
Foreword

One of the major priorities of the U.S. Department of Housing and Urban Development (HUD) is the creation of affordable housing. The Department administers several Federal programs that assist state and local governments, as well as nonprofits and other partners, to develop affordable homeownership and rental units for low-income households. Two of the most important programs are the HOME Investment Partnerships Program (HOME) and the Community Development Block Grant (CDBG) Program.

Both HOME and CDBG are important resources in the local development of homes and communities. While sharing similar goals related to improving the living conditions of low-income families, each program differs in its eligible activities and requirements. In addition, there is a tremendous need for affordable housing in many communities and these needs often exceed available resources. So, it is important that state and local governments make strategic decisions about how to spend their HOME and CDBG funds.

HUD's Office of Affordable Housing Programs, in partnership with HUD's Office of Block Grant Assistance, developed this guidebook as a tool for community development practitioners to assist in making these strategic choices about HOME and CDBG resources for affordable housing. Its purpose is to provide practical guidance on how both HOME and CDBG requirements are interpreted and to provide examples of how the two funding sources might be used in tandem. The Department encourages communities to seek strategic, effective, and innovative ways of using two of its most important affordable housing resources – the HOME and CDBG Programs.

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Introduction

Two programs form the cornerstone of the U.S. Department of Housing and Urban Development's (HUD's) community development efforts—the HOME Investment Partnerships Program and the Community Development Block Grant (CDBG). Across the country, HOME and CDBG funds are helping communities develop new affordable housing for both renters and homebuyers, rehabilitate existing homes, and turn around troubled neighborhoods.

While HOME and CDBG share the same goals—the growth and improvement of America's communities—the programs differ in important ways. For example, HOME and CDBG have different eligible activities, different approaches to meeting the needs of low- and moderate-income families, and different rules regarding matching funds.

By using HOME and CDBG funds strategically, communities can optimize their use of both funding sources, while working within the limitations and regulations of both programs.

HOME and CDBG: Working Together to Create Affordable Housing is the community development professional's guide to using HOME and CDBG funds for affordable housing activities as strategically as possible. This model program guide begins by outlining how HOME and CDBG work and by identifying critical differences between the two programs. Next, the guide provides a detailed consideration of how to use HOME and CDBG to support rental housing, homeownership, rehabilitation, and comprehensive neighborhood revitalization projects, giving special attention to how to coordinate the two funding sources. The guide concludes with some final considerations for making strategic investment decisions using HOME and CDBG.

Throughout the guide, the discussion will focus on the importance of using program resources effectively, and how this can be done to meet local housing and community development needs, and to stay in compliance with Federal program rules.

Making Effective Use of Program Resources

Community development is a broad term that encompasses a wide range of activities, including housing, economic development, health, employment and educational services, infrastructure, and many other activities designed to improve the welfare of neighborhoods and families. In towns, counties, and states across America, community development remains a primary concern for local leaders, the staffs of nonprofit and public agencies, and citizens alike.

Yet, Federal resources for community development are limited and are not sufficient to address all of the needs in most jurisdictions. While HOME and CDBG can play an important part in addressing community development needs, they must be used wisely in order to obtain the maximum benefit from each resource. It is important that jurisdictions use these programs strategically because:

- Some types of activities are better suited to be undertaken under one program than the other;
- When combining these resources within projects, it is important that the rules for each program be followed; and
- Effective leveraging of CDBG and HOME resources can mean a generating a greater “bang for the buck” than when each program is used alone.

Selecting Suitable Activities

When Congress enacted the CDBG and HOME Programs, it had differing objectives in mind. CDBG was created to consolidate a number of previous categorical grant programs that had addressed a range of community needs, including water and sewer, urban renewal, model cities, historic preservation, and neighborhood development. CDBG's eligible

activities, therefore, are diverse and range from residential rehabilitation to infrastructure to public services. While it has a strong focus on meeting the needs of low-income persons, it is also designed to be flexible in order to address other concerns.

The HOME Program was created nearly two decades later, to address the growing affordable housing crisis in America. Its purpose is to increase the supply of affordable housing for low- and very low-income households. There are four eligible activities under HOME and all relate directly to affordable housing. In addition, HOME has a secondary purpose of supporting the development and sustainability of nonprofit housing providers. To achieve this, it mandates that a percentage of each annual allocation be used by community housing development organizations (CHDOs) to own, develop, or sponsor housing.

Given these differing legislative histories and program purposes, it is no wonder that each program has its relative strengths and limitations. For example, CDBG cannot generally be used to construct new housing. However, it can be used to develop the infrastructure in a low-income neighborhood that might support a new affordable housing development. HOME, on the other hand, can be a very good resource for building new units but cannot be used to create off-site infrastructure. So, making strategic choices about how the HOME and CDBG programs are used can help a jurisdiction address a wide range of needs within its available resources.

In addition to these programmatic constraints, there are also strategic elements in deciding which program to use for which purpose.

Assume, for example, that the goal of a jurisdiction's program is to improve and preserve its supply of affordable homebuyer units. Both CDBG and HOME can be used to assist with homeownership. However, only HOME mandates that units remain affordable for a specific period of time. HOME might be the preferred resource to use in this situation.

Now assume a different jurisdiction wishes to spur neighborhood revitalization by rehabilitating rental units. Its objective is not necessarily to create long-term affordability, but rather to address the blight in the area so that other businesses and homeowners will locate in the neighborhood. In this instance, both HOME and

CDBG can be used for rental rehabilitation. However, CDBG might be the preferred resource because it does not mandate long-term affordability restrictions and allows for undertaking projects where the focus is not necessarily on addressing the needs of low- and moderate-income households but rather on cleaning up a blighted neighborhood.

Jurisdictions that are familiar with the rules and flexibilities of both HOME and CDBG will be able to make strategic choices about investing their program resources.

Complying with the Rules

In addition to thinking strategically about how and when to use HOME and CDBG, jurisdictions need to ensure that both sets of program rules are met. When the programs are operated separately and are not combined in projects, jurisdictions must make sure that they carefully document compliance for each program according to the rules established by the CDBG and HOME regulations.

However, CDBG and HOME are sometimes combined in a single project. When this is done, the jurisdiction must ensure that both sets of rules are met simultaneously. Since both HOME and CDBG are Federal programs with implementing statutes and regulations, neither program overrules the other. In other words, the most stringent applicable requirement from each program must always be met.

For example, when a PJ invests HOME funds in a multifamily rental project, it can elect to invest its resources in selected HOME units. That is, if the jurisdiction wishes to partially rehabilitate a 10-unit rental building, it can fund two HOME units and leverage other funds to rehabilitate the remaining eight units. However, if CDBG is also invested in that same 10-unit project, the entire structure is considered to be assisted. Therefore, if the housing national objective is used it would mandate that at least 51 percent of the units be occupied by low- and moderate-income households, regardless of the amount of CDBG assistance in the project. Under HOME rules, only the two assisted units would need to be occupied by income-eligible families, but CDBG mandates that low- or moderate-income families occupy at least six units.

So, it is important for the jurisdiction to understand the rules of both programs in order to be sure that all activities are compliant.

Leveraging CDBG and HOME

Jurisdictions need to be familiar with how CDBG and HOME work together so that they can get the greatest impact for their investments. As noted above, there are differing instances when either CDBG or HOME is the most appropriate tool for a particular task at hand. However, sometimes when those tools are used together, the impact is greater than either could achieve alone.

For example, assume that HOME funds are used to support homeownership in a given neighborhood. HOME or CDBG can provide downpayment assistance to help low-income families to finance the purchase of new homes in a targeted neighborhood. However, if the families move into the neighborhood and find that the community lacks community facilities and local retail shops to meet their needs, it might make sense for the jurisdiction to invest its CDBG funds in the non-housing needs of the neighborhood, and its HOME funds in the homeownership program. This way, it can stretch its resources to undertake a broader range of activities to meet the diverse needs of the neighborhood residents. This results in a more vibrant, successful community.

It is important for jurisdictions to consider how CDBG and HOME can work together so that they are able to get the greatest return for their programs.

Planning for CDBG and HOME

There are numerous ways that CDBG and HOME can be combined. Jurisdictions need to evaluate these options and then make decisions about how to effectively use these programs given the needs of their community. The section below provides a brief summary of how jurisdictions can consider these options as a part of their planning processes. For more detail on the key steps in making strategic decisions regarding CDBG and HOME funding, see Chapter 6 of this guidebook.

To tackle these complex program decisions, jurisdictions may wish to consider developing:

- An assessment of community needs;
- A community-wide plan for addressing needs through an array of different community development projects; and

- A clearly-defined approach to each individual community development project.

Assessment of Community Needs

Although many American communities share similar challenges, such as a lack of affordable housing, no two communities are exactly alike. A needs assessment helps each community identify and define its individual needs as well as its strengths and assets.

The needs assessment should be conducted by the local or state government and should be the first step in determining how to effectively use HOME and CDBG resources. Often this assessment is done as a part of the Consolidated Planning process and includes:

- A description of the assets and resources present in the community (such as a community college or existing infrastructure);
- Current data and projections concerning demographics (e.g., households, income levels, etc.) as well as housing supply and demand;
- Data on rents and housing prices in specific neighborhoods within the jurisdiction;
- An analysis of the health of the local economy;
- An assessment of the state of the jurisdiction's infrastructure;
- An analysis of which neighborhoods have the most acute community development needs; and
- A general review of the feasibility and need for certain types of community development projects (such as infill housing versus multifamily rental housing) in specific neighborhoods.

Community-Wide Plan

After conducting a community needs assessment, community development staff should develop a plan for tackling the challenges faced by the community. Typically, the plan will involve a number of different community development activities in different neighborhoods within the jurisdiction. The plan strives to coordinate different types of housing, economic development, infrastructure, and related activities to maximize the impact of public funds.

States and localities can use the Consolidated Planning process—a requirement for direct grantees receiving HOME or CDBG funds—as an opportunity to undertake community-wide planning. Note that

subrecipients and units of general local government who receive funds from a direct HUD grantee do not need to do their own consolidated plan. They are covered by the grantee's plan. This planning process ensures that there is input from nonprofit partners, local businesses, and most importantly, residents that will be affected by community development projects. Wide community participation in the planning process is invaluable because it ensures that community development projects truly reflect what the community wants and needs.

When preparing the Consolidated Plan and Annual Action Plan, jurisdictions determine the appropriate level and nature of a variety of housing activities, such as the development of local rental, homebuyer, rehabilitation, special needs, or other types of affordable housing programs to address community needs. The process should also address how HOME and CDBG can be used strategically to address the needs identified for the community.

Individual Project Approach

With a consolidated plan in hand, jurisdictions are ready to evaluate the feasibility, implementation and benefits of program resources for each individual project.

Feasibility Research. Often, communities will need additional research to establish the feasibility of a given project. For housing projects, a market study is a focused assessment of whether a specific housing product, on a specific site, will be able to attract residents with the ability to pay—and how quickly. This type of study will explicitly conclude whether the proposed rents or housing prices for the specific project are achievable. For neighborhood revitalization projects, a broader market study that examines both housing and economic data may be necessary to assess the feasibility of a larger, multi-faceted initiative.

Implementation Planning. As early as possible, community development staff should identify the potential costs and existing concerns related to the implementation of the project. Even an apparently straightforward housing development project can involve a diverse array of costs: administrative expenses, infrastructure modifications, services for residents, basic construction costs, and more. As this model will explain in detail, the availability of HOME and CDBG funds (as well as other sources of financial

support) depends on whether the specific use of funds qualifies as an eligible activity under their respective program rules. Strategic use of program funds can maximize the impact of subsidies while meeting the eligibility requirements of all relevant programs.

Costs and Benefits of Funding Sources. Subsidies from HOME and CDBG programs enable communities to undertake projects that may not otherwise be feasible. However, it is important to consider the additional responsibilities and restrictions that come with using these funds for particular projects. Some possible responsibilities and restrictions include, depending on the funding source:

- Rent limits for subsidized units;
- Restrictions on the purchase and resale of subsidized homes;
- Reporting and monitoring responsibilities to ensure ongoing compliance with program rules and regulations; and
- Rules regarding the targeting of subsidies toward a program's intended beneficiaries.

Communities should consider carefully how the requirements of different funding sources will impact a given project.

How to Use this Model

This model program guide is intended for PJ staff to help communities use their HOME and CDBG funds strategically. The guide is designed to be a useful “crash course” in the programs and it highlights the differences that help practitioners invest these resources wisely. Each chapter describes the applicable program rules for each specific type of housing development—rental housing, homeownership, and rehabilitation—and includes a side-by-side comparison of the key requirements of the HOME and CDBG programs. This format should assist the community development practitioner in need of specific programmatic information for quick-reference.

This guide is organized in the following six chapters:

Chapter 1: HOME and CDBG Basics introduces each program and provides general information on the eligible activities, program restrictions, and administrative requirements for each program. The chapter includes a chart that summarizes the key program requirements to facilitate comparison.

Chapter 2: Using HOME and CDBG for Rental Housing describes rental housing requirements and illustrates how HOME and CDBG can be combined to support the development of affordable rental housing.

Chapter 3: Using HOME and CDBG for Homeownership Programs explores ways to assist homebuyers and considers the most effective ways that communities combine the two programs to develop housing units for purchase.

Chapter 4: Using HOME and CDBG for Homeowner Rehabilitation provides an analysis of using HOME and CDBG for homeowner rehabilitation.

Chapter 5: Using HOME and CDBG for Comprehensive Neighborhood Revitalization considers the use of HOME and CDBG funds for targeted community development within a specific neighborhood. Strategic use of HOME and CDBG along with other resources can allow communities a chance to breathe new life into a deteriorating neighborhood.

Chapter 6: Making Strategic Investment Decisions focuses on how communities can make the most of every subsidy dollar. Careful allocation of program funds, effective program design, and program performance review are all part of an effective use of HOME and CDBG.

Under the HOME Program, the recipient of HUD funds is known as a “participating jurisdiction” or “PJ.” Under the CDBG program, the recipient is known as a “grantee.” Throughout this guidebook, the general term “jurisdiction” will be used to mean the local or

state government that receives HOME or CDBG funds. When specifically referring solely to the recipient of HOME funds, “PJ” will be used and when specifically referring solely to the recipient of CDBG funds, “grantee” will be used. Under the State CDBG Program, units of general local government that receive CDBG money from a state are sometimes known as “state grant recipients”. Under this guide they will be called units of general local government.

In addition, the guide uses the expression “low- and moderate-income” or “LMI” to refer to income-eligible persons or households under both HOME and CDBG. This is because persons or households who are at or below 80 percent of area median income, as determined and adjusted by HUD on an annual basis, are called “LMI” under the CDBG program, and “low-income” under the HOME Program. When the guide discusses the CDBG or HOME requirements of one of the programs specifically, it uses the terminology of that particular program.

About the Model Program Guides

HOME and CDBG: Working Together to Create Affordable Housing is one of a series of model program guides published by the Office of Affordable Housing Programs of the U.S. Department of Housing and Urban Development. The model program guide series provides technical assistance and guidance on HOME Program implementation to participating jurisdictions. Model program guides are available to the public at no cost. For more information about the model program guides, see the Office of Affordable Housing Programs’ online library at <http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/index.cfm>.

Chapter 1:

HOME and CDBG Basics

This chapter is a basic primer for housing practitioners who are new to the HOME or CDBG programs. It provides a general overview of the two programs, including their statutory intents and key program partners. For each program, the chapter describes basic eligible activities and highlights important administrative requirements. The subsequent chapters provide more detail on each of the eligible affordable housing activities. This chapter concludes with a detailed chart that compares the key requirements of the two programs.

Part 1: HOME Investment Partnerships (HOME) Program

What is HOME?

Created by the National Affordable Housing Act of 1990 (NAHA), HOME is the largest Federal block grant available to communities to create affordable housing. The intent of the HOME Program is to:

- Increase the supply of decent, affordable housing to low- and very low-income households;
- Expand the capacity of nonprofit housing providers;
- Strengthen the ability of state and local governments to provide housing; and
- Leverage private sector participation.

Every year, the U.S. Department of Housing and Urban Development (HUD) determines the amount of HOME funds that states and local governments—also known as Participating Jurisdictions (PJs)—are eligible to receive using a formula designed to reflect relative housing need. After money has been set aside for America’s insular areas¹ and for nationwide HUD technical assistance, the remaining funds are divided between states (40 percent) and units of general local government (60 percent).

The HOME Program regulations are found at 24 CFR Part 92. The Final Rule was published on September 16, 1996 and was amended on March 30, 2004 to include ADDI. The HOME regulations may be found on HUD’s Office of Affordable Housing Programs website at: <http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/regs/home/index.cfm>

HOME Program Partners

To ensure success in providing affordable housing opportunities, the HOME Program requires PJs to establish new partnerships and maintain existing partnerships. Partners play different roles at different times, depending upon the project or activity being undertaken with HOME funds. Key program partners include:

- **PJs.** A PJ is any state, local government, or consortium that has been designated by HUD to administer a HOME program.
 - *State governments:* States are given broad discretion in administering HOME funds. They may allocate funds to units of local government directly, evaluate and fund projects themselves, or combine the two approaches. States may also fund projects jointly with local PJs. They may use HOME funds anywhere within the state, including within the boundaries of local PJs.
 - *Local governments and consortia:* Units of general local government, including cities, towns, townships, and parishes, may receive PJ designation or they may be allocated funds by the state. Contiguous units of local government may form a consortium for the purpose of qualifying for a direct allocation of HOME funds. The local government or consortium then administers the funds for eligible HOME uses.
- **Community Housing Development Organizations (CHDOs).** A CHDO is a private, nonprofit organization that meets a series of qualifications prescribed in the HOME regulations. Each PJ must use a minimum of 15 percent of its annual allocation for housing that is owned, developed, or sponsored by CHDOs. PJs evaluate

organizations' qualifications and designate them as CHDOs. CHDOs also may be involved in the program as subrecipients, but the use of HOME funds in this capacity is not counted towards the 15 percent set-aside.

- **Subrecipients.** A subrecipient is a public agency or nonprofit organization selected by a PJ to administer all or a portion of its HOME program. It may or may not also qualify as a CHDO. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not considered a subrecipient.

Other important partners in the HOME Program include:

- **Developers, owners and sponsors.** Developers, owners, and sponsors of housing developed with HOME funds may be for-profit or nonprofit entities. Developers are the entities responsible for the putting the housing deal together. Owners are the entities that hold title to the property after rehabilitation, construction, or acquisition. Sponsors work with other organizations—such as other nonprofits—to assist them to develop and own housing. At project completion, they turn over title to the property to the other organization.
- **Private lenders.** Most HOME projects leverage or involve other financing, from for-profit lenders or other entities such as foundations or community groups.
- **Third-party contractors.** There is a range of other entities that might work on the HOME Program, such as architects, planners, construction managers, real estate agents, or consultants. These third-party contractors are responsible for specific, well-defined tasks that contribute to the PJ's overall affordable housing activity, such as consolidated planning.

HOME Program Activities

HOME funds can be used to support four general affordable housing activities:

- **Homeowner rehabilitation.** HOME funds may be used to assist existing owner-occupants with the repair, rehabilitation, or reconstruction of their homes.

- **Homebuyer activities.** PJs may finance the acquisition and/or rehabilitation, or new construction of homes for homebuyers.
- **Rental housing.** Affordable rental housing may be acquired and/or rehabilitated, or constructed.
- **Tenant-based rental assistance (TBRA).** Financial assistance for rent, security deposits and, under certain conditions, utility deposits may be provided to tenants. Assistance for utility deposits may only be provided in conjunction with a TBRA security deposit or monthly rental assistance program.

Eligible Costs

Eligible costs under the HOME Program depend on the nature of the program activity. Generally, HOME funds can be used for the following activities:

- **New construction.** HOME funds may be used for new construction of both rental and ownership housing. Any project that includes the addition of dwelling units outside the existing walls of a structure is considered new construction.
- **Rehabilitation.** This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.
- **Reconstruction.** This refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction also includes replacing a substandard manufactured house with a new manufactured house. During reconstruction, the number of rooms per unit may change, but the number of units may not.
- **Conversion.** Conversion of an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls of an existing structure, the entire project is new construction. Conversion of a structure to commercial use is not eligible under HOME.
- **Site improvements.** Site improvements must be in keeping with improvements to surrounding

standard projects. They include new, on-site improvements where none are present or the repair of existing infrastructure when it is essential to the development. Building new, off-site utility connections to an adjacent street is also eligible. Otherwise, off-site infrastructure is not eligible as a HOME expense, but may be eligible for match credit.

- **Acquisition of property.** Acquisition of existing standard property, or substandard property in need of rehabilitation, is eligible as part of either a homebuyer program or a rental housing project. After acquisition, rental units must meet HOME rental occupancy, affordability, and lease requirements.
- **Acquisition of vacant land.** HOME funds may be used for acquisition of vacant land only if construction will begin on a HOME project within 12 months of purchase. Land banking is prohibited.
- **Demolition.** Demolition of an existing structure may be funded through HOME only if construction will begin on the HOME project within 12 months.
- **Relocation costs.** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (known as the “Uniform Relocation Act” or “URA”) and Section 104(d) of the Housing and Community Development Act of 1974, as amended (known as “Section 104(d)”) apply to HOME-assisted properties. Both permanent and temporary relocation assistance are eligible costs, for all those relocated, regardless of income. Staff and overhead costs associated with relocation assistance are also eligible. Note that homeownership undertaken with FY04 –FY07 American Dream Downpayment Initiative (ADDI) funds is not subject to the URA.
- **Refinancing.** HOME funds may be used to refinance existing debt on single family, owner-occupied properties in connection with HOME-funded rehabilitation. The refinancing must be necessary to reduce the owner’s overall housing costs and make the housing more affordable. Refinancing for the purpose of taking out equity is not permitted. HOME may be used to refinance existing debt on multifamily projects being rehabilitated with HOME funds, if refinancing is necessary to permit or continue long-term

affordability, and is consistent with PJ-established refinancing guidelines, as outlined in the PJ’s consolidated plan.

- **Capitalization of project reserves.** HOME funds may be used to fund an operating deficit reserve for rental new construction and rehabilitation projects for the initial rent-up period. The reserve may be used to pay for project operating expenses, scheduled payments to a replacement reserve, and debt service for a period of up to 18 months.
- **Project-related soft costs.** These must be reasonable and necessary. Examples of eligible project soft costs include:
 - Finance-related costs;
 - Architectural, engineering, and related professional services;
 - Tenant and homebuyer counseling, provided the recipient of counseling ultimately becomes the tenant or owner of a HOME-assisted unit;
 - Project audit costs;
 - Affirmative marketing and fair housing services to prospective tenants or owners of an assisted project; and
 - PJ staff costs directly related to projects (not including TBRA).

Prohibited Activities and Costs

HOME funds may not be used to support the following activities and costs:

- **Project reserve accounts.** HOME funds may not be used to provide project reserve accounts (except for initial operating deficit reserves) or to pay for operating subsidies.
- **Tenant-based rental assistance for certain purposes.** HOME funds may not be used for certain mandated existing Housing Choice Voucher Program (formerly known as Section 8) uses, such as Housing Choice Voucher rent subsidies for troubled HUD-insured projects.
- **Match for other Federal programs.** HOME Program funds may not be used as the “nonfederal” match for other Federal programs except to match McKinney Act funds.

- **Development, operations, or modernization of public housing:**

- HOME funds cannot be used alone or in conjunction with HUD-funded public housing program funds (e.g., Public Housing capital programs such as Development, Comprehensive Improvements Assistance Program (CIAP) or Comprehensive Grant Program (CGP)) to acquire, rehabilitate, or construct public housing units.
- HOME funds cannot be used to operate public housing units under any circumstances.

- **Properties receiving assistance under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages).** Properties receiving assistance through the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) or the Emergency Low-Income Preservation Act (ELIHPA) are not eligible for HOME assistance except if the HOME assistance is provided to priority purchasers. Note: these programs are no longer funded by HUD.

- **Double-dipping.** During the first year after project completion, the PJ may commit additional funds to a project. After the first year, no additional HOME funds may be provided to a HOME-assisted project during the relevant period of affordability, except that:

- Tenant based rental assistance to families may be renewed.
- Tenant based rental assistance may be provided to families that will occupy housing previously assisted with HOME funds.
- A homebuyer may be assisted with HOME funds to acquire a unit that was previously assisted with HOME funds.

- **Acquisition of PJ-owned property.** A PJ may not use HOME Program funds to reimburse itself for property in its inventory or property purchased for another purpose. However, in anticipation of a HOME project, a PJ may use HOME funds to:

- Acquire property; and
- Reimburse itself for property acquired with other funds, specifically for a HOME project.

- **Project-based rental assistance.** HOME funds may not be used for rental assistance if receipt of funds is tied to occupancy in a particular project. Funds from another source, such as Housing Choice Voucher, may be used for this type of project-based assistance in a HOME-assisted unit. Further, HOME funds may be used for other eligible costs, such as rehabilitation, in units receiving project-based assistance from another source—for example, Housing Choice Voucher or state-funded project-based assistance.

- **Pay for delinquent taxes, fees, or charges.**

HOME funds may not be used to pay delinquent taxes, fees, or charges on properties to be assisted with HOME funds.

HOME Program Requirements

The HOME Program is designed to provide affordable housing to low-income and very low-income families and individuals. Therefore, the program has some key restrictions that are designed to foster HUD's commitment to long-term affordable housing, quality units and reasonable costs. These key restrictions are discussed below.

Income Eligibility and Verification

Beneficiaries of HOME funds—homebuyers, homeowners or tenants—must be low-income or very low-income. “Low-income” is defined as an annual income that does not exceed 80 percent of area median income, as adjusted by household size. “Very low-income” is defined as having an annual income that does not exceed 50 percent of area median income, as adjusted by household size. A household's income eligibility is determined based on its annual income. Annual income is the gross amount of income anticipated by all adults in the household during the 12 months following the effective date of the determination. To calculate annual income, the PJ may choose among three definitions of income:

- **Section 8 annual (gross) income.** Annual income determinations are based on the Part 5 definition of annual income. Note that this definition is now known as Part 5.

- **IRS adjusted gross income.** The calculation for “adjusted gross income” outlined in the Federal income tax IRS Form 1040.
- **Census long form annual income.** Annual income is defined as annual income used for the Census long form, for the most recent decennial Census.

Having the flexibility to choose the definition of income facilitates the combination of HOME with other funds, from sources that use differing definitions of income. The PJ’s choice of definition may depend on the other sources of funds in a project. For example:

- The Community Development Block Grant (CDBG) Program allows the same three definitions of income; therefore, projects with both sources should use the same definition.
- The Low Income Housing Tax Credit (LIHTC) Program requires the use of the Part 5 definition of income; therefore, projects that use both HOME and LIHTCs can use the Part 5 definition and comply with the requirements of both programs.

Subsidy Limits

HOME establishes minimum and maximum amounts of HOME funds that may be invested in any project. The minimum amount of HOME funds is \$1,000 multiplied by the number of HOME-assisted units in the project. The minimum *only* relates to the HOME funds, and *not* to any other funds that might be used for project costs. The minimum HOME investment does not apply to TBRA.

The maximum per-unit HOME subsidy limit varies by PJ. HUD determines the maximum amounts, which are based on the PJ’s Section 221(d)(3) program limits for the metropolitan area, each year. As above, those limits apply only to HOME funds and not other funds that may be invested in the project. These limits are available from the HUD Field Office, or information can be found online at

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/subsidylimits.cfm>.

The maximum per-unit subsidy limit is:

- 100 percent of the dollar limits for a Section 221(d)(3) nonprofit sponsor, elevator-type development, indexed for base city high cost areas, and adjusted for the number of bedrooms.

- For some PJs, the 221(d)(3) limit has already been increased to 210 percent of the base limit. For these PJs, HUD will allow, **upon request**, an increase in the per-unit subsidy amount on a program-wide basis. However, the absolute maximum subsidy limit that HUD will allow is 240 percent of the base 221(d)(3) limits.

Affordability Periods

To ensure that HOME investments yield affordable housing over the long term, HOME imposes rent and occupancy requirements over the length of an affordability period. For homebuyer and rental projects, the length of the affordability period depends on the amount of HOME assistance to the project or buyer, and the nature of the activity funded. Table 1-1 provides the affordability periods.

Table 1-1: Determining the HOME Period of Affordability

HOME Assistance per Unit or Buyer	Length of the Affordability Period
Less than \$15,000	5 years
\$15,000 - \$40,000	10 years
More than \$40,000	15 years
New construction of rental housing	20 years
Refinancing of rental housing	15 years

Throughout the affordability period, income-eligible households must occupy the HOME-assisted housing.

- **Rental housing.** When units become vacant during the affordability period, subsequent tenants must be income eligible and must be charged the applicable HOME rent.
- **Homebuyer assistance.** If a home purchased with HOME assistance is sold during the affordability period, resale or recapture provisions apply to ensure the continued provision of affordable homeownership.

Maximum Value

HOME investments are for modest housing. Thus, HOME imposes maximum value limits on owner occupied and homebuyer units. The maximum purchase price may not exceed 95 percent of the median purchase price of homes purchased in the area. In the case of a purchase-rehabilitation project, the

value of the property after rehabilitation may not exceed 95 percent of the area median purchase price for that type of housing. The after-rehabilitation value estimate should be completed prior to investment of HOME funds.

There are two options that PJs have for determining the 95 percent of the median purchase price. Most PJs opt to use the FHA Section 203(b) Mortgage Limits. These limits are available online at <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm>.

PJs also have the option of conducting a specialized market analysis that meets certain requirements established by HUD. (These can be found in the HOME Final Rule at 24 CFR 92.254 (a)(2)(iii).)

Property Standards

HOME-funded properties must meet certain minimum property standards.

- **State and local standards.** State and local codes and ordinances apply to any HOME-funded project regardless of whether the project involves acquisition, rehabilitation, or new construction.
- **Model codes.** For rehabilitation or new construction projects where there are not state or local building codes, the PJ must use one of three national model codes.ⁱⁱ
- **Housing quality standards.** For acquisition-only projects, if there are no state or local codes or standards, the PJ must enforce Housing Choice Voucher Housing Quality Standards (previously Section 8 HQS).
- **Rehabilitation standards.** Each PJ must develop written rehabilitation standards to apply to all HOME-funded rehabilitation work. These standards are similar to work specifications, and generally describe the methods and materials to be used when performing rehabilitation activities.

HOME Administrative Requirements

Administrative and Planning Costs

Each PJ may use up to 10 percent of each year's HOME allocation for reasonable administrative and planning costs. In addition, up to 10 percent of program income deposited in a PJ's local HOME account during a program year may be used for administrative and planning costs. PJs, state recipients and subrecipients may incur administrative and planning costs.

Eligible administrative and planning costs include expenditures for salaries, wages, and related costs of PJ staff persons responsible for HOME Program administration. In addition to staff salaries and related costs, other planning and administrative costs could include:

- Goods and services necessary for administration (for example, utilities, office supplies, etc.);
- Administrative services under third party agreements (for example, legal services);
- Administering a tenant-based rental assistance (TBRA) program;
- Providing public information;
- Fair housing activities;
- Indirect costs under a cost allocation plan prepared in accordance with applicable Office of Management and Budget (OMB) Circular requirements;
- Preparation of the Consolidated Plan; and
- Complying with other Federal requirements.

