipient should receive from the contractor:

- Cost certifications;
- Operations manuals (for furnaces and other systems);
- Warranties of work performed;
- Guarantees from manufacturers of materials and systems installed; and
- Release of liens by suppliers, all subcontractors, and the general contractor.

No final payment will be made until all documents are received and lien releases are verified.

## 11. CHANGE ORDERS

All change orders will be submitted with pay applications for review. Changes should be for corrections to errors and omissions in the design documents, changes required by code enforcement agencies or recipient initiated changes that add materially to the construction and directly benefit the living environment for the end user.

Change orders submitted with the pay application should include:

- ✓ Description of and reason for the change;
- ✓ Cost estimate showing all the costs associated with the change including labor breakdown, material breakdown, all mark ups; and
- ✓ Time impacts.

## 12. RETAINAGE

For all projects, a portion of all payments will be retained (typically 10%) until 30 days after completion of the work or satisfactory completion of the final punch list items.

The draw schedule will be monthly. The recipient should retain a percent of the payment to ensure that the contractor completes the work according to the contract and any latent construction defects have been addressed.

## 13. DRAW PAYMENT REQUESTS

Procedures for draws are covered in Section 7 of this Guide.

NOTE: IFA will perform an on-site inspection prior to review and approval of EACH construction draw request.

The recipient's system for processing construction payments should be part of the construction documents, reviewed by:

- The property owner and contractor prior to signing a rehabilitation contract;
- The developer and contractor for smaller, uncomplicated new construction projects at the pre-construction conference; or
- The entire development team for larger new construction projects at the pre-construction conference.

For new construction projects, the developer assembles the draw requests for both hard and soft costs from the general contractor and other professionals involved in the project. The invoice should include:

- Total budget obligated;
- Amount of previous payments received to date;
- Cost for materials stored;
- Costs incurred during the particular pay period;
- Total costs incurred to date (includes previous and current expenses);
- Percentage of work completed to date;
- Remaining budget; and
- Amount of payment retained until project completion.

For housing rehabilitation projects, the general contractor usually submits payment requests to the recipient at the completion of each billing period. The owner should sign off on the request before the recipient processes it. The invoice should include:

- Total budget obligated;
- Amount of previous payments received to date;
- Cost for materials stored;
- Costs incurred during the particular pay period;

- Total costs incurred to date (includes previous and current expenses);
- Percentage of work completed to date;
- Remaining budget; and
- Amount of payment retained until project completion.

No payment should be made when there have been changes to the original contract or scope of work without approval of a relevant change order.

Each payment request will be logged in as soon as it is received and recorded as soon as it is released.

Recipients must have a procedure that includes:

- Who reviews payment requests and approves them;
- The documentation that must accompany a payment request, including:
  - For all projects, an inspection report that supports satisfactory completion of work according to the work write-up, specifications, and/or construction schedule;
  - Lien waivers as appropriate;
  - If needed, approved change orders;
  - For projects subject to Davis-Bacon requirements, signed certifications that demonstrate compliance.

Once a payment request has been approved by the recipient, it should be paid promptly in accordance with the agreed-upon schedule.

#### 14. FINAL PAYMENT AND RELEASE OF RETAINAGE

Final payment shall be made to the contractor after:

- ✓ Final inspection by IFA is completed;
- ✓ If applicable, a Certificate of Occupancy from the local jurisdiction is signed;
- ✓ If applicable, Release of Liens are received from all major subcontractors and vendors;
- ✓ All punch list items are resolved; and
- ✓ If applicable, final payrolls and equal employment opportunity data are accepted by the recipient.

#### 15. CONTINGENCY FUNDING

All projects involve unforeseen problems that will require contingency funds. A contingency is a way to assure funds are available if needed. These funds should not be drawn or expended unless an appropriate written change order is executed.

- Funding should be established at the beginning of project for unforeseen circumstances.
- Set up is allowed but only work performed and documented through written change orders is paid.
- Typical amounts vary depending on size and complexity of job. Rehabilitation projects should always have a contingency fund planned.

During the construction period, the recipient's manager should issue periodic status reports for the project to IFA, and other partners such as contractors, private developers, and property owners.

## **SECTION 6. MAXIMUM HOME RENTS**

HOME-assisted rental units must meet affordable rent restrictions. Federal regulations set the rents.

HUD establishes high and low HOME rents for each area annually. The recipient is responsible for ensuring that the correct number of high and low rents is maintained in the project during the affordability period.

