CITY OF RICHMOND

Notice of Funding Availability

&

1. Request for Proposals
2. Request for Qualifications

Community Development Block Grant (CDBG) Funds

HOME Investment Partnership Funds (HOME)

Previous Years Unused Funds
• The Previous Years Unspent NOFA will be placed on Bids- On-Line.

• The best way of ensuring that you receive all information and access all materials is by registering in Bids On Line under 99820.

• Please note that Bids On Line is a one stop for all information: Bid Information + Addenda + Prospective Bidders + Bids Results + Awards

• PLEASE familiarize yourself with the system. ALL MATERIALS WILL BE ACCESSIBLE THROUGH BIDS-ON-LINE. The Actual application is available and must be completed on City Data Services website at: www.citydataservices.net

• If along the process the City Staff Contract Administrator needs to revise or add new forms, she will do so through Bids-On-Line.
The City of Richmond is pleased to announce the availability of the Request for Proposals (RFP) for eligible projects to be funded with Community Development Block Grant (CDBG) and HOME. These fund sources are available to organizations providing assistance to low and moderate income households residing within Richmond that meet one or more of the City’s Consolidated Plan priorities relating to affordable housing, homelessness, basic human needs services, and public facilities.

**FUNDING SUMMARY**

The following amounts are based on unused funds from prior year grant awards. The amounts in the table below will be adjusted once the City receives its final funding approval from HUD.

<table>
<thead>
<tr>
<th>FUND SOURCE/PROGRAM</th>
<th>FUNDING PERIOD</th>
<th>ESTIMATED FUNDS</th>
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<tbody>
<tr>
<td>CDBG – Estimated Total</td>
<td>July 1, 2015 to June 30, 2016. One year</td>
<td>$410,000</td>
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<tr>
<td>HOME – Estimated Total</td>
<td></td>
<td>$2,700,000</td>
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CITY OF RICHMOND
NOTICE OF FUNDING AVAILABILITY (NOFA) AND REQUEST FOR QUALIFICATIONS (RFQ)
Previous Years Unused Funds

The City of Richmond seeks qualified firms with experience in CDBG and HOME administration, with the capacity to provide a broad range of professional services.

TIMELINE
The primary objective of this RFQ is to establish a list of qualified consultants to enter into one or more services contracts beginning July 1, 2015 thru June 30, 2016. This list of qualified consultants will be used as needed in the period mentioned above.

PURPOSE
The primary objective of this RFQ is to establish a list of qualified consultants/firms to enter into one or more services contracts with the City of Richmond.

DESIRED AREAS OF EXPERTISE

a. DRGR/IDIS Trouble shooting.
b. Program Monitoring.
c. Development of policy and procedures.
d. Project management: HOME and CDBG Public Facilities
e. Monitoring Site Visits: HOME/NSP
f. Monitoring Site Visits: CDBG
g. Five Year Consolidated Plan preparation

SUBMITTAL REQUIREMENTS & SELECTION PROCESS

1. Submittal Requirements/RFQ
To be considered for the Consultant list, firms and or individuals must provide the following information:

1. Identify the lead consultant and all members of the consultant team. Provide names, addresses, telephone numbers, fax numbers, and email addresses (as applicable) of all team members. The consultant team description should also include an organizational chart clearly indicating managerial relationships among team members, as applicable.
2. Describe the consultant’s relevant qualifications and experience including brief descriptions of projects, their completion dates, location, and role of consultant.
3. A description of consultant’s ability to submit documents electronically in MS Word, Excel or Adobe Acrobat (PDF) format. Text and graphics should be hot-linked for easy navigation.
4. Provide names, addresses, emails and telephone numbers of a minimum of two (2) client references for whom your firm has performed related development consulting services. HCD may contact these references.
5. Compensation schedule, including hourly billing rates/ compensation and any per diem, reproduction, overhead and/or contract administration expense rates.
7. A disclosure of any potential conflicts of interest.
8. Copies of relevant HUD certifications, i.e.: HOME certification.

Evaluation Criteria and RFQ
- Firm qualifications & relevant experience
- Qualifications & Experience of Consulting Team and Assigned Staff
- Compensation schedule

Submittal Deadline: RFQ and RFP
All Applications must be submitted online via City Data Services at www.citydataservices.net Complete applications must be submitted on City Data Services no later than 5:00 p.m. PST, May 15, 2015. Submittals that are not received on or before the specified deadline will not be accepted. Any applications submitted outside of City Data Services Website will not be accepted.

Contact Information
Any questions regarding this RFQ/P should be directed to Housing and Community Development, 440 Civic Center Plaza, Richmond, CA 94804:

<table>
<thead>
<tr>
<th>Name:</th>
<th>Debra Vaca</th>
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</thead>
<tbody>
<tr>
<td>Phone:</td>
<td>510-307-8141</td>
</tr>
<tr>
<td>Fax:</td>
<td>510-307-8149</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:Debra_Vaca@ci.richmond.ca.us">Debra_Vaca@ci.richmond.ca.us</a></td>
</tr>
</tbody>
</table>

City and Agency Non-Liability
The RFQ and the selection process shall in no way be deemed to create a binding contract, agreement or offer of any kind between the City and HCD and the consultant. The HCD reserves the right to reject any and all submittals, in whole or in part as well as the right to issue similar RFQ/P’s in the future. In no way is the HCD responsible for the cost of preparing the submittal. Subject to California law relating to access to public records, the City and HCD may be required to publicly disclose all submitted information and materials to third parties requesting such information.

CONTRACTING REQUIREMENTS
Local Business and Local Resident Hire Requirements
Consulting firms submitting a proposal are required to comply with the City of Richmond’s Business Opportunity and Local Employment Requirements as set forth in Richmond Business Opportunity Ordinance Number 53-06 and the Local Employment Ordinance Number 52-06, which can be viewed on http://www.ci.richmond.ca.us/documentcenter/view/3889. After award of contract, consultant is required to obtain a City of Richmond Business License http://www.ci.richmond.ca.us/index.aspx?nid=185. The selected consultant(s) will be required to execute a
First Source Agreement with the HCD. Any entity contracting with the HCD is required to pay its employees a living wage. Please contact Housing & Community Development staff for further information regarding the above requirements.

The selection panel, at its sole discretion, may disqualify any proposal that does not satisfy the RFQ/P requirements.

**Insurance Requirements**

Consulting firms and individuals must comply with City of Richmond Insurance Requirements, which can be located on the City’s webpage at: [http://www.ci.richmond.ca.us/documentcenter/view/26768](http://www.ci.richmond.ca.us/documentcenter/view/26768)
RFP AND RFQ APPLICATION
DEADLINE:
Friday, May 15, 2015 at 5:00 p.m.

NO EXCEPTIONS
APPLICATION SUBMISSION PROCESS- NEW APPLICANTS

Application location: Applications can be found through City Data Services at:

www.citydataservices.net

Enter the following:

Login: RIC2015  Password: RIC2015

You will be prompted to the following screen:

- Complete Application as instructed

QUESTIONS

Please contact Debra Vaca at 510-307-8141 or Debra_Vaca@ci.richmond.ca.us with any questions related to the online application or CDBG or HOME funds.
Important Dates of Key Steps

Public Meetings, Public Hearings, and Mandatory Meetings

1. NOFA Release: Wednesday, April 15, 2015

2. NOFA Responses Due: Friday, May 15, 2015, 5:00 p.m. PST


4. Action Plan with Funding Recommendations to HUD: June 2015

5. Funding Recommendations presented to City Council: July 2015

6. Preparation of Service Contracts: July 2015
II. Homelessness Priorities

The City of Richmond requests proposals of services for homeless individuals and families.

Homelessness Priority Needs

Current Homeless Target: 3,200 homeless individuals in Richmond.

Homeless persons and families have housing and services needs. The immediate housing need is for shelter. The medium and long term housing needs are for transitional housing and permanent supportive housing. At the root of homelessness is a lack of affordable housing. The affordable housing strategies address this need.

Priority need services for the homeless are those that are in highest need and lowest availability. The priority needed services include:

- Job training, education, mental health services, support services, living skills, daily hygiene options, respite, job retention and supportive employment.
- Routine and preventative health care, access to existing services, and utilization of entitlement programs (Medi-Cal, SSI, SDI, veteran’s benefits).

The homeless also need services and supports after discharge from an institution. Please refer to the Contra Costa County Homeless Continuum of Care at [http://cchealth.org/homeless/](http://cchealth.org/homeless/) for specific data points.

The City invites proposals for:

Coordinated Services provided where the homeless are sheltered and or housed. These include creation of new shelter, housing and support services.

Direct Services provided directly to homeless persons.
III. Human Services

Human Services Priority Needs

High priority service needs are all those provided to Homeless individuals including but not limited to healthcare, information and referral (to existing services), mental health services, food programs, ombudsman services, transportation, and legal aid services including eviction defense.

A second high priority is the provision of health services and care for disabled seniors and children.

Moderate priority needs are for fair housing, substance abuse treatment, employment, crisis intervention, case management and emergency shelter (non-homeless). Please note: Priority needs services for the homeless are discussed in the homeless section above.

Funding Commitment
15% of the annual CDBG entitlement will be dedicated to homelessness activities and basic human needs.

IV. Non-Housing Community Development

Public Facility Priority Needs
Priority need public facilities are those that serve youth, meet recreation and social needs, provide childcare and afterschool programs, are specific to a neighborhood (small scale), and that serve as a source of information on available services. Public facility needs represent both physical improvements and structures that meet the needs of the identified populations, and programming and services available at those facilities.

