



Homeowner Rehabilitation Policy and Procedure Manual

HOME Program



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SECTION 1: GENERAL PROGRAM INFORMATION AND REGULATIONS

1.0 Purpose and Introduction

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

HOME funds are used to achieve the following objectives:

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

The state of North Dakota is a Participating Jurisdiction (PJ) under the federal HOME Investment Partnerships Program and receives an allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD) that is used to support affordable housing activities in the community. The state's HOME program is administered by the North Dakota Housing Finance Agency (NDHFA.)

As part of the state's HOME program, NDHFA provides funding from the HOME Investment Partnerships (HOME) Program from the U.S. Department of Housing and Urban Development (HUD) under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, to eligible Community Action Agencies (CAPs) as local program subrecipients to assist eligible homeowners. The purpose of the HOME Program Owner-Occupied, Single-Family Rehabilitation program is to assist existing homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units. To be eligible for HOME funds, the homeowner must be low-income and occupy the property as a principal residence. Additionally, the value of the HOME-assisted property after rehabilitation must not exceed 95 percent of HOME Homeownership value limits for the area. For more information on Homeowner Rehabilitation, see 24 CFR 92.254(b)(1) and (2).

1.1 Assistance Type

The minimum amount of HOME funds to be provided per eligible household is \$1,000. The maximum amount of HOME funds to be provided per eligible household shall be determined by each subrecipient. The HOME assistance amount shall be determined, in part, on the level of work needed to bring the home into compliance with NDHFA Minimum Property Standards.

The HOME funds shall be provided to the eligible homeowner in the form of a recoverable grant. The recoverable grant term shall not exceed 5 years and shall be forgiven according to the terms and conditions contained within the written agreement between the homeowner and subrecipient. The affordability period and other homeowner eligibility requirements are covered in greater detail in sections 1.09-1.16.

1.2 Eligible Costs

The following are HOME-Eligible Homeowner Rehabilitation Costs:

Hard Costs:

- Meeting the rehabilitation standards
- Meeting applicable codes, standards and ordinances
- Essential improvements
- Energy-related improvements
- Lead-based paint hazard reduction*

- Accessibility for disabled persons
- Repair or replacement of major housing systems
- Incipient repairs and general property improvements of a non-luxury nature
- Site improvements and utility connections

* Note: Lead hazard reduction costs are not counted as hard costs for the purposes of determining the level of assistance under 24 CFR Part 35 (the Lead Safe Housing Rule).

Soft Costs:

- Financing fees
- Credit reports
- Title binders and insurance
- Recordation fees, transaction taxes
- Legal and accounting fees
- Appraisals
- Architectural/engineering fees, including specifications and job progress inspections
- Project costs incurred by the subrecipient that are directly related to a specific project
- Refinancing of secured existing debt if the housing is owner-occupied and refinancing allows the overall costs of the borrower to be reduced and the housing is made more affordable

Ineligible Rehabilitation Costs (24 CFR Part 92.214):

- Provide project reserve accounts or operating subsidies
- Provide non-federal matching contributions required under any other federal program
- Provide assistance to a project previously assisted with HOME funds during the period of affordability
- Pay delinquent taxes, fees, or charges on properties to be assisted with HOME funds
- Pay for materials that are considered to be luxury quality items. (e.g. granite countertops)
- Pay for furnishings and certain non-essential appliances (e.g. dishwasher) contained within the residence, or other items not considered fixtures to the real estate
- Any other cost prohibited under 24 CFR Part 92.214

The HOME Homeowner Rehabilitation Program shall be implemented by subrecipients who receive HOME funding from the state, and who are responsible for developing policies and procedures for the implementation of their program. The subrecipient's policies and procedures must adhere to the minimum standards established in the state policies and procedures.

Applicants receiving assistance must meet all eligibility requirements of the HOME programs as outlined in both the state and subrecipient policies and procedures.

1.3 Program Administration

The NDHFA HOME Homeowner Rehabilitation Program shall be implemented by subrecipients that receive HOME funds. The subrecipients shall be responsible for developing policies and procedures for the implementation of their program which adhere to the minimum standards established in this state policy and procedure manual. Subrecipient responsibilities include, but are not limited to, processing client applications, income qualification, site inspections, project estimate preparation, lead testing and abatement, radon testing

and mitigation, and working with the homeowner and contractor throughout the home rehabilitation process to ensure compliance with HOME program requirements as stated in this policy and procedure manual.

NDHFA Program Administrator (PA) is responsible for processing subrecipient applications for funds, executing financial awards, reviewing subrecipient policy and procedure manuals, and subrecipient monitoring. The PA is responsible for working with subrecipients on individual project activities and set up including IDIS set up, reviewing and monitoring environmental and lead based paint requirements, project reimbursement processing, and project close out.

1.4 Application and Award Process

Each subrecipient's annual set-aside funds are detailed in the annual HOME Allocation Plan. The recipient must apply for the set-aside funds beginning August 1 of each year. Application materials will be available on ndhfa.org. The application must include the grantee's policies and procedures for owner-occupied rehabilitation. Upon approval of application and policy, NDHFA will issue a subrecipient agreement and financial award. The deadline for application submission is December 1 of each year.