Match

The HOME Program requires that PJs contribute an amount equal to no less than 25 percent of the total HOME funds drawn down for project costs as a permanent contribution to affordable housing. PJs incur a match obligation only for project funds, not for

administrative, operating, or capacity building expenditures. Although the obligation is incurred based on per dollar expended in project, match credit can be invested in any HOME-eligible project, whether the project receives HOME funds or not. Match can be contributed in many different forms, including cash; value of waived taxes or fees; value of donated land or property; donated goods, services, materials or equipment.

Commitment and Expenditure Deadlines

The HOME Program encourages PJs to expend their affordable housing funds expeditiously by imposing two deadlines. HOME funds for a given program year must be committed to a HOME project within two years of signing the HOME Investment Partnerships Agreement. For the CHDO set-aside funds, PJs must reserve funds for use by CHDOs within that 24-month period. In addition, HOME funds must be expended within five years of receipt of funds. The Integrated Disbursement and Information System (IDIS) tracks each PJ's progress toward meeting these deadlines. Failure to meet these deadlines may result in a return of HOME funds to HUD.

Program Income

Program income is the income received by a PJ, state recipient, or subrecipient directly generated from the use of HOME funds or matching contributions. Program income must follow all of the HOME rules and must be used before drawing down new HOME funds. Program income includes, but is not limited to:

- Proceeds from the sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
- Income from the use or rental of real property owned by a PJ, state recipient or subrecipient that was acquired, rehabilitated, or constructed with HOME funds or matching contributions, minus the costs incidental to generating that income;
- Payments of principal and interest on loans made with HOME or matching funds, and proceeds from the sale of loans or obligations secured by loans made with HOME or matching contributions;

- Interest on program income; and
- Any other interest or return on the investment of HOME and matching funds.

All HOME program income must be used in accordance with the HOME Program rules. Where program income is concerned, there is an important distinction between subrecipients/state recipients and CHDOs. Specifically:

- Program income received by subrecipients or state recipients, such as rental income, repayment of loans, interest on loans, fees, and payments for services, is considered program income subject to HOME regulations.
- However, project proceeds received and retained by CHDOs are not considered program income. PJs have the option of permitting project proceeds to be retained by CHDOs or they may require CHDOs to return these proceeds to the PJ. If the project proceeds are returned to the PJ, they are program income. Use of funds must be specified in the CHDO written agreement and limited to either HOME-eligible activities or other housing activities that benefit low-income families.

Pre-Award Costs

PJs may incur eligible costs prior to the effective date of their annual HOME Investment Partnerships Agreement, subject to certain conditions. Both administrative and project costs may be incurred. Only costs eligible under the HOME Program rules in effect at the time the costs are incurred are included. Expenditures must meet all regulatory requirements, including environmental review regulations.

Pre-award project costs may not exceed 25 percent of the current HOME grant without written approval from HUD. PJs may authorize subrecipients and state recipients to incur pre-award costs, but authorization must be in writing. Citizen participation and all other applicable HOME requirements must be met.

Part 2: Community Development Block Grant (CDBG Program)

What is CDBG?

Authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended, the Community Development Block Grant (CDBG) is an annual grant to localities and states to assist in the development of viable communities. These viable communities are achieved by providing the following, principally for persons of low- and moderate-income:

- Decent housing;
- A suitable living environment; and
- Expanded economic opportunities.

“Principally” means that, at a minimum, 70 percent of the CDBG funds expended by a state or entitlement grantee should be used to benefit low- and moderate-income people. This 70 percent can be measured over the course of a one-, two- or three-year time period, selected by the grantee.

Every year, each city in a metropolitan area with at least 50,000 people, principal cities (designated by OMB) of metropolitan areas, and each county with more than 200,000 in population (excluding metropolitan cities therein) receive CDBG funds. These cities and urban counties are called “entitlement grantees”—they are entitled to CDBG by virtue of their size. Each state also receives a CDBG grant. The CDBG grant amounts are determined by the higher of two formulas:

- U.S. Census data based on overcrowded housing, population, and poverty; or
- U.S. Census data based on age of housing, population growth lag, and poverty.

Entitlement communities receive the largest portion of CDBG funding (70 percent) and states receive the other 30 percent. Each state receives CDBG to pass along to its smaller towns and rural counties (non-entitlement communities), which usually compete with one another for the funds. Every state has its own procedures for operating the CDBG Program.

The CDBG regulations can be found at 24 CFR Part 570. Information about the Entitlement Program and its regulations are found at:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/entitlement/index.cfm>.

Under the State CDBG Program, states follow the HCDA as supplemented by the State CDBG regulations, as applicable. In exercising its obligation to review a state’s performance under the program, HUD gives maximum feasible deference to the state’s interpretation of these statutory and regulatory requirements. HUD will accept the state’s interpretations, provided these are not clearly inconsistent with the Act or the regulation.

Information about the State CDBG Program and its regulations can be found at the following website:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/index.cfm>.

CDBG Program Partners

The CDBG Program relies primarily on several key partners to plan and implement eligible program activities. These partners include:

- **CDBG Grantee.** In the Entitlement Program, local governments are known as grantees. In the State CDBG Program, the state is the grantee.
- **Unit of General Local Government (UGLG).** In the State CDBG program, a unit of general local government is the community funded by the state to undertake CDBG activities. It is always a local government such as a town, county, or village. In the State CDBG Program, these are often referred to as state grant recipients.
- **Subrecipient.** A subrecipient is a nonprofit or public entity that assists the grantee to implement and administer all or part of its CDBG Program. Subrecipients are generally public or private nonprofit organizations that assist the grantee to undertake a series of activities, such as administering a home rehabilitation loan pool. Public agencies that are not a part of the grantee’s legal government entity can also be subrecipients, such as a water and sewer authority.
- **Community-Based Development Organization (CBDO).** CBDOs are organizations that undertake

CDBG-funded activities as part of a neighborhood revitalization, energy conservation, or community economic development project. CBDOs can be nonprofit or some for-profit organizations, but cannot be government entities. Note that the State CDBG Program has a somewhat more broad definition of the organizations that may qualify to do these activities and it generally calls these organizations “nonprofit development organizations working under Section 105(a)(15) of the statute”. This guide will generally call these types of organizations CBDOs but states are encouraged to review the *Guide to National Objectives and Eligible Activities for State CDBG Programs* for additional information. This guide is available on the HUD website at <http://www.HUD.gov/offices/cpd/communitydevelopment/library/stateguide/index.cfm>.

- **Contractor.** A contractor is an entity paid with CDBG funds in return for a specific service (for example, construction). Contractors must be selected through a competitive procurement process.

CDBG Program Activities

There is a wide range of more than twenty activities that are eligible under the CDBG Program. Grantees are free to select those activities that best meet the needs of their communities. However, in order to ensure that the primary objective of the CDBG Program is met—the benefit to low- and moderate-income persons—grantees must ensure that all activities meet a national objective. It is important for grantees to remember that activities must meet this “two-prong test”—activities must be both eligible **and** meet a national objective.

Described below are the types of eligible and ineligible CDBG activities. These activities have been very loosely grouped into general categories since this guidebook focuses specifically on eligible and ineligible *housing-related* activities.

Eligible CDBG Activities

This section lists basic eligible activities under the CDBG Program. Generally, CDBG funds can be used for the following types of activities:

- **Activities related to housing**, including but not limited to:

- Homeownership assistance;
- Rental rehabilitation activities;
- Homeowner rehabilitation activities;
- Housing services in connection with the HOME Program; and
- Lead-based paint testing and abatement.
- **Other real property activities** such as:
 - Acquisition;
 - Disposition;
 - Clearance and demolition;
 - Code enforcement; and
 - Historic preservation.
- **Public facilities**, including infrastructure, special needs facilities, or community facilities.
- **Activities related to economic development**, including microenterprise assistance, commercial rehabilitation, and special economic development activities.
- **Activities related to public services**, including but not limited to:
 - Job training and employment services;
 - Health care and substance abuse services;
 - Child care;
 - Crime prevention; and
 - Fair housing counseling.
- **Assistance to CBDOs**—CDBG grantees may provide grants or loans to CBDOs to carry out CDBG-assisted activities as part of the following types of projects:
 - Neighborhood revitalization;
 - Community economic development; and
 - Energy conservation.
- **Other Types of Activities**—Certain other types of activities are also eligible under CDBG, including:
 - Payment of non-Federal share of Federal grant-in-aid programs for activities that are CDBG-eligible activities;
 - Relocation assistance;

- Loss of rental income (related to relocation);
- Technical assistance to public or private nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization, or economic development activities; and
- Assistance to institutions of higher education with the capacity to carry out CDBG-eligible activities.

- Operating and maintenance expenses (of public facilities, improvements, and services), except for operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG Program;
- New housing construction, except under certain conditions or when carried out by a CBDO; and
- Income payments.

Ineligible CDBG Activities

In general, any activity that is not specifically authorized under the CDBG regulations and statute is ineligible. In addition, the regulations stipulate that the following activities may not be assisted with CDBG funds:

- Buildings for the general conduct of government (e.g., city hall);
- General government expenses; and
- Political activities.

The following activities may not be assisted with CDBG funds unless authorized as a special economic development activity or when carried out by a CBDO:

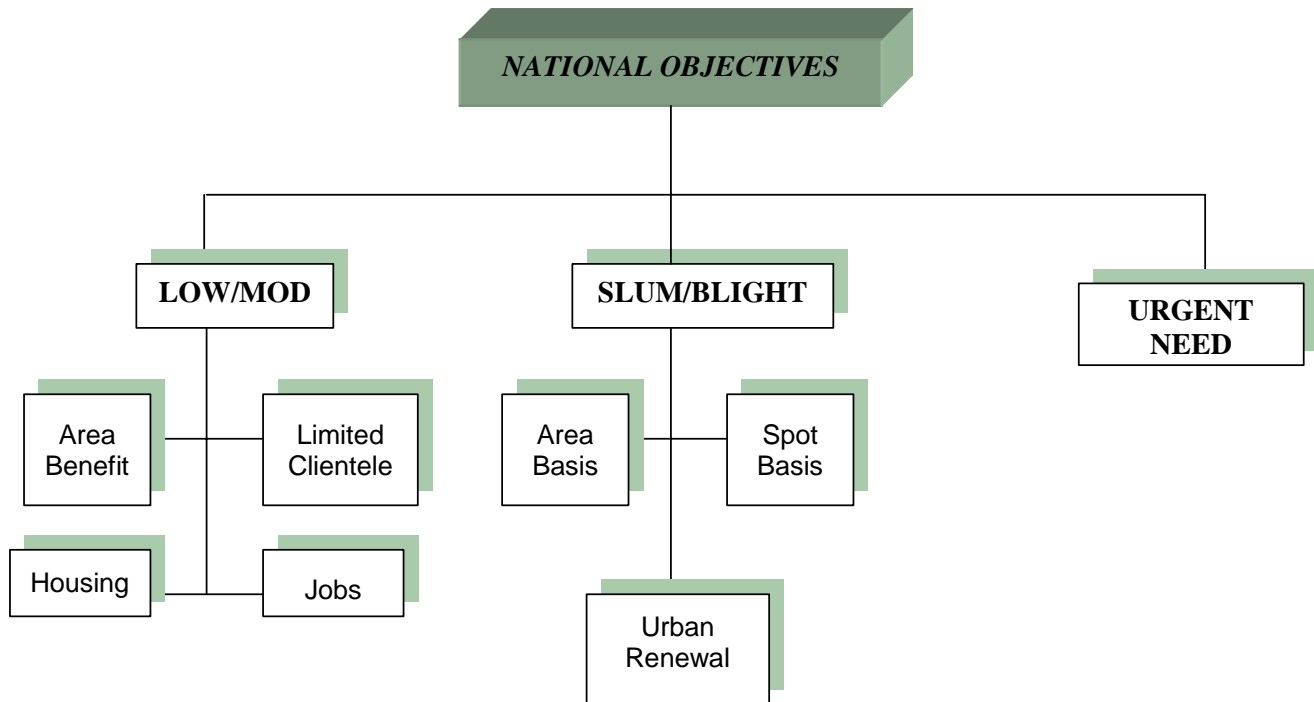
- Purchase of construction equipment or furnishings and personal property;

CDBG National Objectives

CDBG grantees are responsible for ensuring that each eligible activity meets one of three national objectives:

- Benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency (referred to as urgent need) that the grantee is unable to finance on its own.

Grantees must be able to show that every CDBG-funded activity fits into one of these categories. The chart below graphically demonstrates the CDBG national objectives.



Benefit Low- and Moderate-Income Persons

Under this national objective, CDBG-assisted activities must benefit low- and moderate-income persons using one of the following categories:

- Area benefit activities;
- Limited clientele activities;
- Housing activities; or
- Job creation or retention activities.

A moderate-income person is one whose gross annual income is at or below 80 percent of the area median income, as determined by HUD. A low-income person is one whose income is at or below 50 percent of the area median income.

Area Benefit. Area benefit is the most commonly used category for community-wide activities. To qualify under area benefit, an activity must benefit all residents in a particular area (i.e., the service area) where at least 51 percent of the residents are low- and moderate-income persons. The service area must be primarily residential and the activity must meet the identified needs of low- and moderate-income persons.

Street improvements, water and sewer lines, neighborhood facilities, and façade improvements in a commercial district that serves a low- and moderate-income neighborhood are all examples of activities that have an area benefit.

Limited Clientele. Limited clientele activities benefit a limited number of people and are eligible, as long as at least 51 percent of those served are low- and moderate-income persons. The grantee must do one of the following to demonstrate a benefit to a limited clientele:

- Be designed to exclusively serve one or more groups of clientele that are presumed to be principally low- and moderate-income:
 - Abused children;
 - Battered spouses;
 - Elderly persons;
 - Adults meeting the U.S. Census definition of severely disabled;
 - Homeless persons;

- Illiterate adults;
- Persons living with AIDS; and
- Migrant farm workers.
- Require documentation on household size and income in order to show that at least 51 percent of the clientele are low- and moderate-income.
- Have income eligibility requirements limiting the activity to low- and moderate-income persons only.
- Provide the benefit that is of such a nature and in such a location that it can be concluded that clients are primarily low- and moderate-income.

In addition, the following activities may qualify under the limited clientele national objective:

- Removal of architectural barriers to mobility for elderly persons or severely disabled adults;
- Microenterprise activities carried out in accordance with the HUD regulations when the person owning or developing the microenterprise is low- or moderate-income; or
- Activities that provide training and other employment support services when the percentage of persons assisted is less than 51 percent low- and moderate-income:
 - If the proportion of total cost borne by CDBG is no greater than the proportion of low- and moderate-income persons assisted; and
 - When the service assists businesses, CDBG is only used in the project to pay for the job training and/or supportive services.

Examples of limited clientele activities include construction of a senior center; public services for the homeless; meals on wheels for the elderly; and construction of job training facilities for the disabled.

Housing Activities. This is an eligible activity undertaken for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by low- and moderate-income households. Structures with one unit must be occupied by a low- and moderate-income household. Two-unit structures must have at least one unit occupied by a low- and moderate-income household. In structures with three or more units, low- and moderate-income households must occupy at least 51 percent of the units.

Under the following limited circumstances, structures with less than 51 percent low- and moderate-income households may be assisted:

- Assistance is for an eligible activity that reduces the development cost of new construction of non-elderly, multifamily rental housing project; and
- At least 20 percent of the units will be occupied by low- and moderate-income households at an affordable rent; and
- The proportion of cost borne by CDBG funds is no greater than the proportion to be occupied by low- and moderate-income households.

Examples of housing activities include acquisition; downpayment assistance to a homebuyer; and assistance to owners to rehabilitate their homes. Note that housing assistance activities (such as rehabilitation or homebuyer assistance) may not be categorized under any other low- and moderate-income national objective other than the housing national objective. Thus, housing activities cannot be documented under the Area Benefit, Limited Clientele or Job Creation/Retention national objectives.

Job Creation or Retention Activities. These are eligible activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to, or held by, low- and moderate-income persons.

Potentially eligible activities include construction by the grantee of a business incubator; loans to pay for the expansion of a plant or factory; and assistance to a business to prevent closure and a resultant loss of jobs for low- and moderate-income persons.

Elimination of Slum and Blight

These are activities that help to prevent or eliminate slums and blighted conditions. The activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slums and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area (entitlements only).

Area Slum/Blight. These activities aid in the prevention or elimination of slums or blight in a designated area. Specifically:

- The delineated area in which the activity occurs must meet a definition of a slum, blighted, deteriorated, or deteriorating area under state or local law;
- In addition, there must be a substantial number of deteriorated or deteriorating buildings or public improvements in the area, and the activity must address one or more of the conditions that contributed to the deterioration of the area; and
- Documentation must be maintained by the grantee on the boundaries of the area and the conditions that qualified the area at the time of its designation.

Examples of area slum/blight activities might include assistance to commercial or industrial businesses, housing rehabilitation for non low and moderate income persons, public facilities or improvements, and code enforcement when these activities are conducted in a blighted area.

Spot Slum/Blight. These are activities that eliminate specific conditions of blight or physical decay on a spot basis not located in a designated slum or blighted area. In addition:

- Only acquisition, clearance, relocation, historic preservation, and building rehabilitation activities qualify for this national objective; and
- Rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

Examples of spot basis include elimination of faulty wiring, falling plaster or other similar conditions that are detrimental to all potential occupants; historic preservation of a public facility; and demolition of a vacant, deteriorated building.

Urban Renewal Area. These are activities located within an Urban Renewal project area or Neighborhood Development Program action area that are necessary to complete an Urban Renewal Plan, pursuant to Title I of the Housing Act of 1949. A copy of the Urban Renewal Plan in effect at the time the CDBG activity is carried out, including maps and supporting documentation, must be maintained for recordkeeping purposes. Note that this national objective is not applicable to the State CDBG Program.

Urgent Need

Use of this category is rare. It is designated only for activities that alleviate emergency conditions. Urgent

need activities must meet the following qualifying criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community; and
- The existing conditions must be of recent origin, or must have recently become urgent (generally within the past 18 months); and
- The grantee is unable to finance the activity on its own; and
- Other sources of funding are not available.

An example of urgent need may be when a coastal city is struck by a major hurricane and does not have any other resources to demolish severely damaged structures that pose a danger to occupants of neighboring structures.

For more information on CDBG national objectives and activity eligibility

Two HUD publications provide excellent guidance on issues of activity eligibility and meeting national objectives.

- **For states**, see *Guide to National Objectives and Eligible Activities for State CDBG Programs*, available online at <http://www.hud.gov/offices/cpd/communitydevelopment/library/stateguide/index.cfm>
- **For entitlement communities**, see *Community Development Block Grant Program Guide to National Objectives and Eligible Activities for Entitlement Communities*, available online at <http://www.hud.gov/offices/cpd/communitydevelopment/library/deskguid.cfm>

CDBG Administrative Requirements and Caps

Administrative Cap

Under the Entitlement Program, up to 20 percent of each year's CDBG grant plus program income can be obligated for planning and administrative costs. Program administration costs are costs related to the overall planning and execution of CDBG-assisted community development activities. Planning and administration costs subject to the cap do not include staff and overhead costs directly related to carrying out eligible activities since these costs are eligible as part of those activities.

The administrative cap is applied differently in the State CDBG Program. Under this program, a state may use \$100,000 plus up to 3 percent of its grant and program income for the state's administrative and technical assistance costs. All costs within the 3 percent that are used for administration must be matched by the state. Note that the CDBG statute was changed on January 23, 2004 to combine the state administrative, planning, and technical assistance caps and allow states to expend up to 3 percent for these costs. States are encouraged to review Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) as amended for more information on this change.

The state may also allow units of local government to charge administrative and planning costs. Local activity delivery costs can, at the State's option, be classified as administrative or project delivery costs. The sum of the state's administrative expenses and the unit of local government administrative expenses may not exceed 20 percent of the state's grant and program income.

Note that while the Entitlement Program bases its administrative and planning cap on obligations, the State Program bases its cap on expenditures of CDBG funds. Also note that timeframe for the cap is calculated differently for the State CDBG Program than for the Entitlement Program. While the Entitlement Program considers obligations during the 12-month program year, the State CDBG Program considers expenditures as a percentage of each annual grant allocation.

Low- and Moderate-Income Benefit Expenditures

Low- and moderate-income persons are those with incomes below 80 percent of the median income for the entire metropolitan area. Entitlement grantees may use one of the following three definitions of income; state grantees may choose to follow one of these definitions or they can choose their own income definition. HUD will give maximum feasible deference to the state's choice.

- Part 5 annual (gross) income;
- IRS adjusted gross income; or
- Census long form annual income.

As noted above, the primary objective of the CDBG Program is the development of viable communities principally for low- and moderate-income persons. To

meet the primary objective, the CDBG regulations require that grantees expend not less than 70 percent of CDBG funds for activities that benefit low- and moderate-income persons. In addition:

- Planning and administrative costs are excluded from the low- and moderate-income benefit calculation.
- Activities meeting this requirement are those that qualify under one of the four low- and moderate-income Benefit National Objective categories:
 - Area basis;
 - Limited clientele;
 - Housing activities; or
 - Job creation and retention.
- The percentage calculation is based on aggregate CDBG expenditures over a period specified by the grantee (up to three years) in a certification to HUD.

Public Services Cap

The CDBG statute and regulations limit the amount of funding that can be used for public service activities. The limit is based on obligations for public services for a given program year and cannot exceed:

- 15 percent of that program year's entitlement grant; plus
- 15 percent of the preceding year's program income.

Under the State CDBG Program, the public services cap is calculated differently. States may not expend more than 15 percent of a given fiscal year's annual allocation plus 15 percent of the program income distributed by the state. Note that the 15 percent cap applies to the state, not to the individual local governments receiving State CDBG funds. A state could make a grant to a town solely for public service activities.

Public services carried out by subrecipients or units of general local government are subject to the grantee's 15 percent cap. However, some public services may qualify in another CDBG eligible activities category. For example, job training for a specific position within a company where jobs are being created may be counted as economic development, rather than public service.

Program Income

Program income is the gross income received by the grantee and its subrecipients directly generated from the use of CDBG funds. In general, program income must be used prior to drawing down additional funds from the line of credit. One exception to this rule is funds in a revolving loan fund. Program income includes:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- Proceeds from the sale or lease of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired, constructed, or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- Interest earned on program income pending its disposition (Note, interest earned on revolving loan funds must be remitted to the U.S. Treasury at least annually); and
- Funds collected through special assessments on properties not owned and occupied by low- and moderate-income households in order to recover the CDBG portion of a public improvement.

Note that program income does not include income earned on grant advances from the U.S. Treasury, except interest on lump sum draw downs. The following types of income earned on grant advances must be remitted to the U.S. Treasury: interest earned from the investment of the initial proceeds of a grant advance; interest earned on activities determined to be ineligible; and interest earned on the investment of amounts reimbursed to the CDBG program account prior to the use of the reimbursed funds for eligible purposes. Also, for the purposes of calculating the program income for the recipient as a whole, payments made by subrecipients of principal and/or interest on CDBG-funded loans received from grantees shall be excluded if such payments are made using program income received by the subrecipient. The amount of program income derived from this calculation shall be used for reporting purposes and in determining the

limitations on CDBG planning/administration and public service activities.

Program income also does not include:

- Any income received in a single program year by the grantee and its subrecipients, that does not exceed \$25,000. For the state CDBG program this is based upon whether no more than \$25,000 is retained by a unit of general local government and its subrecipients;
- Income generated by certain Section 108 activities (refer to 24 CFR 570.500(a)(4)(ii) or 570.489(e)(2)(iii));
- Proceeds from subrecipient fundraising activities;
- Funds collected through special assessments to recover non-CDBG outlays of capital improvements; and
- Proceeds from the disposition of real property that was acquired or improved by a subrecipient with CDBG funds and disposed five years or more after the expiration or closeout of the grantee's agreement with the subrecipient. In the subrecipient agreement, the grantee may choose a longer timeframe during which any CDBG related proceeds to the subrecipient would remain program income. (Certain conditions apply. See 24 CFR 570.503(b)(8) for more information on entitlement programs. See 24 CFR 570.489 for more information on program income for State CDBG Programs.) Unless a grantee closes out its participation in the CDBG program, proceeds to a grantee from the disposition of real property are considered program income in perpetuity. (See 24 CFR 570.505 and 570.489(e)(3)(i) for additional information.) Note that the State CDBG requirements are comparable to the entitlement requirements except that there is no explicit requirement for a subrecipient agreement.

Timely Use of Funds

It has become increasingly important for grantees to spend CDBG funds in a timely manner. Timely use of funds, in times of tight budgets, demonstrates that CDBG funds are being used to address unmet community development needs. Under the provisions of 24 CFR 570.902(a) of the CDBG regulations, an entitlement grantee is considered to be timely, if 60 days prior to the end of the grantee's program year, the balance in its U.S. Treasury Department line-of-credit

does not exceed 1.5 times the annual grant for its current program year. An entitlement grantee that is "newly untimely" (i.e., met the 1.5 standard at its last 60-day test) has 12 months to become timely. If that grantee is not timely at its next 60-day test, there are two possible exceptions:

- It is currently spending at a 12-month rate that, if continued, would bring it into compliance by the following 60-day test, or
- HUD determines that the untimeliness resulted from factors beyond the grantee's reasonable control.

If a grantee does not meet the first possible exception, it will have the opportunity, at an informal consultation, to provide information as to why its lack of timeliness is for reasons beyond its reasonable control. After that consultation, HUD will consider the information provided by the grantee and, if a determination is made that, in fact, conditions were not beyond the grantee's reasonable control, the grantee will be subject to a reduction of the total amount by which it exceeded the 1.5 threshold.

States' timeliness is currently based on its timely distribution of funds to units of general local government. In accordance with 24 CFR 570.494(b)(1), a state is considered timely if it obligates and announces all of its grant within 15 months of the state's execution of its grant agreement.

Pre-Award Costs

Under certain conditions, CDBG grantees and their subrecipients may incur costs prior to the effective date of their CDBG grant agreement with HUD. The effective date of the grant agreement is the program year start date, or the date that HUD receives the Consolidated Plan, whichever is later. Costs may be incurred as of the date that the final Consolidated Plan is made public.

Grantees can incur any eligible cost provided it meets certain conditions:

- The activity for which the costs are being incurred is included in a consolidated plan action plan or an amended consolidated plan action plan prior to the costs being incurred;
- Citizens are advised of the extent to which these pre-award costs will affect future grants;

- The costs and activities funded are in compliance with the CDBG regulations and the environmental review requirements;
- The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;
- CDBG payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included, unless otherwise excepted by the HUD Field Office; and
- The total amount of pre-award costs to be paid during any program year is no more than 25 percent of grant amount for that year or \$300,000, whichever is greater, unless otherwise excepted by the HUD Field Office.

- The State CDBG Program places no restrictions on pre-award costs. States can authorize pre-award costs for their state grant recipients.

Part 3: General Program Comparison—HOME versus CDBG

Table 1-2 provides a general comparison between the HOME and CDBG programs so that grantees are able to identify the similarities and differences between the two programs. Note that this chart provides a summary of the requirements and jurisdictions should refer to the detailed chapters of the guide and to the program regulations and statutes for more information.

Table 1-2: A Comparison of HOME and CDBG

	HOME	CDBG
Organizational Issues		
Recipient	PJs (States, counties, localities, consortia).	Grantees (States, metropolitan cities, urban counties).
Key Partners	CHDOs, nonprofit and for-profit housing developers, private lenders.	CBDOs, nonprofit and public organizations, nonprofit and for-profit housing developers, nonprofit organizations serving the development needs of non-entitlement areas, private lenders. (24 CFR 570.204, 570.300, 570.420, 570.480, 570.500(c), 570.700)
Projects Under State Programs	States can directly undertake projects or they can work through local governments or nonprofits. States can fund projects anywhere in the state, including in PJs.	States must fund projects via units of general local government. States cannot make grants to local governments that are Entitlements.
Nonprofit Set-Aside	PJs must spend at least 15% of their annual allocations on development projects undertaken by CHDOs.	None.

Table 1-2: A Comparison of HOME and CDBG

	HOME	CDBG
Special Nonprofits	Community Housing Development Organizations (CHDOs): nonprofit development organizations with a board that is at least 1/3 representative of low-income residents.	Community Based Development Organizations (CBDOs) and nonprofit organizations serving the development needs of non-entitlement areas. These organizations undertake community economic development, neighborhood revitalization, and/or energy conservation. Under the Entitlement Program, the CBDO board is at least 51% representative of low-income residents.
Subrecipients	Any nonprofit or outside public entity that administers all or part of a HOME activity on the PJ's behalf.	A public or private nonprofit agency, authority, or organization, not including CBDOs. A for-profit entity carrying out microenterprise activities under 24 CFR 570.201(o).
Funding Issues		
Timelines	2-year commitment, 5-year expenditure deadlines. (24 CFR 92.500(d))	Entitlement grantee must have no more than 1.5 times the amount of the current year's formula grant 60 days prior to end of program year. (24 CFR 570.902(a)). States should obligate and announce all grant funds within 15 months of the execution of grant agreement
Match	HOME PJs must contribute at least 25¢ for every \$1 of HOME funds expended during the federal fiscal year. (24 CFR 92.218-92.222)	Not required, unless imposed by grantee. (Note: some state impose a match.) States are required to match their administrative costs, capped at 3% (plus \$100,000, which is not required to be matched.)
Eligible Activities		
Eligible Activities	HOME funds can only be used to support affordable housing activities and projects. (24 CFR 92.1 and 92.2)	CDBG funds can be used to support affordable housing activities, along with other community and economic development activities and public services. (24 CFR 570.201-.206, statutory sections 105(a)(1)–(a)(25))
Housing-Related Eligible and Ineligible Activities	Acquisition, rehabilitation and new construction of rental and homeownership housing, direct homebuyer assistance (loans, grants, downpayment and closing costs assistance), tenant-based rental assistance. No non-housing related activities. No assistance to public housing.	Acquisition, rehabilitation of rental and homeownership housing, direct homebuyer assistance, new construction of rental or homeownership housing when carried out by a CBDO pursuant to 24 CFR 570.204 or 105(a)(15) of the statute. Can assist public or private buildings.