Infrastructure Priority Needs
There is a general low to moderate priority need for improvements to infrastructure. Identified needs were improvement of parks and recreation facilities in low income areas and accessibility improvements to streets and sidewalks. The need for improved parks and recreation can be met under the public facilities strategies.

V. FIVE YEAR CONSOLIDATED PLAN

Summary Of Priority Needs, Objectives And Strategies

The Consolidated Plan sets forth the priority needs, objectives and strategies for the five-year planning period. Priority needs have been determined as the result of the needs assessment process. The Community Needs section of the Consolidated Plan provides a detailed discussion of needs.

The Strategic Plan section establishes the priority of needs, objectives and strategies. The objectives are intended to meet the identified priority needs. The strategies are programs
or polices intended to implement the objectives. Each strategy is identified with one or more objectives that it advances. A priority need is one that has a demonstrated level of need and will have a preference for funding. A higher level of priority can be established as the result of a high absolute level of need or a high level of need in relation to resources available to meet that need.

A detailed discussion of the priority needs, objectives and strategies are included in the Strategic Plan section.

**HOUSING STRATEGY**

**Affordable Housing**

**Objectives**

AH-1: Provide Down Payment.

AH-2: Increase Rental Assistance.

AH-3: Maintain and preserve the existing affordable housing stock.

**Homeless Prevention**

**Objectives**

H1: Tenant/ Landlord Counseling.

H2: Homeless Prevention.

H3: Increase Housing Services.
NON-HOUSING COMMUNITY DEVELOPMENT STRATEGY

Public Services

Objectives

CD-1: Increase Economic Opportunity.

CD-2: Job Training.

CD-3: Improve Financial Literacy.

CD-4: Improve Public Services.


CD-6: Increase Youth Opportunities.

CD-7: Improve Infrastructure and Accessibility.

Administration

Objective

PA 1: Improved Program Administration.

PA 2: Increased Public Awareness.
VI. EVALUATION OF APPLICANTS

Proposal Evaluation Criteria: Proposals will be screened and ranked by a selection committee whose composition shall be determined by the City. The selection committee will review the proposals for the most qualified firm and rank each proposal based on the points system below.

Any proposal that is deemed incomplete because appendices and other required documents has been excluded, will not be reviewed. The Criteria below will be used to review COMPLETED applications only.

The scoring points for each of these six items are listed in parentheses based on a total of 100 points:

(1) Organizational Capacity (30 Points) - Specialized experience and technical competence of the firm(s), (including principal firms, joint venture-partners, and sub-consultants) considering the types of service required; the complexity of the project; record of performance; and the strength of the key personnel who will be dedicated to the project

(2) Financial Management (15 Points) - Describe prior experience in the field of managing and implementing similar projects, addressing specific experience with target populations or communities.

(3) Local Priorities and Partnerships (25 Points) - Knowledge and understanding of the local environment and a local presence for interfacing with the City and meeting City requirements.

(4) Feasibility and Impact (30 Points) - Proposed strategy and program activities to be implemented to achieve the goals of the Scope of Services in a timely and competent manner. Proposed Strategy and program activities to be implemented to achieve the goals of the Scope of Services in a timely and competent manner.
SUMMARY OF QUALIFYING CRITERIA FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

CDBG PROGRAM OVERVIEW

Funded under the Housing and Community Development Act (HCDA) of 1974 and as amended by the 1987 Act, and Administered by U.S. Department of Housing and Urban Development (HUD), Community Development Block Grants (CDBG) are available to Urban Counties Entitlement Cities (Population of 55,000 or more) or Small Cities (administered by the State of California – Housing and Community Development (HCD)). Richmond is an entitlement city and receives an annual allocation of funds directly from HUD.

There are three national objectives for the use of these funds.

1. **Benefit to low and moderate income residents.**
   a. Area benefit activities.
   b. Limited clientele activities.
   c. Housing activities.
   d. Job creation/retention activities.

2. **Elimination of Slum and Blight.**
   a. Area basis.
   b. Activity needed to complete urban renewal project.
   c. Spot basis.

3. **Urgent need.**
   Generally associated with disaster conditions (acts of God).

QUALIFYING CRITERIA

In order to qualify for CDBG funding, all eligible activities must principally benefit low and moderate-income persons residing within the incorporated limits of Richmond. An activity will be considered to principally benefit low and moderate-income persons if it meets one of the following standards:

1. The activity has an income eligibility requirement that limits the benefits exclusively to low and moderate income persons.

2. The activity is designed to serve an area where at least 51 percent of the residents are of low and moderate income.

3. The activity involves a facility that is designed for use by senior citizens, youth, persons with disabilities, and other special needs populations. Presumed benefit populations include abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census’ Current Population Reports definition of “severely disabled,” homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers).
4. The activity has income eligibility restrictions to require that at least 70 percent of the users or beneficiaries are of low and moderate income.

5. The activity is directed to the removal of architectural barriers, which restrict the mobility, and accessibility of persons with disabilities.

6. The activity is designed to create or retain permanent jobs for low and moderate-income persons.

7. The activity is designed to eliminate slum and blight.

8. A minimum of 70% of total expenditures must benefit low and moderate-income households residing within the incorporated limits of the City of Richmond during the City’s certification period. Richmond’s certification period is 3 years in duration. The City meets this minimum by requiring that activities which are undertaken by non-profit organizations provide exclusive benefit (100%) to low and very low income households, or the funding may be used to pay only for that portion/proportion of the program or service which provides direct benefit to low income households.

ELIGIBLE ACTIVITIES

§570.201 BASIC ELIGIBLE ACTIVITIES: CDBG

SOURCE: ecfr.gov 11.18.13

CDBG funds may be used for the following activities:

(a) Acquisition. Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of §570.207.

(b) Disposition. Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in §570.504.

(c) Public facilities and improvements. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in §570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in §570.207(a)(1).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in §570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in §570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in §570.200(b).

(d) Clearance and remediation activities. Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites and remediation of known or suspected environmental contamination.

§570.201 BASIC ELIGIBLE ACTIVITIES: CDBG

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(d) Clearance and remediation activities. Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites and remediation of known or suspected environmental contamination.
Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD. Remediation may include project-specific environmental assessment costs not otherwise eligible under §570.205.

(e) Public services. Provision of public services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under §570.207(b)(4)), homebuyer downpayment assistance, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e) (1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in §570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

(i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus

(ii) A portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

(f) Interim assistance.

(1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:
(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) Payment of non-Federal share. Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) Urban renewal completion. Payment of the cost of completing an urban renewal project funded under title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in §570.801.

(i) Relocation. Relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where the assistance is (1) required under the provisions of §§570.606(b) or (c); or (2) determined by the grantee to be appropriate under the provisions of §570.606(d).

(j) Loss of rental income. Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) Housing services. Housing services, as provided in section 105(a)(21) of the Act (42 U.S.C. 5305(a)(21)).

(l) Privately owned utilities. CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) Construction of housing. CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

(n) Homeownership assistance. CDBG funds may be used to provide direct homeownership assistance to low- or moderate-income households in accordance with section 105(a) of the Act.

(o) ----

(1) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:

(i) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;

(ii) Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and

(iii) Providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of microenterprises and persons developing microenterprises.
(2) Services provided this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.

(3) For purposes of this paragraph (o), “persons developing microenterprises” means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

(4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

(p) Technical assistance. Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under §570.205.

(q) Assistance to institutions of higher education. Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.


§570.202 Eligible rehabilitation and preservation activities.

(a) Types of buildings and improvements eligible for rehabilitation assistance. CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes; improvements to a single-family residential property which is also used as a place of business, which are required in order to operate the business, 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;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvement to the exterior of the building, abatement of asbestos hazards, lead-based paint hazard evaluation and reduction, and the correction of code violations;

(4) Nonprofit-owned nonresidential buildings and improvements not eligible under §570.201(c); and

(5) Manufactured housing when such housing constitutes part of the community’s permanent housing stock.

(b) Types of assistance. CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures,
installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures and improvements, abatement of asbestos hazards (and other contaminants) in buildings and improvements that may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to §570.605.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and

(11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

(c) Code enforcement. Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

d) Historic preservation. CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) Renovation of closed buildings. CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.
(f) Lead-based paint activities. Lead-based paint activities pursuant to §570.608.


§570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart that may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at §570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing. Activities eligible under this section may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in §570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

[53 FR 34439, Sept. 6, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 71 FR 30035, May 24, 2006]

§570.204 Special activities by Community-Based Development Organizations (CBDOs).

(a) Eligible activities. The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

(1) Neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population;

(2) Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii); activities under this paragraph may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination;
(3) Energy conservation project includes activities that address energy conservation, principally for the benefit of the residents of the recipient’s jurisdiction; and

(4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) Ineligible activities. Notwithstanding that CBDOs may carry out activities that are not otherwise eligible under this subpart, this section does not authorize:

(1) Carrying out an activity described as ineligible in §570.207(a);

(2) Carrying out public services that do not meet the requirements of §570.201(e), except that:

(i) Services carried out under this section that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in §570.201(e)(1) or (2), as applicable;

(3) Providing assistance to activities that would otherwise be eligible under §570.203 that do not meet the requirements of §570.209; or

(4) Carrying out an activity that would otherwise be eligible under §570.205 or §570.206, but that would result in the recipient’s exceeding the spending limitation in §570.200(g).