The PA is responsible for review and approval of subrecipient applications. The PA will ensure that the subrecipient has provided appropriate policy and procedure manuals, has resolved any outstanding monitoring findings, and is eligible for a financial award.

Once the PA has reviewed and approved the subrecipient applications, the PA will prepare a Subrecipient Agreement and a Financial Award (SFN 60136) and send to the subrecipient for review and signature. The documents should be signed by the executive director of the subrecipient and returned to the PA. Once signed copies are returned to the PA, NDHFA's Executive Director or Community and Grants Management Director shall sign. Copies of the executed documents will be provided to the subrecipient. General timeframe for application processing is one month.

1.5 FFATA Reporting

The FFATA Subaward Reporting System (FSRS) is a reporting tool that federal prime awardees (i.e. NDHFA) use to capture and report subaward and executive compensation data to meet the FFATA reporting requirements. In accordance with 2 CFR Part 170, when NDHFA is awarded a federal grant, it is required to file a FFATA subaward report by the end of the month following the month in which the NDHFA awards any subaward equal to or greater than \$30,000 in federal funds. Additional information can be found on the FSRS website, at <https://www.fsrs.gov/>.

NDHFA PA shall file a FFATA subaward report for each subrecipient award of HOME funds. The report should be filed by the end of the month following the month in which the subaward was awarded.

1.6 Draw Down Process

No project funds may be disbursed, or costs incurred until an Environmental Review is complete and an Authorization to Proceed is issued by NDHFA. Each grantee must complete an onsite NSPIRE initial inspection for each location prior to being issued the Authorization to Proceed.

After written agreements are signed with the homeowner and contractor, but prior to starting work on a project, the grantee must submit a project set-up report form with an attached project budget based on professionally estimated work write-ups. NDHFA will obtain the 5-digit project number and notify the grantee. This number must be used for all cash requests and correspondence concerning the project.

Requests for funds must be made on the appropriate Draw Request Form (SFN 60121) and each request must be broken down by project funds, administrative funds, or operating expenses. Follow the instructions accompanying each form.

HOME funds are disbursed for reimbursement of expenses incurred only. Documentation of the incurred expense is required. **This includes time sheets and cost allocations for administrative hours and expenses**

logged on a project as well as detailed invoices from contractors and the accompanying inspection by the recipient.

At the time the grantee prepares the Cash Request Form, it should attach to its file copy all cost documentation to support the request. This procedure will provide a traceable system and ease the reviewer's examination of the financial files.

The Project Completion Report should accompany the final Draw Request Form unless other funds remain to be spent. The Project Completion Report should be submitted to NDHFA within 30 days of the final HOME draw.

The grantee should allow 7-14 days from the day funds are requested funds to the receipt of those funds by the designated bank depository. There may be isolated occasions whereby payment requests may be unexpectedly delayed, over which NDHFA has little or no control.

Cash drawdowns, except for the final request, must be for at least \$100.

Project Procedure Summary:

- A. Apply for Financial Award from NDHFA; complete ACH Authorization (SFN 60122).
- B. Market program to lower income homeowners, take in applications.
- C. Verify Applicant's income.
 1. Watch this Training: Determining Income for the HOME Program
 - a. <https://www.hudexchange.info/trainings/courses/determining-income-for-the-home-program-session-1/2532/>
 - b. Must choose either 1040 Method or Part 5 Method. Chosen method must be used for all projects.
 - c. Must use CPD income calculator: <https://www.hudexchange.info/incomecalculator/>
 - d. Use HUD Passbook Rate of .06%. This rate is effective until otherwise directed by HUD.
- D. Verify Ownership Status.
 1. Must obtain proof of ownership and principal residence. A copy of the deed alone is not sufficient. A title search or property tax statement should be included. Evidence for verifying principal residence can include self-certification or utility records.
- E. Obtain estimated after-rehab value and ensure HUD homeownership value limits are not exceeded. <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>
 1. HUD has not defined a method for calculating after-rehab value. Pre-rehab value can be determined by appraisal or tax records. After-rehab can be an estimate by qualified staff but must be able to explain how value was calculated.
- F. Submit the scope of work to NDHFA's HOME program administrator.
 1. A detailed description of the rehabilitation work to be undertaken. All HOME rehab projects must bring home up to NDHFA Minimum Housing Rehabilitation and Property Standards. NDHFA property standards can be found here: <https://www.ndhousing.nd.gov/sites/www/files/documents/Plans/MinimumRehabilitationPropertyStandards.pdf>.
 2. NSPIRE Checklist can be found here: <https://www.ndhousing.nd.gov/development>.
 3. If funds other than HOME are to be used on the project, scope of work must identify which funds will be used for each line item (cost allocation).
 4. Each project using HOME funds must be treated as a single project, even if more than one source of funding is being used on the same project.