Table 1-2: A Comparison of HOME and CDBG

	HOME	CDBG
Refunding of Assisted Projects	No assistance to projects already funded with HOME during the affordability period after the first year.	Can provide assistance to project already assisted with CDBG, as long as new activity is CDBG-eligible.
Tenant-Based Rental Assistance	Eligible. TBRA rent subsidy formula caps tenant contribution to 30% of household's monthly adjusted income. (24 CFR 92.209(h)).	Direct rental assistance to families is prohibited, except under limited circumstances. (24 CFR 570.207(b)(4)).
Administrative Costs	Eligible under 24 CFR 92.207. Capped at 10% of annual allocation plus program income received.	Eligible under 24 CFR 570.205 and 206. Capped at 20%. A state may use \$100,000 plus up to 50% the costs it incurs for program administration, up to a maximum of 3 percent of its CDBG allocation. The State may expend up to 3% of its CDBG allocation on technical assistance activities. However, the total the State spends on both administrative and technical assistance expenses may not exceed 3% of the State's allocation. (see 570.489(a) and Section 106(d) of the statute.)
Low-Income Targeting		
Income Definition	Can choose from among three definitions of income: Part 5; IRS; Census long form.	Can choose from among three definitions of income: Part 5; IRS; Census long form. State CDBG grantees can choose one of these three or their own definition.
Income Targeting—Households Served	HOME funds exclusively serve low-income households (<80% area median income). (24 CFR 92.216 and 217)	The primary objective of CDBG is to principally assist low- and moderate-income persons (<80% area median income). All activities must meet one of three national objectives: low/moderate income benefit; elimination of slum and blight; or urgent need. Aggregate benefits across all activities for 1-3 year period: at least 70% of funds must assist low- and moderate-income persons. 24 CFR 570.200(a)(3) and 570.484(a)

Table 1-2: A Comparison of HOME and CDBG

	HOME	CDBG
Income Targeting -- Rental Units	<p>HOME allows assistance to be targeted toward particular units. Thus the HOME units could be a small percentage of the entire units within a project.</p> <p>Rental projects assisted with HOME have deeper income targeting requirements with specific requirements related to renting units to very low-income households and to ensuring that initially 90% of the households assisted with rental or TBRA funds are at 60% of median and below. (24 CFR 92.216).</p>	<p>Unless the project meets the slum/blight national objective criteria, the low and moderate-income housing national objective will be used. For multifamily housing, 51% of the units must be occupied by low- or moderate-income households. For one-unit structures, each household must be low- or moderate-income. For two unit structures, one of the two households must be low- or moderate-income. (24 CFR 570.208(a)(3) and 570.483(b)(3)).</p> <p>CDBG assistance applies to an entire multifamily project regardless of the amount of CDBG assistance. So, 51% of all units within the project must be occupied by low- and moderate-income households unless the project meets a specific exception related to certain activities designed to reduce the cost of new construction. (24 CFR 570.208(a)(3) and 570.483(b)(3)). In general, CDBG does not allow for proportional funding where the number of units is based upon the amount of CDBG funds (unless the 51% target is reached or the above-noted exception is triggered).</p>
Affordability		
Affordability Period	Applies to homebuyer and rental projects. 5–20 years depending on activity type and funding amount. (24 CFR 92.252, 92.254)	Not required. However, some projects are required to meet change of use restrictions. See 24 CFR 570.505 and 24 CFR 570.489.
Rents	High and Low HOME Rents are specified for HOME rental projects. (24 CFR 92.252(a) and (b))	If using low- and moderate-income national objective, no direct requirement for specific rent schedule, other than at least 51% of units in multifamily project are affordable to low- and moderate-income tenants. (24 CFR 570.208(a)(3) and 570.483(b)(3)). Rents must be affordable, as determined by the jurisdiction.

Table 1-2: A Comparison of HOME and CDBG

	HOME	CDBG
Unit Requirements		
Unit Quality	HOME property standards: Local rehabilitation standards (for rehabilitation), and State/local codes or standards, or if none exists, one of three national model codes, and Model Energy Code (for new construction). (24 CFR 92.251)	No specific property standards required.
Minimum Investment	Minimum HOME investment is an average of \$1,000 per unit for project.	No minimum required.
Subsidy Limit	Capped at the 221(d)(3) limits. Costs must be reasonable.	Costs must be reasonable. No maximum subsidy.
Maximum Property Value	Applies to homebuyer homes and is typically based on 203(b) limits.	No maximum property value.
Ongoing Compliance		
Ongoing Monitoring	Must monitoring compliance with program rules and terms of written agreement. Must also monitor rental properties during the affordability period. Must ensure that homebuyer properties meet resale or recapture provisions.	Must document compliance with national objective and terms of written agreement. Otherwise, no ongoing monitoring. However, some projects are required to meet change of use restrictions. See 24 CFR 570.505 and 24 CFR 570.489.
Re-examinations of Income	Incomes need to be re-examined for HOME-assisted units annually, and re-verified with source documentation every five years—all new tenants in HOME units must be low-income (80 percent or lower of the area median income).	Not required under CDBG. Income is documented at the time of initial occupancy.
Unit Inspections	Rental units must be inspected during the affordability period; inspection schedule is based on size of the project. TBRA units must be inspected annually.	None required.

Chapter 2:

Using HOME and CDBG for Rental Housing

This chapter summarizes how CDBG and HOME can be used to develop rental housing. It describes the range of approaches that can be used to create rental housing and the rental housing activities that can be undertaken with HOME or CDBG funds. It discusses the rules for financing and developing rental housing when combining CDBG and HOME funds and describes ongoing rules for managing the rental properties over time. The chapter concludes with sample program designs that illustrate how HOME and CDBG can be combined for rental housing development.

Approaches to Creating Rental Housing

There are many ways to create affordable rental housing, and jurisdictions can tailor HOME and CDBG funds to address local housing market conditions. For instance:

- In some communities, there is a surplus of available standard rental housing but it is not affordable to low-income households. In these communities, the right approach might be to acquire these existing units, lower their cost, and rent them to low-income households.
- In communities with a sufficient supply of standard housing, it might make sense to provide assistance to the tenants, rather than to the owners. This is known as “tenant-based rental assistance,” or TBRA.
- In other communities where rental housing exists, but it is in poor condition, an effective rental housing program might focus on rehabilitating these existing structures, or on acquiring and rehabilitating them.
- In communities that lack a supply of available housing, and those that are characterized by low vacancy rates and high rental prices, new construction might be the best way to create affordable rental housing.

This section describes each of these approaches and their applicability to HOME or CDBG programs.

Acquisition

An acquisition program involves purchasing existing rental units within the community and then lowering their rents to make them affordable to low-income households. Usually, this is accomplished by directly

subsidizing the purchase of the units so that the owner’s ongoing financing costs are reasonable and therefore, he or she can afford to offer lower rents.

Example: Rental Acquisition Program

The City of Westwyn found that it had a number of modest rental developments that were in standard condition, but whose rents were generally out of reach for low-income households. It worked with a local nonprofit to purchase the 20-unit Westside Apartments for a total price of \$1,000,000. At that purchase price and with a standard market rate loan, the nonprofit would have had debt service that required rents at \$700 per month in order to make ends meet. In order to lower the rents to the \$600 and \$400 high and low HOME rents, the PJ provided the nonprofit with a deferred, forgivable payment loan of \$300,000. Since the nonprofit did not need to make debt service payments on this loan and only needed to borrow \$700,000, it could afford to offer rents at the HOME rent levels.

The benefit of using an acquisition approach to developing affordable rental housing is that it can be very cost effective since no construction is needed. It can also be used to further mixed-income housing goals. For example, using HOME funds, a PJ could assist a developer who was purchasing a 50-unit building. The HOME funds could be targeted at five of the total units, with financing capped at the maximum per unit subsidy limits. These five units would carry the HOME restrictions related to affordability, income, unit quality, etc. The remaining 45 units could rent to moderate- or upper-income people. Note: assuming that the low and moderate-income housing national objective is being used, acquisition would work with CDBG funds only if low- and moderate-income persons occupy at least 51 percent of the units.

The acquisition approach to rental housing can be successful in communities that have ample rental housing stock in standard condition. In many

communities, however, there are not a sufficient number of units that are both standard and reasonably priced for purchase. For this reason, it may not be cost effective to purchase existing units and offer them at an affordable rent.

Both CDBG and HOME funds can be used to acquire existing rental housing. For HOME, the developer needs to keep in mind the requirement that the units meet the applicable local code or national model codes and standards. If the units are not standard, HOME can also assist with rehabilitation costs (see below). Under CDBG, acquisition is an eligible activity, provided it meets a national objective. Acquiring rental units for occupancy by low- and moderate-income tenants would be eligible as a low- and moderate-income housing activity. Rental housing acquisition funded with CDBG would need to be undertaken by the grantee, a public agency, or a nonprofit organization because CDBG prohibits acquisition-only housing activities to be conducted by for-profit entities. In addition, CDBG permits for-profit entities to undertake acquisition with rehabilitation because that is classified as a rehabilitation activity rather than as an acquisition activity.

Tenant-Based Rental Assistance

Another method of making existing rental housing affordable is to offer assistance to tenants to help them afford their rent. The most common tenant-based rental assistance (TBRA) model is the Housing Choice Voucher Program that is run by housing authorities across the country. Under this program, a household chooses a standard unit and the housing authority subsidizes the difference between what the household can afford to pay, and a fixed rent ceiling known as a payment standard. The household then makes up the difference between the actual rent and the housing authority subsidy.

The benefit of this approach is that it is flexible and allows the household to choose where they want to live. Also, TBRA programs can be much more cost effective than rental development programs. For example:

TBRA Cost Effectiveness

Assume that it costs \$150,000 per unit to build a new rental unit and the jurisdiction wants to create 50 affordable rental units. That is a total development cost of \$7,500,000. Assume the project is funded completely with various forms of public subsidy and that the project has an affordability period of 20 years.

Compare this to a TBRA program in the same community. It has a payment standard of \$800 based on the FMR. Thirty (30) percent of the income of a household at 60 percent of median income is \$600. So the jurisdiction -- in general--will make up \$200 per unit per month in TBRA costs or \$2,400 per year.

So, the jurisdiction can subsidize 156 families for 20 years using TBRA for \$7,500,000, or, for the same amount, it can develop 50 units of affordable housing for 20 years. Even if the public subsidy is only half of the development cost, the jurisdiction could still fund 28 more families using TBRA.

TBRA may not work in all market conditions, however. First, it is only effective in communities where there exists a supply of standard affordable housing. In many jurisdictions, there are no available units where households could use their TBRA. In addition, TBRA does not permanently increase the supply of affordable housing within the community. If HOME funding is reduced and the jurisdiction has no other funding source, or the funding priorities change, there is no lasting effect on the housing supply.

HOME can be used to create a TBRA program. The program options are highly flexible—from a Housing Choice Voucher model to a security deposit only program. However, it should be noted that the costs to administer a HOME TBRA program cannot be charged as a project cost and must be paid out of the PJ's administrative budget, and subject to its 10 percent cap.

CDBG cannot be used for TBRA because the CDBG program considers rental assistance as a type of income payment (i.e., payments directly to or on behalf of households) which is expressly prohibited, unless it is conducted as a part of a CBDO eligible activity. However, the CDBG regulations at 24 CFR 570.201(k) and the statute at 105(a)(20) allow CDBG funds to be

used to administer HOME TBRA programs (as well as provide other HOME-related housing services). This is important because it is a separately eligible CDBG activity that is not subject to the CDBG administrative cap. So, although CDBG cannot directly fund TBRA, it could support the operation of such a program, and this might be a good opportunity for combining the two funding sources.

In some programs, rental assistance is provided as project-based assistance, where a public entity provides an owner with ongoing assistance to cover his or her operating costs in return for reduced rents. Unlike TBRA, project-based assistance is tied to a unit and does not move with the tenant. Neither HOME nor CDBG can be used for project-based assistance.

Rehabilitation

Rehabilitation of existing housing is another way of creating affordable, standard rental housing. Under this model, a jurisdiction provides low-cost assistance to help an owner bring his or her units up to a quality standard. In return, the owner agrees to rent units at reduced rents to low-income households.

This model can be combined with acquisition so that the developer is acquiring and rehabilitating the property. Rehabilitation can be minimal, or it can sometimes be very extensive, including reconstruction.

The obvious benefit of this approach is that it not only helps to house low-income families but it reduces the number of existing dilapidated housing units in the community.

This approach to developing affordable rental housing can be quite expensive, however. In some communities, and given some project situations, it can be more expensive to renovate units than to undertake new construction. Also, when rehabilitating occupied units, extensive renovations might cause displacement and trigger requirements and related costs under the Uniform Relocation Act and/or Section 104(d) relocation requirements.

Both HOME and CDBG can be used for rehabilitation only and for acquisition with rehabilitation. HOME requires that all assisted units be rehabilitated in accordance with a minimum property standard, but CDBG does not. Under CDBG, the developer can fix the most critical items (such as emergency repairs of major systems) but it would not necessarily be required to bring the entire unit up to housing codes and standards.

In addition, both programs can be used for historic preservation as a part of rehabilitation. In these instances, jurisdictions will want to work with their State's Historic Preservation Office (SHPO) to determine the appropriate scope of work.

Example: Acquisition with Rehabilitation

The town of Eastbrooke has a large number of dilapidated rental structures. The cost to renovate these structures exceeds the likely return to any developer. So, they remain vacant and an eyesore for the community. Meanwhile, the waiting list for the jurisdiction's rental program is years long.

So, Eastbrooke creates a program where it will provide assistance to CHDOs to buy, renovate, and manage rental properties. The HOME assistance will be used for acquisition and for extensive rehabilitation and is structured as a 0% interest rate loan. CHDOs can borrow HOME funds up to 40 percent of the unit's total development cost. The remainder of the funds comes from low-income housing tax credits (LIHTC) and private loans.

The reduced rate HOME financing allows the CHDO to cover its development costs and offer units that rent below the HOME (and LIHTC) rent limits.

New Construction

Jurisdictions can provide affordable rental housing by building new units. Under this approach, the jurisdiction typically works with a nonprofit or for-profit developer who identifies the site, develops the plans and specifications, and works with a general contractor to build the units.

The benefit of new construction is that it generates new affordable units for the community. In addition to creating housing, new units can help spur development of other units and services in the neighborhood.

New construction can also be very expensive, and delivery of the new units can take a long time.

HOME can be used for new construction of rental units. It can finance all or a portion of the costs, including the acquisition of the site, hard construction costs, soft costs or an 18-month project operating reserve. As with other forms of rental development, the amount of HOME funds invested will dictate how many HOME units must be provided.

CDBG cannot be used to pay for the hard costs or the soft costs of new construction unless the construction is being undertaken by a CBDO as a part of a neighborhood revitalization, energy conservation, or community economic development activity. A

common misconception is that CDBG funds can be used for soft costs for new construction (such as architect's fees, building permits, engineering etc.). These costs are generally not allowed because they are not a separately eligible activity unto themselves—they are necessarily related to the new construction, which is not generally eligible under CDBG.

The Entitlement CDBG program regulations contain limitations on the use of CDBG funds for "soft costs" related to new housing construction. The Housing and Community Development Act (HCDA) only lists activities that are eligible for CDBG funding, and so has no discussion of new housing construction. Under the State CDBG program regulations, states are given the ability to interpret the list of eligible activities in the HCDA, providing their interpretations are not plainly inconsistent with the HCDA. States may use the Entitlement program eligibility regulations as interpretive guidance.

CDBG can be used to support the development of new construction by financing the cost of activities that are separately eligible activities, such as site clearance or demolition. In addition, CDBG can be used for any infrastructure that is owned by a public or nonprofit agency. CDBG can also be used for property acquisition when it is undertaken by the grantee, a public agency, or a nonprofit.

Example: New Construction

The town of Glendale needs more rental housing units for its very low-income elderly residents. However, none of the buildings in its community are fully adapted for the special needs of these elderly residents (such as wheelchair accessible bathrooms, adapted kitchens, live-in nursing aide quarters, etc.)

So, the PJ worked with a local faith-based nonprofit to acquire land and build a new 30 unit building for very low-income seniors. The PJ provided the nonprofit with a deferred payment HOME loan due only upon sale of the property. The remainder of the development financing came from state and foundation grants. The nonprofit conducted fundraising among the congregation members and the community at-large in order to raise funds for ongoing property operation and maintenance.

A jurisdiction might also rehabilitate an existing building and convert it into affordable units. This is known as "conversion" and it is treated as rehabilitation under HOME.ⁱⁱⁱ

Conversion of existing non-housing structures to new housing is permitted under CDBG. For example, a grantee could use CDBG funds to convert an old, abandoned school into affordable housing. CDBG treats the conversion of a non-residential building to a residential use as rehabilitation.

Example: Conversion

The town of Lakeside has an old hotel that is dilapidated and boarded up. It also has a severe shortage of affordable rental units.

A for-profit developer wants to buy and convert the hotel into apartments. They want to have up-scale loft style apartments on the top floor. However, in return for HOME assistance, they agree to allow for 40% of the total units to be occupied by low-income households.

Lakeside determines how much HOME money they can provide given the costs of the affordable units and provides that assistance as a 2% interest rate loan where payments will not start until the 3rd year of the affordability period. This delayed start time allows the owner to build a market for the units and stabilize the project's income and operating expenses.

Financing and Developing Rental Housing

This section provides an overview of how rental properties can be financed and developed using HOME and CDBG funds. It highlights:

- Development partners that jurisdictions may wish to work with;
- The methods of financing and assisting projects;
- Eligible rental projects;
- Determining assisted units;
- Eligible costs;
- Property standards; and
- Other Federal requirements that apply to the development process.

Partners

In developing rental housing, most jurisdictions work in partnership with other organizations. In many communities, rental housing is created by nonprofit and for-profit developers. While it is eligible for jurisdictions to develop and own rental housing themselves, it is not common practice because of the legal and operational complexities of managing such property.

There are many roles that partners can play in the rental housing development process, including:

- **Developer.** This is the entity that puts together the rental deal. It finds the financing, arranges for the property purchase (as applicable), and oversees the construction process. After project completion, the developer may or may not retain ownership of the property.
- **Owner.** This is the entity that owns the rental property once it has been built, acquired, or rehabilitated. This entity is responsible for the ongoing compliance of the property (as applicable).
- **Sponsor.** This is an organization (typically a nonprofit) that works with another organization to help this other entity to develop the rental housing. The sponsor typically owns the property during the development process and assists with assembling the financing. Upon project completion, the sponsor typically sells its ownership to the second entity that becomes or remains the owner.
- **Property Manager.** In some cases, owners will select another organization to assist with the property management once the project is complete. The property manager may or may not be legally related to the ownership entity. The role of the property manager is to oversee the maintenance and marketing of the units. Typically, the property manager is responsible for maintaining documentation to demonstrate compliance with income and affordability requirements.
- **Consultant.** There are many consulting roles that partners can play in the development of rental housing. For example, some rental projects require community input. A partner organization can act as a neighborhood liaison, organizing community meetings and providing outreach information. Consultants can also provide services such as

market assessments, tax credit expertise, or construction management.

- **Program Manager.** In some jurisdictions, a nonprofit or other public entity might manage the rental development program on behalf of the local public agency. In this instance, it is acting as a subrecipient to the jurisdiction and its job is to select and fund projects.
- **Lender.** A wide range of lenders can act as partners in a HOME or CDBG-funded rental housing project. Sometimes lenders are for-profit companies—such as banks or credit unions. Other times lenders are nonprofit organizations that may be either lending their own resources to the project or acting as subrecipients and lending HOME or CDBG funds to the project. One special type of lender that may sometimes participate in HOME or CDBG programs are Community Development Financial Institutions (CDFIs). CDFIs are community-based lenders working to address housing and economic development needs. Note that under the CDBG Program, projects undertaken by CDFIs get special regulatory flexibility related to applying the national objective for jobs or housing.

Under the HOME Program, PJs are required to invest some funds in housing that is owned, developed, or sponsored by CHDOs. The development of rental housing is an eligible CHDO set-aside activity and these expenditures count toward the 15 percent threshold. In order to count as a CHDO set-aside activity, the CHDO must be acting in the role of owner, sponsor or developer. CHDOs can play other roles in the development process but it does not count toward the 15 percent minimum CHDO set-aside.

Under the CDBG program, grantees are not required to work with any one particular type of partner. Nonprofits and for-profits may play any of the roles outlined above. However, grantees sometimes find it beneficial to work with CBDOs. As noted in Chapter 1, CBDOs are a special type of organization whose purpose is community development. A CBDO may undertake activities related to neighborhood revitalization, energy conservation, or community economic development. Housing—including rental housing—can be a component of these efforts. Note that under the State CDBG Program, these entities are generally known as nonprofit development organizations working under Section 105(a)(15) of the Housing and Community Development Act, and

individual states may or may not call these organizations “CBDOs”.

There are several reasons why grantees may wish to partner with CBDOs or nonprofit development organizations serving the needs of non-entitlement areas (referred to generally as CBDOs below):

- CBDOs are intended to be organizations with a relationship to the community. They offer the local resident perspective to the development.
- A CBDO is the only entity that is allowed to construct new housing with CDBG funds (other than units developed as last resort housing for relocation purposes). This new CBDO housing must be in the context of neighborhood revitalization, energy conservation, or community economic development.
- If the grantee adopts a Neighborhood Revitalization Strategy Area (NRSA), or for recipients of State CDBG funds, a Community Revitalization Strategy Area (CRSA), any services undertaken by the CBDO pursuant to the strategy within that area are not subject to the 15 percent public services cap. This means that the grantee could fund public services via the CBDO using CDBG funds without having to worry about needing to reduce its funding to other public services activities in order to fit all activities within the cap. This could be especially helpful to service-enriched rental projects located within the NRSA or CRSA area, such as elderly projects with meal, medical, or counseling services.

It is important to note that there are key distinctions between CHDOs and CBDOs. Table 2-1 compares these two types of development organizations.

As noted in Table 2-1, HOME CHDOs that have a geographic area of operation that does not exceed one neighborhood will automatically qualify as a CBDO, regardless of whether they meet other CBDO criteria. This organization must have received HOME funds or be expected to receive HOME funds. Note that in order to qualify as a CBDO activity, the CDBG-assisted activity must be part of a community economic development, neighborhood revitalization, or energy conservation project.

In choosing partners, jurisdictions need to ensure that they adhere to the Federal requirements related to conflict of interest. In general, no covered person or entity may obtain a financial benefit due to his or her working relationship to the HOME or CDBG programs. A covered person is a jurisdiction employee, agent, or officer and their immediate families and business partners. So, a jurisdiction employee could not form a development firm and then request HOME or CDBG assistance to build rental units.

In addition to these requirements, HOME also imposes requirements related to the occupancy of units. In general, no owner, developer, or sponsor of HOME-assisted housing, including their officers, employees, agents, consultants, or elected officials may occupy a HOME-assisted unit. Note that there are exceptions for owner-occupied rehabilitation and rental property managers or maintenance workers.

Table 2-1: CHDO and CBDO Comparison*

Topic	CHDO	CBDO
Required set-aside	15% of the annual grant.	None.
Primary mission	Provision of affordable housing for low- and very low-income persons.	Community development, including housing and economic development. Focus on meeting the needs of low- and moderate-income persons. Primary purpose is improving the physical, social and economic environment of its service area.
Geographic focus	Must have a defined geographic service area, although need not be single neighborhood. May include multiple jurisdictions, but not the whole state.	Works within a defined geographic area within the jurisdiction—does not cover more than one jurisdiction. This requirement is not applicable to the State CDBG Program.
Legal status	Organized under State and local law. Must have 501(c) nonprofit status from IRS. No profits may benefit any individual.	May be nonprofit or for-profit, as long as profits are incidental to operations.

Table 2-1: CHDO and CBDO Comparison*

Topic	CHDO	CBDO
Board	Must be at least 1/3 low-income representatives. This can include low-income residents or residents of low-income neighborhoods or elected representatives of low-income neighborhood organizations. Must also have other means of input by low-income residents.	51% of governing body is low- and moderate-income residents of, or officers of institutions of, or representatives of low- or moderate-income neighborhood organizations in their service area. Board must be nominated and approved by membership or permanent governing body. The board requirements are not applicable in the State CDBG Program.
Public agency participation	Cannot be an instrumentality of the public agency. No more than 1/3 of the board may be representatives of the public sector.	Cannot be an instrumentality of the public agency. No more than 1/3 of the board may be representatives of the public sector. The board requirements are not applicable in the State CDBG Program.
Capacity & experience	Must demonstrate 1 year of experience in serving the community. Must demonstrate staff capacity.	No CDBG regulatory requirement. Jurisdictions may develop their own requirements.
Assets	No specific requirements.	At dissolution of the CBDO, its assets cannot revert to the jurisdiction.
Procurement	No specific requirements.	Must be free to contract for goods/services of its own choosing. Not required to be a subrecipient, but if so designated by the grantee, is subject to 24 CFR Part 84.
Exceptions	None	CBDOs not meeting above criteria may qualify if they: <ul style="list-style-type: none"> • Are organized under Section 301(d) of the Small Business Investment Act of 1958; • Are an SBA approved Section 501 State Development Company or Section 502 Local Development Company or a Section 503 SBA Certified Company under the Small Business Investment Act; • Are a single neighborhood CHDO (see text discussion); or • Are approved by HUD as being sufficiently similar in purpose, function and scope.
Eligible activities	In order to qualify for the 15% set-aside, must be acting as an owner, sponsor, or developer of rental or homebuyer housing. Can undertake other activities but does not count toward 15 percent set-aside.	Must be part of neighborhood revitalization, community economic development, or energy conservation activities within their geographic area.
Subrecipient	Not a subrecipient unless running a program on behalf of the PJ. In this instance, the HOME funds to the CHDO would not count toward the 15% set-aside. When receiving administrative funds to operate the subrecipient program, it is administrative funds, and not CHDO operating funds.	Not a subrecipient unless the grantee elects to treat them as such. If so, additional administrative requirements apply.
Operating support	Up to 5% of the PJ's annual HOME allocation may be allocated for CHDO operating expenses. Each CHDO may receive up to the greater of \$50,000 or 50 percent of its total operating expenses in a given fiscal year.	None.

Program income	Income earned by CHDOs is project proceeds not program income. Project proceeds may be used for any low-income housing activity.	None unless the grantee elects to consider the CBDO a subrecipient. Assuming the CBDO is not a subrecipient, project proceeds kept by them may be used for any lawful purpose.
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* Note that the State CDBG Program has a less stringent definition of which organizations qualify under Section 105(a)(15) of the statute. See U.S. Department of Housing and Urban Development *Guide to National Objectives and Eligible Activities for State CDBG Programs*, pages 2-70 to 2-80. Available online at <http://www.hud.gov/offices/cpd/communitydevelopment/library/statguide/index.cfm>.

Forms of Assistance

HOME PJs and CDBG grantees can provide financial assistance for rental housing in a number of different

ways. Some types of financing that the jurisdiction may wish to consider, and the risks involved in each, are shown in Table 2-2.

Table 2-2: Financing Types and Characteristics

Assistance Type	Characteristics	Uses and Eligibility	Risk
Predevelopment loans or grants	<ul style="list-style-type: none"> Pay for project planning and pre-construction activities. Predevelopment expenses include staff costs of the developer that are directly associated with the project, option to purchase land or a building, legal fees, architectural and engineering fees, appraisals, and possibly loan application fees. 	<ul style="list-style-type: none"> May not be used before completion of environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR Part 58. Eligible under CDBG or HOME if related to an eligible project. 	<ul style="list-style-type: none"> Highest risk because money is spent before the developer can determine whether the project is feasible. If project is not completed, costs are ineligible except under HOME when predevelopment costs are loaned to CHDOs. In this instance, the predevelopment loan may be forgiven.
Construction loans	<ul style="list-style-type: none"> A short-term or interim loan to cover the cost of constructing or rehabilitating a project, with one or more long-term, permanent loans taking out (paying off) the construction loan at project completion. Construction loans from traditional private lenders are typically at a higher interest rate than permanent loans due to the high risk involved. 	<ul style="list-style-type: none"> Pays for the costs of building the housing. Eligible under HOME. Eligible under CDBG if related to rehabilitation and not new construction (unless the grantee is using a CBDO, since a CBDO may undertake new construction). 	<ul style="list-style-type: none"> Jurisdiction should verify that permanent financing is available before making such a loan (to make sure it will be repaid). Jurisdiction may inherit a partly finished building if anything happens during construction to create a significant budget shortfall, or if developer abandons building. In such an event, it is unlikely jurisdiction could sell building for what has been invested.

Permanent mortgage loans	<ul style="list-style-type: none"> • Proceeds used to repay the construction, bridge, and predevelopment loans. • If the permanent financing replaces other loans, original loans must be used for eligible costs. • Jurisdictions may choose to finance part or all of the total development costs. 	<ul style="list-style-type: none"> • Provides long-term financing; repaid from the operating income from a rental or cooperative housing project • HOME or CDBG assistance must have been part of the original financing package. • Eligible under CDBG for rehabilitation or acquisition. New construction only eligible under limited circumstances (see above). 	<ul style="list-style-type: none"> • If there is a high vacancy or unexpected increase in operating costs, or reserves are depleted, jurisdiction may not get repaid. • If not combined with private financing, ties up large amounts of HOME or CDBG funds in a few projects and, therefore, risks are concentrated.
Bridge loans	<ul style="list-style-type: none"> • A short-term loan, often provided by construction lender, if upon construction completion, project does not yet meet requirements of permanent financing. 	<ul style="list-style-type: none"> • Used when the project will not be ready for permanent financing when construction is complete, such as with multi-stage projects. • May be used when permanent mortgage lender wants project to establish a track record before making loan. • Eligible under both CDBG and HOME if the project is eligible as previously discussed. 	<ul style="list-style-type: none"> • Significant changes in the project's projected income or expenses could affect the availability of permanent financing, even if a loan commitment is in place.
Credit enhancement	<ul style="list-style-type: none"> • Includes loan guarantees and mortgage insurance. 	<ul style="list-style-type: none"> • Used to enhance the credit-worthiness of a project to attract private lenders who would not otherwise participate. • Eligible under both CDBG and HOME if the project is eligible as previously discussed. 	<ul style="list-style-type: none"> • Default requires cash pay-off of lender.
Refinancing	<ul style="list-style-type: none"> • Take out existing debt on the rental property. 	<ul style="list-style-type: none"> • HOME or CDBG funds may be used to refinance existing debt if the funds are used to rehabilitate the property and the refinancing is necessary to permit or continue affordability. Certain restrictions apply. 	<ul style="list-style-type: none"> • Refinancing can be an expensive use of program resources.

Eligible Projects

Both HOME and CDBG offer a wide range of options in the design and selection of rental projects. There is flexibility in:

- Property and unit types;
- Unit income mix; and
- Targeting for special needs populations.

Property and Unit Types. HOME and CDBG allow for significant flexibility in the types of properties that can be used to develop rental housing. Eligible properties may be:

- Publicly or privately owned; and
- Residential or mixed use. However, HOME can only pay for the residential portion of the building. CDBG can be used to pay for both residential and commercial development although additional requirements apply.

HOME funds may not be used for development, operations, or modernization of public housing projects financed under the Housing Act of 1937. HOME funds can be used in combination with HOPE VI funds. CDBG funds can be used to modernize public housing units but CDBG cannot be used to operate public housing or to construct new public housing.

For both programs, there are no preferences for project or unit size or style. Often when people think of rental housing they picture large, multifamily buildings. While these types of buildings are certainly allowed under both CDBG and HOME, other building styles and forms of ownership are possible. HOME and CDBG rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management, and financing.