(c) Eligible CBDOs. (1) A CBDO qualifying under this section is an organization which has the following characteristics:

(i) Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

(ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

(iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

(iv) Maintains at least 51 percent of its governing body’s membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

(v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv) of this section); and

(vi) Except as otherwise authorized in paragraph (c)(1)(v) of this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and
(vii) Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

(viii) Is free to contract for goods and services from vendors of its own choosing.

(2) A CBDO that does not meet the criteria in paragraph (c)(1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:

(i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; or

(ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

(iii) Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

(3) A CBDO that does not qualify under paragraph (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization’s charter and by-laws, that the organization is sufficiently similar in purpose, function, and scope to those entities qualifying under paragraph (c)(1) or (2) of this section.

[60 FR 1944, Jan. 5, 1995, as amended at 71 FR 30035, May 24, 2006]

§570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

(1) Comprehensive plans;

(2) Community development plans;

(3) Functional plans, in areas such as:

(i) Housing, including the development of a consolidated plan;

(ii) Land use and urban environmental design;

(iii) Economic development;

(iv) Open space and recreation;

(v) Energy use and conservation;

(vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;

(vii) Transportation;

(viii) Utilities; and
(ix) Historic preservation.

(4) Other plans and studies such as:

(i) Small area and neighborhood plans;

(ii) Capital improvements programs;

(iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§570.201-570.204);

(iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies; and general environmental assessment- and remediation-oriented planning related to properties with known or suspected environmental contamination. However, costs necessary to comply with 24 CFR part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under §§570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of §570.200(g);

(v) Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;

(vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and

(vii) Analysis of impediments to fair housing choice.

(viii) Developing an inventory of properties with known or suspected environmental contamination.

(5) [Reserved]

(6) Policy—planning—management—capacity building activities which will enable the recipient to:

(1) Determine its needs;

(2) Set long-term goals and short-term objectives, including those related to urban environmental design;

(3) Devise programs and activities to meet these goals and objectives;

(4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and

(5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

§570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides
guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

1. **Buildings or portions thereof, used for the general conduct of government** as defined at §570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under §570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in §570.208.

2. **General government expenses.** Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

3. **Political activities.** CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of §570.203 or as otherwise specifically noted herein or when carried out by an entity under the provisions of §570.204.

1. **Purchase of equipment.** The purchase of equipment with CDBG funds is generally ineligible.

   i. **Construction equipment.** The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-21, A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under §570.201(c).

   ii. **Fire protection equipment.** Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under §570.201(c).

   iii. **Furnishings and personal property.** The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circular A-21, A-87 or A-122, as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or when such items constitute all or part of a public service pursuant to §570.201(e).

2. **Operating and maintenance expenses.** The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible under §570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

   i. Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and
(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) New housing construction. For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in §570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under §570.201(m) or (n);

(iii) When carried out by an entity pursuant to §570.204(a);

(4) Income payments. The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, “income payments” means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 56912, Nov. 9, 1995; 65 FR 70215, Nov. 21, 2000]
ELIGIBLE INCOME LIMITS FOR BENEFICIARIES

2015 CONTRA COSTA COUNTY INCOME LIMITS. SOURCE:
http://www.huduser.org/portal/datasets/il/il2013/2013summary.odn

<table>
<thead>
<tr>
<th>Household Size</th>
<th>30% Extremely Low</th>
<th>50% Very Low</th>
<th>80% Low</th>
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<tbody>
<tr>
<td>1</td>
<td>$19,550</td>
<td>$32,550</td>
<td>$50,150</td>
</tr>
<tr>
<td>2</td>
<td>$22,300</td>
<td>$37,200</td>
<td>$57,300</td>
</tr>
<tr>
<td>3</td>
<td>$25,100</td>
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</tr>
<tr>
<td>8</td>
<td>$40,890</td>
<td>$61,350</td>
<td>$94,550</td>
</tr>
</tbody>
</table>

STANDARD DOCUMENTATION TO VERIFY INCOME ELIGIBILITY

CDBG activities have income eligibility requirements limiting benefit exclusively to low and moderate income households. Agencies must have an application and verification process to document eligibility based on household income for beneficiaries of limited clientele activities. If you serve low-income households and do not verify income as a condition of receiving service, you may not count these households toward meeting your quantitative performance goals under the terms of a CDBG grant with the City. City policy does not accept self-certification for eligibility and will monitor for income and residency information to establish compliance with these requirements. The following information is provided for your use in anticipating program design and administration:

1. Most recently filed Federal Form 1040 (previous two years if applicant is self-employed).
2. Copies of AFDC award letters.
3. Copies of Social Security and/or SSI award letters.
4. Most recent payroll check stub; three stubs for any separate months of the previous six months; if applicant income for previous year's Form 1040 is above 80% of median but income on current pay stubs is significantly lower and applicant would qualify this year.
5. Most recent W-2.

NOTE: The preferred documentation for employed clients is tax returns. For those clients on fixed incomes (SS, SSI, and AFDC) #2 and #3 are preferred if tax returns are not filed with the IRS.

1 Housing providers should consider the impact of HOME and Section 8 in the same project when calculating the subsidy gap to make a rental project affordable. The City prefers that Section 8 Project or tenant-based assistance not be used in HOME designated units. Due to the long waiting list for Section 8, the city is promoting very low income rental assistance to households who have no housing subsidies and are at risk of homelessness.

DATA COLLECTION REQUIRED FOR RACE/ETHNICITY

Under OMB 1997 standards, “Hispanic” is not a race category, but an ethnic category that cuts across all races. Those who are White, Black, Asian, Pacific Islander, American Indian, or a multi-race may also be counted as being of Hispanic ethnicity.

When asking the individual/household to select a race category, the individual/household must
also check whether they are of Hispanic ethnicity. One of the 10 race categories must always be selected. A check mark cannot be entered under the Hispanic Column without the corresponding Race Category being checked.

Please note the sample data collection table below:

<table>
<thead>
<tr>
<th>RACE CATEGORIES</th>
<th>ETHNICITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td>Check Only One Race Category</td>
</tr>
<tr>
<td>1 American Indian or Alaska Native</td>
<td></td>
</tr>
<tr>
<td>2 Asian</td>
<td></td>
</tr>
<tr>
<td>3 Black or African American</td>
<td></td>
</tr>
<tr>
<td>4 Native Hawaiian or Other Pacific Islander</td>
<td></td>
</tr>
<tr>
<td>5 White</td>
<td>X</td>
</tr>
<tr>
<td>6 American Indian or Alaska Native and White</td>
<td></td>
</tr>
<tr>
<td>7 Asian and White</td>
<td></td>
</tr>
<tr>
<td>8 Black or African American and White</td>
<td></td>
</tr>
<tr>
<td>9 American Indian or Alaska Native and Black or African American</td>
<td></td>
</tr>
<tr>
<td>10 Balance/Other</td>
<td>X</td>
</tr>
</tbody>
</table>

The selections above assume that a person who is white is also from Hispanic descent on line 5. On line 10, the assumption is that the person is Hispanic but does not indicate another race, therefore the race is assumed to be Balance/Other. Balance/Other may include Canadian, Middle Eastern, African, or any other mixture of races. If you use Balance/Other, please identify at least one race by footnote.

ELIGIBLE TARGET AREAS FOR ASSISTANCE

2
PUBLIC SERVICE PROJECTS

Public Service projects are activities that provide a direct service to low and moderate income residents. These activities are distinguished from other eligible activities by the requirement for lower and moderate-income beneficiaries to make application for the service, and be determined income eligible through an income verification process. Community Development Block Grant Regulations limit the amount of funds the City can use to support Public Service activities to no more than 15% of its annual CDBG allocation (which may be increased by adding the anticipated program income to the cap and then multiplying by 15%) to fund public service activities.

Public service projects must be new or a quantifiable increase in the level of a service above that which has been provided by or on behalf of the City during the twelve months prior to submission of the City’s Annual Action Plan. This requirement is intended to prevent the substitution of CDBG funds for support of public services by the City using local or state government funds. Carryover of funds allocated to public service activities is prohibited after May 30, 2016 and will be reprogrammed to other activities.

ACQUISITION AND REHABILITATION OF REAL PROPERTY

Funding granted for acquisition or rehabilitation of “real property” is generally made as long term deferred or low interest loans and should not represent 100% of acquisition costs. The City seeks to recapture all or part of funding granted for real property acquisition in order to recycle funds to other affordable housing projects for the City of Richmond residents. The subsidy you receive may be secured as secondary financing on the real property. Typical loan terms range from 0 to 3% interest over terms up to 30 years, or 0% interest until a senior mortgage is paid, then fully amortized.

Applications for acquisition of "real property" and new construction must include a proforma indicating the project's feasibility. A proposal for repayment of the funds is also required. The proforma should not indicate feasibility of a project being totally dependent upon CDBG funds, but should show how CDBG funds will be used to leverage other funding sources. The proforma should show that the organization has the ability to obtain financing from other sources without reliance upon Section 8 resources.

Projects involving acquisition of housing in residential areas must have completed community outreach in the applicable neighborhoods prior to applying for City funding. Contact the City CDBG/HOME Administrator for assistance.

NOTE: Acquisition and capital projects expected to receive funding from Contra Costa County or another entitlement jurisdiction will require either a joint funding agreement with the other jurisdictions, or applicant must receive their funding agreement from the County before Richmond City will agendize a funding agreement for City Council approval. If an acquisition or capital project cannot get underway until all funding is assembled from other jurisdictions and has not proceeded one year after allocation, applicants may risk recapture of this funding under the City’s Timely Expenditure Plan. This change is necessary to assure that Richmond City will meet its expenditure commitment requirements for CDBG and HOME programs.

