

NEW HAMPSHIRE HOUSING FINANCE AUTHORITY
HOME INVESTMENT PARTNERSHIPS PROGRAM AND OTHER
CAPITAL SUBSIDY RULES

HFA 105

HFA 105 PART ONE: Overview, Purpose, Applicability

HFA 105.01 Overview and Purpose

- (a) The Authority has established these rules to be used when HOME Investment Partnerships Program (HOME) or other Authority Capital Subsidy are a financing component in a multi-family rental project. Capital Subsidy funds may be awarded to applicants in the competitive Low Income Housing Tax Credit (LIHTC) or Special Needs Housing Program funding rounds.
- (b) The funds for these programs will be allocated, in the form of deferred mortgage loans, in accordance with the Authority's Annual Program Plan, the National Affordable Housing Act of 1990, as amended, the Consolidated Plan for the State of New Hampshire, HOME requirements, the Housing Trust Fund Allocation Plan or the rules and regulations associated with any other funding source used as a Capital Subsidy.
- (c) The Authority is the Participating Jurisdiction (PJ) for the State of New Hampshire and recipient of the State's allocation of federal HOME funds. HOME funds are available to projects requiring levels of funding beyond which the private financial market is able to invest. Non-profit organizations, for-profit corporations, partnerships, and Community Housing Development Organizations (CHDOs) certified by the Authority in accordance with HUD guidelines, are permitted to apply for these funds.

HFA 105.02 Applicability

- (a) These rules only apply to the HOME and Other Capital Subsidy funding.
- (b) The provisions of HFA 101 are incorporated into these rules. Whenever there is a conflict between these rules and the rules for a specific Authority program, the stricter requirement, as determined by the Authority, shall apply.

HFA 105.03 Rulemaking

- (a) These HOME and Other Capital Subsidy rules are generally adopted pursuant to RSA 204-C: 9 which empowers the Authority to adopt rules relative to programs and operations.
- (b) In addition, the HOME Program rules are specifically adopted pursuant to 24 CFR § 92 in their entirety, however, some specific HOME requirements are highlighted for clarification

purposes. Therefore, an applicant must ensure that their project will fully comply with all requirements found in 24 CFR § 92 if receiving HOME funding.

HFA 105 PART TWO: Definitions

HFA 105.04 Definitions

Applicant – Non-profit and for-profit entities applying for HOME or Capital Subsidy funds for a project.

Consolidated Plan – A document created by the Housing and Community Planning Council and submitted to HUD annually by the Governor prior to the allocation of HOME or other program funds. All investments of state HOME funds must be consistent with the state’s Consolidated Plan.

Deferred Mortgage Loan – A deferred mortgage is due and payable in full at the end of the term specified in the mortgage documents.

HOME-Assisted Units – All units in a project which have been used in determining the level of HOME assistance which will meet the income targeting and rent level restrictions required. The total HOME-assisted units are the sum of the HOME very low-income units and the HOME low-income units.

Lead-Based Paint Hazards – Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Mixed-Income Project – A project that contains both market units and HOME subsidized units. HOME-assisted units can account for less than 100% of the dwelling units of a project if each building in the project contains a proportionate mix of HOME-assisted units.

Mixed-Use Project – A project with uses other than residential can qualify for HOME assistance if the residential living space constitutes at least 51% of the project space as measured by floor areas, and each building in the project contains residential living space.

Acronyms

CFR – Code of Federal Regulations – The abbreviation is preceded by the title number and followed by the part number, and any following subsections. Hence, 24 CFR §92.2 is Title 24 of the Code of Federal Regulations, Part 92 Section 2.

CHDO – Community Housing Development Organization – A private non-profit that is community based and serves the purpose of providing housing. For a complete definition, see 24 CFR §92.2 or the Authority’s CHDO checklist.

HOME – HOME Investment Partnerships Program. A federal housing program created under the National Affordable Housing Act of 1990 and administered through HUD. The federal regulations governing HOME are published in 24 CFR 92.

LIHTC – Low Income Housing Tax Credit – Federal (IRS IRC 42) program that provides an incentive in the form of a dollar amount of tax credits annually for ten years for developers of low-income housing.

LURA – Land Use Restriction Agreement.

RSA – New Hampshire Revised Statutes Annotated.

SHPO – State Historic Preservation Office – In NH, the SHPO is the Department of Cultural Affairs, Division of Historic Resources.

UPCS – Uniform Physical Conditions Standards.