A key distinction in unit types between CDBG and HOME involves units that were previously funded. Properties previously financed with HOME during the affordability period cannot receive additional HOME assistance unless provided during the first year after project completion. CDBG funds, on the other hand, can be used subsequent to the initial CDBG investment **and/or** during the HOME affordability period as well, for a new eligible activity.

Mixed-Income Housing. Both HOME and CDBG funds allow jurisdictions to develop mixed-income housing. However, the requirements are handled very differently under each program. HOME funds may be used to assist mixed-income projects but HOME funds may only be used for HOME-eligible costs, and only HOME-eligible tenants may occupy HOME-assisted units. So, this flexibility allows jurisdictions to target resources to particular units within a project.

The amount of HOME money that may be invested in the mixed-income rental project will depend upon the maximum per unit subsidy cap, the total eligible costs for the project, and whether units are comparable. If units are comparable, the PJ can pay for a proportionate share of the eligible costs, up to the subsidy limit. If the units are not comparable, costs must actually be allocated to the units that will be HOME-assisted and costs must be capped at the subsidy limit.

CDBG may also be used to assist mixed-income projects so long as the national objective is met. That means that 51 percent of the units must be occupied by low- and moderate-income households, or the project must meet one of the slum/blight national objectives. This is very different than the approach taken by the HOME Program. Regardless of the amount of CDBG funding—be it \$100 or \$10,000,000—if the low- and moderate-income housing national objective will be used, 51 percent of the units must be occupied by low- and moderate-income households.

There is one exception to this rule when a grantee is helping to write down the costs of new construction of multifamily, non-elderly housing. However, do not forget that unless a CBDO is involved, the grantee cannot actually pay for the construction itself but rather might help through eligible activities such as acquisition or site clearance. In this instance, CDBG can pay for a proportionate share of units and the costs (less than 51 percent) so long as at least 20 percent of the units are occupied by low- and moderate-income households.

Mixed-Income Housing Options

Newtown wants to develop mixed-income rental housing. It has available \$200,000 in HOME funds and \$50,000 in CDBG funds. A developer has a 10-unit rental acquisition and rehabilitation project that it would like to undertake with a total development cost of \$1,000,000. The City's per unit HOME maximum subsidy limit is \$150,000.

Q: *If Newtown invested all \$200,000 of HOME funds, how many units would need to be HOME-assisted?*

A: Two units. Since 20 percent of the costs are paid by HOME, 20 percent of the units must be considered HOME-assisted (assuming units are comparable).

Q: *If Newtown instead invested \$50,000 of CDBG in the project, how many units would need to be occupied by low-income persons?*

A: Assuming that this is not a blighted area or site, six of the units would need to be occupied by low- or moderate-income households. This project would need to be qualified under the housing national objective and that requires 51 percent occupancy by low- or moderate-income persons.

Special Needs Housing. There is also a significant difference between the HOME and CDBG programs when it comes to special needs facilities. Transitional and permanent housing for persons with special needs, including group homes and single room occupancy (SRO) units, are eligible under HOME and CDBG.

Properties that are “facilities” are not eligible under HOME, but are eligible under CDBG. This includes shelters that include a residential component, such as homeless shelters or orphanages. These buildings are not considered housing under CDBG but rather “public facilities”. This is important for three reasons:

- First, public facilities are not subject to the CDBG ban on new construction of housing, so grantees can build new facilities for persons with special needs.
- Since these units are not housing, they qualify under the limited clientele national objective rather than under the housing national objective. If the facility exclusively serves a clientele that is presumed to be low- and moderate-income (see Chapter 1 for this list), the grantee is not required to document household income.
- Public facilities must be owned by the grantee, a nonprofit, or another public agency. Therefore,

for-profit firms cannot develop and own a facility for persons with special needs under CDBG.

Assisted Units

There is also an important difference in the way that HOME and CDBG approach assisted units. Under CDBG, the housing national objective is met at the time that the project is completed and the units are first occupied. At initial occupancy, 51 percent of the units need to be occupied by households who are low- or moderate-income, if the activity is based on the low- and moderate- income national objective. However, if those households move out and others move in, there is no requirement that the grantee evaluate or constrain the income of subsequent tenants. So, the program does not include the concept of a “CDBG-assisted unit” over the long-term, although a grantee can impose such a requirement.

HOME, on the other hand, establishes long-term affordability periods for HOME compliance based upon the activity type and amount of investment (See “Ongoing Compliance” in this chapter for more detailed information on this topic.) During this affordability period, certain units that are deemed as “HOME-assisted” must remain affordable and occupied by low-income households. There are two methods of determining HOME-assisted units:

- **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 do not change during the affordability period.
- **Floating.** When HOME-assisted units are “floating,” the units that are designated HOME-assisted may change over time as long as the total number of HOME-assisted units in the project remains constant.
 - The floating designation gives the owner some flexibility in assigning units and can help avoid stigmatizing the HOME-assisted units.
 - If the floating designation is used, the owner must ensure that the HOME-assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features, and number of bedrooms.

Eligible Costs

A wide variety of rental development costs can be paid for with HOME or CDBG funds provided that these costs are incurred in the context of an eligible project. This section highlights eligible direct rental project costs and discusses approaches to addressing activity delivery costs.

Direct Project Costs. Eligible rental project expenditures under HOME or CDBG may include:

- Site acquisition;
- Labor, materials, and other construction costs;
- Energy efficiency improvements;
- Utility connections;
- Inspection, testing, and abatement of lead-based paint;
- Relocation costs for assisted properties;
- Soft costs such as: financing fees; credit reports; title binders and insurance; surety fees; recordation fees; transaction taxes; legal and accounting fees, including cost certification; appraisals; architectural and engineering fees, including specifications and job progress inspections; environmental reviews; builders' or developers' fees; affirmative marketing; and
- Handicap accessibility improvements.

Remember that CDBG cannot pay for new construction of rental housing unless it is undertaken by a CBDO as part of a neighborhood revitalization, community economic development, or energy conservation project. However, grantees may provide support for the development of new rental housing as an eligible activity. "Support" refers to:

- Acquisition (if purchased by the grantee, or another public or nonprofit entity);
- Site clearance; and
- Site improvements (if in public ownership).

Note that HOME requires that all units be brought up to code and it has a minimum investment requirement of an average of \$1,000 per HOME-assisted unit for the project. So, while handicapped accessibility and energy efficiency improvements are eligible as a part of construction, they are not typically able to be stand-alone activities because these work items alone typically

do not bring a property up to code. CDBG does not have a minimum investment or code requirement, so single purpose rental rehabilitation programs are eligible.

HOME funds can also be used to cover the cost of funding an initial operating deficit reserve for new construction and rehabilitation projects. This is not an eligible cost under CDBG.

- This reserve is meant to meet any shortfall in project income during the project rent-up period.
- The reserve cannot exceed 18 months.
- The reserve can be used only for project operating expenses, scheduled payments to replacement reserves, and debt service.
- Reserves remaining at the end of 18 months may be retained for reserves at the PJ's discretion.
- The disposition of any remaining funds at the end of the 18-month period should be determined in the agreement between the developer/owner and the PJ.

Activity Delivery Costs. HOME and CDBG treat the jurisdiction's housing program or activity delivery costs differently. Activity delivery costs include specifications, inspections, underwriting, loan processing, and other staff and contracted costs needed to deliver and oversee the eligible project. Under CDBG, these types of costs are eligible when needed to deliver a rehabilitation program or project or if new construction is being undertaken by a CBDO. They are considered activity delivery costs and are not counted toward the administrative cap. Under HOME, these costs can be charged to a specific project (and therefore not against the administrative cap), **if** the PJ tracks costs unit-by-unit so that they can be included within the per unit maximum subsidy limit. Otherwise, the costs have to be charged as administrative costs, and are subject to the 10 percent program administration cap.

It is important to note that CDBG contains an eligibility category that is designed to enable grantees to use CDBG for housing services under the HOME program. Under 24 CFR 570.201(k) of the CDBG regulations and 105(a)(20) of the statute, grantees may elect to pay for costs related to housing services under HOME. As noted above, services may be provided to owners, tenants, contractors, or other entities participating or seeking to participate in HOME-

funded activities. Grantees may pay for the following types of HOME costs with CDBG funds:

- Housing counseling;
- Energy auditing;
- Preparation of work specifications;
- Loan processing;
- Inspections;
- Tenant selection; and
- TBRA management.

This is an important addition to the CDBG program because these costs are a separately eligible activity under CDBG and are not counted toward the grantee's administrative cap. This new flexibility provides a good option for combining CDBG and HOME.

Property and Neighborhood Standards

There is a significant distinction between HOME and CDBG when it comes to property standards. Under CDBG, there are no established rules regarding property quality. Obviously the grantee should be prudent and use its funds wisely. CDBG grantees are free to design rental rehabilitation programs that focus on particular trouble areas—such as handicapped access or emergency repairs—without bringing the entire building up to standard.

However, as with all HOME-assisted properties, HOME rental properties must meet certain written standards.

- **Acquisition.** If no rehabilitation or construction is planned, the housing acquired must meet state and local housing quality standards and code requirements. If no such standards or codes exist, the property must meet Housing Choice Voucher Housing Quality Standards (HQS).
- **Construction and rehabilitation.** Housing that is constructed or rehabilitated with HOME funds must meet all applicable state and local codes, rehabilitation standards and ordinances. If no state and local codes apply, the property must meet one of the national standards.^{iv} If new construction, the property must also meet the Model Energy code.
- **New construction of rental housing.** The site and neighborhood standards of 24 CFR 983.6(b) apply to new construction of rental housing. PJs

are required to perform the review and maintain records that document the results.

Other Federal Requirements

In general, rental housing developed under CDBG and HOME is subject to similar other Federal requirements. Jurisdictions should carefully review all applicable regulations and HUD guidance on other Federal requirements.

Ongoing Compliance

Ongoing compliance for rental housing is an area where CDBG and HOME differ significantly. Under the CDBG program, once compliance with a national objective is documented, there are not significant ongoing responsibilities. However, CDBG does contain requirements related to the change of use of any real property within the grantee or a subrecipient's control that was acquired or improved using CDBG funds in excess of \$25,000. The recipient/subrecipient cannot change the use of the CDBG-funded property unless it consults with citizens and the property still meets a national objective or the CDBG program is reimbursed for the current fair market value less any value attributable to non-CDBG expenditures. For the Entitlement Program, these requirements apply until five years after close-out of the grantee's participation in the CDBG program or, for subrecipients, for five years after the expiration of their subrecipient agreement. For the State CDBG Program, properties under the control of the unit of general local government or a subrecipient are covered for five years after the close-out of the unit of general local government's grant. See sections 570.489(j) and 570.505 of the CDBG regulations for more details on these requirements.

Under HOME, a rental housing project must meet certain requirements during the affordability period. This section highlights requirements and responsibilities after project development.

Affordability Period

HOME-assisted rental units carry rent and occupancy restrictions for varying lengths of time, depending

upon the average amount of HOME funds invested per unit:

Activity	Average Per-Unit HOME \$	Minimum Affordability Period
Rehabilitation or Acquisition of Existing Housing	<\$15,000/unit \$15,000–\$40,000/unit >\$40,000	5 years 10 years 15 years
Refinance of Rehabilitation Project	Any \$ amount	15 years
New Construction or Acquisition of New Housing	Any \$ amount	20 years

HOME affordability periods are minimum requirements. PJs may establish longer terms of affordability for their programs.

If a shorter affordability period is desirable, the PJ or developer can take steps to minimize the HOME per-unit subsidy.

- The HOME subsidy can be reduced and replaced with other funds that do not have long-term requirements, such as CDBG or state funds; or
- The developer may choose to designate a higher number of HOME-assisted units than required in order to reduce the HOME investment per unit.
- *Example: Consider Sable Park Housing’s 20-unit, \$400,000 rehabilitation project. Merion City provided \$100,000 in HOME rehabilitation funds and required that five of the 20 units be designated HOME-assisted. Under this arrangement, Sable Park would be obligated to keep the development affordable for 10 years ($\$100,000 \div 5 = \$20,000$ HOME funds per unit, requiring a 10-year affordability period). If Sable Park Housing designates 10 of the units as HOME-assisted, the per-unit HOME investment will be reduced to \$10,000 per-unit, requiring only a five-year affordability period.*

Affordability restrictions remain in force regardless of transfer of ownership. At the PJ’s discretion, they may be terminated only upon foreclosure or transfer in lieu of foreclosure. It is important to note that if the HOME rental units do not remain affordable for the full affordability period, the PJ may be required to repay the HOME investment to HUD.

CDBG has no required affordability period for rental units. If the low- and moderate-income housing national objective is used, at least 51 percent of the

initial occupants must be low- or moderate-income. Once the building is leased and this threshold is reached, the owner has no ongoing liabilities related to affordability or unit quality. However, grantees may elect to impose these types of requirements as a part of their funding agreements. Also note that as previously described in this chapter, CDBG-funded properties that are under the control of the grantee, a unit of general local government or a subrecipient are subject to requirements related to the change of use.

Rent Requirements

Every HOME-assisted unit is subject to rent limits designed to help make rents affordable to low-income households throughout the applicable period of affordability. These maximum rents are referred to as “HOME Rents.”

There are two types of HOME rents—High HOME Rents and Low HOME Rents:

- *High HOME Rents:* Maximum HOME rents are the lesser of:
 - The Fair Market Rents (FMRs) for existing housing; or
 - Thirty (30) percent of the adjusted income of a household whose annual income equals 65 percent of median income.
- *Low HOME Rents:* For properties with five or more HOME-assisted units, at least 20 percent of HOME-assisted units must have rents which are no greater than:
 - Thirty (30) percent of the tenant’s monthly adjusted income, or
 - Thirty (30) percent of the annual income of a household whose income equals 50 percent of median income, or
 - If a project has a Federal or state project-based rental subsidy and the tenant pays no more than 30 percent of his or her adjusted income toward rent, the maximum rent may be the rent allowable under the project-based rental subsidy program.

Some communities receive “rent exceptions” from the published FMRs for purposes of the Housing Choice Voucher program. These rent exceptions do not apply to the HOME Program. All PJs are required to use the

HOME Program rent limits established by HUD for rental projects.

HOME rents include utility costs. This means, if tenants must pay for some or all utilities, the HOME rent must be reduced by a utility allowance determined by the PJ. Annually, the PJ must establish maximum monthly rents and allowances for utilities for HOME-assisted rental projects. However, project owners may submit proposed utility allowances to the PJ for review and approval.

- Utility allowances provide a mechanism to reduce the maximum allowable HOME rents when the tenant pays some or all utilities.

Example

\$728	High HOME Rent	\$577	Low HOME Rent
<u>\$ 50</u>	Utility allowance	<u>\$ 50</u>	Utility Allowance
\$678	Maximum HOME rent for 80% of units	\$678	Maximum HOME rent for 20% of units

- The utility allowances prepared by the local public housing authority (PHA) may be used when adjusting rents. Utility allowances prepared by the PJ may also be used when adjusting rents.
- Utility adjustments proposed by owners/developers for specific projects that differ from the PHA utility allowance must be approved by the PJ, and must be supported by documentation.

Based on changes in area income levels or market conditions, HOME rents, as calculated by HUD annually, may increase or decrease.

- Tenants must be given at least 30 days written notice before increases are implemented. Increases can only be made in accordance with the lease provisions. For example, rents may not increase until the tenant’s lease expires.
- HOME rents may decrease. While project rent levels are not required to decrease below the HOME rent limits in effect at the time of project commitment, decreasing HOME rents may reflect a change in market conditions that may force owners to reduce rents in order to maintain tenants.
- HUD may permit adjustments to the rent structure if the financial feasibility of the project is threatened. This is important to lenders providing financing to HOME-assisted projects.

New rents are effective upon receipt of the new HUD-published numbers. However, tenants’ rents should not be adjusted until their leases are renewed.

HOME program administrators must enforce rent and occupancy agreements through:

- Covenants running with the property;
- Deed restrictions; or
- Other mechanisms approved by HUD.

Covenants and deed restrictions may be suspended upon transfer by foreclosure or deed-in-lieu of foreclosure. However, while the restrictions may be suspended for purposes of clearing title, the PJ is still responsible for ensuring that the low-income occupancy obligation is fulfilled.^v

Under the housing national objective, CDBG units must initially be rented at an “affordable rent.” However, CDBG does not define what affordable means. Rather, jurisdictions must adopt standards for what will be deemed “affordable” under their CDBG programs and must make these standards public.

Many jurisdictions have adopted the HOME rents as the standard for “affordability” under CDBG. CDBG only requires that the initial rents be affordable. As described above, jurisdictions can adopt more stringent standards for CDBG rent affordability, especially if they are investing significant resources to acquire or rehabilitate the units. There are no requirements regarding rent increases over time or regarding rents charged to tenants who move into units that are vacated after initial occupancy. Note, however, that for both HOME and CDBG funded projects, if the tenant is in occupancy prior to the project and if the Uniform Relocation Act or Section 104(d) is triggered, there may be requirements related to the initial rent that can be charged to that tenant or related to the percentage rent increase over time for that tenant. See HUD’s relocation website at for more information on these requirements for HOME and CDBG projects at www.hud.gov/offices/cpd/library/relocation/index.cfm.

Income Eligibility

Both CDBG and HOME dictate income eligibility requirements for tenants in assisted rental projects. HOME rental housing has two constraints on occupancy:

- **Program targeting rule:** The program targeting rule applies to both rental units and TBRA

assistance. It specifies that 90 percent of the total families assisted through the rental or TBRA program (counted together) have incomes that do not exceed 60 percent of the area median income. The balance of rental units and TBRA assistance must assist tenants with incomes that do not exceed 80 percent of the area median income.

In theory, the balance of the units may be occupied by tenants with incomes up to 80 percent of median. However, in practice, virtually all remaining HOME-assisted rental units will be initially occupied by tenants with annual incomes at 60 percent of median or less, in order to meet the program targeting rule.

This rule applies to all funds expended from each fiscal year allocation; it is not project specific.

- **Project rule:** The “project” rule specifies the occupancy of units in each rental project.
 - In projects with five or more HOME-assisted units, at least 20 percent of the HOME-assisted rental units must be occupied by families who have annual incomes that are 50 percent or less of median income. These very-low-income tenants must occupy units with rents at or below the Low HOME Rent level.
 - Projects with fewer than five HOME-assisted units do not have to restrict any units to the Low HOME Rents or limit occupancy to tenants at 50 percent or below of the area median income.

Under CDBG, if the housing national objective is being used, the program also requires income eligibility targeting. Under this national objective 51 percent of the project’s occupants must be low- or moderate-income. Note that if the rental housing is a single unit structure, its tenant must be low- or moderate-income. If the property is a duplex, one of the two occupant households must be low- or moderate-income.

CDBG has no ongoing requirements related to income eligibility. Therefore, if the household at initial occupancy moves out, the jurisdiction and the owner are under no obligation to ensure that the new household moving into the unit be low- or moderate-income. In addition, if a low- or moderate-income household at initial occupancy becomes over income during tenancy, there is no obligation to change its rent or ask that it leave an assisted unit. Jurisdictions may wish to impose more stringent standards as a part of their contract with the developer or owner of the rental housing. Note that properties acquired or rehabilitated

with CDBG assistance in excess of \$25,000 and under the control of the grantee, a unit of general local government or a subrecipient are subject to the change of use requirements noted previously in this chapter.

Both CDBG entitlement grantees and HOME PJs now use the same definitions of income. Jurisdictions may choose between one of three income definitions:

- Annual gross income under Part 5;
- Adjusted gross income on the IRS 1040; or
- Annual income as reported on the U.S. Census long form.

States CDBG grantees may choose to use one of these three definitions or they can choose their own income definition. HUD will give maximum feasible deference to the State’s choice of an income definition.

Note that under CDBG, it is sometimes possible to develop rental housing under the slum/blight national objective. In this case, no low- and moderate-income targeting is required but the property or the neighborhood must be deemed as blighted and the activity must address the blight.

Ongoing Property Quality

HOME and CDBG differ in terms of the jurisdiction’s obligation to monitor property quality after project completion. Under HOME, properties must remain in standard condition throughout the affordability period. In order to verify compliance with property standards and the information submitted by owners on tenants’ incomes, rents, and other HOME rental requirements during a project’s period of affordability, HOME rules require on-site inspections of HOME properties according to the total number of units in a project as follows:

Number of Units	Inspection Required
1-4	Every 3 years
5-25	Every 2 years
26 or more	Annually

Under CDBG, there are no initial or ongoing property standard requirements. Grantees are not required to periodically inspect rental units developed with CDBG, although they may choose to do so. If the grantee wants to impose this type of requirement, it should include this in the funding agreement with the developer or owner.

Chapter 3:

Using HOME and CDBG for Homeownership

This chapter reviews how HOME and CDBG can be used to assist homebuyers. It begins with a discussion of the range of approaches to creating affordable homeowner units with CDBG and HOME funds. Then it discusses development and financing rules related to homeownership. Next the chapter covers the on-going responsibilities related to assisting homebuyers. The chapter concludes with case studies that illustrate how CDBG and HOME can be used together to create homebuyer housing.

Approaches to Creating Homebuyer Units

Homebuyer programs can be structured in any number of ways to encourage the acquisition, acquisition and rehabilitation, or the new construction of affordable homes. In general, there are two major types of approaches to creating homebuyer units:

- *Development approach:* Under this approach the jurisdiction subsidizes the creation (through rehabilitation or new construction) of affordable homebuyer units. These units are then sold to eligible homebuyers.
- *Homebuyer subsidy approach:* Under this approach, the jurisdiction provides a direct subsidy to the homebuyer to help him or her afford the new home.

These two approaches can also be used together in order to lower the cost of developing homebuyer housing, and to assist individual families to purchase the home.

Development Approaches

Under the development approach to homeownership assistance, the jurisdiction funds a nonprofit or for-profit developer of the housing. The developer purchases the site and develops the units. These units are then sold, usually at below market prices, to low-income buyers. In some instances the jurisdiction directly develops the housing, but this is not typical. Options for the development of housing include:

- New construction of units;
- Acquisition with rehabilitation; and
- Development of subdivisions (which may include new construction and/or rehabilitation).

New Construction. Under this option, the developer builds new units and then sells these units to low-income homebuyers. The units may be built scattered site (at infill or other locations) or they may be built as a neighborhood.

For new construction, HOME can be used to pay for costs that are necessary:

- Acquisition of the land;
- Construction costs for the new units;
- Demolition of existing structures; and
- Making utility connections including off-site connections from the property line to the adjacent street.

Every HOME-assisted unit must be occupied by a low-income homebuyer. For the purposes of determining the affordability period, it is important to look at the way in which the homeownership assistance is provided. When HOME provides assistance to a developer for construction and related costs and the property is sold to the buyer at fair market value, the unit is assisted, not the buyer. This is known as a “development subsidy.” When the property is developed using HOME funds and is sold to a buyer at an amount below the fair market value, the buyer is considered assisted and the affordability period is based upon the difference between the fair market value and the sales price, assuming that there was no other assistance provided to the homebuyer. This is known as “direct homebuyer assistance.” The financing structure of the homebuyer’s assistance has further implications for the obligations during the period of affordability, which are discussed in detail the “Ongoing Requirements” section of this chapter.

CDBG funds, on the other hand, cannot be used to finance the new construction of housing unless it is undertaken by a CBDO as part of a neighborhood revitalization, community economic development, or energy conservation project. CDBG can, however, be used for acquisition of the land, if the acquisition is conducted by the grantee, a public agency or a nonprofit. It can also be used for demolition and clearance.

Acquisition/Rehabilitation. Under this option, the developer acquires existing property and renovates that property. The unit is then sold to an eligible homebuyer, typically at below market prices.

Both HOME and CDBG can be used to acquire existing units, rehabilitate them, and resell them to eligible homebuyers. While this activity is eligible under both programs, it is important to note that acquired units that are rehabilitated with HOME funds must meet the HOME minimum property standard requirements.

Unlike HOME, CDBG does not prescribe a set of property standards that rehabilitated structures must meet when assisted with program funds. HUD recommends that CDBG grantees establish written property standards for units assisted with CDBG funds.

Example: Acquisition and Rehabilitation Turnkey Program

The City of Big Lake wants to encourage homeownership within its community and it wants to see a number of its dilapidated and boarded up homes renovated and occupied.

So, Big Lake funds a CHDO to undertake a turnkey program. The CHDO acquires and rehabilitates substandard units using HOME funds. These units are then sold at \$10,000 below market to eligible low-income homebuyers.

Development of Subdivisions and Neighborhoods.

Under this option, the developer purchases a large tract of land and uses that land to develop an entire neighborhood or subdivision. The homes that are built in this neighborhood are sold to eligible homebuyers.

CDBG can be used to undertake a wide variety of activities related to targeted neighborhood development. In addition to acquisition, rehabilitation, and infrastructure, CDBG can be used for related activities such as public services or economic development. The CDBG program provides grantees with regulatory flexibility when using program funds to

develop larger-scale neighborhood revitalization activities within areas designated as neighborhood revitalization areas (NRSAs) or community revitalization strategy areas (CRSAs) under the State CDBG Program. Note, however, that this flexibility does not remove the general prohibition on new construction under the CDBG Program.

While the HOME Program does not include special provisions for PJs developing new neighborhoods or subdivisions, costs related to the development of the housing unit(s) are eligible, including on-site infrastructure and off-site utility hook-ups. Note, a subdivision that is developed under common ownership, management, and financing is considered a single project under HOME. Therefore, a substantial amount of infrastructure, including new roads, sidewalks, and utilities, are considered “on-site” in a subdivision that is developed as one project. These costs are eligible, but would be subject to the maximum per unit subsidies. Additional discussion about how HOME and CDBG can be used for neighborhood revitalization activities is provided in Chapter 5.

Example: Homebuyer Neighborhood Development

Friendsville had a neighborhood that needed to be revitalized. Units were in poor repair and it had a highly transient population. Friendsville wanted to redevelop the neighborhood using a New Urbanism approach with community focused design.

Friendsville owned a large parcel in the middle of this neighborhood. It donated this land to a nonprofit that worked with an architect to layout streets and build homes. These homes were then sold to mixed-income homebuyers. Units that were to be sold to low-income buyers were constructed partially with HOME funds.

Direct Homebuyer Subsidy Approach

There are a number of ways that the HOME and CDBG Programs can be used to directly address homebuyer needs. These include:

- Providing downpayment and closing cost assistance;
- Assisting homebuyers to finance the purchase of the home;
- Establishing individual development accounts to buy a home; and
- Developing lease purchase programs.

The American Dream Downpayment Initiative (ADDI) is a new source of funds to provide direct assistance to low-income homebuyers. Enacted in December, 2003, and administered by the HOME Program, ADDI aims to increase the homeownership rate, especially among lower income and minority households, and to revitalize and stabilize communities. ADDI will help first-time homebuyers with the biggest hurdle to homeownership: downpayment and closing costs. The program was created to assist low-income first-time homebuyers in purchasing single family homes by providing funds for downpayment, closing costs, and rehabilitation carried out in conjunction with the assisted home purchase.

For a comparison of the HOME and ADDI homebuyer assistance requirements, see Appendix 3-1. For more information on ADDI, visit the Office of Affordable Housing Programs' website at

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/addi/index.cfm>. or at www.hud.gov/addi/

Downpayment and Closing Cost Assistance. One of the most common methods for assisting low- and moderate-income households to purchase a home is the provision of downpayment and closing cost assistance. Low- and moderate-income households that are able to afford the monthly cost of homeownership (i.e., mortgage and insurance), are not always able to come up with sufficient funds for the lender's required downpayment and/or the various up-front fees and charges that are collectively called "closing costs." Both HOME and CDBG allow for the provision of downpayment and closing cost assistance to eligible homebuyers.

Under the HOME Program, the provision of downpayment and closing cost assistance to qualified low-income buyers is considered an eligible homebuyer activity. This type of assistance is considered direct assistance to acquire a property.

Homebuyer assistance may be conducted under two different CDBG eligible activities: public services and direct homeownership assistance under 570.201(n). If the grantee chooses to fund activities under the public services category, they are subject to the grantee's overall 15 percent public services cap. Direct homeownership assistance under 570.201(n) is not subject to this cap, but grantees may only pay up to 50 percent of the required downpayment amount. All assisted households must be low- and moderate-income under either eligible activity, if the LMI housing national objective is used.

Homebuyer Financing. Another form of direct assistance to homebuyers is the provision of some or all of the financing that enables them to purchase their home. The jurisdiction can act as a lender or subsidize the financing offered by the private lender. When jurisdictions act as a lender, a number of loan forms are possible including:

- Grants or deferred, forgivable loans;
- Amortizing first position loans;
- Amortizing second position loans (subordinate to a private lender); and
- Deferred payment loans.

Example: Deferred Payment Loans

The City of Spruceville wants to assist low-income homebuyers to purchase units. It studied its waiting lists and found that most low-income buyers simply did not have the income to fully afford a private loan covering the purchase price of a modest unit.

So, Spruceville designed a deferred payment loan program. Under this program, the City lends low-income borrowers up to \$20,000 in HOME funds as a second position loan behind the private financing. This means that households can reduce the amount they needed to borrow from the private lender and thereby reducing their monthly payments. The loan is not amortizing and is not due until and unless the homebuyer sells his or her home. At the time of sale a pro-rata share of the funds will be due back, depending upon how long the homebuyer has remained in the unit.

When jurisdictions want to encourage a private lender to make a loan to a low-income family or they want to make that loan more affordable, they may use a tool such as:

- Interest rate write-downs;
- Principal write-downs; and
- Loan guarantees (under HOME).

Both CDBG and HOME can be used for most forms of direct homebuyer assistance, including:

- Subsidizing interest rates and mortgage principal amounts, including making grants to reduce the effective interest rate on the amount needed by the purchaser to an affordable level. (Funds granted would have to be applied to the purchase price.)

- Subordinating direct loans toward the purchase price, at little or no interest, so that the total mortgage will be affordable to the purchaser.
- Under CDBG, paying all or part of the premium (on behalf of the purchaser) for the mortgage insurance required up-front by a private mortgagee. (This would include private mortgage insurance (PMI).) Note, subsequent payments of this premium would not be permitted.

See the section below on development and financing requirements for more detail on methods of structuring financing.

It is important to note a key distinction between the development approach and the homebuyer financing approach when it comes to new construction. In a CDBG rule dated November 21, 2000, HUD clarified that the prohibition on new construction under CDBG does not apply to new units purchased by individual homebuyers. Individuals may use CDBG assistance to buy newly-constructed homes. However, unless they are a CBDO, developers are still prohibited from building new homes with CDBG funds.

Individual Development Account Programs.

Individual development accounts (IDAs) are dedicated savings accounts that provide start-up funds to assist low-income residents:

- To start a business; or
- To purchase a home.

IDAs are typically managed by a community organization and savings by the participating household are often matched by foundation grants, employer contributions, or other funds. The participating household is often required to participate in counseling or classes to learn how to manage its finances more effectively.