Rehabilitation work valued at $5,000 or more may be subject to lead based paint inspection testing and subsequent paint stabilization.
NON HOUSING COMMUNITY DEVELOPMENT
PUBLIC FACILITY IMPROVEMENTS

Activities that involve public facilities and improvements are eligible if they meet any one of the following criteria:

- Provides public facility improvements in an area that is primarily residential and where 51% or more of area residents are households with incomes at or below 80% of median income.
- Provides services exclusively to a majority of low income and special needs populations.
- Provides facilities such as community and senior centers, recreation facilities, facilities for persons with disabilities and removal of architectural barriers where services are provided to a majority of low-income persons.
- Projects involving construction may be subject to payment of prevailing wages under the Davis Bacon Act. Once the Act is triggered, there can be no waiver of this requirement by the City to reduce project costs. Certain federal language and requirements must be included in the competitive bidding package for the scope of work to be performed. If your application will trigger the payment of prevailing wages, please contact the City CDBG/HOME Administrator for a copy of the Pre Construction Conference Handbook to familiarize yourself with this requirement.

TIMELY EXPENDITURE OF FUNDS

All projects will be expected to expend 100% of CDBG funds granted during the program year. Organizations who have not yet secured financing for an acquisition or capital project are encouraged to submit an application for funding in future years when the project is “Ready to Go.” “Ready to Go” means that all funding has been secured, or will be available short term (within 90 to 180 days) and the project will be “underway.” Specific examples of underway (ready to encumber funds and expend them in a timely manner during the program year) include:

- design phase completed and ready to begin a bid process;
- bidding completed using relevant prevailing wages\(^3\) for labor costs, and construction can proceed when funds are encumbered;
- purchase offer has been accepted, or can be made as soon as funds can be encumbered; and funds can be disbursed to escrow

All funds allocated to projects and programs that are not encumbered by June 30, 2016 will be reallocated to other projects, unless non-public service activity projects are underway and funds will be expended by December 30, 2016. Funds are encumbered when there is a signed agreement between the organization and the City of Richmond and a purchase order is issued in the amount of the allocation approved by the City.

\(^3\) Projects subject to payment of prevailing wages must use labor rates determined by the Department of Labor (DOL), or in the case of both federal and state funding, may include rates determined by the Department of Industrial Relations (DIR)
SUMMARY OF QUALIFYING CRITERIA FOR HOME INVESTMENT PARTNERSHIP (HOME) FUNDING

ELIGIBLE ACTIVITIES

Activities which are eligible to receive assistance from HOME investment Program funds are those which develop and support affordable rental housing and homeownership affordability, such as:
- Acquisition of vacant land related to a specific project Acquisition of existing housing
- New construction
- Reconstruction
- Moderate or substantial rehabilitation
- Site improvements related to a specific project Conversion
- Demolition related to a specific project
- Tenant Based Rental Assistance
- Other expenses

A HOME priority for 2015 is the creation of a Tenant Based Rental Assistance program (TBRA). The City of Richmond STRONGLY ENCOURAGES qualified applicants that have at least 3 years of experience implementing HOME Tenant Based Rental Assistance programs to submit proposals. Significant portion of HOME may be allocated to Tenant Based Rental Assistance programs. Interested applicants need to complete the TBRA Application only.

ELIGIBLE COSTS

ELIGIBLE AND PROHIBITED ACTIVITIES: HOME

SOURCE: ecf.gov 11.18.13

§92.205 Eligible activities: General. [Richmond is the Participating Jurisdiction]

(a) Eligible activities.

(1) HOME funds may be used by a participating jurisdiction to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to
provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. The housing must be permanent or transitional housing. The specific eligible costs for these activities are set forth in §§92.206 through 92.209. The activities and costs are eligible only if the housing meets the property standards in §92.251 upon project completion.

(2) Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing within the time frames established in paragraph (2) of the definition of “commitment” in §92.2.

(3) Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding one or more units beyond the existing walls, in which case, the project is new construction for purposes of this part.

(4) Manufactured housing. HOME funds may be used to purchase and/or rehabilitate a manufactured housing unit, or purchase the land upon which a manufactured housing unit is located. Except for existing, owner-occupied manufactured housing that is rehabilitated with HOME funds, the manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

(b) Forms of assistance. (1) A participating jurisdiction may invest HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part and specifically approves in writing. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this part.

(2) A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The HOME funds may be used to guarantee the timely payment of principal and interest or payment of the outstanding principal and interest upon foreclosure of the loan. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans, but under no circumstances may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed; except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not.

(c) Minimum amount of assistance. The minimum amount of HOME funds that must be invested in a project involving rental housing or homeownership is $1,000 times the number of HOME-assisted units in the project.

(d) Multi-unit projects. HOME funds may be used to assist one or more housing units in a multi-unit project.

(1) Only the actual HOME eligible development costs of the assisted units may be charged to the HOME program. If the assisted and nonassisted units are not comparable, the actual costs may be determined based on a method of cost allocation. If the assisted and non-assisted units are comparable in terms of size, features, and number of bedrooms, the actual cost of the HOME-assisted units can be determined by prorating the total HOME eligible development costs of the project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME-assisted units in the project.
(2) After project completion, the number of units designated as HOME-assisted may be reduced only in accordance with §92.210, except that in a project consisting of all HOME-assisted units, one unit may be subsequently converted to an on-site manager’s unit if the participating jurisdiction determines that the conversion will contribute to the stability or effectiveness of the housing and that, notwithstanding the loss of one HOME-assisted unit, the costs charged to the HOME program do not exceed the actual costs of the HOME-assisted units and do not exceed the subsidy limit in §92.250(b).

(e) Terminated projects. A HOME assisted project that is terminated before completion, either voluntarily or involuntarily, constitutes an ineligible activity, and the participating jurisdiction must repay any HOME funds invested in the project to the participating jurisdiction’s HOME Investment Trust Fund in accordance with §92.503(b) (except for project-specific assistance to community housing development organizations as provided in §92.301(a)(3) and (b)(3)).

(1) A project that does not meet the requirements for affordable housing must be terminated and the participating jurisdiction must repay all HOME funds invested in the project to the participating jurisdiction’s HOME Investment Trust Fund in accordance with §92.503(b).

(2) If a participating jurisdiction does not complete a project within 4 years of the date of commitment of funds, the project is considered to be terminated and the participating jurisdiction must repay all funds invested in the project to the participating jurisdiction’s HOME Investment Trust Fund in accordance with §92.503(b). The participating jurisdiction may request a one-year extension of this deadline in writing, by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project for HUD’s review and approval.


§92.206 Eligible project costs.

 HOME funds may be used to pay the following eligible costs:

(a) Development hard costs. The actual cost of constructing or rehabilitating housing. These costs include the following:

   (1) For new construction projects, costs to meet the new construction standards in §92.251;

   (2) For rehabilitation, costs to meet the property standards for rehabilitation projects in §92.251;

   (3) For both new construction and rehabilitation projects, costs:

      (i) To demolish existing structures;

      (ii) To make utility connections including off-site connections from the property line to the adjacent street; and

      (iii) To make improvements to the project site that are in keeping with improvements of surrounding, standard projects. Site improvements may include on-site roads and sewer and water lines necessary to the development of the project. The project site is the property, owned by the project owner, upon which the project is located.
(4) For both new construction and rehabilitation of multifamily rental housing projects, costs to construct or rehabilitate laundry and community facilities that are located within the same building as the housing and which are for the use of the project residents and their guests.

(5) Costs to make utility connections or to make improvements to the project site, in accordance with the provisions of §92.206(a)(3) (ii) and (iii) are also eligible in connection with acquisition of standard housing.

(b) **Refinancing costs.** The cost to refinance existing debt secured by a housing project that is being rehabilitated with HOME funds. These costs include the following:

(1) For single-family (one- to four-family) owner-occupied housing, when loaning HOME funds to rehabilitate the housing, if the refinancing is necessary to reduce the overall housing costs to the borrower and make the housing more affordable and if the rehabilitation cost is greater than the amount of debt that is refinanced.

(2) For single family or multifamily projects, when loaning HOME funds to rehabilitate the units if refinancing is necessary to permit or continue affordability under §92.252. The participating jurisdiction must establish refinancing guidelines and state them in its consolidated plan described in 24 CFR part 91. Regardless of the amount of HOME funds invested, the minimum affordability period shall be 15 years. The guidelines shall describe the conditions under which the participating jurisdictions will refinance existing debt. At minimum, the guidelines must:

(i) Demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing;

(ii) Require a review of management practices to demonstrate that disinvestment in the property has not occurred, that the long term needs of the project can be met and that the feasibility of serving the targeted population over an extended affordability period can be demonstrated;

(iii) State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both;

(iv) Specify the required period of affordability, whether it is the minimum 15 years or longer;

(v) Specify whether the investment of HOME funds may be jurisdiction-wide or limited to a specific geographic area, such as a neighborhood identified in a neighborhood revitalization strategy under 24 CFR 91.215(e)(2) or a Federally designated Empowerment Zone or Enterprise Community; and

(vi) State that HOME funds cannot be used to refinance single family or multifamily housing loans made or insured by any Federal program, including CDBG.

(c) **Acquisition costs.** Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.

(d) **Related soft costs.** Other reasonable and necessary costs incurred by the owner or participating jurisdiction and associated with the financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HOME funds. These costs include, but are not limited to:
(1) Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups. The costs may be paid if they were incurred not more than 24 months before the date that HOME funds are committed to the project and the participating jurisdiction expressly permits HOME funds to be used to pay the costs in the written agreement committing the funds.