### **A. MAXIMUM ALLOWABLE HOME RENTS AND UTILITY ALLOWANCES**

Allowable rents under the HOME Program are "gross" rents. For the purpose of determining the true or actual rent amount that can be used, the recipient must determine the "net" rent. To calculate the "net" rent, the recipient must subtract the appropriate utility allowance as approved by IFA to reduce the maximum allowable gross rent if the tenant pays for some or all utilities.

# SECTION 7. PREPARATION AND SUBMITTAL OF DRAWS

## A. GENERAL INFORMATION

- The recipient must first receive its Request of Release of Funds letter from IFA.
- The recipient must also receive an IFA Notice to Proceed letter from IFA.
- The recipient has 24 months from the Contract Effective Date to expend all awarded HOME funds unless an amendment to your contract is made.
- Draw requests will not be processed before clearance of all applicable contract conditions.
- Draw requests must be in whole dollar amounts and for a minimum of \$500 dollars unless it is the final draw.
- Draw requests should be made only after work has been completed, inspected and deemed satisfactory.
- Draw requests must contain all supporting documentation for funds to be drawn.
- The recipient will be notified if the draw request is denied. IFA will inform the recipient of what needs to be corrected and re-submitted.
- If the draw request is approved, IFA will transfer the funds to the recipient through **Automated Clearinghouse (ACH) Transfer Authorization**
- IFA will perform an on-site inspection prior to review and approval of each construction draw request.

## B. ITEMS NEEDED PRIOR TO FIRST DRAW

These items have to be completed prior to the first draw (whether or not it is a regular fund draw or an administration fund draw).

- Administration Plan (later submission date for LIHTC projects)
- **Authorized Signature Form**
- **ACH Transfer Authorization Form**
- Affirmative Fair Housing Marketing Plan approved by IFA (later submission for LIHTC)
- Tenant Selection Plan

## C. SUBMITTAL OF DRAWS FOR REGULAR FUNDS

1. COMPLETE **DRAW REQUEST FORM (REGULAR FUNDS)**  
Complete the **Draw Request Form (Regular Funds)** and invoice documentation. Draws must be in whole dollar amounts and for a minimum of \$500 (unless it is the final draw).
2. SUBMIT DOCUMENTS TO IFA PROJECT MANAGER  
Submit the documents to the assigned IFA Program Manager by email. If the draw is the **final** draw, the completed **Rental Completion Form** must also be submitted for the project.

**NOTE:** IFA will perform an on-site inspection prior to review and approval of EACH construction draw request.

## **SECTION 8. MONITORING REVIEW**

Before the project completion, the assigned IFA Program Manager will contact the recipient to set up an onsite monitoring visit which will include both a physical and file inspection. The purpose of this visit is to assess the recipient's performance and compliance with HOME Program requirements.

The recipient will need to do the following to prepare for the visit:

- Give proper notification to the tenants
- Maintain well documented tenant and project records
- Document project progress
- Document actions take to satisfy the various federal/state requirements

## SECTION 9. CLOSEOUT PROCESS

After all funds have been drawn and a completion report has been submitted, the assigned IFA Program Manager will determine if there are any remaining items that need to be provided prior to transferring the project to long-term compliance.

### **A. MATCH**

All HOME projects containing eligible match funds must submit match information to IFA until all required match (as identified on Exhibit A of the HOME funding agreement) has been contributed to the activity. HOME recipients must maintain complete and current records regarding all eligible match contributions.

The match forms below can be found on IFA's website, under the HOME Program:

- [Match Table - Eligible Forms, Calculations, Date of Contribution](#)
- [HOME Match Report with Instructions](#)

### **B. SECTION 3 REPORT**

A [Section 3 Report](#) must be submitted each December 31, to [Fabian.Awanyai@iowafinance.com](mailto:Fabian.Awanyai@iowafinance.com).

### **C. FINAL ALLOCATION COMPLIANCE LETTER**

When all required documentation for the project has been satisfied, the recipient will receive an Initial Allocation Compliance Letter, Audit Letter, and a Final Allocation Compliance Letter. The Final Allocation Compliance Letter will include a summary of the recipient's project and activities.

**NOTE:** Although IFA may conclude that the recipient is substantially in compliance, the recipient's HOME Program records may be reviewed as part of IFA's annual audit by HUD, an independent auditor or the State Auditor's Office. Any of these audits could result in findings or conclusions that differ from those of IFA.

Once the Final Allocation Compliance Letter has been received, the recipient will continue to work with IFA's Long-Term Compliance Department for the remainder of the project's affordability period.