HOME and CDBG funds can be used to support IDA programs. HOME funds can be used to assist IDAs that are established for the solely for homeownership assistance purposes only, CDBG funds may be used to assist IDAs for both eligible purposes.

Specifically, HOME Program funds may be used as a source of matching funds to an IDA when the objective is purchasing a home and the account holder is income eligible. PJs may choose to use their HOME funds to support IDAs that provide downpayment and/or closing cost assistance. For further guidance on using HOME to support homebuyer IDAs, refer to

HOMEfires, Volume 1, Number 8. This is available online at:

www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol1no8.cfm

The use of grant funds in an IDA program would assist purchasers and be eligible under CDBG as homeownership assistance under 24 CFR 570.201(n) or the statute at 105(a)(24), which makes homeownership assistance eligible. Generally, the activity will need to meet the low- and moderate-income housing national objective, which means that each assisted household must be low- or moderate-income.

CDBG funds may be deposited in an IDA to capitalize the account or as matching deposits over the course of the household's participation in the program (see notice CPD 01-12). If the individual does not complete the requirements of the IDA program, the CDBG funds must be returned to the grantee and any interest earned returned to the U.S. Treasury.

When HOME funds are used in conjunction with IDA programs, HOME may be committed to the account holder during the course of the household's participation in the program but may not actually be provided until the participating household is ready to purchase a home. This is due to the statutory requirement that funds drawn down from the U.S. Treasury be invested in affordable housing within 15 days of drawdown.

Example: Individual Development Accounts

The City of Falls Point has a special program designed to assist low-income community members to obtain an education and get a job. As a part of this effort, the City offers life skills classes focused on budgeting and savings.

The City saw a real need to assist program graduates to become homebuyers. While these families usually had jobs upon graduation from the program, they did not have sufficient savings to buy a home.

So, the City started an IDA program where it used HOME funds to match family deposits into an IDA. When the family reached one-half of the amount needed for a downpayment, HOME provided matching funds to cover the other one-half.

Lease Purchase. An alternative to more traditional homebuyer assistance programs is lease-purchase. Lease-purchase programs assist eligible households that currently lease their homes to save for the purchase of the home during the lease period. The lease period and

amount vary by program. Housing counseling and homebuyer education are often an integral part of the lease-purchase program requirements.

Lease-purchase is eligible under the HOME Program as a form of homeownership assistance. HOME funds are used to assist a tenant or household currently renting a unit to purchase the unit. In order to qualify for lease-purchase assistance, a household must be income eligible at the time that the HOME lease-purchase agreement is signed.

If lease-purchase housing is not conveyed **within 36 months of signing the lease purchase agreement** or **within 42 months of project completion**, the project becomes a HOME rental project subject to HOME rental rules.

HOME lease-purchase agreements require that the tenant purchase the unit within three years of signing the agreement. In the event that the rental unit does not revert to a HOME homeowner unit at the end of the 3-year period, the PJ has six additional months to identify an eligible homebuyer to purchase the unit. During this interim period, the HOME affordable rental housing requirements at 24 CFR 92.252 apply to the unit. If an eligible homebuyer has not been identified at the end of this interim period, the unit **must** revert to a HOME rental unit, governed by all applicable HOME rental housing requirements, including affordability. Tenants receiving HOME TBRA to reside in the lease-purchase unit are eligible to receive HOME lease-purchase homebuyer assistance.

For further guidance on the use of HOME funds to assist lease-purchase activities, please refer to *HOMEfires* Vol. 1, No. 10 online at:

www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol1no10.cfm

Under CDBG, rental assistance to tenants during the lease period prior to purchase is not generally eligible. However, at such time as the lessee chooses to exercise the option to purchase, homeownership assistance can be provided.

Financing and Developing Homebuyer Housing

This section highlights options and requirements for developing and financing homebuyer units. It discusses partners who can work with jurisdictions and forms of assistance for subsidizing homebuyer units. It also covers eligible costs, property types, and property standards. This section concludes with a summary of the other Federal requirements that apply to homebuyer housing.

Partners. Most jurisdictions work with nonprofit and for-profit partners to develop homebuyer housing. Potential roles for partners in homebuyer programs include the following:

- Acting as a subrecipient to manage a homebuyer program (such as a downpayment assistance program) on behalf of the jurisdiction. Note: this partner would need to be a nonprofit or public agency.
- Taking on a limited technical or administrative role for the jurisdiction, subrecipient, or developer, such as marketing the program, or helping the jurisdiction translate materials into the language spoken by neighborhood residents, or counseling buyers/owners.
- Acting as a developer to build or acquire and rehabilitate, homes for eventual sale to homebuyers.
- Acting as a community advocate or advisory group.

Forms of Assistance. Generally, for homebuyer assistance programs, the jurisdiction will use one or more of the following forms of assistance:

- Grants;
- Deferred-payment loans;
- Below market-rate loans; and
- Loan guarantees (under HOME).

Table 3-1 below lists the advantages and disadvantages of each of these forms of assistance.

Table 3-1: Advantages and Disadvantages of Various Forms of Assistance

Subsidy	Pros	Cons
Grants	<ul style="list-style-type: none"> • Simple to administer • Easy to explain • Often necessary, especially to reach very low-income households 	<ul style="list-style-type: none"> • Expensive • No repayment possible • May be hard to “sell” politically • May create expectations of additional free assistance in the future

Table 3-1: Advantages and Disadvantages of Various Forms of Assistance

Subsidy	Pros	Cons
Deferred Payment Loans (DPL)	<ul style="list-style-type: none"> • Simple to administer • Easy to explain • Helpful, since no monthly payment required • Flexible, allows for repayment • Can help prevent windfall gain to borrower if property values increase significantly 	<ul style="list-style-type: none"> • No payment received on a monthly basis • Might never be repaid if property has low value or future appreciation likely to be limited
Below Market Rate Loans	<ul style="list-style-type: none"> • Provides immediate repayment to government agency • Allows government agency to act as “banker” • A financial payment obligation can help homebuyers to become more vested in their home 	<ul style="list-style-type: none"> • Time-consuming and staff-intensive to process loan requests • Requires underwriting expertise • Loans must be serviced after origination • Can be an inefficient form of leverage, compared to DPLs and grants
Loan Guarantees	<ul style="list-style-type: none"> • Simple to administer if no defaults, or if lender is responsible for disposition of property if default occurs • Results in high leverage • May induce lenders to make loans by softening loan-to-value and income-to-debt ratios 	<ul style="list-style-type: none"> • Does little to subsidize the cost to the homebuyer • Shifts some or all underwriting and default risk from the lender to the jurisdiction • No repayments to the program • Can tie up funds for long periods of time <p>NOTE: For homebuyer activities under the Direct Homeownership eligibility category, CDBG cannot be used for loan guarantees.</p>

Eligible Costs. Jurisdictions must ensure that Federal funds are used only for eligible costs. However, a wide variety of costs are eligible. In general, there are three types of costs for homebuyer programs:

- Activity costs;
- Program or activity delivery costs; and

- Housing counseling.

Eligible Activity Costs. HOME and CDBG can be used to pay for a wide range of costs to assist developers and homebuyers to create affordable housing. Table 3-2 summarizes these costs.

Table 3-2: Eligible HOME and CDBG Costs for Homeownership Programs

Eligible Homebuyer Costs for Direct Homebuyer Assistance Programs
<ul style="list-style-type: none"> • Purchase price assistance • Downpayment assistance • Closing costs, including financing fees, credit reports, title binders and insurance, surety fees, recording fees, transaction taxes, legal and accounting fees, cost certifications, appraisals
Eligible Homebuyer Costs for Homeownership Development Programs
<p>(Note, for CDBG these costs cannot be incurred for new construction, unless it is carried out by a CBDO.)</p> <ul style="list-style-type: none"> • Acquisition of land and existing structures • Site preparation or improvements, including demolition • Securing buildings • Construction materials and labor • Architectural and engineering fees • Builders' and developers' fees
Relocation Costs
<ul style="list-style-type: none"> • Replacement housing, moving costs and out-of-pocket expenses • Advisory services • Staff and overhead related to relocation assistance

Relocation Costs. Under the Uniform Relocation Act, tenants who live in units that are purchased with Federal funds and who are asked to move out, are entitled to certain benefits. This applies to homeownership programs, as well as rental programs. So, if a HOME or CDBG-funded homebuyer purchases a unit that is currently occupied by a tenant and that tenant is displaced, the tenant is entitled to relocation assistance, even if the sale was voluntary for the owner of the property. Both HOME and CDBG can be used to pay for the costs to relocate these tenants. Note that if the only form of Federal assistance is provided under ADDI, the URA is not triggered for FY2004 funds and beyond.

Program or Activity Delivery Costs. Program or activity delivery costs are those jurisdiction or subrecipient costs that are necessary to deliver the homebuyer program. They include costs such as:

- Affirmative marketing and marketing costs;
- Inspections;
- Environmental reviews;
- Specifications, if used for development;

- Underwriting; and
- Other project costs incurred by the jurisdiction that are directly related to a specific project.

As noted in the previous chapter, CDBG and HOME handle program delivery costs differently. Under CDBG, costs for delivery of a program are covered under the program and therefore are outside of the administrative cap.

Under HOME, delivery costs can also be charged to the project **if** the jurisdiction tracks the costs to specific addresses and includes these costs within the maximum subsidy limit. If the costs cannot be attributed to a specific project, they must be counted as administrative. As noted in the previous chapter, CDBG can pay for program delivery costs for HOME projects, including tasks such as energy auditing, work specifications, loan processing, or inspections. Since these are eligible costs as housing services under 24 CFR 570.201(k), they do not count toward the jurisdiction's CDBG administrative cap.

Housing Counseling. Many jurisdictions offer housing counseling and education to homebuyer program participants. In some cases participation in such courses is a required part of program eligibility.

The term “counseling” is used broadly and may range from one-on-one credit counseling to classes on home maintenance or budgeting.

- Homebuyer counseling is an eligible cost under HOME, and might be charged as a project soft cost, an administrative cost, or, if provided by a CHDO, a CHDO operating expense. The method for charging these costs depends on who receives the counseling, and who incurs the cost. To charge counseling as a project cost, the household or individual counseled must become an owner of a HOME-assisted unit. When counseling costs are incurred by a project owner or developer, the costs must be charged as a project soft cost. For buyer education and counseling that is not targeted specifically to buyers of HOME-assisted units, the costs must be charged as administrative, or as a CHDO operating expense when incurred by a CHDO.^{vi}

Grantees have several options to set up counseling programs under CDBG. The CDBG statute allows grantees to pay housing services costs related to administering HOME Program activities. So, grantees may choose to use CDBG to pay for housing counseling related to a HOME homebuyer project. Grantees can also set up a housing counseling program as a public service activity. These funds will count towards the grantee’s 15 percent cap on public service expenditures. A third option for providing housing counseling under CDBG is to do so as part of a CDBG-funded housing activity as a program delivery cost. Under this option, the grantee would offer counseling as part of its homeownership assistance program and the costs of the counseling would be included in the cost of the program.

Eligible Property Types

Both CDBG and HOME permit a wide variety of homebuyer unit types. Eligible property types include any property that will serve as the purchaser’s principal residence, including:

- A one-unit property;
- A two- to- four-unit property;
 - If HOME funds are used to assist a purchaser to acquire one unit in a two- to- four-unit property and that unit will be the principal residence of the purchaser, the long-term affordability requirements apply to the assisted ownership

unit only. See the discussion on affordability in the “Ongoing Requirements” section of this chapter.

- If HOME funds are used to help a purchaser acquire one or more rental units along with the homeownership unit, the HOME rental affordability requirements apply to the rental units.
- PJs have the option of designating all or some of the units as HOME-assisted. If so designated, HOME requirements will apply, including long-term affordability requirements.
- If CDBG is used to purchase, if the property is three or four units, 51 percent of the units must be occupied by households that are low- or moderate-income; if it is two units, at least one unit must be so occupied.

- A condominium unit;
- A cooperative unit or a unit in a mutual housing project (if recognized as homeownership by state law); or
- A manufactured home. Under HOME, at the time of project completion, the manufactured housing must be connected to permanent utility hook-ups. The manufactured housing must be located on land that is owned by the manufactured housing unit owner, or on land for which the manufactured housing unit owner has a lease for a period at least equal to the applicable period of affordability.

It is important to note one key distinction between CDBG and HOME as it relates to eligible properties. HOME requires that properties not exceed a specified maximum value. Under HOME, the value of any homebuyer/homeowner-occupied property may not exceed 95 percent of the median purchase price for that type of single family housing for the area, as published by HUD. PJs also have the option of conducting a specialized market analysis that meets certain requirements established by HUD. (These can be found in the HOME Final Rule at 24 CFR 92.254 (a)(2)(iii).)

- **Acquisition only.** Under HOME, in the case of property that does not require rehabilitation, the sales price of the HOME property to be acquired by a homebuyer may not have a value that exceeds 95 percent of the area median purchase price for that type of housing.

- **Acquisition and rehabilitation.** If rehabilitation is required, the value of the property after rehabilitation may not exceed 95 percent of the area median purchase price for that type of housing. The after-rehabilitation value estimate should be completed prior to investment of HOME funds.

CDBG imposes no property value restriction.

Property Standards

As noted previously, CDBG and HOME differ on the required property standards. As with all HOME-assisted properties, homebuyer properties must meet certain written standards to ensure the health and safety of its beneficiaries, and the longevity of properties it has invested in.

- **Acquisition.** If no rehabilitation or construction is planned, the housing acquired must meet state and local housing quality standards and code requirements. If no such standards or codes apply, the property must meet Housing Choice Voucher Housing Quality Standards.
- **Rehabilitation and new construction.** Housing that is constructed or rehabilitated with HOME funds must meet all applicable state or local codes, rehabilitation standards and ordinances, and zoning ordinances. If no state or local codes apply, PJs must use a national model code.^{viii} New construction must also meet the Model Energy Code.
- **Manufactured housing.** Manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280, which pre-empt state and local codes covering the same aspects of performance for such housing.

- PJs providing HOME assistance to install manufactured housing units must comply with applicable state and local laws or codes. In the absence of such laws or codes, the PJ must comply with the manufacturer’s written instructions for installation of the manufactured housing units.
- Manufactured housing that is rehabilitated with HOME funds must meet the requirements outlined above that apply to all housing constructed or rehabilitated with HOME funds.

CDBG imposes no minimum property standard. However, grantees may wish to impose their own standards.

Other Federal Requirements

There are a number of other Federal requirements that apply to the development or financing of homebuyer units. Jurisdictions should carefully review the regulations and HUD guidance related to these requirements.

Ongoing Requirements

This section highlights the ongoing requirements related to homebuyer housing. This includes compliance with the HOME affordability period and ensuring the focus on low-income homebuyers.

Affordability Period

HOME requires an affordability period for homebuyer units. CDBG has no such provisions, but grantees may wish to impose these types of requirements.

During the long-term affordability period, homebuyers who receive HOME assistance to purchase their homes must continue to live in the HOME-assisted property as their principal residence. Although the assisted homebuyer must be low-income at the time the HOME funds are committed, once the qualified

homebuyer purchases the property there are no further income limit requirements that apply to the existing homeowner.

However, if the assisted homebuyer sells his/her property during the affordability period, who can buy the property and whether the PJ recaptures any funds are determined by the provisions of the recapture or resale agreement that the PJ executed with the homebuyer at the time the HOME assistance was committed.

The long-term affordability period for HOME-assisted homebuyer housing is determined by the per-unit amount of HOME assistance that enabled the homebuyer to purchase the property, as follows:

- If the per-unit HOME assistance is less than \$15,000, the affordability period is five years.
- If the per-unit HOME assistance is between \$15,000 and \$40,000, the affordability period is ten years.
- If the per-unit HOME assistance is greater than \$40,000, the affordability period is 15 years.

The method for determining the amount of “HOME assistance,” for the purposes of determining the period of affordability, varies depending on whether the PJ chooses to use a recapture option or a resale option for controlling home sale during the affordability period.

The recapture option and the resale option respond to different market conditions. In its Consolidated Plan, the PJ must describe the recapture or resale guidelines it will use for each homebuyer program. The PJ may establish more than one type of option for the same program, provided the PJ advises the homebuyer about which option will be used before the HOME funds are committed.

Recapture Option

Recapture is a mechanism for the PJ to recover all or a portion of the direct HOME assistance if the initial HOME-assisted buyer voluntarily or involuntarily (through a foreclosure) sells the house during the affordability period. When a recapture option is used, the homeowner is at liberty to sell the HOME-assisted property to any buyer, at any price the market will bear.

When a PJ uses a recapture option, the period of affordability is based on the amount of direct HOME assistance that enables the buyer to purchase the unit. This includes any HOME assistance that reduces the

purchase price from fair market value to an affordable price, or otherwise directly subsidizes the purchase by the homebuyer (such as downpayment assistance, closing cost assistance, mortgage financing, or interest rate buy-downs). This does **not** include the amount of HOME assistance **in excess** of fair market value that might be used to produce the unit.

For example, a PJ provides \$75,000 in HOME development funds to a developer who sells the property for fair market value at \$60,000. The homebuyer is also provided a HOME downpayment assistance grant in the amount of \$5,000. The PJ uses a recapture option to ensure affordability. The period of affordability for this property is five years because the property was sold for fair market value and the direct assistance to the buyer is therefore \$5,000.

Alternately, if the fair market value of this same property were \$75,000 and the developer sold the property to the owner for \$60,000, the period of affordability would be ten years because the assistance that enables the buyer to purchase the unit is \$20,000 (\$15,000 subsidy to write down the purchase price plus the \$5,000 downpayment assistance).

For the repayment option, the HOME regulations require that PJs limit the recapture amount due upon resale to net proceeds, and if there are no net proceeds or the proceeds are insufficient to repay the HOME investment due, the PJ may recapture an amount less than or equal to the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and any closing costs. This means that if there is not enough net proceeds at the resale to repay the PJ the entire HOME subsidy that is due, PJs are not liable to HUD for difference between the original investment and amount available at the resale (or foreclosure). For more information on this issue see the HOME regulations at 92.254 and the *HOMEfires*, Volume 5, Number 2. This is available online at

www.hud.gov/offices/cpd/affordablehousing/library/homefires/index.cfm

Once the recapture occurs, the long-term affordability period terminates and HOME requirements no longer apply to the property. The home can be sold to any homebuyer, regardless of income.

Resale Option

The resale option ensures that the HOME-assisted unit remains affordable over the entire period of

affordability, even in the event of a subsequent sale. This option is often preferred by PJs in high cost or rapidly appreciating housing markets. Using this option, the PJ may either require the owner to sell to another eligible low-income homebuyer or establish a “presumption of affordability.” When the resale option is used, the period of affordability is based on the total amount of HOME funds used to assist the acquisition, development, and purchase of the housing (i.e., the HOME investment).

Resale Option with Development Subsidies. The resale option must be used when HOME assistance is provided **only** as a development subsidy and there is no direct HOME assistance to the homebuyer. Note that when the resale option is used, the affordability period is based on the total amount of HOME assistance invested in the housing.

For example, the PJ provides \$50,000 in HOME assistance as a construction loan to a developer. The appraised value after construction is \$45,000 because of neighborhood and market conditions. The house is sold for the fair market value of \$45,000. Since there is no direct assistance to the homebuyer in this instance, the resale option must be used. The affordability period is fifteen years based on the total amount of the HOME investment, or \$50,000.

Sometimes HOME assistance is structured so that both a development subsidy and assistance to the homebuyer are provided. This can occur when the PJ subsidizes the construction and developer sells the property to a low-income buyer at less than the fair market value. Other times this occurs when a PJ not only subsidizes the development, but also provides assistance to the homebuyer, such as downpayment or closing cost help. If a property is sold for less than the fair market value or if a homebuyer receives a subsidy, it is known as “direct homebuyer assistance.” When the homebuyer is provided direct assistance, the PJ has the option of imposing either resale or recapture requirements. If the resale option is used, the minimum affordability period must be based on the total amount of HOME funds invested in the acquisition and development of the property **plus** any additional HOME funds directly assisting the homebuyer. If the recapture option is used, the minimum affordability period is based on the amount of HOME assistance that enabled the homebuyer to purchase the property, as described above under the Recapture Option.

Sale to an Income-eligible Homebuyer. The resale option requires the following criteria to be met:

- The new purchaser must be low-income and occupy the property as the family’s principal residence.
- The sales price must be affordable to a reasonable range of low-income homebuyers, as defined by the PJ. Many PJs choose to establish the maximum sales price by calculating the maximum principal, interest, taxes, and insurance (PITI) that could be paid by a reasonable range of low-income households without exceeding 30 percent of gross income (a widely used standard of housing affordability).
- The original homebuyer, now the home seller, must receive a fair return on his or her investment, as defined by the PJ. The PJ should identify its method for determining a fair return in the written resale documents that apply to the property. The homeowner’s investment includes any downpayment, loan principal payments, and capital improvements financed by the homeowner.
- Once an affordable price that offers a fair return to the seller is established, a PJ may choose to require the repayment of all or a portion of the HOME grant or loan upon resale, should net proceeds from the sale allow this. This is most likely to occur in housing markets where prices are appreciating.

Presumption of Affordability. This option relies on the presumption that a specific neighborhood in its entirety is affordable and that it will continue to remain affordable for the foreseeable future, and therefore, any sale within that neighborhood will be affordable. In other words, market forces will ensure the continued affordability of HOME-assisted properties, and the PJ can presume the property will be sold at an affordable price to another low-income household. In order to rely on a presumption of affordability, the PJ must demonstrate that the neighborhood is, and is likely to remain, affordable by undertaking a market analysis and documenting the affordability of the neighborhood in accordance with specialized procedures established by HUD and outlined in the HOME Final Rule at 24 CFR 92.254 (a)(5)(i)(B). This analysis is subject to HUD approval, and must be periodically updated by the PJ.

Providing HOME Assistance to the Second Buyer. Under the resale option, if a new homebuyer receives HOME assistance to purchase a property that has previously been assisted with HOME funds, the PJ may terminate the original period of affordability. A

new period of affordability may be established based on the amount of the direct HOME assistance provided to the new homebuyer, regardless of when during the initial period of affordability the property is sold. The PJ also has the option of retaining the original affordability period. If no new HOME assistance is provided, the new homebuyer must assume the remaining term of the original long-term affordability period.

Under both the resale and recapture options, the HOME regulations now allow for the investment of additional HOME funds to preserve homebuyer housing for which HOME funds were already used. Specifically, PJs may use additional HOME funds to acquire housing through a purchase option, right of first refusal or other preemptive right before foreclosure, to acquire the housing at foreclosure sale, to undertake any necessary rehabilitation, and to provide assistance to another eligible homebuyer. (This provision does not apply if the PJ forecloses on its own HOME loan.) The per unit subsidy limit applies to the total HOME funds used for the housing (the original amount plus the additional amount); however, administrative funds may be used for the acquisition and reimbursed upon the sale to a subsequent eligible homebuyer.

Enforcing Resale and Recapture Provisions

To enforce both resale and recapture provisions, PJs must execute an appropriate written agreement with the homebuyer. In addition, in order to enforce the resale provisions (except when a “presumption of affordability” has been approved by HUD), the PJ must impose a deed restriction, covenant running with the land or similar legal mechanism approved by HUD. Amounts subject to recapture provisions should be additionally enforced through deeds of trust, notes or mortgages. Most lenders and secondary market entities have loan products that accommodate these provisions, as long as they allow for the deed restriction or other restrictions to be lifted in the case of foreclosure. PJs can address lenders’ concerns, as the HOME Program permits the affordability restrictions to terminate upon foreclosure. As noted previously in this chapter, when the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing, and there are no net proceeds or the net proceeds are insufficient to

repay the HOME investment due, the participating jurisdiction may recapture an amount less than or equal to the net proceeds.

Low-Income Targeting

All HOME beneficiaries must be at or below 80 percent of the area median income, adjusted for household size. Under CDBG, unless the home is located in a blighted area or in some way qualifies for the Urgent Need national objective, households must also be low- and moderate-income.^{viii}

HOME PJs and entitlement CDBG grantees have the option to choose one of three accepted methods for calculating household income:

- Part 5 definition of annual gross income (24 CFR Part 5.609);
- Census Long Form definition of annual income; or
- IRS 1040 definition of adjusted gross income

HUD provides a Web-based tool to assist jurisdictions in calculating income eligibility of program applicants. The HOME Income Calculator is available online at

<http://www.hud.gov/offices/cpd/affordablehousing/training/calculator/index.cfm>

This Web-based resource provides concise, easy-to-understand guidance on determining the income and allowances of applicants to HOME-funded programs.

State CDBG grantees may choose to follow one of these three definitions, or they can choose their own income definition. HUD will give maximum feasible deference to the State’s choice of an income definition.

Further guidance on the calculation of income eligibility under the HOME Program can be found in the HOME program model guide, *Technical Guide for Determining Income and Allowances for the HOME Program*. Copies of this model guide are available through the HOME Program online library at *Model Program Guides*, www.hud.gov/offices/cpd/affordablehousing/library/modelguides

Note that under CDBG, all activities—including homebuyer activities—must meet a national objective. In the past, there was confusion on the part of some grantees that believed that homebuyer activities could be undertaken under the area benefit or limited clientele low- and moderate-income national objectives. In fact, the only low- and moderate-income national objective that can be used for homebuyer activities is the housing national objective. This means that every

homebuyer will need to be low- or moderate-income in order to use this national objective.

There is one exception to this rule. If a grantee has adopted a Neighborhood Revitalization Strategy Area (localities) or a Community Revitalization Strategy Area (states), then **all** of the housing (including rental and homeowner rehabilitation) for which it obligated funds in the area during a given program year may be counted toward the housing national objective and 51 percent of all the assisted units would need to be occupied by low- or moderate-income households.

However, if the grantee is using the direct homeownership assistance category at 570.201(n), all assisted households must be low- or moderate-income. The statute states that direct homeownership is for low- and moderate-income persons and therefore all households receiving assistance under this category must indeed be low- or moderate-income. The units created under a direct homeownership program may be included when aggregating housing units in a NRSA but none of the households provided homeownership assistance under 24 CFR 570.201(n) may be non-low- or moderate-income. However, as long as combined with other CDBG housing assistance programs, such as rehabilitation or acquisition for new construction, for which CDBG funds are obligated during the program year, they may be included in the aggregation.

Example: A grantee obligates CDBG for ten housing units in a NRSA during the fiscal year. Five are provided homeownership assistance under 24 CFR 570.201(n) and, by statute, must be occupied by low- or moderate-income households. Another five units received rehabilitation assistance. To meet the housing low moderate income national objective, six of the ten units (51 percent) must be occupied by low- and moderate-income households. So, only one of the rehabilitation units must be occupied by a low- or moderate-income household in order to meet the LM housing national objective.

Appendix 3-1

American Dream Downpayment Initiative (ADDI)—Side-By-Side Comparison of Downpayment Assistance Requirements—By Source of Funds

	ADDI FY 2003 Funds (2003 HUD Appropriations Act) ¹	ADDI FY 2004-2007 Funds (ADDI Legislation) ¹	HOME Allocation (NAHA) ¹
FORMULA	Need ² for, and prior commitment to, assistance to homebuyers	Need ² by state; then, by local PJ. Funds to local PJs w/populations of more than 150,000 or allocation greater than \$50,000 only	HOME Formula
INELIGIBLE PJs³		The Commonwealth of Puerto Rico and local PJs in Puerto Rico	
ELIGIBLE HOMEBUYERS	Must be “first-time” homebuyer	Must be “first-time” homebuyer	No “first-time” homebuyer requirement
ELIGIBLE USES OF FUNDS	Downpayment assistance	Downpayment assistance and rehabilitation. Rehabilitation must be completed within one year of purchase	All HOME eligible activities. Rehabilitation property standards must be met within 2 years of purchase
USE OF FUNDS FOR ADMIN COSTS⁴	Not eligible to pay admin costs; included in calculating HOME 10% admin limit	Not eligible to pay admin costs; not included in calculating 10% HOME admin limit	10% of HOME funds may be used for HOME admin, and the costs of administering ADDI
ASSISTANCE CAPS	Subject to HOME maximum per-unit subsidy	Per-family limit: The greater of \$10,000 or 6% of purchase price; Also subject to HOME maximum per-unit subsidy when used in combination with HOME	Subject to HOME maximum per-unit subsidy
MATCH	Match requirement	No match	Match requirement
URA	Subject to URA	Not subject to URA	Subject to URA
PROGRAM INCOME	Program income generated under ADDI treated as HOME program income	Program income generated under ADDI treated as HOME program income	HOME program income requirements

	ADDI FY 2003 Funds (2003 HUD Appropriations Act) ¹	ADDI FY 2004-2007 Funds (ADDI Legislation) ¹	HOME Allocation (NAHA) ¹
REALLOCATIONS	No reallocation of funds is possible since the 3-year statutory limit on availability of appropriations will result in any funds recaptured after 24 months for failure to meet the commitment deadline being returned to Treasury	Funds reallocated as part of the next fiscal year's ADDI formula distribution	HOME reallocation requirements
CHDO	Not subject to CHDO set-aside; not an eligible use of set-aside funds	Not subject to CHDO set-aside; not an eligible use of set-aside funds	15 percent of HOME allocation set aside for CHDO projects; downpayment assistance not an eligible CHDO set-aside activity
CONSOLIDATED PLAN	2004 Action Plan must address the use of these FY 2003 ADDI funds	Two new narratives ("outreach" and "suitability") required beginning with the 2004 Action Plan in order to be eligible for ADDI funding; the Action Plan must also address the use of ADDI funds	No change

¹ Statutory source of requirements.

² "Need": The percentage of low-income households residing in rental housing based on U.S. Census data.

³ NOTE: Insular Areas are not included in the definition of PJ in the HOME Program. Therefore, Insular Areas will not receive ADDI funding in FY 2004 and subsequent allocations. Funds allocated to Insular Areas in FY 2003 were 0.2% of the combined HOME/ADDI appropriation.

⁴ NOTE: Project soft-costs for the delivery of ADDI-funded downpayment assistance and (except for FY 2003 ADDI funding) rehabilitation are an eligible use of ADDI funds.

Chapter 4:

Using HOME and CDBG for Homeowner Rehabilitation

This chapter describes the range of approaches used by jurisdictions to conduct homeowner rehabilitation activities with HOME and CDBG funds. The chapter discusses key options and rules related to financing and undertaking homeowner rehabilitation programs. It concludes with sample case studies to illustrate how HOME and CDBG can be used strategically for homeowner rehabilitation.

Approaches to Homeowner Rehabilitation

There are a wide variety of rehabilitation approaches that are possible under the HOME and CDBG programs, including:

- Minor rehabilitation, including minor repair programs and single purpose programs, such as emergency repair or handicapped accessibility programs;
- Moderate or substantial rehabilitation, including whole house rehabilitation;
- Reconstruction;
- Historic preservation;
- Lead-based paint abatement;
- Code enforcement; and
- Home-based business rehabilitation.

Minor Rehabilitation

Under the minor rehabilitation approach, the jurisdiction funds a minor level of repairs only. This might include working on specific work items—such as those items most in need of repair or those in imminent danger of failing.