- G. Lead Testing: Please review LBP Policy and Procedures manual and attachments:
<https://www.ndhousing.nd.gov/lead-based-paint/>.
- H. Radon Testing: perform radon testing on the home and send a copy of the result to NDHFA.
- I. Submit environmental information to NDHFA Program Administrator. (Detailed info contained within this policy manual).
- J. **STOP and wait for NDHFA to Approve/Deny Environmental.**
- K. Solicit Bids for rehabilitation work (provide copies to NDHFA).
 - 1. Link to HUD Forms: <https://www.hudexchange.info/programs/home/topics/homeowner-rehabilitation/#templates-and-forms>.
- L. Award bid to best contractor for the job.
- M. Ensure homeowner signs contract with contractor and CAA is a witness to that contract (provide copy to NDHFA). The subrecipient must also enter into a written agreement with the homeowner and record a Declaration of Lien interest with the county recorder.
- N. Provide Project Setup form to NDHFA HOME Program Administrator (can be sent together with Authorization to Proceed).
- O. Send Authorization to Proceed form to NDHFA HOME Program Administrator and wait for approval. Once approved, NDHFA will commit funds to the project in IDIS and an IDIS number will be assigned to the project. DO NOT PROCEED until a signed Authorization to Proceed is returned to you.
- P. Ensure initial, progress, and final inspections are completed (provide copies to NDHFA).
- Q. Submit “change order” form to NDHFA HOME Program Administrator if estimated project costs change.
- R. Submit “closeout” form to NDHFA HOME Program Administrator once project is complete and all funds are drawn. Should be submitted along with the final draw request.

1.7 Financial Accounting Standards

Recipient of HOME funds must maintain a financial accounting system which complies with various federal guidelines and provides accurate information, traceable transactions, and accountability of funds. The grantee must ensure the following:

- A. Accurate, current, and complete disclosure of the financial status of each HOME approved activity. The Financial Award includes a budget attachment which describes each approved HOME activity, and the dollar amount authorized for each specific activity. Administration is also included in the budget summary as a HOME activity and requires a more complete break-down, i.e., salary, fringe, etc. As a HOME grantee, your accounting records must be established to identify expenditures according to each approved activity. You will be required, through semi-annual and final financial status reports, to account for dollar amounts authorized, expended, and obligated by each approved activity. The accounting records should be kept current and must include approved amendments by NDHFA. A separate accounting system need not be established to account for HOME financial activity if the grantee's existing system is adaptable to meet the above stated requirements.
- B. Effective control over and accountability for all funds, property, and other assets. To ensure adequate internal control, proper segregation of grants management duties and responsibilities must be in place.
- C. If local or other funds have been included in the Financial Award as a part of the total project costs, the grantee will be required to have the proper documentation to support the expenditure of that amount. Local or other funds must be reported on the Financial Status Report.
- D. **Accounting records must be supported by source documentation.** Original invoices, purchase orders, and payroll records must support each payment and be on file and retained for five years from the submission

date of the final financial status report or until all audit findings are resolved, whichever is longer, to verify all HOME expenditures. Payments must not be made without the invoice physically on hand.

- E. All employees paid in whole or in part from HOME funds must prepare a time sheet which indicates the hours worked on the HOME project for each pay period. The time sheet should be inclusive of all programs to which an employee devotes time. The amount to be distributed as HOME payroll charges during a particular period will be based on time sheet and hourly payroll cost of the employee.
- F. Costs may only be incurred within the effective budget/project period as stipulated on the Financial Award. Therefore, costs incurred (obligated) prior to the beginning date or the Release of Funds, or costs incurred after the effective closing date *are not* allowable.
- G. The only HOME costs allowable between the time of the Financial Award and formal notification of the Release of Funds are reasonable costs associated with the administration of the HOME grant (including the environmental review procedures).
- H. Costs for approved *project activities* (activities other than administration, environmental review procedures and engineering and design costs) can be incurred only after the formal Release of Funds and all other conditions have been satisfied.
- I. Project costs are incurred only for eligible activities included in the HOME grant agreement. Generally, only materials, labor costs and other associated construction costs are deemed eligible as direct charges to HOME project activities. Through proper documentation, costs such as advertising, project inspections and on-site visits can be charged directly to the activity instead of administration. These “soft costs” must be documented by invoices, time records, travel vouchers and other supporting information to verify that it is directly related to the activity.

1.8 Budget Revisions

The financial budget as found in the Financial Award agreement and Subrecipient Agreement is the approved financial plan for the HOME funds necessary to complete the project. This budget is the financial expression of the project as approved during the application and award process and will be directly related to program performance and evaluation throughout the period and at close-out.

The grantee must obtain approval from NDHFA for line-item revisions in the approved HOME administrative budget or the approved HOME project budget. The request must be in writing to NDHFA and include all of the requested changes among the budgeted line items. All amendment requests must be submitted on a Request for Amendment form (SFN 52355).

The PA will review the amendment request and make a recommendation to the division director. The division director or the executive director can approve amendment requests.