(2) Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees.

(3) Costs of a project audit, including certification of costs performed by a certified public accountant, that the participating jurisdiction may require with respect to the development of the project.

(4) Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by §92.351.

(5) For new construction or rehabilitation, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service. Any HOME funds placed in an operating deficit reserve that remain unexpended after the period of project rent-up may be retained for project reserves if permitted by the participating jurisdiction.

(6) Staff and overhead costs of the participating jurisdiction directly related to carrying out the project, such as work specifications preparation, loan processing inspections, and other services related to assisting potential owners, tenants, and homebuyers, e.g., housing counseling, may be charged to project costs only if the project is funded and the individual becomes the owner or tenant of the HOME-assisted project. For multi-unit projects, such costs must be allocated among HOME-assisted units in a reasonable manner and documented. Although these costs may be charged as project costs, these costs (except housing counseling) cannot be charged to or paid by low-income families.

(7) For both new construction and rehabilitation, costs for the payment of impact fees that are charged for all projects within a jurisdiction.

(8) Costs of environmental review and release of funds in accordance with 24 CFR part 58 which are directly related to the project.

(e) Community housing development organization costs. Eligible costs of project-specific assistance are set forth in §92.301.

(f) Relocation costs. The cost of relocation payments and other relocation assistance to persons displaced by the project are eligible costs.

(1) Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons.

(2) Other relocation assistance means staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship.
(g) Costs relating to payment of loans. If the HOME funds are not used to directly pay a cost specified in this section, but are used to pay off a construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:

1. The loan was used for eligible costs specified in this section, and
2. The HOME assistance is part of the original financing for the project and the project meets the requirements of this part.

§92.207 Eligible administrative and planning costs.

A participating jurisdiction may expend, for payment of reasonable administrative and planning costs of the HOME program and ADDI, an amount of HOME funds that is not more than ten percent of the sum of the Fiscal Year HOME basic formula allocation plus any funds received in accordance with §92.102(b) to meet or exceed participation threshold requirements that Fiscal Year. A state that transfers any HOME funds in accordance with §92.102(b) must exclude these funds in calculating the amount it may expend for administrative and planning costs. A participating jurisdiction may also expend, for payment of reasonable administrative and planning costs of the HOME program and the ADDI described in subpart M of this part, a sum up to ten percent of the program income deposited into its local account or received and reported by its state recipients or subrecipients during the program year. A participating jurisdiction may expend such funds directly or may authorize its state recipients or subrecipients, if any, to expend all or a portion of such funds, provided total expenditures for planning and administrative costs do not exceed the maximum allowable amount. Reasonable administrative and planning costs include:

(a) General management, oversight and coordination. Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not limited to, necessary expenditures for the following:

1. Salaries, wages, and related costs of the participating jurisdiction’s staff. In charging costs to this category the participating jurisdiction may either include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The participating jurisdiction may use only one of these methods. Program administration includes the following types of assignments:

   (i) Developing systems and schedules for ensuring compliance with program requirements;

   (ii) Developing interagency agreements and agreements with entities receiving HOME funds;

   (iii) Monitoring HOME-assisted housing for progress and compliance with program requirements;

   (iv) Developing agreements and monitoring housing not assisted with HOME funds that the participating jurisdiction designates as a matching contribution in accordance with §92.219(b) for compliance with applicable program requirements;
(v) Preparing reports and other documents related to the program for submission to HUD;

(vi) Coordinating the resolution of audit and monitoring findings;

(vii) Evaluating program results against stated objectives; and

(viii) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraphs (a)(1)(i) through (vii) of this section;

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services;

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space; and

(5) Costs of administering tenant-based rental assistance programs.

(b) Staff and overhead. Staff and overhead costs of the participating jurisdiction directly related to carrying out the project, such as work specifications preparation, loan processing, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments) and other services related to assisting potential owners, tenants, and homebuyers (e.g., housing counseling); and staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship. These costs may be charged as administrative costs or as project costs under §92.206(d)(6) and (f)(2), at the discretion of the participating jurisdiction; however, these costs (except housing counseling) cannot be charged to or paid by the low-income families.

(c) Public information. The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME funds.

(d) Fair housing. Activities to affirmatively further fair housing in accordance with the participating jurisdiction's certification under 24 CFR part 91.

(e) Indirect Costs. Indirect costs may be charged to the HOME program under a cost allocation plan prepared in accordance with OMB Circulars A-87 or A-122 as applicable.

(f) Preparation of the consolidated plan. Preparation of the consolidated plan required under 24 CFR part 91. Preparation includes the costs of public hearings, consultations, and publication.

(g) Other Federal requirements. Costs of complying with the Federal requirements in subpart H of this part. Project-specific environmental review costs may be charged as administrative costs or as project costs in accordance with §92.206(d)(8), at the discretion of the participating jurisdiction.

(h) Preserving affordable housing already assisted with HOME funds. Costs specified under §92.254(a)(9) may be charged as an administrative cost or may be charged to the project
as provided in §92.254(a)(9). In addition, the foreclosure cost of a HOME-assisted rental housing project with a HOME loan in default is an eligible administrative cost.


§92.208 Eligible community housing development organization (CHDO) operating expense and capacity building costs.

(a) Up to 5 percent of a participating jurisdiction's fiscal year HOME allocation may be used for the operating expenses of community housing development organizations (CHDOs). This amount is in addition to amounts set aside for housing projects that are owned, developed, or sponsored by CHDOs as described in §92.300(a). These funds may not be used to pay operating expenses incurred by a CHDO acting as a subrecipient or contractor under the HOME Program. Operating expenses means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials; and supplies. The requirements and limitations on the receipt of these funds by CHDOs are set forth in §92.300(e) and (f).

(b) HOME funds may be used for capacity building costs under §92.300(b).

[61 FR 48750, Sept. 16, 1996, as amended at 78 FR 44668, July 24, 2013]

§92.209 Tenant-based rental assistance: Eligible costs and requirements.

(a) Eligible costs. Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family pursuant to this section. Eligible costs also include utility deposit assistance, but only if this assistance is provided with tenant-based rental assistance or security deposit payment. Administration of tenant-based rental assistance is eligible only under general management oversight and coordination at §92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible as costs of the tenant-based rental assistance.

(b) General requirement. A participating jurisdiction may use HOME funds for tenant-based rental assistance only if the participating jurisdiction makes the certification about inclusion of this type of assistance in its consolidated plan in accordance with 24 CFR 91.225(d)(1), 91.325(d)(1), or 91.425(a)(2)(i), and specifies local market conditions that lead to the choice of this option.

(c) Tenant selection. The participating jurisdiction must select low-income families in accordance with written tenant selection policies and criteria that are based on local housing needs and priorities established in the participating jurisdiction’s consolidated plan.

(1) Low-income families. Tenant-based rental assistance may only be provided to very low- and low-income families. The participating jurisdiction must determine that the family is very low- or low-income before the assistance is provided. During the period of assistance, the participating jurisdiction must annually determine that the family continues to be low-income.

(2) Targeted assistance.

(i) The participating jurisdiction may establish a preference for individuals with special needs (e.g., homeless persons or elderly persons) or persons with
disabilities. The participating jurisdiction may offer, in conjunction with a tenant-based rental assistance program, particular types of nonmandatory services that may be most appropriate for persons with a special need or a particular disability. Generally, tenant-based rental assistance and the related services should be made available to all persons with special needs or disabilities who can benefit from such services. Participation may be limited to persons with a specific disability if necessary to provide as effective housing, aid, benefit, or services as those provided to others in accordance with 24 CFR 8.4(b)(1)(iv).

(ii) The participating jurisdiction may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) if the specific category is identified in the participating jurisdiction's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

(iii) Self-sufficiency program. The participating jurisdiction may require the family to participate in a self-sufficiency program as a condition of selection for assistance. The family's failure to continue participation in the self-sufficiency program is not a basis for terminating the assistance; however, renewal of the assistance may be conditioned on participation in the program. Tenants living in a HOME-assisted rental project who receive tenant-based rental assistance as relocation assistance must not be required to participate in a self-sufficiency program as a condition of receiving assistance.

(iv) Homebuyer program. HOME tenant-based rental assistance may assist a tenant who has been identified as a potential low-income homebuyer through a lease-purchase agreement, with monthly rental payments for a period up to 36 months (i.e., 24 months, with a 12-month renewal in accordance with paragraph (e) of this section). The HOME tenant-based rental assistance payment may not be used to accumulate a downpayment or closing costs for the purchase; however, all or a portion of the homebuyer-tenant's monthly contribution toward rent may be set aside for this purpose. If a participating jurisdiction determines that the tenant has met the lease-purchase criteria and is ready to assume ownership, HOME funds may be provided for downpayment assistance in accordance with the requirements of this part.

(v) Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under 24 CFR 5.105(a). For example, a participating jurisdiction may not determine that persons given a preference under the program are therefore prohibited from applying for or participating in other programs or forms of assistance. Persons who are eligible for a preference must have the opportunity to participate in all programs of the participating jurisdiction, including programs that are not separate or different.

(3) Existing tenants in the HOME-assisted projects. A participating jurisdiction may select low-income families currently residing in housing units that are designated for rehabilitation or acquisition under the participating jurisdiction’s HOME program. Participating jurisdictions using HOME funds for tenant-based rental assistance programs may establish local preferences for the provision of this assistance. Families so selected may use the tenant-based assistance in the rehabilitated or acquired housing unit or in other qualified housing.