This approach also includes specialty programs such as those designed specifically to address:

- Handicapped accessibility;
- Energy conservation;
- Weatherization;
- Utility hook-ups;
- Lead abatement work;

- Paint programs; or
- Emergency repairs.

HOME is not generally used for minor or specialty repair programs unless they are a part of bringing overall units up to applicable codes and standards. The HOME Program requirements stipulate that each unit rehabilitated with HOME funds must meet all applicable state and local housing codes, or other applicable codes. In addition, HOME has a minimum investment threshold of an average of \$1,000 per HOME-assisted unit in a project. CDBG funds can be used to assist the full range of specialty and minor repair programs and it has no minimum investment requirement. In addition, CDBG has no requirement that units meet code upon completion of the rehabilitation, although this is sometimes required by grantees.

Example: Special Purpose Program

The City of Glen Allen has a large percentage of elderly persons in its community. Many of these elderly persons have aged in place in their existing homes. Yet, these homes have not been updated to accommodate the seniors' needs—such as accessible bathrooms, kitchens and entryways.

While the City would like to be able to fully rehabilitate all substandard homes in its community, it does not have the resources. So, the City uses its CDBG funds to develop a handicapped accessibility rehabilitation program. Under this program, any low-income elderly or disabled household can apply for up to \$5,000 of assistance to enhance the accessibility of their home.

Moderate/Substantial Rehabilitation

When a unit requires moderate or substantial rehabilitation, significant repairs are made to the home. This may include simply rehabilitating all items that do not meet code or it may involve what is sometimes called “whole house rehabilitation,” meaning

undertaking substantial repairs throughout the home in order to bring it up to code and to improve the overall livability and functionality of the unit.

HOME funds can be used to finance substantial rehabilitation activities. PJs must ensure that the HOME investment in the rehabilitation does not exceed the maximum per unit subsidy limits. As noted in Chapter 1 of this guide, these limits are set at the 221(d)(3) limits for the community and may be obtained by contacting the HUD Field Office or online on the HOME Program website at <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/subsidylimits.cfm>. Generally, these limits are fairly generous and it is highly unlikely that most rehabilitation projects will exceed these limits.

PJs must also ensure that the post-rehabilitation value of properties does not exceed the maximum value limit. The after-rehabilitation value may not exceed 95 percent of the median purchase price for the area. There are two methods for determining this cap:

- Using the 203(b) limits as published by HUD, or,
- As determined locally through market analysis.

The maximum purchase price/after-rehabilitation value limits are available online at <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm>.

To establish HOME project eligibility, after-rehabilitation value must be established prior to any work being performed. Any one or more of the following methods may be used to establish the after-rehabilitation value:

- **Estimates of value.** The PJ or subrecipient can prepare estimates of value. Project files must contain the estimate of value and document the basis for the value estimates.
- **Appraisals.** A licensed fee appraiser or a staff appraiser of the PJ can prepare an appraisal. Project files must document the appraised value and the appraisal approach used.
- **Tax assessments.** Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value if the assessment is current and accurately reflects market value after rehabilitation.

The CDBG Program can also be used to conduct moderate and substantial rehabilitation. CDBG is not

subject to a maximum value or maximum per unit investment cap. However, all costs must be reasonable.

Reconstruction

Reconstruction involves demolishing an existing residential unit and rebuilding another on the same site. Often, reconstruction occurs because the cost of rehabilitation is prohibitive or is more than the cost to build a new unit.

A reconstructed HOME unit is essentially demolished and rebuilt. HOME may be used for reconstruction when:

- There is an existing building on the site that will not, as determined by the PJ, be rehabilitated. The existing housing must be standing at the time of project commitment; and
- The number of dwelling units will remain constant. Note that the number of bedrooms per unit may change; and
- The new unit will be located somewhere on the same lot. It is no longer required that the new unit be located on the same foundation footprint as the existing unit.

Reconstruction is a fairly new eligible activity for CDBG and although it is currently permitted by statute, it is not yet incorporated into the CDBG regulations. Grantees may refer to the HOME Program definition of reconstruction as a “safe harbor.”

- Reconstruction means rebuilding a housing unit on the same lot. Under CDBG, it is acceptable if the existing home is not standing at the time of CDBG project commitment but it must have been on the site within a reasonable timeframe from when the project was initiated.
- CDBG does not require that the grantee itself undertake the demolition of the existing unit. The homeowner can undertake this demolition, or it may be the result of accidental means (such as a fire).
- The number of housing units on the lot can not be decreased or increased as part of reconstruction, however, the number of rooms may be decreased or increased.
- Reconstruction includes replacing an existing substandard manufactured housing unit or stick-

built home with a new or standard manufactured housing unit.

- Reconstruction does not include demolishing a non-residential structure and constructing residential units. This would be new construction and while the demolition would be eligible, the new construction would not, unless undertaken by a CBDO.

Under the State CDBG program regulations, states are given the ability to interpret the list of eligible activities in the Housing and Community Development Act (HCDA), providing their interpretations are not plainly inconsistent with the HCDA. The HCDA lists reconstruction of buildings as an eligible activity, but does not further define “reconstruction.” States may use the Entitlement program eligibility policy as interpretive guidance.

Note that reconstruction under either CDBG or HOME is treated as rehabilitation for the purposes of program compliance. However, reconstruction is treated as new construction for the purposes of conducting an environmental review.

Example: Reconstruction

The State of Lincoln has a number of owner-occupied homes that are significantly decayed. The state is concerned about the health and safety of the occupants.

It uses its HOME funds to set up a program where these low-income households can receive reconstruction assistance. The program is run by a state-wide, faith-based, nonprofit subrecipient. This subrecipient takes the applications and processes the HOME funding.

Households can receive assistance to demolish their existing unit. In order to keep costs low, the subrecipient works with the household to select a new factory-built and locally-installed manufactured home to be placed on the site. This approach is less expensive than new construction and the new units can be occupied more rapidly.

Historic Preservation

Historic preservation involves rehabilitating structures within the community that are determined to be “historic.” Often, people think of historic preservation as addressing commercial and public facilities. While this type of preservation is indeed eligible under CDBG, the activity can also include historic preservation of residential structures, including single family homes.

Both HOME and CDBG funds can be used to preserve residential buildings of an historic nature in the community, although there are some important differences in how funds from either program can be used.

HOME does not have a specific eligibility category entitled “historic preservation.” Historic preservation as a stand-alone activity does not constitute an eligible use of HOME funds unless the activity in question is for the express purpose of providing one or more units of affordable housing. In other words, since HOME funds must be used solely for the development of affordable housing, the preservation of any historic structure must be incidental to the rehabilitation of an affordable housing unit. These units would still be subject to all of the HOME rules regarding rehabilitation.

CDBG funds may be used for the rehabilitation, preservation, or restoration of historic properties, whether publicly- or privately-owned with the exception of buildings for the general conduct of government. CDBG can pay for some or all of the repairs related to the historic preservation or other rehabilitation of the unit.

Eligible historic properties for CDBG rehabilitation include:

- Properties listed or eligible to be listed in the National Register of Historic Places;
- Properties listed in a state or local inventory of historic places; or
- Properties designated as a state or local landmark or historic district by law or ordinance.

Jurisdictions that are considering undertaking historic preservation must work closely with their state or local historic preservation office. Often, these offices have rules and requirements related to the type of work that may be undertaken on an historic structure.

Lead-based Paint Hazard Evaluation and Reduction

Programs that are designed specifically to address lead-based paint in homes can be administered as a part of other rehabilitation activities or can stand alone as separate programs.

Both HOME and CDBG funds can be used to cover the costs of evaluating and treating lead-based paint. Removal or treatment of lead paint may be undertaken

as a homeowner rehabilitation activity. Under HOME, however, rehabilitation of these units must still follow all of the rehabilitation requirements. Therefore, the unit must be brought up to code and the minimum/maximum subsidy and maximum property value limits must be applied.

Under CDBG, lead paint testing and abatement is a stand-alone rehabilitation activity and it can be undertaken as an activity or as a part of other rehabilitation work.

HUD's consolidated lead-based paint regulations at 24 CFR Part 35 call for jurisdictions to adhere to specific actions when addressing lead-based paint in association with rehabilitation activities. Lead-based paint activity thresholds are based on the lesser of the per unit rehabilitation hard costs (excluding lead-based paint work) or the total amount of Federal assistance in a project.^{ix}

- When this amount is less than \$5,000 per unit, a jurisdiction must “do no harm.” That is, the jurisdiction must conduct mild lead hazard evaluation and lead hazard reduction.
- When this amount is between \$5,000 and \$25,000 per unit, jurisdictions must “identify and control lead hazards.” That is, the jurisdiction must conduct a moderate level of lead hazard evaluation and lead hazard reduction.
- When this amount is greater than \$25,000 per unit, a jurisdiction must “identify and abate lead hazards.” That is, the jurisdiction must undertake the highest level of lead hazard evaluation and lead hazard reduction.

Notification and disclosure requirements apply to each level of lead hazard reduction. Ongoing maintenance of lead-based paint units is required only in the case of HOME-assisted multifamily units.

More information about HUD's lead-based paint policies and requirements is available online at: <http://www.hud.gov/offices/lead/>.

Code Enforcement

Code enforcement programs are designed to inspect and evaluate housing quality within a jurisdiction. Often, communities have code enforcement divisions whose job is to assess and cite dilapidated structures.

Both HOME and CDBG funds can be used to inspect residential properties for property standard compliance. HOME funds cannot be used, however, to fund a stand-alone code enforcement program. HOME property inspections must be related to the provision of affordable housing. However, HOME can be used to rehabilitate homes that have been cited by code inspectors. If HOME is tied to the code enforcement process, the PJ needs to ensure that all rehabilitation meets the HOME requirements, including household income eligibility, rehabilitation standards, minimum/maximum per unit investment, maximum value, and all other applicable requirements.

CDBG can be used to fund a stand-alone code enforcement program. Eligible code enforcement costs under the CDBG Program include:

- Salaries and other expenses related to code enforcement activity; and
- Costs of legal proceedings related to code enforcement activity.

CDBG-funded code enforcement must be undertaken in deteriorated or deteriorating neighborhoods and cannot be undertaken on a city-wide basis unless the entire community qualifies as deteriorated. In addition, there must be public or private investment that is planned or ongoing in the code enforcement area that may be expected to arrest the decline of the neighborhood. CDBG need not be funding the improvements, rehabilitation, or services but they must clearly be occurring within the code enforcement area.

Example: Code Enforcement: The Town of Devon has two neighborhoods that are significantly deteriorated. The Town has tried a range of voluntary programs, but as yet has been unable to see a substantial improvement. Both neighborhoods consist primarily of low-income owner-occupied homes. So, the Town undertakes a two-pronged initiative in the areas. First, the Town uses its CDBG funds to pay for code enforcement inspectors to evaluate and cite units within these neighborhoods. Then, the Town offers HOME rehabilitation funds to any low-income homeowner to assist them to bring their unit up to code. The result is a significant increase in the number of decent, safe, and sanitary units in these neighborhoods.

The CDBG rule prohibits the use of CDBG funds to correct property code violations as a code enforcement activity. However, these corrections can be done as a rehabilitation activity, including homeowner rehabilitation.

Home-based Business Rehabilitation

In many low-income neighborhoods, home-based businesses are common. Examples might include hair salons, tax or accounting services, or day care. In many of these businesses, the business is run out of the same rooms of the home that are used by the family. For example, the basement may serve as the day care center's indoor play room during the day and the family's TV area at night.

Under the CDBG rule, program funds can be used to make improvements to single family residential properties that also serve as places of business. Even if the rehabilitation work is necessary in order to operate the business, the activity need not be considered to be rehabilitation of a commercial or industrial building **if** the improvements also provide general benefit to the residential occupants of the building.

The standard under the HOME rule is different, however. Homeowner rehabilitation assistance can be provided to an income-eligible homeowner whose business is also located in the housing unit if the primary purpose of the activity is to rehabilitate the residence and bring it up to code. Improvements that accrue to the business located in the home are allowable under HOME only so long as the improvements are incidental to the rehabilitation of the residence. Home-based business rehabilitation is not an eligible stand-alone activity under the HOME Program.

Financing and Undertaking Homeowner Rehabilitation

This section highlights the rules related to financing and managing homeowner rehabilitation programs. It describes the partners who are typically involved in such programs, the various financing tools, eligible costs, property standards, homeowner incomes, and other Federal requirements.

Partners

There is a wide range of roles that can be played by partners in a homeowner rehabilitation program, including:

- A nonprofit or other public agency may act as a jurisdiction's subrecipient and manage a homeowner rehabilitation program on behalf of the community.
- A partner may take on a limited administrative role for the jurisdiction, such as marketing the program in the neighborhood, or helping the jurisdiction translate materials into the language spoken by neighborhood residents.
- A partner may act as a community advocate or advisory group.
- A partner may provide counseling to owners on behalf of the jurisdiction on topics such as home repairs and maintenance.

It is important to note that homeowner rehabilitation is not an eligible CHDO set-aside activity because it does not involve the development, ownership or sponsorship of units (since these units are already owned by the homeowner).

Forms of Financial Assistance

This section highlights the various forms of financing that are common in homeowner rehabilitation projects. It also notes special provisions in CDBG for escrow accounts and lump sum draw downs.

Financial Tools. There is a wide range of options for structuring owner-occupied rehabilitation assistance. Homeowner rehabilitation programs and jurisdictions may choose to finance all of the rehabilitation cost or only a portion of the cost. Some common financial tools include:

- **Grants.** A grant is often necessary to provide the deep subsidy required by very low-income participants of rehabilitation programs. Grant assistance can be used to directly subsidize the cost of rehabilitation, or to write down the principal amount of a private loan, thus making the monthly loan affordable to the homeowner. The latter technique is often referred to as principal reduction.

- **Deferred payment loans.** Like grants, deferred payment loans are often used to provide deep subsidies to very low-income households. These are non-amortizing loans that are not repaid until some future point in time. Many jurisdictions structure these loans to be repaid upon sale of the property.
- **Forgivable loans.** Forgivable loans are non-amortizing loans that are typically structured so that a portion of the loan is forgiven over time. Generally, jurisdictions forgive a pro-rated share of the loan based on how long the owner has resided in the property. If the owner sells the property before the end of the loan term, then he or she would only repay the amount not yet forgiven. For instance, if the jurisdiction loans \$20,000 as a ten-year forgivable loan, then each year, \$2,000 would be forgiven. If the owner sells the property in year five, he or she would repay \$10,000 to the jurisdiction.
- **Amortizing loans.** These are loans that require a monthly payment by the homeowner. When participants are able to afford monthly payments, lending funds makes sense because funds that are repaid can be reinvested to assist other low-income households. Amortizing loans can be made as principal-only loans, or funds may be lent at below-market interest rates.

If the jurisdiction chooses to finance only a part of the rehabilitation cost, it may structure its loans to be used in combination with other financing. For example, the jurisdiction and a private lender could jointly loan the funds needed for rehabilitation. The homeowner would secure one loan from the private lender and a second loan (known as a “soft second”) from the jurisdiction, usually as a deferred payment loan or one at below-market interest rate. The amount of the soft second loan is often established as the difference between the cost of rehabilitation and the amount of private loan the homeowner is able to secure. This loan is subordinate to the private lender’s.

There are several other less common forms of financial assistance that may be used in homeowner rehabilitation programs. These forms include interest subsidies and loan guarantees. Both methods enable jurisdictions to use small amounts of Federal funds to leverage private money for rehabilitation.

- **Interest subsidies.** Interest subsidies, also referred to as interest reduction grants or interest rate buy-downs, are similar to principal reduction grants or loans except that the HOME or CDBG funds are used to “buy down” the interest rate to an affordable level. In this case, the HOME or CDBG subsidy is paid directly to the lender and not provided to the homeowner.
- **Loan guarantees.** Loan guarantees are another way to leverage HOME or CDBG funds for homeowner rehabilitation. A loan guarantee can be used as a credit enhancement when a borrower otherwise eligible for a private loan is denied because of a real or perceived risk factor. In these cases, the jurisdiction could provide a loan guarantee that would ensure payment to the lender, thereby making the loan acceptable. If the jurisdiction plans to use loan guarantees for a large number of loans, it can capitalize a loan guarantee account with HOME funds. The amount of HOME funds in such accounts must be based on a reasonable estimate of the default rate on the loans guaranteed, and may not exceed 20 percent of the total outstanding principal guaranteed.

CDBG cannot be used to capitalize a loan guarantee account but it can be used for individual loan guarantees. To do this, the grantee generally retains the funds in its line of credit, to be available in the event of default unless the grantee can justify a drawdown in advance of need because no financial institution will participate based only on a payment guarantee with no funds on deposit. Further, any amount deposited as a guarantee must be reasonable—that is, the minimum amount necessary to cover anticipated defaults.

Refinancing. On occasion, a jurisdiction finds it necessary to assist a homeowner to refinance existing debt in order for an assisted property to remain affordable to the homeowner, or in the case of multifamily housing, the tenant(s). HOME and CDBG can be used to cover the cost of refinancing existing debt.

HOME can be used when the refinancing is secured by housing that is being rehabilitated with HOME funds under the following conditions:

- When HOME funds are used to rehabilitate single family (1-to-4 unit) owner-occupied housing; and
- HOME funds are loaned for rehabilitation; and

- Refinancing allows the borrower’s overall housing costs to be reduced and the housing is made more affordable.

Loans for refinancing existing debt secured by the property to be rehabilitated are eligible under CDBG if the grantee determines that this type of assistance is necessary to achieve local community development objectives. As under HOME, this refinance must be part of a rehabilitation project, to make the rehabilitation affordable—CDBG does not permit refinance-only projects.

Refinancing eligible owner-occupants’ secured debt has several implications.

- Refinancing makes overall housing costs, including rehabilitation costs, affordable to the owner.
- Refinancing will reduce the amount of funds available to other applicants, thereby reducing the number of families that can be assisted.

Example: Refinancing

Mr. and Mrs. Brown are seeking HOME funds to rehabilitate their home. They have an outstanding principal balance on their first mortgage of \$40,000, at 10 percent interest, with a monthly payment of \$386. The cost of rehabilitation is \$15,000. The PJ is offering the rehabilitation loan at 3 percent for a 20-year term, with a monthly cost of \$83.19. The monthly payments for both loans total \$469.19. Because the Browns are on a fixed income, the increased mortgage cost would create a financial burden, requiring them to pay well above 30 percent of their monthly income for rent. Refinancing the first mortgage along with the rehabilitation costs using HOME funds would allow them to finance the total \$55,000 debt at 3 percent interest for 20 years. This results in a monthly cost of \$305.03, a savings of \$164.16 per month, making the rehabilitation possible for the Browns and substantially lowering their monthly housing-related expenses.

Escrow Accounts. Some grantees have difficulty making timely payments to contractors from their CDBG accounts, discouraging private businesses from participating in CDBG rehabilitation activities. In order to address this difficulty, HUD permits CDBG grantees to use program funds to establish escrow accounts for the purpose of making timely payments to program participants. The use of escrow accounts is limited to loans and grants for the rehabilitation of primarily residential properties containing no more than four dwelling units (and accessory neighborhood-

scale, non-residential space within the same structure, if any, such as a store front below a dwelling unit).

Requirements include:

- The contract between the property owner and contractor must specifically provide for the use of an escrow account;
- Account funds are only used for residential rehabilitation activities;
- Account is limited to the amount expected to be disbursed within ten working days;
- Interest earned on the account is to be returned to HUD, at least quarterly; and
- Funds in the escrow account may only pay for actual costs of rehabilitation.

Note, there are no state CDBG requirements for escrow accounts. States may use the entitlement regulations as interpretive guidance.

Lump Sum Drawdowns.^x CDBG grantees may draw funds from the letter of credit in a lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately-owned properties. The fund may be used in conjunction with various rehabilitation financing techniques, including:

- Loans;
- Interest subsidies;
- Loan guarantees;
- Loan reserves; or
- Other HUD-approved uses that are consistent with the objectives of the CDBG program.

The fund may also be used for making grants, but only for the purpose of leveraging non-CDBG funds for the rehabilitation of the same property.

Requirements include:

- Written agreement with financial institution(s), with a term lasting no longer than two years.
- Use of the deposited funds must begin within 45 days of the initial drawdown and deposit. Substantial disbursements must occur from the fund within 180 days of its establishment.
- The grantee is responsible for annual review of activity progress.

- The grantee shall terminate the written agreement(s) with financial institution(s) and return all unused funds to letter of credit in the event that there is a substantial failure on the part of the financial institution(s) to live up to the terms of the written agreement. The grantee must provide HUD and the institution(s) in question with written justification for these actions.
- All unused and unobligated funds shall be returned to the grantee’s letter of credit at the end of the term of the agreement, unless the grantee renews the agreement with the financial institution(s).
- When drawdown funds are used to provide a loan guarantee for private or other non-CDBG financed loans issued to finance rehabilitation activities, these are considered to be CDBG projects, and as such are subject to CDBG requirements.

- Program income (interest, loan repayments) earned through the drawdown account is to be used to finance other CDBG-eligible rehabilitation activities.

Eligible Costs

In general, there are three types of costs for homeowner programs:

- Activity costs;
- Program or activity delivery costs; and
- Home maintenance or other related housing counseling costs.

Activity Costs. Under HOME and CDBG, both the actual cost of rehabilitating the housing and related soft costs are eligible. Table 4-1 lays out the specific eligible costs under a homeowner rehabilitation program.

Table 4-1: Eligible Homeowner Rehabilitation Costs

HARD COSTS	SOFT COSTS
<ul style="list-style-type: none"> • 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 • Utility connections 	<ul style="list-style-type: none"> • 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 • Refinancing of existing debt, secured by the property, if the housing is owner-occupied and refinancing allows the overall costs of borrower to be reduced and the housing is made more affordable

* **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).

The purchase of construction equipment is generally ineligible under both HOME and CDBG. However, the purchase of tools to be used as part of a “tool lending” rehabilitation program is eligible under CDBG. Compensation for the use of construction equipment through leasing, depreciation, or other use allowances (described in applicable OMB Circulars) is allowable, provided the activity is otherwise eligible.

CDBG also allows some specific types of other soft costs, including:

- Initial homeowner warranty premium;

- Hazard insurance premium (except when the assistance is in the form of a grant);
- Flood insurance premium; and
- Inspection and testing for lead-based paint.

Program or Activity Delivery Costs. Program or activity delivery costs are those jurisdiction or subrecipient costs necessary to delivering the homeowner program, such as inspections, specifications writing, underwriting, and other project costs, including loan servicing, that are incurred by the jurisdiction and are directly related to a specific project.

As noted in the previous chapter, CDBG and HOME handle program delivery costs differently. Under CDBG, costs for delivery are covered under the project activity and are not counted toward the administrative cap.

Under HOME, this type of cost can be charged to the project when the cost is directly attributable to the specific project. The jurisdiction must track the costs to specific units and must include these costs within the maximum per unit subsidy limit. If the costs cannot be attributed to a specific project, they must be counted as administrative. As noted in the previous chapter, CDBG can pay for program delivery costs for HOME projects, including tasks such as energy auditing, work specifications, loan processing, or inspections. Since these are eligible costs under 24 CFR 570.201(k) as a housing service, they do not count toward the jurisdiction's CDBG administrative cap.

Maintenance or Other Counseling. People often think of housing counseling as only being related to new homebuyers. However, counseling can be an important part of a homeowner rehabilitation program. In some instances, homeowners do not understand how to keep up their homes. Without proper maintenance, the benefits of the rehabilitation may be short-lived. Other homeowners may not be aware of key tips and techniques for budgeting and as a result they may find themselves unable to repay a rehabilitation loan.

Typical types of homeowner counseling include:

- **Maintenance counseling.** These courses focus on basic repairs and up-keep items such as changing furnace filters, regular maintenance of heating or septic systems, or weatherization tips; or
- **Budgeting and finance.** These courses assist the owner to manage his or her finances so that the bills get paid.

Homeowner counseling is generally an eligible cost under HOME, **if** the counseled homeowner resides in a HOME-assisted unit. If the homeowner does not end up receiving assistance, or if PJ records are not able to clearly assign these costs to individual units, the costs must be charged to administration.

Grantees have several options for how to set up counseling programs under CDBG. The three most common options are:

- **HOME housing services.** Grantees might use CDBG to pay for housing counseling related to a HOME homeowner rehabilitation program.
- **Public service.** Grantees can set up housing counseling programs as a public service activity. These costs will count towards the grantee's 15 percent cap on public service expenditures.
- **Program delivery for CDBG.** Grantees can fund housing counseling as part of a CDBG-funded homeowner rehabilitation activity as a program delivery cost. Under this option, the grantee offers housing-related counseling as part of its rehabilitation assistance program and the costs of the counseling are included in the cost of the program.

Property and Rehabilitation Standards

As noted previously, HOME and CDBG differ in the application of property standards. CDBG does not mandate that units be brought up to code and does not apply a particular property standard. HUD recommends that CDBG grantees establish written property standards for units assisted with program funds to ensure that work is completed within local or state codes. Grantees are encouraged to develop guidelines for property standards and codes with CPD staff at the local HUD Field Office.

Under the HOME regulations, housing units assisted with HOME funds must meet all applicable state and local property standards, or other standards. In order to meet all applicable property standards, HOME requires that a PJ establish written rehabilitation standards for housing units that it rehabilitates with HOME. The written rehabilitation standards provide the means by which applicable property standards are met. A written rehabilitation standard defines the quality of the housing and the materials that will be used, such as specifying the type of nails to be used, the distribution of roofing tiles, or the grade of lumber to be used. Establishing such standards helps ensure that assisted units are of adequate workmanship, there is consistency among assisted rehabilitation jobs, and there is a common standard against which local contractors can base their bids.

Initial Owner Incomes

HOME and CDBG take somewhat different approaches to applicant income when it comes to rehabilitation. Under HOME, all households must be income eligible when the HOME rehabilitation assistance is provided. This means that **all** assisted households must be at or below 80 percent of the area median income, adjusted for household size.

With CDBG, depending on which national objective is being met, there are circumstances when each individual homeowner may or may not need to be low-income. When a homeowner rehabilitation program is undertaken to meet the low- or moderate-income housing national objective, every homeowner needs to be low- or moderate-income. In fact, no other low- and moderate-income national objective may be used for homeowner rehabilitation. Homeowner rehabilitation cannot be undertaken under the low- and moderate-income area benefit or limited clientele objectives. The statute is very clear that housing activities—if counted as a low- and moderate-income activity—must be undertaken under the housing national objective.

However, CDBG homeowner rehabilitation can be funded to meet a different national objective. For example, if the home is located in a designated blighted area, rehabilitation may be undertaken, regardless of the income of the owner, as long as it addresses conditions that contributed to the deterioration of the area. The CDBG rules stipulate that for residential rehabilitation under the area slum blight national objective, all code items must be undertaken before paying for less critical items.

If the home itself is blighted (but not necessarily located in a blighted area), the spot slum/blight national objective may be used and the income of the owner would be irrelevant. In this instance, the rehabilitation would be limited to items that are a health and safety hazard to the public. It is important to note that this does not mean that the item is a hazard to the individual but rather to the public at large. So, if an individual homeowner needs a handicapped accessibility ramp, it is not eligible because it is not a public health hazard. If the façade of a home is imminently going to fall down, with the risk of striking pedestrians on the sidewalk, it would be a public safety issue. Note that historic preservation may also be undertaken under spot blight national objective and it is not subject to the rules regarding the type of

rehabilitation that can be undertaken, but rather is limited to work determined to contribute to the conservation and preservation of the structure being assisted.

CDBG also provides regulatory flexibility to support of neighborhood revitalization strategies. This flexibility is extended to both activities funded through Community Development Financial Institutions (CDFIs) and Neighborhood Revitalization Strategy Areas (NRSAs) or Community Revitalization Strategy Areas (CRSAs).

CDFIs were created under the Community Development Banking and Financial Institutions Act of 1994. CDFIs are community lenders that:

- Are primarily dedicated to the promotion of community development;
- Serve an investment area or targeted population;
- Provide development services and equity investments or loans; and
- Maintain accountability to residents within the specified investment area; and
- Are not public agencies or institutions.

CDBG grantees also have the option to develop specific Neighborhood Revitalization Strategy Areas that target program resources or specific areas within the community. States may adopt CRSAs. Regulations authorizing the development of NRSAs and CRSAs were published by HUD on January 5, 1995, and require grantees to submit NRSAs or CRSAs as either part of an original Consolidated Plan submission, or as an amendment to a previously approved Consolidated Plan (see 24 CFR 91.505).

If a CFDI is working with CDBG in a targeted low- or moderate-income neighborhood or if the grantee has an adopted NRSA or CRSA, the grantee is allowed to add up all of the CDBG units for which funds are obligated in the area in a given program year, and treat them as a single structure. Then, 51 percent of these units must be occupied by households that are low- or moderate-income. This is called creating a “virtual project” and it allows the grantee to fund some homeowner rehabilitation and rental units (49 percent) that are occupied by households that are not low- or moderate-income. This can further a grantee’s goals for mixed-income development.

If the 51 percent test is met at the end of the program year, these activities are deemed to have met the low- and moderate-income housing national objective.

Note, however, that only the portion of the costs that are used to assist low- or moderate-income persons can be counted toward the grantee's required overall program goal of 70 percent expenditure on low- or moderate-income activities.

HOME PJs and CDBG entitlement grantees have the option to choose one of three accepted methods for calculating household income. States may choose one of the following definitions or their own income definition.

- Part 5 definition of income (24 CFR Part 5.609);
- Census long form definition of income; or
- IRS 1040 definition of income.

CDBG grantees that elect to use the Part 5 definition of income may exclude the value of a homeowner's primary residence from any calculation of net family assets if the homeowner is receiving CDBG rehabilitation assistance.

Other Federal Requirements

There are a number of other Federal requirements that are applicable to homeowner rehabilitation programs. Jurisdictions are encouraged to review the applicable regulations and HUD guidance.

Chapter 5:

Using HOME and CDBG for Comprehensive Neighborhood Revitalization

For some declining neighborhoods, an investment of housing or economic development dollars alone will not be sufficient to make a sustainable improvement to the neighborhood. For these neighborhoods, the only viable option for creating a healthy neighborhood is to address a number of neighborhood challenges in a comprehensive way. This chapter explores how to use CDBG and HOME funds to tackle a broad range of neighborhood revitalization activities, including housing, commercial development, infrastructure, transportation, schools, and law enforcement.

Approaches to Neighborhood Revitalization

In many circumstances, an investment of CDBG or HOME funds can correct a single blighting influence, generate a certain number of affordable housing units, or create infrastructure to serve basic needs of a neighborhood or community. For declining neighborhoods, however, these types of single investments are not usually sufficient to turn the neighborhood around. For instance, a large investment in housing may attract new buyers or tenants initially, but without safe streets, viable schools, or a healthy commercial district nearby to support the residents, the interest in the neighborhood will not be sustained. Declining neighborhoods require comprehensive revitalization strategies that capitalize on the neighborhood's assets and address its challenges.