1.9 Owner Eligibility

All assisted property owners must be low income - 80 percent of median income or less by household size. They must also occupy the property to be assisted as their principal residence. Income, assets, and ownership must be verified and documented. The criteria used to determine applicant eligibility must be based on income as defined by either Part 5/Section 8 annual income or adjusted gross income as defined of reporting on IRS Form 1040, assets, ownership, occupancy and location. Recipients are responsible to comply with 92.203(i) and (a)(2) which includes examining at least two months of source documentation. An income determination of a household is good for six months. If a project is not started within 6 months of initial income determination, the most recent 2 months of source documentation must be obtained. Ownership means a fee simple title, 99-year leasehold interest, or equivalent form approved by NDHFA.

Once an eligible applicant is identified by the subrecipient, the owner eligibility documents referenced should be sent to NDHFA’s PA for review.

1.10 Property Eligibility

Eligible types of housing include single-family dwellings, condominiums, cooperative units, and mobile home/manufactured homes which must meet the conditions of §92.251(e). Only single-family properties are eligible, which is defined as one unit.

1.11 Property Value Eligibility

The value of the property, after rehabilitation, must not exceed 95 percent of the most recent HOME homeownership value limits provided by HUD; and an evaluation is required before construction to determine the before and possible after rehabilitation value. HUD does not provide a method for determining after rehab value. Pre-rehab value may be determined by appraisals, property tax records, or an estimate by qualified staff. After-rehab value may be determined by adding the cost of the rehab to the pre-rehab value. For example, if the assessed value from a property tax statement is \$100,000 and the cost of the rehab is \$50,000, the after-rehab value would be \$150,000. This value is to be provided on the Homeowner Rehab Authorization to Proceed (SFN 62107).

1.12 Construction Standards Eligibility

No new construction is allowed except to meet code or occupancy standards. Upon project completion, the property must meet NDHFA Minimum Housing Rehabilitation and Property Standards. Other applicable federal, state, and local requirements related to construction must also be met. All work completed must meet the North Dakota State Building Code and any more restrictive local amendments to the North Dakota building code.

When HOME funds are committed to a project that will be rehabilitated, the subrecipient is responsible for inspecting the project. The applicable property standard is the National Standards for the Physical Inspection of Real Estate (NSPIRE). The work write-up prepared for the project must include all work required to bring the entire unit into compliance with NSPIRE. Subrecipients must utilize the NSPIRE Checklist (SFN 62443) for initial, progress, and final inspections. A copy of the initial inspection must be provided to NDHFA's PA prior to requesting an environmental review.

1.13 Minimum and Maximum Investment and Period of Affordability

The minimum HOME investment per housing unit is \$1,000 and the maximum HOME investment is published annually by our local HUD field office, then published on NDHFA's website. HOME financial assistance to the homeowner must be in the form of a recoverable grant, secured by a Declaration of Lien Interest in favor of NDHFA. The recoverable portion of the grant shall be prorated according to the number of years the homeowner maintains the property as his principal residence (for example, if the project was a five-year recoverable grant, and the house is sold after 3 years, then 2/5 of the grant is recoverable out of the net proceeds of the sale). Any homeowner repayment of HOME assistance is considered program income and must be returned to the state HOME program (NDHFA). These requirements must be stated in the written agreement between the homeowner and the subrecipient. A copy of the homeowner written agreement and recorded declaration of lien interest must be provided to NDHFA's PA prior to receiving the Authorization to Proceed (SFN 62107) from NDHFA.

HOME Assistance Per Unit	Minimum Period of Affordability
Single-family Homeowner Rehabilitation	5 yrs.

The terms of the agreement for repayment may allow for a pro-rata reduction of the recapture amount in monthly increments. An example of a five-year plan follows.

Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture
1	100%	11	83.3%	21	66.6%	31	50.0%	41	33.3%	51	16.6%
2	98.3%	12	81.6%	22	65.0%	32	48.3%	42	31.6%	52	15.0%
3	96.6%	13	80.0%	23	63.3%	33	46.6%	43	30.0%	53	13.3%
4	95.0%	14	78.3%	24	61.6%	34	45.0%	44	28.3%	54	11.6%
5	93.3%	15	76.6%	25	60.0%	35	43.3%	45	26.6%	55	10.0%
6	91.6%	16	75.0%	26	58.3%	36	41.6%	46	25.0%	56	8.3%
7	90.0%	17	73.3%	27	56.6%	37	40.0%	47	23.3%	57	6.6%
8	88.3%	18	71.6%	28	55.0%	38	38.3%	48	21.6%	58	5.0%
9	86.6%	19	70.0%	29	53.3%	39	36.6%	49	20.0%	59	3.3%
10	85.0%	20	68.3%	30	51.6%	40	35.0%	50	18.3%	60	1.6%

1.14 Revising an Extended Period of Affordability (POA)

NDHFA may approve a revision or satisfaction of the extended period of affordability (POA) to facilitate a sale of the property within the POA if the homeowner can demonstrate financial hardship. The approval must be made by either the Community Housing and Grants Management Division director or executive director at the recommendation of the program administrator. To consider the approval, the homeowner must formally request the satisfaction of the repayable grant. Examples of financial hardship include, but are not limited to, death of homeowner, homeowner move to long-term care facility, divorce, or other circumstances that were not foreseeable when the homeowner applied for assistance.