(d) Portability of assistance. A participating jurisdiction may require the family to use the tenant-based assistance within the participating jurisdiction's boundaries or may permit the family to use the assistance outside its boundaries.

(e) Term of rental assistance contract. The term of the rental assistance contract providing assistance with HOME funds may not exceed 24 months, but may be renewed, subject to
the availability of HOME funds. The term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between a participating jurisdiction and an owner, the term of the contract must terminate on termination of the lease. For a rental assistance contract between a participating jurisdiction and a family, the term of the contract need not end on termination of the lease, but no payments may be made after termination of the lease until a family enters into a new lease.

(f) Rent reasonableness. The participating jurisdiction must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.

(g) Tenant protections. The tenant must have a lease that complies with the requirements in §92.253 (a) and (b).

(h) Maximum subsidy. (1) The amount of the monthly assistance that a participating jurisdiction may pay to, or on behalf of, a family may not exceed the difference between a rent standard for the unit size established by the participating jurisdiction and 30 percent of the family's monthly adjusted income.

(2) The participating jurisdiction must establish a minimum tenant contribution to rent.

(3) The participating jurisdiction's rent standard for a unit size must be based on:

(i) Local market conditions; or

(ii) The Section 8 Housing Choice Voucher Program (24 CFR part 982).

(i) Housing quality standards. Housing occupied by a family receiving tenant-based assistance under this section must meet the requirements set forth in 24 CFR 982.401. The participating jurisdiction must inspect the housing initially and re-inspect it annually.

(j) Security deposits. (1) A participating jurisdiction may use HOME funds provided for tenant-based rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the participating jurisdiction provides any other tenant-based rental assistance under this section.

(2) The relevant State or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except that the amount of HOME funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit.

(3) Only the prospective tenant may apply for HOME security deposit assistance, although the participating jurisdiction may pay the funds directly to the tenant or to the landlord.

(4) HOME funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan, the loan repayments are program income to be used in accordance with §92.503.

(5) Paragraphs (b), (c), (d), (f), (g), and (i) of this section are applicable to HOME security deposit assistance, except that income determinations pursuant to paragraph (c)(1) of this section and Housing Quality Standard inspections pursuant to paragraph (i) of this section are required only at the time the security deposit assistance is provided.

(k) Program operation. A tenant-based rental assistance program must be operated consistent with the requirements of this section. The participating jurisdiction may operate
the program itself, or may contract with a PHA or other entity with the capacity to operate a rental assistance program. The tenant-based rental assistance may be provided through an assistance contract to an owner that leases a unit to an assisted family or directly to the family. In either case, the participating jurisdiction (or entity operating the program) must approve the lease.

(l) Use of Section 8 assistance. In any case where assistance under section 8 of the 1937 Act becomes available, recipients of tenant-based rental assistance under this part will qualify for tenant selection preferences to the same extent as when they received the HOME tenant-based rental assistance under this part.


§92.212 Pre-award costs.

(a) General. Before the effective date of the HOME Investment Partnership Agreement, the participating jurisdiction may incur costs which may be charged to the HOME allocation after the award of the HOME allocation, provided the costs are in compliance with the requirements of this part (including environmental review requirements) and with the statutory and regulatory requirements in effect at the time the costs are charged to the HOME allocation.

(b) Administrative and planning costs. Eligible administrative and planning costs may be incurred as of the beginning of the participating jurisdiction's consolidated program year (see 24 CFR 91.10) or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is later.

(c) Project costs. Eligible project costs may be incurred during the current program year in an amount not to exceed 25% of the current HOME allocation amount, to be charged to the following year's HOME allocation. Before incurring the pre-award costs, the participating jurisdiction must comply with its citizen participation plan requirements addressing 24 CFR 91.105(b)(2), (4), (5) and (g) (local governments) or 24 CFR 91.115(b)(2), (4), (5) and (f) (States). In lieu of a full action plan, the participating jurisdiction may develop a mini-action plan which describes the proposed pre-award projects and costs in accordance with 24 CFR 91.220(c) and includes, if applicable, 24 CFR 91.220(g)(2) (local governments) or 24 CFR 91.320(c) and, if applicable, 24 CFR 91.320(g)(2) (States). The mini-action plan must state that HOME funding for the project(s) is subject to the future availability of HOME funds. The subsequent action plan (i.e., action plan for the HOME allocation to which the costs will be charged) must also include the use of HOME funds contained in the mini-action plan.

(d) Subrecipient or State recipient costs. The participating jurisdiction may authorize its subrecipient or State recipient to incur pre-award costs in accordance with the requirements of this section. The authorization must be in writing.

(e) Other pre-agreement costs. Pre-agreement costs in excess of the amount set forth in paragraph (c) of this section must be approved, in writing, by the HUD Field Office before the costs are incurred.

§92.213 HOME Funds and Public Housing.

(a) General rule. HOME funds may not be used for public housing units. HOME-assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability.
(b) **Exception.** HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit. Units developed with both HOME and HOPE VI may receive operating assistance under section 9 of the 1937 Act. Units developed with HOME and HOPE VI funds under this paragraph may subsequently receive Capital Funds for rehabilitation or modernization.

(c) **Using HOME funds in public housing projects.** Consistent with §92.205(d), HOME funds may be used for affordable housing units in a project that also contains public housing units, provided that the HOME funds are not used for the public housing units (except as provided in paragraph (b) of this section) and HOME funds are used only for eligible costs in accordance with this part.

(d) The HOME funds must be used in accordance with the requirements of this part and the project must meet the requirements of this part, including rent requirements in §92.252.

[78 FR 44669, July 24, 2013]

**§92.214 Prohibited activities and fees.**

(a) HOME funds may not be used to:

1. Provide project reserve accounts, except as provided in §92.206(d)(5), or operating subsidies;

2. Provide tenant-based rental assistance for the special purposes of the existing section 8 program, in accordance with section 212(d) of the Act;

3. Provide non-federal matching contributions required under any other Federal program;

4. Provide assistance for uses authorized under section 9 of the 1937 Act (Public Housing Capital and Operating Funds);

5. Provide assistance to eligible low-income housing under 24 CFR part 248 (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in 24 CFR 248.101;

6. Provide assistance (other than tenant-based rental assistance, assistance to a homebuyer to acquire housing previously assisted with HOME funds, or assistance to preserve affordability of homeownership housing in accordance with §92.254(a)(9)) to a project previously assisted with HOME funds during the period of affordability established by the particular jurisdiction in the written agreement under §92.504. However, additional HOME funds may be committed to a project for up to one year after project completion (see §92.502), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under §92.250.

7. Pay for the acquisition of property owned by the participating jurisdiction, except for property acquired by the participating jurisdiction with HOME funds, or property acquired in anticipation of carrying out a HOME project; or

8. Pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.

9. Pay for any cost that is not eligible under §§92.206 through 92.209.
(b)(1) Participating jurisdictions may not charge (and must prohibit State recipients, subrecipients, and community housing development organizations from charging) servicing, origination, or other fees for the purpose of covering costs of administering the HOME program (e.g., fees on low-income families for construction management or for inspections for compliance with property standards) (see §92.206(d)(6) and §92.207), except that:

(i) Participating jurisdictions and State recipients may charge owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability. The fees must be based upon the average actual cost of performing the monitoring of HOME-assisted rental projects. The basis for determining the amount of for the fee amount must be documented and the fee must be included in the costs of the project as part of the project underwriting;

(ii) Participating jurisdictions, subrecipients and State recipients may charge nominal application fees (although these fees are not an eligible HOME cost) to project owners to discourage frivolous applications. The amount of application fees must be appropriate to the type of application and may not create an undue impediment to a low-income family's, subrecipient's, State recipient's, or other entity's participation in the participating jurisdiction's program; and

(iii) Participating jurisdictions, subrecipients and State recipients may charge homebuyers a fee for housing counseling.

(2) All fees charged under paragraph (b)(1) of this section are applicable credits under 2 CFR part 225 (OMB Circular A-87, entitled “Cost Principles for State, Local, and Indian Tribal Governments”).

(3) The participating jurisdiction must prohibit project owners from charging fees that are not customarily charged in rental housing (e.g., laundry room access fees), except that rental project owners may charge:

(i) Reasonable application fees to prospective tenants;

(ii) Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and

(iii) Fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.


§92.215 Limitation on jurisdictions under court order.

Limitations on the use of HOME funds in connection with litigation involving discrimination or fair housing are set forth in section 224 of the Act.

INCOME TARGETING

Rental Units
The City of Richmond City uses HOME funds to assist rental units occupied by households whose incomes do not exceed the HOME Income Limit. The City will review tenant eligibility for occupancy verifications in units assisted with HOME
and will monitor family income, size and composition to assure the units meet Housing Quality Standards on an annual basis.

Ownership Units
All HOME funds used to assist homeownership units must be allocated to dwelling units which will be occupied by households whose incomes do not exceed the HOME Income Limit at the time of occupancy or at the time funds are invested, whichever is later.

Maximum per unit subsidy.

§92.250 Maximum per-unit subsidy amount, underwriting, and subsidy layering.

(a) **Maximum per-unit subsidy amount.** The total amount of HOME funds and ADDI funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C.17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located. HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240 percent of the original per unit limits, to the extent that the costs of multifamily housing construction exceed the section 221(d)(3)(ii) limit.