Successful neighborhood revitalization initiatives start with a sound redevelopment plan. The planning process is used to bring the neighborhood's stakeholders together, with the specific purpose of analyzing the market dynamics in the neighborhood, and identifying its assets and challenges. The planning process results in a vision of the neighborhood in the future that is shared by most stakeholders. Once the vision is clear, it can guide all subsequent decisions about redeveloping the neighborhood's physical infrastructure (housing, commercial buildings, transportation, and other public infrastructure), and its service coordination and delivery. Many neighborhood revitalization activities will be eligible activities under either HOME or CDBG.

Planning Models for Urban Redevelopment

The redevelopment planning process usually results in a document or tool, such as a land use plan, that maps out what types of development (residential, commercial, industrial, open space) are appropriate for the neighborhood, and where that development will occur. In the past decade, new planning models have evolved that can help urban neighborhoods articulate a vision that promotes the best assets of the neighborhood, while controlling or minimizing the negative impacts of growth and development. These planning models define the principles that are incorporated into the design of the neighborhood. These concepts are compatible and share common features, although each emphasizes somewhat different goals.

- **New Urbanism.** New Urbanism is the most commonly known of the recent urban planning concepts. The concept evolved in the 1990s and draws on the positive features of neotraditional planning movement. New Urbanism emphasizes walkability, diversity, and quality of life. Walkable communities are dense, mixed-use neighborhoods that are interconnected by pedestrian walkways. Ideally, residents would be able to walk to most activities of daily living. The neighborhood would also be supported by a range of transportation options. New Urbanism promotes diverse neighborhoods with a mix of activities, and therefore land uses. At a minimum, this would include retail or commercial and residential uses. Residential housing would be designed and priced to serve a range of households and a mix of incomes. Finally, the design would promote quality of life, including quality architecture and urban

design, to promote a sense of place; and design features would encourage neighborly interaction and sociability.

- **Smart Growth.** While New Urbanism focuses on maximizing the positive aspects of a traditional urban neighborhood, the smart growth movement evolved from the need to control the negative impacts of growth. Smart Growth typically refers to public policies that are implemented in order to use resources wisely and efficiently, and to control the negative aspects of growth in a neighborhood. Smart Growth is highly compatible with New Urbanism. It promotes energy efficiency, economic efficiency, and environmental protections and preservations. These principles result in planning and design features that include walkability in the neighborhood, and access to multiple transportation options; neighborhood schools; community reuse and revitalization; and preservation of farmland and open space.
- **Transit-Oriented Development.** Transit-Oriented Development also strives to mitigate the impact of sprawl and develop livable communities within urban cores. Public transit is one of the key ways to increase the walkability of a neighborhood. Increasing the investment in public transportation systems can help lower residential transportation costs. Transit-Oriented Development planning models emphasize concentrating development within a half-mile radius of bus and rail stations that have frequent service. This results in high density, mixed-use land uses, designed for pedestrian and bicycle traffic.

The plan typically addresses how the physical redevelopment of the neighborhood will occur. It addresses the redevelopment of one or more of the following components of the built environment: housing, infrastructure (transportation, water and stormwater, and utilities), commercial district, and/or community facilities. In general, CDBG funds can be used to finance a wide range of these revitalization activities. HOME funds can be used only to fund the affordable housing component of a neighborhood revitalization initiative.

Housing Assistance

Previous chapters provide detail on how HOME and CDBG can be used to support a range of affordable housing activities. When revitalizing a neighborhood,

grantees and PJs need to determine what type of housing activities will best support revitalization goals.

Many revitalization strategies are based on the premise that an investment of public funds in a large-scale housing development activity will spur private investment. This can be an effective strategy because its visual impact is immediate and substantial. Large homeownership developments, in particular, have the added benefit of creating a pool of stakeholders in the neighborhood who will support continued redevelopment. In developed neighborhoods, however, land assembly can be difficult and costly, particularly if there are a number of households or businesses that must be relocated.

Investing public funds in substantial in-fill activity throughout a neighborhood can be a less-expensive, but equally effective strategy in neighborhoods where large parcels of land are not available for assembly, and where significant building infrastructure is occupied, and/or in sound condition. Undertaking an in-fill strategy does not have the same type of immediate, visual impact of a large-scale new construction project, but it can stabilize a community block-by-block. Combining a vacant structure rehabilitation or reconstruction program with a rehabilitation program for existing homeowners on targeted blocks can be an effective in-fill approach to revitalization. When undertaking an in-fill strategy, or for neighborhoods that have limited problems within the neighborhood, CDBG or HOME can be targeted to specific blocks, or even specific properties whose treatment will have a high impact on the overall appearance of the neighborhood.

Rental housing rehabilitation or development may play a role in revitalizing neighborhoods with certain housing markets. In neighborhoods with a high proportion of homeowner housing, and in neighborhoods with extremely high housing costs, rental housing can offer housing opportunities for households of all incomes. In neighborhoods with a high proportion of affordable rental housing, increasing the supply of this type of housing might not be appropriate.

Property Inspections and Code Enforcement

In addition to the development of additional units, grantees and PJs may want to address the condition of existing housing units in the target neighborhood.

CDBG can be used to administer a code enforcement program that involves inspecting properties in the target area for compliance with applicable codes and property standards. Under CDBG, code enforcement is a separate eligible activity, and code enforcement costs are not subject to the CDBG program's 20 percent cap on planning and administrative expenses.

Eligible code enforcement costs under the CDBG Program (24 CFR 570.202(c)) include:

- Salaries and other expenses related to code enforcement activity; and
- Costs of legal proceedings related to code enforcement activity.

General code enforcement activities are not eligible under the HOME Program, although property inspections of HOME-assisted units are eligible costs. Every unit that is assisted with HOME funds must be inspected to ensure that it meets applicable codes and property standards upon completion. Property inspections can be charged either as an eligible planning and administrative cost (and subject to the PJ's 10 percent cap on administrative expenses) or as a project soft cost.

Once a code violation in a unit is identified, HOME funds can be used to bring the unit up to code. CDBG funds cannot be used under code enforcement to correct property code violations (24 CFR 570.202(c)). Note, correcting violations may be eligible under CDBG as rehabilitation. Used together, CDBG and HOME can help fund community efforts to uncover and rectify residential property code violations and restore dilapidated housing as standard, affordable housing.

Infrastructure Development and Improvement

Adequate infrastructure (i.e., public improvements) is crucial to the successful revitalization of blighted and impoverished neighborhoods. Although infrastructure needs are sometimes taken for granted, they lay the foundation for the community's growth and improvement. Redevelopment planning should include an assessment of whether or not infrastructure systems require upgrades. Basic infrastructure components include:

- Transportation system, including streets, highways, and bridges; parking; and sidewalks, to ensure that people and goods are able to get in and around the

neighborhood with ease. The transportation system is critical to the neighborhood's local economy;

- Water, wastewater, and stormwater systems to ensure that the neighborhood has a sufficient supply of clean water, as well as a system for the treatment of wastewater, and stormwater sewers to prevent flooding;
- Electric and other utilities;
- Streetlights to make the neighborhood attractive and safer; and
- Accessibility improvements required under the Americans with Disabilities Act.

Since its creation in 1974, CDBG has been used extensively to address infrastructure development needs in communities throughout the country. CDBG funds can be used by grantees and nonprofits for the acquisition, construction, reconstruction, installation, or repair of public infrastructure. The maintenance of public infrastructure is not an eligible expense.

In general, HOME funds cannot be used to finance the development or maintenance of public infrastructure. However, it is an eligible HOME expense when it is needed to support HOME-assisted housing and the improvements to the project site are in keeping with improvements of surrounding, standard projects. Eligible infrastructure investments might include: connecting housing that is assisted with HOME funds to existing infrastructure (24 CFR 92.206(a)(3)); making utility connections from the property line to the adjacent street, including off-site connections; developing on-site roads, sewer, and water lines necessary to the development of the project; providing essential infrastructure improvements to on-site infrastructure. The project site is the property, owned by the project owner, upon which the project is located.

Economic Development

A vital urban neighborhood typically includes a healthy residential living environment, and a healthy commercial district. Neighborhoods rely on the commercial district to provide needed goods and services to support residents. CDBG grantees can undertake a range of activities to support neighborhood economic development.

CDBG can be used to provide assistance to create economic opportunities that primarily benefit low- and

moderate-income residents. Grantees have a great deal of flexibility in how to use program funds to meet this goal. Economic development activities that are eligible under CDBG (24 CFR 570.203 and 570.201(o)) include:

- Acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs and similar extensions;
- Assisting private, for-profit businesses;
- Providing economic development services in connection with eligible economic development activities;
- Providing financial and/or technical assistance, advice, and business services to owners of microenterprises and persons developing microenterprises; and
- Training and technical assistance, or other support services to increase the capacity of recipients or subrecipients to carry out microenterprise activities.

Community Facilities and Public Services

Community facilities (i.e., public facilities) add to the quality of life for a community's residents. Integrating quality services to meet the needs of residents and businesses can generate opportunities for neighborhood residents to develop ties to other people in the community. These social benefits are often the basis of a “sense of community” that makes a neighborhood an attractive place to live. Community facilities that may be eligible for assistance under the CDBG program include senior and youth centers, child care facilities, parks and recreational facilities, community centers, fire stations, libraries, and health care facilities.

Revitalizing neighborhoods must be supported by a comprehensive strategy to deliver quality public services, and a sustainable quality of life. Community facilities often house important services to community members, which include the following CDBG-eligible public services:

- Employment and job training services;
- Crime prevention and community safety programs;
- Child care;

- Substance abuse treatment and counseling;
- Fair housing counseling;
- Energy conservation;
- Welfare services (other than direct income subsidy payments);
- Recreational services;
- Meals on wheels and other programs to promote nutrition; and
- Assisted living services.

In order to be eligible for CDBG funding, a public service must either be a new service or a quantifiable increase in the level of an existing service that has been provided with funds from the unit of general local government or the state. CDBG cannot be used to replace existing local or State funding for a public service. Grantees are capped on how much they can spend on public services (see Chapter 1). Given the importance of public services to community viability, grantees should evaluate public service activities to see if a particular service might qualify under a different CDBG eligible activity category.

Financing and Requirements for Neighborhood Revitalization

This section highlights the issues, rules, and considerations that arise when managing a neighborhood revitalization initiative. It describes the partners that will help make a revitalization program successful, identifies the financing considerations and opportunities that are present when using HOME and CDBG funds, and reviews the eligible costs applicable to these activities.

Partners

Successfully turning around a declining neighborhood will require more than an investment in the development in the neighborhood—it will require a change in how people perceive the neighborhood. Buyers, renters, new businesses, and customers will not be attracted to the neighborhood if they do not feel safe, if the community school is failing, and if public services are inadequate. Changing the perception of the

neighborhood requires real change in the neighborhood, and widespread publicity about that change. In addition to the housing development partners identified in prior chapters, the following partnerships will be important:

Business leaders. Businesses in the neighborhood, as well as in the surrounding community, will want to support the revitalization effort because its success will bring them new customers. Jurisdictions can call on business leaders to hire neighborhood residents, lend support to promote the commercial district, sponsor community and promotional events, and help attract new businesses to the neighborhood's commercial district.

Community institutions, such as universities and colleges, hospitals, faith-based institutions. These institutions are not able to relocate easily, and often have a real stake in the success of the neighborhood. They can provide outreach to their constituents to promote changes in the neighborhood and market availability of housing and other opportunities generated as part of the revitalization plan.

Community residents, including civic associations, homeowner associations, and tenant associations. Resident participation in the community will be critical to its success. Involving new and existing residents, and creating opportunities for them to get to know one another and work together for the future of the neighborhood, can sometimes make the difference between sustaining revitalization efforts over the long-term, and seeing new redevelopment targeted by graffiti and other crime. Community residents should be involved early in the planning process and should continue to be involved in the actual implementation and evaluation of the revitalization effort.

Other state and local government agencies. Housing agencies will need to reach out to other agencies and work with them to improve the provision of other public services in the neighborhood. Two key areas are law enforcement and school districts, since crime and poor quality schools will deter most new buyers and businesses from investing in the neighborhood.

The media. Real work to redevelop the neighborhood's housing stock, revitalize its commercial district, make its streets safer, and improve the quality of its schools will be for naught if the surrounding community is unaware of the real and positive changes occurring. Involving the media is key to publicizing the successes of the revitalization effort, in order to attract newcomers.

Note, some of the important partnerships in a neighborhood revitalization initiative are not formal ones, driven by program requirements. Nonetheless, these relationships should not be overlooked, as they can greatly enhance the revitalization effort.

Approaches to Financing

Two additional considerations should be made when determining the most strategic approach to using HOME and CDBG in combination to finance neighborhood revitalization. The Section 108 Loan Guarantee program provides CDBG grantees an opportunity to finance large-scale physical development projects over the course of more than one year. The availability of regulatory flexibility in neighborhoods that qualify as Neighborhood Revitalization Strategy Areas generates an opportunity for grantees to attract some households whose income exceeds the median area income to the neighborhood, among other things. Notwithstanding the opportunities presented by these resources, for many communities and projects, the logical financial strategy, when approaching a neighborhood revitalization initiative, will be to invest HOME funds in the affordable housing component of the initiative and CDBG funds in the non-housing component. This section will review the eligible non-housing costs under CDBG.

Section 108 Loan Guarantees. Loan guarantees made through the Section 108 Program allow grantees to use their CDBG funds to undertake large projects that are often the cornerstone of revitalization efforts. Grantees can apply for loans up to five times the community's current CDBG allocation to finance large-scale projects, typically economic development projects. The loans are financed through underwritten public offerings. HUD requires grantees to provide local collateral in addition to CDBG funds to secure the loan. The size of the Section 108 loan sends a

signal to private economic interests that the project in question is worthy of investment, and as such serves as an important leveraging tool. The loan repayment period is up to 20 years.

In addition to (or in conjunction with) economic development, Section 108 loan funds can be used to finance:

- Acquisition of real property;
- Rehabilitation of publicly-owned real property (except for structures that are primarily for the general conduct of government);
- Housing rehabilitation that is CDBG-eligible;
- Construction, reconstruction, or installation of public facilities;
- Related relocation, clearance, and site improvements;
- Payment of interest on the guaranteed loan and issuance costs of public offerings;
- Debt service reserves; and
- Public works and site improvements in Colonias.

It is important for grantees to consider when Section 108 funds, rather than annual CDBG allocations, will be most appropriate to address economic development needs. In general, Section 108 funds are best used for large-scale development projects when other funding sources are not available, and when the project has a reasonably assured return on investment. Examples of large-scale economic development projects can include:

- Neighborhood shopping centers;
- Grocery stores;
- Development of a mixed-use retail and housing complexes;
- Industrial expansion; and
- Infrastructure development and improvement.

Community Development Financial Institutions and Neighborhood Revitalization Strategy Areas/Community Revitalization Strategy Areas.

CDBG allows for regulatory flexibility regarding income targeting in order to allow grantees more expansive use of program funds in order to support neighborhood revitalization strategies. This flexibility is extended to both activities funded through both Community Development Financial Institutions

(CDFIs) and Neighborhood Revitalization Strategy Areas (NRSAs) or Community Revitalization Strategy Areas (CRSAs) for States.

A CDFI is a community lender that is primarily dedicated to the promotion of community development, and that serves a specific investment area or targeted population. As lenders, CDFIs provide development services and equity investments or loans, and they maintain accountability to residents within the specified investment area. CDFIs were created under the Community Development Banking and Financial Institutions Act of 1994, and cannot be public agencies or institutions. Some typical CDFIs are community development banks, community development loan funds, microenterprise loan funds, or venture capital organizations.

A CDBG grantee can create a NRSA for the purpose of developing specific neighborhood revitalization strategies to target program resources if the area meets the demographic criteria to be so identified. Regulations authorizing the development of NRSAs and CRSAs were published by HUD on January 5, 1995, and require grantees to submit NRSAs or CRSAs as either part of an original Consolidated Plan submission or as an amendment to a previously approved Consolidated Plan (see 24 CFR 91.505).

The regulatory flexibility that has been extended to activities funded through either a CDFI^{xi} or an NRSA/CRSA include:

- **Area Benefit.** Any job creation or job retention activities undertaken pursuant to an NRSA or CRSA strategy may meet the low- and moderate-income area benefit national objective requirements at 24 CFR 570.208(a)(1). This flexibility frees employers receiving CDBG assistance from tracking the income of employees or of those interviewed for a position. This administrative relief can facilitate the involvement of businesses in the job growth/job retention program.
- **Housing.** Housing activities for which CDBG funds are obligated during a program year may be considered a single structure for the purpose of applying the low- and moderate-income housing benefit criteria at 24 CFR 570.208(a)(3). If a grantee elects to use this option, it must document that at least 51 percent of all housing units are occupied by low- and moderate-income households.

- **Economic Development.** Economic development activities may be exempt from aggregate public benefit standards at 24 CFR 570.209(b), increasing flexibility for program design. However, such projects are still subject to the individual/project public benefit standards under the same section of the CDBG rule.
- **Public Services Cap.** CDBG grantees are required to limit the expenditure of program funds on public services to 15 percent of their annual allocations, plus the prior year's program income; however, activities funded pursuant to a HUD-approved NRSA/CRSA and carried out by a Community Based Development Organization (CBDO) within the NRSA or CRSA neighborhood are exempt from this cap. This exemption allows grantees to provide higher levels of public services to dilapidated low- and moderate-income neighborhoods, including job training and job creation.

The regulatory flexibility extended to CFDI and NRSA/CRSA activities reflects HUD's goal of assisting communities in their efforts to involve a wide range of community partners in addressing community revitalization needs and issues across the country. Working in partnership with a local CFDI or targeting assistance to a NRSA/CRSA can provide a grantee greater flexibility to address neighborhood housing and public service needs.

Eligible Costs

Since HOME funds can be used only for affordable housing, CDBG is an ideal source for paying the non-housing components of a neighborhood revitalization initiative.^{xiii} Provided the activity meets a national objective, CDBG funds can be used for activities that support the broad range of community development and neighborhood revitalization activities that have been explored in this chapter, including:

- Acquisition of real property by the grantee or a nonprofit;
- Property disposition through sale, lease, or donation of any real property acquired with program funds;
- Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, with the exception of buildings used for the general conduct of government, as specified at 24 CFR 570.207(a);

- Clearance, demolition, and removal of buildings and improvements, including the movement of a structure to another site;
- Provision of public services (not to exceed the 15 percent cap);
- Interim assistance to arrest the further physical deterioration of an area where further, permanent improvements will be made as soon as possible (e.g., sidewalk repair, refurbishment of public parks, special trash and debris removal services);
- Necessary costs to complete existing Federal Urban Renewal projects;
- Temporary and permanent relocation assistance to families, businesses, individuals, nonprofits, and farm operations, as required under 24 CFR 570.606(b) or(c), or determined by the grantee to be appropriate under 24 CFR 570.606(d);
- Payments to cover the loss of rental income suffered by housing owners whose property is held for temporary periods for households displaced and relocated as a result of program activities;
- Acquisition, construction, reconstruction, rehabilitation, or installation of distribution lines and facilities of a privately-owned utility;
- Special economic development;
- Microenterprise assistance;
- Provision of technical assistance to public or nonprofit entities to build the capacity of such entities to carry out neighborhood revitalization and economic development activities, so long as the activities proposed by such entities are eligible under the CDBG rule and can reasonably be expected to meet one of the national objectives; and
- Provision of assistance to institutions of higher learning if and when the grantee has determined that the institution in question has the capacity to carry out one or more eligible CDBG activities. (Note, public services carried out by institutions of higher education are subject to the public service cap.)

A description of all eligible administrative costs under both the HOME (24 CFR 92.207) and CDBG (24 CFR 570.206) programs is available in Chapter 1.

Chapter 6:

Making Strategic Investment Decisions

This chapter provides jurisdictions with an overview of the factors they should consider when combining HOME and CDBG funding in a project or program. As outlined in Chapter 1 of this guidebook, there are strategic options for investing HOME and CDBG funds. Part 1 of this chapter assists jurisdictions in making these strategic choices for programs and projects. Part 2 of this chapter highlights key implementation issues for effectively using these funds, such as forming partnerships, application procedures, and measuring performance.

Part 1: Making Strategic Investments

As demonstrated in the previous chapters, there are a wide range of activities that can be undertaken with HOME and CDBG funds. Yet, many jurisdictions are not as strategic as they can be about how they invest these important and limited resources.

Some jurisdictions may use CDBG and HOME to fund all of their housing activities without discriminating based upon the best use of the money. So, for example, a jurisdiction may administer one homeowner rehabilitation program that is co-funded by CDBG and HOME. When an application is received, it may be funded by a combination of both sources or by one or the other depending upon which has the most funds available. While this approach can certainly be eligible, it may not be the most effective use of the resources.

There are two levels to thinking about using HOME and CDBG effectively—by program or by project. In some instances it makes sense to allocate CDBG and HOME resources by program. For example, HOME might solely be used for homebuyer assistance and CDBG might be used for homeowner rehabilitation. In other instances, it makes sense to evaluate project by project and determine how and where to use the funds.

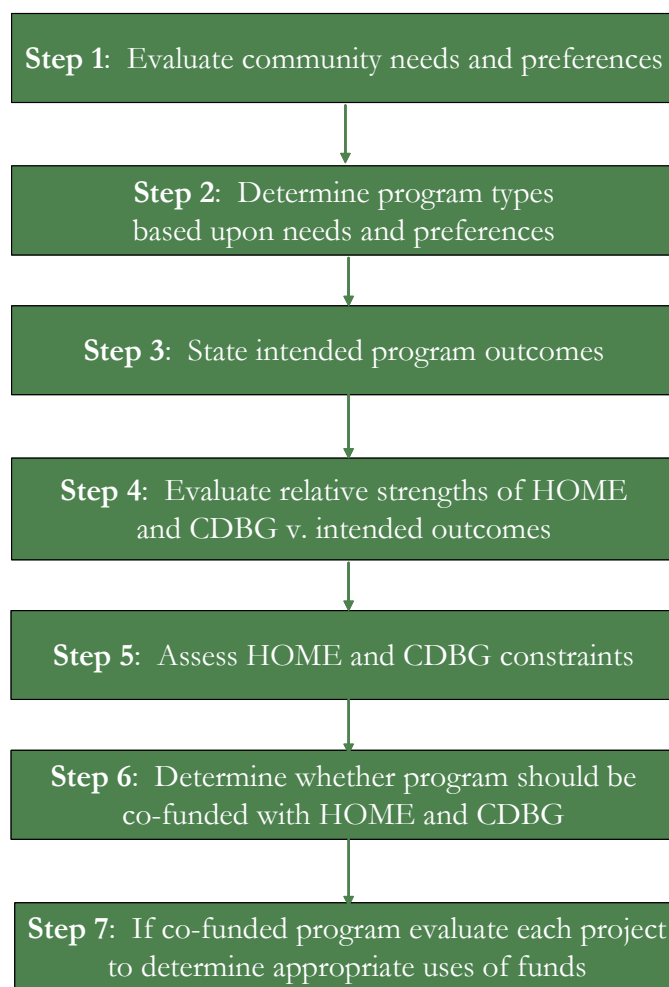
For example, a jurisdiction might evaluate a particular rental project and determine that HOME should be used to pay for the construction and CDBG for the land acquisition.

Jurisdictions typically set out their plans and priorities for investing HOME and CDBG dollars in their Consolidated Plans and Annual Action Plans. These plans involve collecting data, making program decisions, writing a document, and then sharing the written plan with the public for comment. Only after this process has been completed and HUD has approved the plans, can jurisdictions draw down HOME or CDBG funds for eligible programs and projects. Further, jurisdictions cannot fund programs or activities that are not outlined in the Consolidated Plan and Action Plan without amending the Action Plan.

So, in order to write an effective and useful Consolidated Plan and Annual Action Plan, and in order to make strategic use of HOME and CDBG funds, jurisdictions need to undertake an in-depth and timely analysis of their community development needs and desired program types.

Exhibit 6-1 highlights the key steps in making strategic HOME and CDBG investments for projects and programs. The text then tracks this chart and lays out a series of topics that are designed to assist jurisdictions to make effective HOME and CDBG funding decisions.

Exhibit 6-1: HOME and CDBG Decision-making Process



Communities can apply these steps in their decision-making process:

Step 1: Evaluate community needs and preferences

The first step in determining how and when to use CDBG and HOME funds is to evaluate the affordable housing and community development needs of the community. Often this analysis is conducted as a part of developing the five-year Consolidated Plan. It is important to conduct a thorough analysis of housing needs and preferences before making decisions about CDBG and HOME funding because it enables jurisdictions to invest these funds in programs and locations that will address critical community issues.

The types of information to be collected might include, but are not necessarily limited to:

- **Housing demand.** This enables the jurisdiction to determine the types of programs that residents want and need.
- **Housing supply.** This information covers the number and type of housing units currently available in the community. Usually jurisdictions break down the description of supply into its subsets, including owner units and types of rental units (multifamily, elderly, special needs, homeless facilities, etc.) In addition, this data often includes information about the vacancy rate for various types of units.

- **Housing cost.** Information on housing cost describes how much families must pay for housing in the jurisdiction. It is often expressed as both a net number (rents or sale prices) and as a percentage of income.
- **Housing quality.** This information enables the jurisdiction to determine the number and type of substandard units in its community. Often, the jurisdiction maps this information so that it can visualize where dilapidated housing is a major issue.
- **Specific neighborhood issues.** The jurisdiction's needs assessment should also include a consideration of the particular needs and concerns of specific neighborhoods. For example, the jurisdiction might have one particular neighborhood where there is an over concentration of low- and moderate-income households and where it wants to introduce mixed-income projects.
- **Income levels.** This information enables the community to understand its overall poverty level and the distribution of that income. In some jurisdictions, there are a large number of very low-income people and some very wealthy people with few in the middle. In these jurisdictions, deeper subsidies might be needed to help the very low-income families. In other jurisdictions, most of the population is clustered around the median income. These jurisdictions might decide to offer more shallow subsidies to more families.
- **Local economic issues.** Jurisdictions often collect data on economic issues such as employment rates, job creation, business start-ups or tax revenues as a way of measuring the economic health of their community. This information may affect decisions about CDBG and HOME because it might help to indicate what portion of these funds should be used toward neighborhood revitalization or job creation activities (CDBG).

Once the community's needs have been identified, the stakeholders of the neighborhood can engage in a process to begin to articulate a vision and preferences for the neighborhood. Key stakeholders that should be included in this planning process include residents, business leaders and owners, institutions located in the neighborhood, and nonprofit organizations that are based or provide services in the neighborhood. Formal public meetings or hearings, opportunity to comment on plans and proposed projects, and partnerships that

actively involve stakeholders throughout the planning process are all useful methods for generating public input. The ultimate goal is to generate sufficient information and understanding of need and community desires to guide decisions about appropriate development and housing activities.

Step 2: Determine program types based upon needs and preferences

After determining the needs of the community, the jurisdiction then needs to decide which types of programs it will fund. In some communities, the types of community development programs are driven by the available funding. In other words, since HOME offers four eligible activities, the jurisdiction does four housing activities. If the jurisdiction wins lead paint abatement money or homeless program funds, it does those types of programs.

While this approach is certainly understandable, it is not generally strategic. Instead, it is recommended that the jurisdiction determine its community development needs and preferences (per the previous steps in the analysis) and then design programs that address the community's needs. Although both CDBG and HOME have substantial compliance requirements, each also offers significant flexibility in the ways that they can be used.

A wide range of programs can be possible tools in addressing the jurisdiction's community development needs. Options might include any combination of the following programs:

- **Rental housing.** These programs are designed to build, acquire, and rehabilitate rental housing units.
- **TBRA.** These programs assist individual families to pay their rent, security and/or utility deposit.
- **Homebuyer.** These programs are designed to help individual families to purchase homes.
- **Homeowner rehabilitation.** These programs assist existing homeowners to renovate their homes.
- **Neighborhood revitalization.** These programs focus on revitalizing a specific geographic area. They are often multi-faceted including housing, commercial development, and social service programs.

- **Economic development.** These programs are generally designed to address either employment or commercial revitalization issues.
- **Public services.** These programs offer services to low- and moderate-income people that are designed to improve health, education, job readiness, safety or other important issues.
- **Public facilities.** These are infrastructure programs that are designed to address concerns like water lines, sewer lines, streets, or community centers.

Step 3: State intended program outcomes

As a part of determining which types of programs should be offered, jurisdictions need to consider the intended outcomes of those programs. For example, two jurisdictions could each run a rental housing rehabilitation program but each might have very different intended outcomes. Jurisdiction A might be primarily concerned with the cost of standard, affordable housing and thus, its goal is to create long-term affordable rental units. Jurisdiction B might be more concerned with the blighted appearance of multifamily housing in a particular neighborhood and so its goal is to improve housing quality overall.

Both of these are perfectly acceptable outcomes of a rental rehabilitation program but each might be designed very differently. In Jurisdiction A, the community might design a program that focused on creating the maximum number of affordable rental units throughout the community. In Jurisdiction B, the community might design a program that targets rehabilitation funds to particular neighborhoods and addresses the most dilapidated units first.

It is therefore important to consider not only the type of desired program but also the jurisdiction's intended outcomes for that program. In its Consolidated Plan or program design documents, the jurisdiction should set out what it intends each program to accomplish. In addition to providing citizens with information about program purposes, this will assist the jurisdiction to make strategic investment decisions.

There are numerous outcomes that can come from community development programs, such as:

- Sustained affordability for low-income families;
- Housing development to create a supply of new units;

- Reduction of dilapidated units;
- Serving maximum number of low- and moderate-income people;
- Offering deep subsidies to address the needs of very low-income families;
- Physical improvement of neighborhoods;
- Job creation or retention; or
- Sustainability or health of community-based nonprofits.

Step 4: Evaluate the strengths of HOME and CDBG v. intended outcomes

Once the program types and outcomes are determined, the jurisdiction can then evaluate which funding resources are most appropriate. For jurisdictions that are both CDBG entitlements and HOME PJs, this can be a matter of comparing each of the funding sources to the intended program outcomes determined in the step above.

For states, in many cases, CDBG is managed by a different state agency than HOME. CDBG is generally managed by state departments of community development or commerce. HOME is sometimes managed by state housing finance agencies. In these instances, the two state departments should collaborate and determine how the resources can best be used given needs and priorities across the state.

For the jurisdiction that is a CDBG grantee but not a HOME PJ, or who is member of a HOME consortium but who does not receive CDBG, the jurisdiction needs to evaluate its available resources and determine whether it will apply to the state for funds that it does not currently receive on its own. For example, a small entitlement community might determine that it has needs for both an economic development program and a homebuyer program. It might elect to use its local CDBG funds for economic development and apply to its state for HOME funds for housing assistance.