1.15 Project Budget

The recipient must submit a project budget along with every set-up report. This project budget must detail estimated or actual construction costs based upon a complete work write-up or actual bids. Subsequent changes in project costs must also be reported to NDHFA and change orders must be submitted to request additional funds. NDHFA's PA shall be responsible for initial budget approval and any subsequent approval of change orders. If a change order is necessary, the subrecipient shall complete a change order form (SFN 61021-change order tab) and include supporting documentation for the change order and submit to NDHFA PA for review.

1.16 Americans with Disabilities Act Accessibility Guidelines (ADAAG) Conformance Statement

North Dakota Century Code section 54-21.3-04.1 requires state agencies and governing bodies of political subdivisions to require from any person preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990, a statement that the plans and specifications are, in the professional judgment of that person, in conformance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

SECTION 2: HOME FEDERAL REQUIREMENTS

The recipient assures and certifies that it will comply with all requirements of the HOME Investment Partnerships Program, as amended (24 CFR part 92), enacted under Title II of the National Affordable Housing Act of 1990, as well as other related federal and state statutes and regulations, including:

2.0 Uniform Relocation Act

Relocation is not required for owner-occupied units.

2.1 Resolution of Authority

Its governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the project, including all understandings and assurances contained herein, and directing and authorizing the signatory to additional information as may be required.

2.3 Legal Authority

It possesses legal authority to execute the proposed project under North Dakota law and will make all efforts necessary to assure timely and effective implementation of the described project activities.

2.4 Equal Opportunity/Fair Housing

No person in the United States shall on the grounds of race, color, national origin, religion, disability, familial status, age or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with HOME funds. Housing provided through the HOME program must promote greater choice of opportunities. The recipient will comply with:

- A. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations (24 CFR part 135) when applicable.
- B. Minority/Women's Business Enterprise provisions of Executive Orders 11625, 12432, and 12138.
- C. Fair Housing Act of 1988 (U.S.C. 3601-20) and implementing regulations (24 CFR part 100).
- D. Equal Opportunity in Housing, Executive Order 11063, as amended by Executive Order 12259 and implementing regulations at (24 CFR part 107).
- E. Nondiscrimination in federally assisted programs, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and implementing regulations at (24 CFR part 1).
- F. Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations (24 CFR part 146).
- G. Prohibition of discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations (24 CFR part 8).
- H. Equal employment opportunity provisions in Executive Order 11246 and implementing regulations (41 CFR Chapter 60).
- I. Adoption of affirmative marketing procedures for all HOME assisted housing with five or more units, and for all units of local governments (24 CFR part 92.351). The recipient will adopt requirements and procedures as follows:
 1. The methods which will be used to inform the public, owners, and potential tenants about federal fair housing laws and the affirmative marketing policy (e.g., equal housing opportunity logo or slogan).
 2. The outreach methods which will be used for persons unlikely to apply for housing (e.g., using community organizations, places of worship, employment centers, or housing counseling agencies) in press releases and solicitations for owners and written communication for fair housing and other groups.
 3. Requirements each subrecipient and owner must adhere to in order to carry out the affirmative marketing policies (e.g., use of commercial media, community contacts, logo, slogan, and fair housing poster).
 4. How efforts will be assessed and what corrective actions will be taken where requirements are not met (annually).
 5. Records must be kept on actions taken to affirmatively market HOME-assisted units and on assessment/corrective efforts.
- J. North Dakota Human Rights Act (NDCC Chapter 14 - 02.04).

2.5 Environmental Requirements (24 CFR 92.352)

The environmental review must be conducted and an approval of the request for the release of funds must be obtained **before** HOME funds are committed for the activity. NDHFA will perform the environmental review in HEROS, with assistance from the subrecipient as needed. The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in its implementing regulations (24 CFR parts 50 and 58), including:

- A. Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and its implementing regulations (24 CFR part 35). NDHFA's LBP Policy and Procedures Manual can be found on NDHFA's website: <https://www.ndhousing.nd.gov/lead-based-paint>. If HOME funds are used for program delivery costs or to help finance the units, the project must comply with HOME rules regarding lead hazards (24 CFR 92.355).
- B. HUD Environmental Standards concerning noise and facility siting (24 CFR part 51, Environmental Criteria & Standards and 44 F.R. 40860, 7/12/79).
- C. Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) (not applicable to HOME funds provided to a state).
- D. Executive Order 11988 on floodplain management.
- E. National Flood Insurance Program (44 CFR parts 59 - 79).
- F. Executive Order 11990 - protection of wetlands (42 F.R. 26961, et seq.).
- G. National Historical Preservation Act of 1966 (16 U.S.C. 470 as amended) and Executive Orders 11988 and 11990.
- H. Farmland Protection Policy Act of 1981 (PL 97-98).
- I. Solid Waste Disposal Act, as amended (42 U.S.C. 6901, et seq.).
- J. Clean Air Act (42 U.S.C. 7401, et seq.).
- K. Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.)
- L. Safe Drinking Water Act of 1974 (42 U.S.C. 201. 300(f) et seq. and Section 349).
- M. Federal Pollution Control Act of 1972, as amended including the Clear Water Act of 1977 (33 U.S.C. Section 1251, et seq.).
- N. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).
- O. Fish & Wildlife Coordination Act of 1958, as amended (U.S.C 661 et seq.).