(b) **Underwriting and subsidy layering.** Before committing funds to a project, the City will evaluate the project in accordance with guidelines that it has adopted for determining a reasonable level of profit or return on owner's or developer's investment in a project and must not invest any more HOME funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in §92.252 or §92.254) and that will not provide a profit or return on the owner's or developer's investment that exceeds the participating jurisdiction's established standards for the size, type, and complexity of the project.

The City will conduct:

(1) An examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and

(2) An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the developer, the financial capacity of the developer, and firm written financial commitments for the project.

(3) For projects involving rehabilitation of owner-occupied housing pursuant to §92.254(b):

(i) An underwriting analysis is required only if the HOME-funded rehabilitation loan is an amortizing loan; and

(ii) A market analysis or evaluation of developer capacity is not required.

(4) For projects involving HOME-funded downpayment assistance pursuant to §92.254(a) and which do not include HOME-funded development activity, a market analysis or evaluation of developer capacity is not required.

[78 FR 44670, July 24, 2013]
PROPERTY STANDARDS

At a minimum, housing that is assisted with HOME funds must meet federal housing quality standards. Newly constructed or substantially rehabilitated housing must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances. Newly constructed housing must meet energy efficiency standards of the current edition of the Model Energy Code published by the council of American Building Officials. Substantially rehabilitated housing must meet the cost effective energy conservation and effectiveness standards set forth in 24 CFR part 39 Title 24 of the California Energy Code meets the above requirement. Housing that is to be rehabilitated after transfer of ownership interest must be free from any defects that pose a danger to health or safety before transfer of an ownership interest, and must meet the applicable property standards not later than 2 years after the transfer.

TYPES OF ASSISTANCE AVAILABLE

- Equity investments
- Interest bearing loans or advances
- Non-interest bearing loans or advances
- Deferred payment loans
- Interest subsidies

QUALIFICATION AS AFFORDABLE HOUSING

§92.252 Qualification as affordable housing: Rental housing. (Richmond is the Participating Jurisdiction)

The HOME-assisted units in a rental housing project must be occupied by households that are eligible as low-income families and must meet the requirements of this section to qualify as affordable housing. If the housing is not occupied by eligible tenants within six months following the date of project completion, HUD will require the participating jurisdiction to submit marketing information and, if appropriate, submit a marketing plan. HUD will require the participating jurisdiction to repay HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion. The affordability requirements also apply to the HOME-assisted non-owner-occupied units in single-family housing purchased with HOME funds in accordance with §92.254. The tenant must have a written lease that complies with §92.253.

(a) Rent limitation. HUD provides the following maximum HOME rent limits. The rent limits apply to the rent plus the utilities or the utility allowance. The maximum HOME rents (High HOME Rents) are the lesser of:

1. The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or

2. A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.
(b) Additional rent limitations (Low HOME Rents). The participating jurisdiction may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to have Low HOME Rents that meet the requirements of this paragraph (b). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements:

1. The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section.

2. The rent does not exceed 30 percent of the family’s adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family’s adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

(c) Additional rent limitations for SRO projects. (1) For SRO units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent. The project must meet the requirements of paragraphs (a) and (b) of this section.

2. For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent of the zero-bedroom fair market rent. The project is not required to have low HOME rents in accordance with paragraph (b)(1) or (2) of this section, but must meet the occupancy requirements of paragraph (b) of this section.

(d) Initial rent schedule and utility allowances. (1) The participating jurisdiction must establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. The participating jurisdiction must use the HUD Utility Schedule Model or otherwise determine the utility allowance for the project based on the type of utilities used at the project.

2. The participating jurisdiction must review and approve rents proposed by the owner for units, subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction must ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

(e) Periods of affordability. The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion.

1. The affordability requirements:

   i. Apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or the transfer of ownership;

   ii. Must be imposed by a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD and must give the participating jurisdiction the right to require specific performance (except
that the participating jurisdiction may provide that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure; and

(iii) Must be recorded in accordance with State recordation laws.

(2) The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability.

(3) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

(4) The termination of the restrictions on the project does not terminate the participating jurisdiction’s repayment obligation under §92.503(b).

<table>
<thead>
<tr>
<th>Rental housing activity</th>
<th>Minimum period of affordability in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under $15,000</td>
<td>5</td>
</tr>
<tr>
<td>$15,000 to $40,000</td>
<td>10</td>
</tr>
<tr>
<td>Over $40,000 or rehabilitation involving refinancing</td>
<td>15</td>
</tr>
<tr>
<td>New construction or acquisition of newly constructed housing</td>
<td>20</td>
</tr>
</tbody>
</table>

(f) Subsequent rents during the affordability period. (1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

(2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (f)(1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with this section. The participating jurisdiction must review rents for compliance and approve or disapprove them every year.

(3) Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

(g) Adjustment of HOME rent limits for an existing project. (1) Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits in this section.
(2) HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly.

(h) Tenant income. The income of each tenant must be determined initially in accordance with §92.203(a)(1)(i). In addition, each year during the period of affordability the project owner must re-examine each tenant’s annual income in accordance with one of the options in §92.203 selected by the participating jurisdiction. An owner of a multifamily project with an affordability period of 10 years or more who re-examines tenant’s annual income through a statement and certification in accordance with §92.203(a)(1)(ii), must examine the income of each tenant, in accordance with §92.203(a)(1)(i), every sixth year of the affordability period. Otherwise, an owner who accepts the tenant’s statement and certification in accordance with §92.203(a)(1)(ii) is not required to examine the income of tenants in multifamily or single-family projects unless there is evidence that the tenant’s written statement failed to completely and accurately state information about the family’s size or income.

(i) Over-income tenants. (1) HOME-assisted units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.

(2) Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family’s adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42. In addition, in projects in which the Home units are designated as floating pursuant to paragraph (j) of this section, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

(j) Fixed and floating HOME units. In a project containing HOME-assisted and other units, the participating jurisdiction may designate fixed or floating HOME units. This designation must be made at the time of project commitment in the written agreement between the participating jurisdiction and the owner, and the HOME units must be identified not later than the time of initial unit occupancy. Fixed units remain the same throughout the period of affordability. Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

(k) Tenant selection. The tenants must be selected in accordance with §92.253(d).

(l) Ongoing responsibilities. The participating jurisdiction’s responsibilities for on-site inspections and financial oversight of rental projects are set forth in §92.504(d).

§92.254 Qualification as affordable housing: Homeownership. (Richmond is the Participating Jurisdiction)

(a) Acquisition with or without rehabilitation. Housing that is for acquisition by a family must meet the affordability requirements of this paragraph (a).

(1) The housing must be single family housing.

(2) The housing must be modest housing as follows:

   (i) In the case of acquisition of newly constructed housing or standard housing, the housing has a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area, as described in paragraph (a)(2)(iii) of this section.

   (ii) In the case of acquisition with rehabilitation, the housing has an estimated value after rehabilitation that does not exceed 95 percent of the median purchase price for the area, described in paragraph (a)(2)(iii) of this section.

   (iii) If a participating jurisdiction intends to use HOME funds for homebuyer assistance or for the rehabilitation of owner-occupied single-family properties, the participating jurisdiction must use the HOME affordable homeownership limits provided by HUD for newly constructed housing and for existing housing. HUD will provide limits for affordable newly constructed housing based on 95 percent of the median purchase price for the area using Federal Housing Administration (FHA) single family mortgage program data for newly constructed housing, with a minimum limit based on 95 percent of the U.S. median purchase price for new construction for nonmetropolitan areas. HUD will provide limits for affordable existing housing based on 95 percent of the median purchase price for the area using Federal FHA single family mortgage program data for existing housing data and other appropriate data that are available nation-wide for sales of existing housing, with a minimum limit based on 95 percent of the state-wide nonmetropolitan area median purchase price using this data. In lieu of the limits provided by HUD, the participating jurisdiction may determine 95 percent of the median area purchase price for single family housing in the jurisdiction annually, as follows. The participating jurisdiction must set forth the price for different types of single family housing for the jurisdiction. The participating jurisdiction may determine separate limits for existing housing and newly constructed housing. For housing located outside of metropolitan areas, a State may aggregate sales data from more than one county, if the counties are contiguous and similarly situated. The following information must be included in the annual action plan of the Consolidated Plan submitted to HUD for review and updated in each action plan.

   (A) The 95 percent of median area purchase price must be established in accordance with a market analysis that ensured that a sufficient number of recent housing sales are included in the survey.

   (B) Sales must cover the requisite number of months based on volume: For 500 or more sales per month, a one-month reporting period; for 250 through 499 sales per month, a 2-month reporting period; for less than 250 sales per month, at least a 3-month reporting period. The data must be listed in ascending order of sales price.

   (C) The address of the listed properties must include the location within the participating jurisdiction. Lot, square, and subdivision data may be substituted for the street address.

   (D) The housing sales data must reflect all, or nearly all, of the one-family house sales in the entire participating jurisdiction.
(E) To determine the median, take the middle sale on the list if an odd number of sales, and if an even number, take the higher of the middle numbers and consider it the median. After identifying the median sales price, the amount should be multiplied by 0.95 to determine the 95% of the median area purchase price.

(3) The housing must be acquired by a homebuyer whose family qualifies as a low-income family, and the housing must be the principal residence of the family throughout the period described in paragraph (a)(4) of this section. If there is no ratified sales contract with an eligible homebuyer for the housing within 9 months of the date of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with §92.252. In determining the income eligibility of the family, the participating jurisdiction must include the income of all persons living in the housing. The homebuyer must receive housing counseling.