In evaluating whether to use HOME or CDBG to fund chosen programs, jurisdictions should evaluate the intended outcomes of those programs and determine whether this is a strength of CDBG or HOME or both. Some general strengths of CDBG and HOME include:

- **HOME can provide deep subsidies for very low-income families.** Because HOME rental

assistance is particularly targeted at people who are at 60 percent of median and below, it can be a good resource for addressing their needs. The maximum HOME funding limits (set by the 221(d)(3) program) are generally high for most jurisdictions and usually allow for deep subsidies if that is what is required in order to house very low-income persons. CDBG can also be used to provide deep subsidies to help very low-income people but often has so many competing demands on the dollars that it is not usually used in this fashion.

- **HOME creates long-term affordability.** HOME requires long-term affordability restrictions that can help to keep housing available to low-income persons for an extended period of time. In communities where the housing market is tight and where the supply of affordable housing is limited, this can be a real benefit. Jurisdictions can elect to place long-term affordability restrictions on their CDBG dollars but this is not usually done.
- **HOME can be used to address the needs of individual renter families.** HOME can be used to create a very flexible TBRA program. A TBRA program can be tailored to meet the individual needs of families and can address particular issues such as utility deposits, security deposits, or special needs populations.
- **HOME fosters the health of nonprofit housing providers.** Because of its CHDO set-aside requirement, HOME has become a major resource in strengthening nonprofit organizations. CHDOs and other nonprofit developers can earn a developer fee as a part of their projects. In addition, HOME provides resources such as technical assistance and CHDO operating subsidies that further assist these organizations. Lastly, CHDO proceeds can be a major resource in funding the sustainability of nonprofits. CDBG also allows jurisdictions to fund nonprofits but it does not have a regulatory requirement to do so and it does not have some of the HOME tools to advance nonprofit capacity, such as CHDO technical assistance.
- **CDBG can be effective in addressing blight.** Because CDBG allows a limited portion of its funds to be used to address dilapidated areas or structures without regard to family income, CDBG can be a

strong tool in urban renewal-style activities. While HOME can certainly be used to address the needs of substandard properties, this assistance must be tied to housing for low-income people. Thus, CDBG is a good tool for rehabilitating or clearing dilapidated properties.

- **CDBG can provide shallow subsidies for many people.** Unlike HOME, CDBG does not have a requirement for a minimum level of investment or a particular property standard. Thus, it can be a very good tool for specialized rehabilitation programs or programs where only minor rehabilitation is needed. In addition, because CDBG does not have these standards, it can be spread more broadly than HOME often can—by spending less and helping more people.
- **CDBG can help create jobs.** CDBG contains several eligible activities that are explicitly designed to help communities create jobs and economic opportunities for low- and moderate-income persons. These activities include assistance to for-profit businesses and assistance to microenterprises. It can also be used for job training and business counseling. HOME cannot be used for economic development activities.
- **CDBG can be used for a wide range of social services and community facilities.** Unlike HOME, CDBG has eligibility categories related to providing social services, such as health care, day care, substance abuse services, education, or safety services. CDBG can be used to assist the rehabilitation and development of these facilities, as well as the services themselves. These services can be combined with housing programs to offer a more complete package of assistance to low-income persons and communities. HOME can be used for some housing-related services if these services are tied to the provision of an affordable housing unit.
- **CDBG can address comprehensive neighborhood needs.** Under the CDBG Program, grantees can adopt a comprehensive revitalization strategy area (state programs) or a neighborhood revitalization strategy area (entitlements). Under these initiatives, the grantee gets regulatory flexibility by agreeing to invest in specific low- and moderate-income neighborhoods. This can help to foster the redevelopment of these neighborhoods.

Step 5: Assess CDBG and HOME constraints

After evaluating the CDBG and HOME program strengths, it is important to look at their regulatory and statutory constraints. In some instances, the type of activity that a jurisdiction wishes to undertake may be ineligible under one or the other program. In other instances, the activity is eligible but it has certain requirements that make it infeasible or not cost effective for the jurisdiction to operate.

Some of the regulatory constraints to consider when evaluating the use of HOME and CDBG funds include:

- **Number and types of available partners.** HOME requires that 15 percent of its funds be used to support development activities undertaken by CHDOs. In some communities, there is a lack of qualified, experienced CHDOs or there are only CHDOs with specific types of expertise. So, in deciding how to fund programs, the jurisdiction may elect to fund programs where there are available CHDOs with HOME funds and then use CDBG funds for other activities. For example, assume that Jurisdiction XYZ has only two strong CHDOs and both are experts in homeownership. The jurisdiction might elect to use its HOME funds for homeownership because it needs to spend 15 percent of its money through these CHDOs. The jurisdiction might then elect to use the balance of its HOME funds and some of its CDBG funds for rental or homeowner rehabilitation programs.
- **Eligible activities.** As discussed in the activity chapters, both HOME and CDBG have constraints about the types of programs that can be funded. HOME can only be used for affordable housing. CDBG can be used for housing but it can also be used for other activities such as economic development, public services, or infrastructure. So, if a community determines that it needs both a business assistance program and a rental housing development program, it might elect to fund the business program through CDBG and the rental housing program through HOME.
- **Approaches to development.** It is also important to consider the ways that CDBG and HOME can be used to develop housing. As noted in previous chapters, HOME can be used for new construction, rehabilitation, and acquisition of housing for low-

income families. CDBG cannot be used for new construction, except in very limited circumstances. So, if a jurisdiction determines that it needs new homebuyer units but that it only needs to rehabilitate its existing rental units, it might elect to spend HOME for new homeownership programs and CDBG for rental rehabilitation.

- **Low-income targeting.** HOME requires that all households occupying HOME units be low-income. However, it allows for targeting of units within multifamily rental projects so that only a small portion of the units may be HOME-funded. CDBG allows for a different type of flexibility in low-income targeting. Some projects might qualify under the slum/blight national objective and thus there is no low-income targeting. However, if the jurisdiction wishes to use the low- and moderate-income benefit national objective, then every household in a single structure and one of the two households in a duplex must be low- or moderate-income. In all other structures (three or more units) at least 51 percent of the units must be occupied by low- or moderate-income households, with one exception for projects that assist new construction of non-elderly rental units. CDBG does not allow for unit-by-unit targeting of multifamily properties. When CDBG is invested and the low- and moderate-income national objective is used, 51 percent of the households must be low- or moderate-income. So, if a jurisdiction is doing multifamily housing and it wants to focus on mixed-income developments where only a small portion of units are assisted, HOME may be the better resource. CDBG funds could then be used for other activities.
- **Ongoing compliance.** Both HOME and CDBG require that jurisdictions keep records documenting eligible activities. However, as noted above for HOME, the jurisdiction must continue to document eligibility during the affordability period. For rental properties, this means documenting tenant incomes, rents, and unit quality over time. CDBG does not have any ongoing requirement for documenting compliance. So, jurisdictions need to evaluate their staffing resources and capacity to ensure ongoing compliance. If the jurisdiction does not have sufficient resources to oversee these long-term tasks, it may wish to use CDBG to develop rental properties and use HOME for activities such as homeowner rehabilitation (which has no

affordability period) or homebuyer assistance (which typically has shorter affordability periods and no ongoing inspections).

- **Administrative burden.** As noted in previous chapters, HOME and CDBG generally handle project-related delivery costs differently. Under CDBG, grantees may charge the agency's direct costs of delivering an eligible activity to that activity itself. Under HOME, the agency's direct delivery costs can only be charged to projects when those costs can be applied to specific projects and activities, and the jurisdiction maintains documentation to demonstrate that they are direct costs. Further, HOME general administration is limited to 10 percent whereas CDBG allows 20 percent. So, if a jurisdiction does not have systems that readily allow it to track staff time and expenses to specific projects, it may want to consider doing more time-intensive projects with CDBG funds. For example, for many programs, homeowner rehabilitation requires a significant amount of staff time. Agency staff market the program, analyze homeowner applications, review work item specifications, and may be involved in inspections. If the homeowner program is of a large volume, this can require extensive staff time. If the jurisdiction's cost and time tracking systems do not track to each of these properties, it may wish to use CDBG funds to pay for the homeowner rehabilitation. CDBG could pay for the program delivery costs directly (not under its administrative cap). HOME could then be used for other types of housing programs where the direct project costs are less. Alternatively, the direct costs of the rehabilitation program could be funded with HOME funds, and certain project delivery costs could be paid with CDBG as a HOME-related housing service.
- **Match.** The HOME Program requires that PJs provide match in an amount equal to no less than 25 percent of the total HOME funds drawn down for project costs. Match is a permanent contribution to affordable housing. CDBG has no such match requirement. When jurisdictions are evaluating their funding options, they need to consider the match obligations that they will be incurring and determine whether projects in this type of program are likely to generate match. For example, homeowner rehabilitation programs do not usually generate a great deal of match unless the

owner has invested funds in the rehabilitation. So, jurisdictions need to carefully consider how they invest their HOME funds in order to ensure that sufficient match credits are earned.

- **Timeliness.** Both CDBG and HOME have requirements related to timeliness. Under HOME, the PJ must commit funds within two years and spend funds within five years. Under the entitlement CDBG program, the grantee must have no more than 1.5 times its annual allocation in its line of credit 60 days before the end of its program year. Jurisdictions should consider how to use CDBG and HOME so that these timeliness criteria are met. Over time, jurisdictions should periodically check their status on timeliness and change program design in order to address these issues, as needed. For example, assume that a jurisdiction is successfully committing its HOME funds within two years but it is nearing the end of its program year and it has 1.9 times its grant sitting in its CDBG line of credit. The jurisdiction might then decide to fund the next several rental activities with CDBG, assuming that the Consolidated Plan and Annual Action Plan allowed for these types of investments.

Sometimes the funding source constraints are not regulatory but rather are financial. Some jurisdictions are CDBG entitlements but not HOME PJs. In this instance, the grantee will need to decide whether or not it is cost effective for them to spend resources to apply to the state for HOME funding, especially if HOME funds are in high demand. Other jurisdictions may be both HOME and CDBG recipients but the amount that they receive under one program or other will help to dictate how those funds are most effectively spent.

Step 6: Determine whether program should be co-funded with HOME and CDBG

Once the jurisdiction has evaluated its needs and goals and the relative strengths and constraints of HOME and CDBG, it is time to determine which community development program should be funded with which funding source. In some cases, the jurisdiction will determine that an entire program should be funded by just one source. For example, the jurisdiction might fund all homeowner rehabilitation with CDBG.

In other cases, the jurisdiction will determine that both funding sources can play an effective role in addressing

various elements of a particular program type. For example, a jurisdiction might decide that both CDBG and HOME have a role to play in developing rental housing or providing homeownership assistance.

In determining whether programs should be co-funded by CDBG and HOME, the jurisdiction should evaluate whether each funding source—given its constraints—has an important role to play in that type of program. If HOME or CDBG have a clear advantage in funding a particular type of program, then that should help to dictate the source of program funds. If neither funding source has a clear advantage, the jurisdiction might elect to co-fund the program with both CDBG and HOME and then make specific funding decisions based on individual project circumstances.

Step 7: If co-funded program, evaluate each project to determine appropriate uses of funds

If the jurisdiction has elected to fund some or all of its community development programs with both CDBG and HOME, it will need to make project-by-project decisions on investments. As each project is proposed, the jurisdiction should analyze that project using the following questions:

- **What is eligible under each program?** This question will help the jurisdiction to determine which components of the project to cover with HOME and which to cover with CDBG.
- **What total and type of resources are available?** This will assist the jurisdiction to determine the relative amounts that can be invested from each funding source.
- **What are the opportunity costs of funding with each resource?** “Opportunity cost” is a term borrowed from economics that means the other opportunities that cannot be undertaken because finite resources will be invested in this particular effort. Jurisdictions should ask themselves this question in order to make sure that today’s project will not interfere with tomorrow’s initiative. For example, if a jurisdiction invests all of its CDBG funds in a rental housing project, it will not have funds for the economic development project it also wishes to undertake.
- **Are there regulatory benefits of combining programs in this project?** This question will assist the grantee to determine whether there is any

benefit to combining the funding sources in this project. For example, HOME cannot be used for off-site infrastructure and CDBG cannot generally be used for new construction. But they can be used together to develop a new housing subdivision.

- **What are the regulatory detriments of combining programs in this project?** This question helps the jurisdiction to determine whether there are any negative impacts on the project because HOME and CDBG are combined. For example, if a jurisdiction wants to do mixed-income, rental rehabilitation, it needs to consider that unless it can qualify the property under the slum/blight national objective, using CDBG for the financing means that 51 percent of the occupants must be low- or moderate-income.
- **What is the impact on project feasibility?** Sometimes projects need different types of financing in order to be viable. However, because some financing comes with certain strings attached, it can have an effect on project feasibility. For example, if HOME is invested in all units in a project, those units would need to rent for the HOME rents. These lower rents might mean less income to the project and, in turn, this might mean that the project is not financially feasible.
- **What is the impact on project administration?** As noted above, HOME requires long-term affordability restrictions. This means that the jurisdiction must monitor the project over this period. So, jurisdictions should evaluate whether they are prepared and able to monitor the project given its size and complexity. For example, the PJ may not have the resources to monitor a 300-unit affordable housing project.
- **Does the project meet the tests for subsidy layering?** Lastly, the jurisdiction needs to determine whether the investment of HOME is needed given project finances. Although CDBG does not have a subsidy layering requirement, it is prudent to undertake a similar analysis.

Part 2: Effective Program Implementation

Once jurisdictions have decided to use HOME and/or CDBG funds to finance a project or program, there are some implementation variables to consider, including:

- Administering programs;
- Choosing projects and partners;
- Setting up adequate financial systems;
- Developing efficient reporting and record keeping systems; and
- Reviewing performance and compliance.

Administering Programs

Determining whether staff are available to help plan and implement projects is critical to ensuring that programs are effective and reach their intended goals. Neither the HOME Program nor CDBG dictate the approach that jurisdictions must use to implement their programs. Instead, jurisdictions must make choices about who will administer and implement their HOME and CDBG programs. Programs may be administered by:

- Jurisdiction staff;
- Subrecipients;
- Contractors;
- Community Housing Development Organizations (CHDOs), under the HOME Program. Note, when administering a program, a CHDO is acting as a subrecipient and this not a set-aside activity; and/or
- Community Based Development Organizations (CBDOs), under the CDBG Program. Note, a CBDO is not a subrecipient by definition, but may be designated as a subrecipient by the grantee.

Some jurisdictions administer their programs with few staff and a large number of subrecipients while others use jurisdiction staff primarily, and few subrecipient organizations. Factors which tend to affect the degree to which jurisdiction staff are relied upon more heavily for project functions include:

- Size of the community/jurisdiction and of the grant amounts;

- Types of projects undertaken;
- Local politics;
- Capacity of in-house staff; and
- Capacity and availability of subrecipient organizations.

Determining the appropriate staffing for HOME and CDBG programs may require:

- Conducting a skills inventory of staff members;
- Developing a list of required skills;
- Assessing where gaps exist between current staff skills and required skills; and
- Undertaking the appropriate training, capacity building, and staff expansion necessary to administer the projects.

Based on the jurisdiction's analysis of staffing capacities and upon project needs, the jurisdiction must determine whether and/or to what extent it will work with subrecipients, contractors, CHDOs, or CBDOs.

Choosing Projects and Partners

There are a variety of approaches that jurisdictions may use to select HOME and CDBG projects and partners. Note, however, that **contractors** must be selected in accordance with the procurement requirements of 24 CFR Part 85 (or 24 CFR Part 84 for subrecipients).

There are four basic models upon which the project or partner selection process can be based; however, different variations of these approaches may be necessary or appropriate to meet community needs. These models are discussed below.

Formal Application Process. The formal application process requires the submission of a formal application or proposal, and is typically undertaken once a year in conjunction with the jurisdiction's planning and budgeting process. Under the formal application process, applications are evaluated based on explicit selection criteria. This process works best in communities with:

- Numerous or complex activities;
- Numerous potential applicants with varying degrees of experience;
- Limited funding and increasing competition; or

- Politics or other community issues requiring standardized, consistent treatment of all requests for funding.

Limited Application Process. The limited application process is similar to the formal application process, but the application is not as detailed and jurisdictions provide more follow-up and hands-on involvement in the process.

- Jurisdictions may review the applications and narrow the number of applications under consideration before requesting additional detailed information from the applicants.
- This approach may be useful for jurisdictions interested in encouraging the participation of potential applicants who may not be familiar with the project or the application process, or when the jurisdiction's program is not complex.

Solicitation of Applications from Qualified Organizations. Jurisdictions may identify potential qualified applicants through an informal process or

through a general request for qualifications (RFQ). From the identified group, jurisdictions identify organizations to carry out specific activities and approach the organization about their interest in doing so.

“Open Door” or Unsolicited Application Process.

The “open door” process encourages or allows consideration of requests from applicants at any time during the year, and may or may not include an actual application. If jurisdictions decide to use the “open door” approach as its only means of accepting applications, they must ensure that all applications are treated consistently and that the same types of information are received and reviewed by jurisdictions.

Table 6-1 summarizes the major advantages and disadvantages of the four methods for choosing partners for HOME and CDBG projects.

Table 6-1: Choosing HOME and CDBG Projects

Type of Process	Advantages	Disadvantages
Formal Process <i>(Such as a Notice of Funds Availability or a Request for Proposals)</i>	<ul style="list-style-type: none"> ✓ Requires applicants to provide all the information needed regarding the organization’s capacity and experience ✓ Helps to ensure consistency throughout the evaluation process 	<ul style="list-style-type: none"> × Tends to favor more experienced applicants × Requires substantial jurisdiction staff time to ensure consistency throughout the process × Limits new applicants to one chance per year
Limited Application Process <i>(Such as an Assisted Request for Proposals)</i>	<ul style="list-style-type: none"> ✓ Process is more open ✓ May attract new applicants and new ideas to the project 	<ul style="list-style-type: none"> × Shifts the responsibility for determining capacity and experience to the jurisdiction × May require more jurisdiction staff time × May not ensure the consistency and fairness that is more evident in the formal process
Solicitation of Applications <i>(Such as a Request for Qualifications)</i>	<ul style="list-style-type: none"> ✓ Proactive and more focused on qualified organizations ✓ May result in less jurisdiction staff time to administer 	<ul style="list-style-type: none"> × Much more “closed door” × Can result in criticism of the jurisdiction selection process × Lesser known, but possibly equally capable organizations may be overlooked
“Open Door” Process	<ul style="list-style-type: none"> ✓ May allow opportunities for jurisdictions to more quickly respond to community needs 	<ul style="list-style-type: none"> × Process is unplanned × May require crucial staff time and effort to respond because applications may come in at any time × May allow the commitment of funds to projects before qualified applications are received × Tends to result in budget changes and project amendments throughout the year

Setting Up Adequate Financial Systems

As jurisdictions begin to think about designing financial systems for their HOME and CDBG programs, there are some key principles of financial management that should be considered. These key principles of financial management are:

- Protecting funds, property and other assets against loss or misuse;
- Recording receipt and use of funds to be able to account for where all funds came from and how all funds were used;
- Recording assets and liabilities to be able to account for what is owned and what is owed;
- Retaining source documentation to support receipt and use of funds;
- Ensuring that fund expenditures are consistent with the budget, as it may have been amended, and are not in violation of any of the restrictions or prohibitions that apply to the Federal assistance;
- Managing cash effectively to avoid unnecessary borrowing costs and to take proper advantage of opportunities to earn interest;
- Ensuring that costs are reasonable and properly allocated;
- Reporting complete and current financial results to permit an accurate assessment of financial results; and
- Using audits to strengthen financial management systems.

In order to comply with these requirements, seven elements must be present in a jurisdiction's or subrecipient's financial management system:

1. Accurate, current, and complete disclosure of the financial results of each Federally-sponsored program, including sources and application of funds.
2. Comparisons of outlays with budgeted amounts for each award.
3. Sound internal controls over purchases, cash disbursements, and cash receipts, including segregation of duties and proper authorization and approvals of transactions.
4. Periodic internal and external audits or evaluations.
5. Record retention policies.
6. Documentation of accounting policies, particularly those pertaining to cost charging, timesheet preparation, and procurement.
7. An accounting system that meets the following requirements:
 - Segregation of unallowable costs from allowable costs;
 - Segregation of direct from indirect costs;
 - Proper assignment and allocation of costs to functional classifications;
 - Matching of income and applicable credits with associated expenditures;
 - Timely reconciliation of accounts and subsidiary ledgers;
 - Time-charging systems that allocate labor costs among program activities and comply with OMB Circular A-87 or A-122, as applicable;
 - Consistency in accounting treatment over time and from one function or award to another;
 - Timely and accurate financial reporting; and
 - Maintenance of proper supporting documentation for all transactions, estimates, and calculations.

Developing Efficient Reporting and Record Keeping Systems

As a general rule, jurisdictions must establish and maintain sufficient records to document that program requirements are met. Both the HOME and CDBG programs have specific requirements regarding records retention—five years for HOME and CDBG, or longer for the HOME affordability period or if there are any unresolved audit findings—but jurisdictions should establish their own requirements for records that should be submitted and retained by their partners. These requirements should enable the jurisdiction to meet HUD requirements and maintain complete information about funded projects.

In addition, record keeping is crucial to the successful management of HOME- and CDBG-funded activities. Insufficient documentation is likely to lead to monitoring findings, and these findings will be more difficult to resolve if records are missing, inadequate, or inaccurate.

To assess the strengths and weaknesses in record keeping systems, jurisdictions should think about the following:

- Is there a clearly defined process for acquiring, organizing, storing, retrieving, and reporting information about HOME- and CDBG-funded activities?
- How can the documentation and reporting systems be strengthened to meet HUD requirements?
- Who is responsible for the majority of record keeping and reporting tasks, and are they properly trained and supported?
- How can standardized procedures and the removal of duplicative records streamline the record keeping and reporting process?
- What types of records and reports could be automated (i.e., computerized) that are not now?

For the HOME Program, the following records must be maintained:

- PJ designation;
- Program records;

- Project records;
- CHDO records;
- Financial records;
- Program administration records; and
- Documentation records (i.e., documenting compliance with Federal requirements such as equal opportunity and fair housing, and conflict of interest).

For CDBG, the following records must be maintained:

- General administrative records;
- Financial records;
- Project/activity records;
- National Objective records;
- Income documentation records; and
- Subrecipient records.

Jurisdictions must provide citizens and other interested parties with reasonable access to records. Access must be consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

HUD and the Comptroller General of the United States, or any of their representatives, have the right to access any records of jurisdictions and subrecipients for auditing, excerpt, or transcript purposes.

Reviewing Program Performance and Compliance

Performance measurement is an organized process for gathering information to determine how well programs and projects are meeting needs, and then using that information to improve performance and better target resources.

It is important for jurisdictions to periodically review their programs to ensure production and accountability, and to ensure compliance with HOME, CDBG, and other Federal requirements. In addition, reviewing program performance is not a one-time event; jurisdictions should conduct a thorough review of their programs at least annually to make sure the programs remain an effective source of services for low-income households.

There are several reasons jurisdictions should consider using performance measurement as a tool to better manage their programs. These reasons include:

- Much of the data needed to improve performance is already being collected by staff members or through computerized systems such as IDIS.
- The jurisdiction's capacity to utilize program funds more effectively will make it possible to stretch HOME and CDBG dollars to assist more low-income households.
- Having good information and being able to demonstrate success allows jurisdictions to promote and defend their programs to elected officials and the public in general.
- Reviewing program performance can allow for better informed long-range planning, and it may generate data that will simplify preparation of the Consolidated Plan and annual reports.
- Reviewing program performance helps jurisdictions detect and address errors or problems, which can otherwise be both costly and frustrating.

One way that jurisdictions can demonstrate program effectiveness is to establish a system to formally monitor their programs and track progress. There are two ways to conduct a program monitoring review—desk review and on-site review.

Desk Reviews. Desk reviews are a key component of basic monitoring activities. They involve examining information and materials provided to jurisdictions by funding recipients, as a means to track performance and identify potential problem areas.

Staff performing desk reviews should examine progress reports, compliance reports and financial information, to adequately assess performance and look for indicators of performance or compliance problems. If questions or concerns arise from the review, staff should gather additional information through telephone calls or additional documents and other written materials.

On-Site Reviews. There are three steps that comprise the basic framework of conducting an on-site program monitoring review. Jurisdictions should use these steps as guidance when undertaking on-site reviews, including reviews of subrecipients.

- **Step 1: Prepare for the Monitoring Visit.** Before the monitoring visit, jurisdictions should make sure staff is adequately trained for this task. Staff should be thoroughly familiar with the applicable program rules and the established monitoring protocol. In addition, staff should review the following types of in-house data prior to the visit:
 - Application for funding;
 - Written agreement;
 - Progress reports;
 - Draw-down requests;
 - IDIS reports;
 - Correspondence;
 - Previous monitoring reviews; and
 - Copies of audits.
- **Step 2: Conduct the Monitoring Visit.** There are four basic elements to conducting an on-site monitoring visit:
 - *Notification*—jurisdictions should call funding recipients to explain the purpose of the visit and to agree upon dates for the visit. A formal notification letter should follow at least several weeks before the planned visit.
 - *Entrance conference*—jurisdictions should hold an entrance conference at the beginning of the site visit with the top official of the organization to make sure everyone has a clear understanding of the purpose, scope, and schedule for the visit.
 - *Documentation, data gathering and analysis*—jurisdictions should keep a clear record of information reviewed and conversations held with staff during the visit.
 - *Exit conference*—jurisdictions should meet again with the top official of the organization at the end of the visit to present any preliminary results and to secure any additional information to clarify or support the programs that were reviewed.
- **Step 3: Follow-Up.** At the end of the process, jurisdictions should provide the funding recipient with formal written notification of the results of the monitoring review. This letter should both point out problem areas and recognize successes.

Corrective Actions. Jurisdictions are responsible for taking appropriate actions when performance problems arise. Written agreements should be the primary mechanism for enforcement in situations of noncompliance.

There are three increasingly serious stages of intervention. A jurisdiction's response to monitoring findings will depend upon the seriousness of the performance problem.

- **Stage 1: Low-level Intervention.** At this stage, jurisdictions should clearly identify problem areas and required corrective actions; plan a strategy with the funding recipient that includes any training or technical assistance that may help address identified problems; require more frequent or more thorough reporting; or conduct more frequent monitoring reviews.
- **Stage 2: Moderate-level Intervention.** Jurisdictions may need to take increasingly tougher steps such as restrict payment requests; disallow certain expenses or require repayment of funding provided for certain expenses; or impose probationary status.
- **Stage 3: High-level Intervention.** Jurisdictions must take the most serious actions to put an end to performance problems. Suggested steps during this stage include: temporarily suspend the organization from participation in either the HOME or CDBG program; do not renew the organization or activity for the next program year; terminate the organization or activity from the current program year; or initiate legal action.

Incorporating Training and Technical Assistance.

As stated earlier, reviewing program performance should not be a one-time event. To be an effective tool for avoiding problems and improving performance, monitoring should be an ongoing process of planning, implementation and follow-up.

In order to avoid future problems with funding recipients, training and technical assistance should be an ongoing feature of jurisdiction programs. There are three basic approaches, that taken together, focus on enhancing performance and reducing common problems among funding recipients.


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- Orientation sessions, typically held at the beginning of a funding cycle, provide a forum for discussing basic requirements and procedures, and to discuss expectations about performance.
 - Training, typically aimed at larger audiences, focuses on specific issues and provides sufficient technical detail necessary for funding recipients to understand and implement program requirements. Training should be held throughout the year, and should enhance performance and long-term capacity of funding recipients.

Technical assistance, typically provided in a one-on-one or small group setting on-site, is designed to correct a specific weakness or to improve the quality or performance of a specific program already underway.



Endnotes

- ⁱ The insular areas include American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands.
- ⁱⁱ The national model codes used by the HOME Program are the Uniform Building Code (issued by CABO), National Building Code (issued by BOCA), and the Standard (Southern) Building Code (issued by SBCCI). Since the promulgation of the HOME Program regulations, these code-issuing agencies have merged to form the International Code Council (ICC). The model codes used for the HOME Program are no longer being updated; in their stead, the ICC has adopted the International Building Code. HUD will consider whether changes to the HOME regulations incorporating the International Building Code are appropriate.
- ⁱⁱⁱ Generally, conversion of an existing residential structure to affordable housing is rehabilitation under the HOME Program. Conversion projects are treated as new construction only when adding one or more units beyond the existing walls. See 24 CFR 92.205(a)(3).
- ^{iv} The national model codes used by the HOME Program are the Uniform Building Code (issued by CABO), National Building Code (issued by BOCA), and the Standard (Southern) Building Code (issued by SBCCI). Since the promulgation of the HOME Program regulations, these code-issuing agencies have merged to form the International Code Council (ICC). The model codes used for the HOME Program are no longer being updated; in their stead, the ICC has adopted the International Building Code. HUD will consider whether changes to the HOME regulations incorporating the International Building Code are appropriate.
- ^v For a detailed discussion of this issue, see The HOME Program's *HOMEfires*, Volume 5, Number 2. June, 2003. Available online at <http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol5no2.cfm>
- ^{vi} For more information, see *HOMEfires*, Volume 1, Number 1. June 1, 1997. Available on-line at <http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol1no1.cfm>.
- ^{vii} The national model codes used by the HOME Program are the Uniform Building Code (issued by CABO), National Building Code (issued by BOCA), and the Standard (Southern) Building Code (issued by SBCCI). Since the promulgation of the HOME Program regulations, these code-issuing agencies have merged to form the International Code Council (ICC). The model codes used for the HOME Program are no longer being updated; in their stead, the ICC has adopted the International Building Code. HUD will consider whether changes to the HOME regulations incorporating the International Building Code are appropriate.
- ^{viii} The requirements for income eligibility are found at 24 CFR 92.2 (definitions of “low-income families” and “very low-income families” and 24 CFR 92.203 for eligibility criteria for HOME, and 24 CFR 570.3 (definitions of “income,” “low- and moderate-income household,” “low-and moderate-income person,” “low-income household,” “low-income person,” “moderate-income household,” and “moderate-income person”) and 24 CFR 570.200 for general policies on eligibility for CDBG, respectively.
- ^{ix} For projects that include HOME-assisted and non-assisted units, the rehabilitation costs of the non-assisted units are not included in this calculation.
- ^x Note, the State CDBG regulations do not contain any guidance on the use of lump sum drawdowns. The Housing and Community Development Act requires that lump sum drawdowns follow the requirements prescribed by HUD. The only requirements issued by HUD are in the Entitlement regulations. Therefore, states must follow the entitlement regulations regarding lump sum drawdowns.
- ^{xi} Applicable to CFDI's with charters that define the investment area as being primarily residential with at least 51 percent low- and moderate-income residents. Activities carried out by CFDI's receive special regulatory consideration regardless of whether the CFDI is actually receiving funds through the CFDI Fund. For more information, see <http://www.cdfifund.gov/>.



^{xiii} HOME can be used for the housing portion of mixed-use projects, and for the low-income units of a mixed-income housing development. When funding the eligible portion of a development, PJs and their housing partners are required to track the actual costs of the affordable housing units in a mixed-use project. In a mixed-income project, the costs of the affordable units can be pro-rated as portion of the total development costs, when the units are comparable in terms of size and amenities.