2.6 Debarment and Suspension (24 CFR 92.357)

The recipient shall, at a minimum, search at www.sam.gov to verify that each contractor and subcontractor is not listed as an excluded party and retain documentation of the search results for records retention.

The recipient will make no agreement under the HOME program with any individual or entity who is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation (24 CFR part 24, Appendix B). The recipient is responsible for assuring no contractor/subcontractor is debarred, and that all contractors and subcontractors possess an active North Dakota State Contractors License.

2.7 Monitoring

The recipient must provide full access to all records, books, papers or other documents related to each project for the purpose of conducting a monitoring/compliance review. Should questions or concerns arise during the monitoring/compliance review, the recipient will work to ensure that all requirements are met. Should non-compliance occur that causes the project to be determined to be an ineligible project, the recipient is responsible for repayment of HOME program funds to the grantor (NDHFA).

Monitoring of subrecipients will be conducted by NDHFA based on the risk analysis (form SFN 62480) of each subrecipient. If a subrecipient is selected for monitoring, the subrecipient will be notified in the first quarter of the year for monitoring of the previous year's grant. NDHFA will utilize Chapter 4 of HUD's Subrecipient Monitoring Guide which is based on HUD Checklist exhibits 7-0 and 7-3. NDHFA shall have the discretion to monitor all or a portion of the subrecipient's program.

2.8 Recordkeeping (24 CFR 92.508)

The recipient will establish and maintain sufficient records to determine whether the HOME program and other federal requirements are met. These records shall be kept in a manner that identifies the source of funding of each project. At a minimum, recipients must keep the records required by paragraphs (a)(2) through (a)(6) of 24 CFR 92.508 of the HOME Program regulations.

The recipient will give the state of North Dakota, North Dakota Housing Finance Agency, State Auditor's Office, HUD, and the Comptroller General of the United States, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the HOME program, including related documents of persons or organizations with which the recipient may have a contract.

The recipient will maintain program records for five years after the closeout of funds, except for the following, which must be kept longer:

- Records must be retained until resolution is reached with any litigation, audit, or other action, which was started before the expiration of the agreement.
- Records regarding project requirements (subpart F) and applicable federal requirements (subpart H) must be kept for the duration of the period of affordability. This documentation (plus written agreements, inspection and monitoring reports) must be kept five years after the required period of affordability specified in 24 CFR parts 92.252 or 92.254, as applicable.
- Records on displacement and acquisition must be retained for at least five years after the date on which all persons displaced from the property and all persons whose property is acquired for the project received final payment in accordance with 24 CFR part 92.353.

2.9 Drug-free Workplace

The recipient will or will continue to provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's/recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- B. Establishing an ongoing drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace.
 2. Its policy of maintaining a drug-free workplace.
 3. Any available drug counseling, rehabilitation, and employee assistance programs.
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- C. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph A.
- D. Notifying the employee in the statement required by paragraph A that, as a condition of employment under the grant, the employee will:
 1. Abide by the terms of the statement.

2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- E. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph B-2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.
- F. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1972, as amended.
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- G. Making a good faith effort to continue to maintain a drug-free workplace through the implementation of paragraphs A-F.

SECTION 3: REQUIREMENTS FOR SUBRECIPIENT POLICY AND PROCEDURE

3.0 Affirmative Marketing Requirements

The subrecipient must address affirmative marketing methods in their policies and procedures. Efforts to market the program may include the following:

- Advertising through press releases and news bulletins.
- State and subrecipient websites and local publications.
- Advertising through various means to include distributing promotional materials, posting brochures in public buildings, etc.
- Posting brochures in public building bulletin areas and coordinating meetings (as necessary) to explain the program to potential applicants and other interested persons.

Subrecipients should specify the staff who will be responsible for preparing the marketing and for each of the marketing methods proposed. The policy should also describe how the marketing will be prioritized. For example, based on demand, marketing efforts will be increased or decreased to achieve desired program objectives.

Marketing materials must include the Fair Housing logo.

3.1 Project Evaluation Prior to commitment of HOME funds. (24 CFR 92.250(b))

The subrecipients must establish and use written guidelines to evaluate the project prior to the commitment of HOME funds by assessing all the following:

- A. The sources and uses of funds must be evaluated and a determination that costs are eligible and reasonable must be made.
- B. There must be a firm written commitment for each project. ((24 CFR 92.2 (*Commit to a specific local project*))
 1. The subrecipient and homeowner must have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget has been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date.

2. Each project file must include a work write-up/cost estimate that demonstrates the project requires rehabilitation work equal to at least \$1,000.
- C. If more than one source of funds is being used for a project, a subsidy layering analysis must be performed.
- D. Environmental Review must be completed and approved by NDHFA.
- E. Rehabilitation work must be expected to start within 12 months of written agreement date.

3.2 Household Income Eligibility

In determining whether a family is income eligible, the subrecipient's policy and subrecipient agreement with NDHFA must specify the use of one of the following two definitions of annual income:

- Annual income as defined 24 CFR 5.609 (**RECOMMENDED**).
- Adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual federal annual income tax purposes.