(4) Periods of affordability. The HOME-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The per unit amount of HOME funds and the affordability period that they trigger are described more fully in paragraphs (a)(5)(i) (resale) and (ii) (recapture) of this section.

<table>
<thead>
<tr>
<th>Homeownership assistance HOME amount per unit</th>
<th>Minimum period of affordability in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $15,000</td>
<td>5</td>
</tr>
<tr>
<td>$15,000 to $40,000</td>
<td>10</td>
</tr>
<tr>
<td>Over $40,000</td>
<td>15</td>
</tr>
</tbody>
</table>

(5) Resale and recapture. The participating jurisdiction must establish the resale or recapture requirements that comply with the standards of this section and set forth the requirements in its consolidated plan. HUD must determine that they are appropriate and must specifically approve them in writing. [The City of Richmond will use recapture requirements]

(ii) Recapture. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the HOME assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. The participating jurisdiction may structure its recapture provisions based on its program design and market conditions. The period of affordability is based upon the total amount of HOME funds subject to recapture described in paragraph (a)(5)(ii)(A)(5) of this section. Recapture provisions may permit the subsequent homebuyer to assume the HOME assistance (subject to the HOME requirements for the remainder of the period of affordability) if the subsequent homebuyer is low-income, and no additional HOME assistance is provided.

(A) The following options for recapture requirements are acceptable to HUD. The participating jurisdiction may adopt, modify or develop its own recapture requirements for HUD approval. In establishing its recapture requirements, the participating jurisdiction is subject to the limitation that when the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing unit, the amount recaptured cannot exceed the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment (other than HOME funds) and any closing costs.
(1) **Recapture entire amount.** The participating jurisdiction may recapture the entire amount of the HOME investment from the homeowner.

(2) **Reduction during affordability period.** The participating jurisdiction may reduce the HOME investment amount to be recaptured on a prorata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.

(3) **Shared net proceeds.** If the net proceeds are not sufficient to recapture the full HOME investment (or a reduced amount as provided for in paragraph (a)(5)(ii)(A)(2) of this section) plus enable the homeowner to recover the amount of the homeowner’s downpayment and any capital improvement investment made by the owner since purchase, the participating jurisdiction may share the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and closing costs. The net proceeds may be divided proportionally as set forth in the following mathematical formulas:

(4) **Owner investment returned first.** The participating jurisdiction may permit the homebuyer to recover the homebuyer’s entire investment (downpayment and capital improvements made by the owner since purchase) before recapturing the HOME investment.

(5) **Amount subject to recapture.** The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The recaptured funds must be used to carry out HOME-eligible activities in accordance with the requirements of this part. If the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used.

(6) **Special considerations for single-family properties with more than one unit.** If the HOME funds are only used to assist a low-income homebuyer to acquire one unit in single-family housing containing more than one unit and the assisted unit will be the principal residence of the homebuyer, the affordability requirements of this section apply only to the assisted unit. If HOME funds are also used to assist the low-income homebuyer to acquire one or more of the rental units in the single-family housing, the affordability requirements of §92.252 apply to assisted rental units, except that the participating jurisdiction may impose resale or recapture restrictions on all assisted units (owner-occupied and rental units) in the single family housing. If resale restrictions are used, the affordability requirements on all assisted units continue for the period of affordability. If recapture restrictions are used, the affordability requirements on the assisted rental units may be terminated, at the discretion of the participating jurisdiction, upon recapture of the HOME investment. (If HOME funds are used to assist only the rental units in such a property then the requirements of §92.252 would apply and the owner-occupied unit would not be subject to the income targeting or affordability provisions of §92.254.)

(7) **Lease-purchase.** HOME funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease-
purchase agreement is signed. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in §92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion.

(8) **Contract to purchase.** If HOME funds are used to assist a homebuyer who has entered into a contract to purchase housing to be constructed, the homebuyer must qualify as a low-income family at the time the contract is signed.

(9) **Preserving affordability of housing that was previously assisted with HOME funds.**

(i) To preserve the affordability of HOME-assisted housing a participating jurisdiction may use additional HOME funds for the following costs:

(A) The cost to acquire the housing through a purchase option, right of first refusal, or other preemptive right before foreclosure, or at the foreclosure sale. (The foreclosure costs to acquire housing with a HOME loan in default are eligible. However, HOME funds may not be used to repay a loan made with HOME funds.)

(B) The cost to undertake any necessary rehabilitation for the housing acquired.

(C) The cost of owning/holding the housing pending resale to another homebuyer.

(D) The cost to assist another homebuyer in purchasing the housing.

(ii) When a participating jurisdiction uses HOME funds to preserve the affordability of such housing, the additional investment must be treated as an amendment to the original project. The housing must be sold to a new eligible homebuyer in accordance with the requirements of §92.254(a) within a reasonable period of time.

(iii) The total amount of the original and additional HOME assistance may not exceed the maximum per unit subsidy amount established under §92.250. Alternatively to charging the cost to the HOME program under §92.206, the participating jurisdiction may charge the cost to the HOME program under §92.207 as a reasonable administrative cost of its HOME program, so that the additional HOME funds for the housing are not subject to the maximum per-unit subsidy amount. To the extent administrative funds are used, they may be reimbursed, in whole or in part, when the housing is sold to a new eligible homebuyer.

(b) **Rehabilitation not involving acquisition.** Housing that is currently owned by a family qualifies as affordable housing only if:

(1) The estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area, described in paragraph (a)(2)(iii) of this section; and

(2) The housing is the principal residence of an owner whose family qualifies as a low-income family at the time HOME funds are committed to the housing. In determining the income eligibility of the family, the participating jurisdiction must include the income of all persons living in the housing.

(c) **Ownership interest.** The ownership in the housing assisted under this section must meet the definition of “homeownership” in §92.2, except that housing that is rehabilitated pursuant to paragraph (b) of this section may also include inherited property with multiple owners, life estates, living trusts and beneficiary deeds under the following conditions. The participating jurisdiction has the right to establish the terms of assistance.
(1) **Inherited property.** Inherited property with multiple owners: Housing for which title has been passed to several individuals by inheritance, but not all heirs reside in the housing, sharing ownership with other nonresident heirs. (The occupant of the housing has a divided ownership interest.) The participating jurisdiction may assist the owner-occupant if the occupant is low-income, occupies the housing as his or her principal residence, and pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).

(2) **Life estate.** The person who has the life estate has the right to live in the housing for the remainder of his or her life and does not pay rent. The participating jurisdiction may assist the person holding the life estate if the person is low-income and occupies the housing as his or her principal residence.

(3) **Inter vivos trust, also known as a living trust.** A living trust is created during the lifetime of a person. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust holds legal title and the beneficiary holds equitable title. The person may name him or herself as the beneficiary. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. The participating jurisdiction may assist if all beneficiaries of the trust qualify as a low-income family and occupy the property as their principal residence (except that contingent beneficiaries, who receive no benefit from the trust nor have any control over the trust assets until the beneficiary is deceased, need not be low-income). The trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life.

(4) **Beneficiary deed.** A beneficiary deed conveys an interest in real property, including any debt secured by a lien on real property, to a grantee beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon the death of the owner, the grantee beneficiary receives ownership in the property, subject to all conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner’s lifetime. The participating jurisdiction may assist if the owner qualifies as low-income and the owner occupies the property as his or her principal residence.

(d) **New construction without acquisition.** Newly constructed housing that is built on property currently owned by a family which will occupy the housing upon completion, qualifies as affordable housing if it meets the requirements under paragraph (a) of this section.

(e) **Providing homeownership assistance through lenders.** Subject to the requirements of this paragraph (e), the participating jurisdiction may provide homeownership assistance through for-profit or non-profit lending institutions that provide the first mortgage loan to a low-income family.

(1) The homeownership assistance may be provided only as specified in a written agreement between the participating jurisdiction and the lender. The written agreement must specify the forms and amounts of homeownership assistance that the participating jurisdiction authorizes the lender to provide to families and any conditions that apply to the provision of such homeownership assistance.

(2) Before the lender provides any homeownership assistance to a family, the participating jurisdiction must verify that the family is low-income and must inspect the housing for compliance with the property standards in §92.251.

(3) No fees (e.g., origination fees or points) may be charged to a family for the HOME homeownership assistance provided pursuant to this paragraph (e), and the participating jurisdiction must determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable. Reasonable administrative costs
may be charged to the HOME program as a project cost. If the participating jurisdiction requires lenders to pay a fee to participate in the HOME program, the fee is program income to the HOME program.

(4) If the nonprofit lender is a subrecipient or contractor that is receiving HOME assistance to determine that the family is eligible for homeownership assistance, but the participating jurisdiction or another entity is making the assistance to the homebuyer (e.g., signing the documents for the loan or the grant), the requirements of paragraphs (e)(2) and (3) of this section are applicable.

(f) Homebuyer program policies. The participating jurisdiction must have and follow written policies for:

1. Underwriting standards for homeownership assistance that evaluate housing debt and overall debt of the family, the appropriateness of the amount of assistance, monthly expenses of the family, assets available to acquire the housing, and financial resources to sustain homeownership;

2. Responsible lending, and

3. Refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable.


NOTE: HOME fund applicants should contact the City CDBG/HOME Administrator for additional information regarding HOME requirements.
Entities interested in responding to this NOFA must submit a complete application packet.

To Register for Bids Online

1. Go to: www.ci.richmond.ca.us/bids

2. Register Under the Category of 99820
APPLICATION DEADLINE: Friday, May 15, 2015 at 5:00 p.m.

NO EXCEPTIONS