Subrecipient will utilize the CPD Income Calculator for all income determinations and include all supporting documentation used in making the calculation. The CPD Income Calculator and instructions for using the calculator can be accessed via this link: <https://www.hudexchange.info/incomecalculator/>.

Area Median Income (AMI) or Median Family Income (MFI)

HUD releases annual updates to its income limits by area. For the HOME program, the release includes the area median income and income limits that are 30%, 50% and 80% of the AMI adjusted for household size. For the Homeowner Rehabilitation Program, 80% is the maximum in its income eligibility determinations.

Household Size

House size is used for calculating the total household income to determine income eligibility because the income limits are adjusted for household size. It is important to note that the following household members should NOT be counted when determining household size and household income:

- Foster children
- Live-in aides
- Children of live-in aides
- Unborn children
- Children being pursued for legal custody or adoption who are not currently living with the household.

A child who is subject to a shared-custody agreement in which the child resides with the household at least 50 percent of the time can be counted in the household.

Income Eligibility Recertification

In addition to initial certification at the time of eligibility determinations, income eligibility must be recertified under the following circumstances:

- The applicant has not started receiving the HOME funded service until after HUD updated income limits become effective.
- The HOME funded construction project has not started until after HUD updated income limits become effective.

3.3 Beneficiary Written Agreement

Each project file must include a written agreement with the homeowner with dated signatures of all parties. It must also include:

- A. The estimated after-rehab value. This must not exceed 95 percent of the HOME affordable homeownership value limits provided by HUD. 24 CFR 92.254(a)(2)(iii) and (b)(1).
 - 1. Appraisal, tax records, or estimate by qualified staff are acceptable methods of obtaining the after-rehab value.
- B. A requirement that the rehab property is the principal residence of the income qualified homeowner.
- C. The amount and form of assistance (e.g., recoverable grant).
- D. A detailed description of the rehabilitation work to be performed.
- E. An estimated completion date.
- F. A reference to the minimum housing rehabilitation and property standards that must be met. Please see NDHFA Minimum Housing Rehabilitation and Property Standards.

3.4 Ownership and Occupancy Status

Recipient must determine that the property being rehabilitated is held in one of the following eligible forms of homeownership:

- A. Fee simple
- B. 99-year ground lease
- C. 40-year ground lease for housing located in insular areas
- D. 50-year ground lease for housing located on Indian land or a Community Land Trust
- E. Ground lease equal to the applicable period of affordability for manufactured housing
- F. Inherited property – NOTE: Recipient may assist the owner-occupant of an inherited property with multiple owners as long as the owner-occupant
 - 1. Is low-income
 - 2. Occupies unit as principal residence
 - 3. Pays all costs associated with ownership and maintenance
- G. Life estate
- H. Inter vivos trust – NOTE: Recipient may assist if all beneficiaries of the trust qualify as low-income and occupy the unit as principal residence
- I. Beneficiary deed

A copy of the deed alone is not sufficient. A title search or property tax statement should be included. Evidence for verifying principal residence can include self-certification or utility records.

3.5 Environmental Review Requirements

An environmental review must be completed for each owner-occupied rehabilitation project. NDHFA is the responsible entity and must approve the environmental review. A majority of owner-occupied rehab projects will be categorically excluded subject to 58.5 (CEST), converting to exempt with no consultation with regulatory authorities required. If it is anticipated that a project will not convert to exempt, please contact NDHFA for guidance. The subrecipient is responsible for providing the following documentation to NDHFA for CEST level reviews:

- A. Section 106 Clearance Form.
- B. Floodplain Clearance Form.
- C. FEMA Floodplain Map.

- D. Project bid specifications and cost estimates, including an estimated after-rehab value that does not exceed 95 percent of HOME Homeownership value limits for the area.
- E. Map showing distances from project site to airports, railroads, and major highways.
 - 1. Include a map showing that the project is/is not within 15,000 feet of a military airport or 2,500 feet of a civilian airport. If the location is within those distances, contact the airport and determine if the project is within **the Accident Potential Zone (APZ) or Runway Protection Zone/Clear Zone (RPZ/CZ)**. If it is in an RPZ/CZ, written assurances from the airport operator should be obtained. If the project is within an APZ zone (highly unlikely), it must be in compliance with DOD guidelines. Full guidance here: <https://www.hudexchange.info/environmental-review/airport-hazards/>.
- F. Include a completed noise worksheet. The worksheet can be found at the following link: under *Compliance and Documentation*, select *View Noise Abatement and Control (CEST)-Worksheet*.
<https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control/>
 - 1. Noise analysis is required for rehabilitation projects unless a weatherization audit was performed, and mitigation activities are being taken to address energy efficiency.
 - 2. If rail crossing data is unavailable, write the railroad company and document correspondence.
 - 3. If airport noise contour data is unavailable from the airport website or there is no website, write to the airport manager and document correspondence.

G. Every project must include a radon test report.

NDHFA staff is responsible for completing the environmental review for each project in the HUD HEROS system and may request more compliance documentation.

3.6 Written Rehabilitation Standards

The subrecipient must incorporate NDHFA's Minimum Housing Rehabilitation and Property Standards within its own policy. The subrecipient's policy must also include:

- A. Lead-based paint (LBP) requirements and that pre-1978 housing will be tested and treated.
- B. A requirement that each major system, as defined in 24 CFR 92.25(b)(1)(ii), has a remaining useful life of a minimum of 5 years or that the major system was rehabilitated or replaced as part of the rehabilitation.
 - 1. Major systems include the following: structural support, roofing, cladding and weatherproofing (e.g., windows, doors, siding, gutters), plumbing, electrical, and heating, ventilation, and air conditioning.
- C. A requirement that initial, progress, and final inspections are to be performed to identify deficiencies that must be addressed during the rehabilitation.
 - 1. The final inspection must indicate that the property met the property standards.
 - 2. The NSPIRE checklist must be used when conducting initial, progress, and final inspections.
 - 3. In addition to the NSPIRE checklist, the Major Systems Inspection checklist must be completed at the initial, progress, and final inspections. This checklist is to ensure that all major systems have a remaining useful life of at least 5 years.

The rehabilitation scope of work must adequately describe the work to be performed so that the housing will meet the rehabilitation standards at completion.

3.7 Eligible and Reasonable Costs

The work write-ups, proposals and contracts in the project file must demonstrate that all costs paid with HOME funds were eligible. Eligible costs can be found at [24 CFR 92.206](#).

- Hard costs and soft costs must be accounted for separately.

Written work estimates for rehabilitation must be reviewed and determination must be made that costs are reasonable.

3.8 Project Completion

- The project must be completed within 4 years of the date the HOME funds were committed to the project.
- All project completion information must be entered into IDIS within 120 days of the final project draw. The data entered in IDIS should accurately reflect the data included in the written agreement and project files. (NDHFA only)
- Homeowner rehabilitation project records should be retained for a minimum of 5 years after project completion.
- Homeowner rehabilitation project written agreements must be retained for a minimum of 5 years after the agreement terminates.

Section 4: HOME SINGLE FAMILY HOMEOWNER REHABILITATION HUD APPROVED FORMS

HOME Bid Form

This form is completed by the contractor as an official bid to perform the work described in an NSPIRE Inspection Form. The contractor is asked to provide a cost estimate and time frame for the work to be completed. This form should be placed in the project file by the subrecipient.

[HOME-Bid-Form \(hudexchange.info\)](https://hudexchange.info)

HOME Certificate and Release

This form is completed by the contractor following the completion of work to certify that the work was performed in accordance with the contract and to receive final payment(s). A copy of this form should be placed in the project file by the subrecipient.

[Certificate And Release \(hudexchange.info\)](https://hudexchange.info)

HOME Certificate of Final Inspection

This form is completed by the subrecipient to document that the work on the identified property was performed in accordance with the property evaluation form and the approved contractor's proposal for the case.

[Certificate Of Final Inspection \(hudexchange.info\)](https://hudexchange.info)

HOME Change Order

This form is completed by the homeowner and contractor to authorize change(s) to the original rehabilitation contract. This is in addition to the Excel change order form.

[Changer Order Number - Form \(hudexchange.info\)](https://hudexchange.info)

HOME Contractor's Data Sheet

This form is completed by the contractor to provide essential information to the subrecipient and homeowner regarding the corporation and its business references, recent customers, and creditors.

[Contractor's Data Sheet \(hudexchange.info\)](https://hudexchange.info)

HOME Contractor Instructions

This form is provided by the subrecipient to the contractor in order to provide written instructions on submitting a complete bid package to the homeowner.

[Contractor Instructions \(hudexchange.info\)](https://hudexchange.info)

HOME Contractor Payment Request

This is a form completed by the contractor to request payment for his/her work. It must be signed by the homeowner and the subrecipient's construction advisor before any payment is released to the contractor.
[Contractor Payment Request \(hudexchange.info\)](https://hudexchange.info)

HOME Contractor's Proposal Form

This form is completed by the contractor to specify the work to be performed and the bid price for each work specification. It is based upon the Housing Quality Standards (HQS) Inspection Form.
[Contractor's Proposal Form \(hudexchange.info\)](https://hudexchange.info)

HOME Homeowner/Contractor Provisions

This form provides sample language for provisions that should be included in the contract between the homeowner and the contractor in the HOME program.
[HOME-Homeowner-Contractor-Provisions \(hudexchange.info\)](https://hudexchange.info)

HOME Rehabilitation Tracking Sheet

This checklist is used to document completion of HOME requirements related to pre-settlement activities, construction and close-out, and loan settlement.
[HOME-Rehabilitation-Tracking-Sheet \(hudexchange.info\)](https://hudexchange.info)

HOME Verification of Mortgage or Deed of Trust

This form gives authorization for the HOME subrecipient to verify the status of existing mortgages for all the members of the household applying for participation in the HOME Program.
[HOME-Verification-of-Mortgage-Or-Deed-of-Trust \(hudexchange.info\)](https://hudexchange.info)