URA – Uniform Relocation Act

HFA 105 PART THREE: Eligibility

HFA 105.05 Eligible Applicants

(a) The following are eligible to apply for project specific assistance:

- (1) Non-profit corporations with an approved 501(c)(3) tax-exempt status;
- (2) Local housing authorities;
- (3) County, city, and town governments; and
- (4) General and limited partnerships, corporations, limited liability companies, proprietorships, and other business organizations;

The following are not eligible to receive HOME and Other Capital Subsidy funds:

- (1) Primarily religious organizations where residency would be limited to an exclusive denomination;
- (2) Nursing homes, hospitals, and those of a predominantly medical nature; and

(b) Additionally, the following is not eligible to receive HOME funds:

- (1) Rehabilitation medical facilities

HFA 105.06 Eligible Uses of Funds

(a) Funds can be used to assist the following types of activities:

- (1) Acquisition;
- (2) Rehabilitation;
- (3) Relocation;

- (4) New construction; and
 - (5) Conversion from non-residential use.
- (b) The Authority will determine the eligibility of all costs funded by HOME and other Capital Subsidy. Eligible costs may include:
- (1) Development hard costs such as site preparation and construction;
 - (2) Acquisition costs such as purchase price and related transaction costs;
 - (3) Soft costs including appraisals, developer fees, and environmental assessments;
 - (4) Architect and engineering fees;
 - (5) Legal and closing costs; and
 - (6) Tenant relocation costs such as costs of temporary moves, reimbursement for increase in temporary rental costs; and relocation payments for permanently displaced tenants; and,
 - (7) Other costs as determined by the Authority.

HFA 105 PART FOUR: Application

HFA 105.07 Application

- (a) Applications for LIHTC or Special Needs projects will be submitted and scored as outlined for each program in accordance with all that apply:
- (1) The specific program's rules;
 - (2) The Qualified Allocation Plan; or
 - (3) A Request For Proposal (RFP).
- (b) Funds will generally be distributed during the funding rounds relative to each program. However, project applications may be accepted and evaluated between funding rounds at the Authority's discretion. Applications that have been denied in previous funding rounds will not be accepted between scoring rounds.

HFA 105 PART FIVE: Program Guidelines

HFA 105.08 Multi-Family Rental Production Requirements

- (a) All projects funded by the HOME and other Capital Subsidy Program must comply with the Authority's policies and standards for multi-family rental production including:
 - (1) The Uniform Physical Conditions Standards;
 - (2) The Authority's Underwriting and Development Policies for Multi-Family Finance and its Technical Construction Standards; and,
 - (3) The Authority's Design and Construction rules set forth in HFA 111
- (b) The Sponsor must notify the State Historic Preservation Office (SHPO) of projects and request a ruling on whether their review is required. If required, the Sponsor must provide the SHPO with any and all plans and specifications requested for their review.

HFA 105.09 Use Restrictions

- (a) The Regulatory Agreement and LURA will be the loan documents that outline and enforce the use restrictions and requirements of the funding. The Regulatory Agreement shall include, but not be limited to, restrictions and controls on the size and funding of project reserves, order of payments of project income, limitations on distribution of surplus cash, rent and income restrictions, and compliance review and reporting requirements.
- (b) All HOME and other Capital Subsidy Program funded projects shall have continued affordability controls, resale requirements, and any other occupancy or use restrictions as determined necessary by the Authority. These controls, requirements, and the compliance period shall be detailed in a properly executed and recorded LURA.
- (c) LURAs are intended to run for a specific compliance period. At any time that the LURA is in place, the owner may apply to the Authority for modification of its conditions. The Authority, in its sole discretion, may amend the LURA for good cause only, including, but not limited to, financial hardship that is not the result of project mismanagement. Additionally, the LURA will be discharged upon foreclosure of the property by a lender.
- (d) During the LURA period, owners of HOME and other Capital Subsidy Program-assisted projects must continue to meet Uniform Physical Conditions Standards and comply with lead paint regulations as set forth in 24 CFR § 35.

HFA 105.10 Loan Terms

- (a) HOME and Capital Subsidy Program loans are typically 0% interest, deferred payments for the term of the mortgage. The loan term is typically 30 years and is due and payable in full at the expiration of the mortgage. Based on the financing requirements of a particular project, the Authority may charge and accrue interest on a Capital Subsidy Program loan.
- (b) Prepayment of the loan does not release the project from the regulatory requirements as provided under the LURA.

HFA 105.11 Community Housing Development Organizations

- (a) Federal regulations provided for a number of special uses for non-profit housing providers that meet the definition of CHDO and are designated as such by the Authority. The Authority can provide interested non-profits with information as to the criteria and process for CHDO designation.
- (b) The Authority will target at least 15% of the annual HOME allocation to approved CHDOs. Projects receiving CHDO set aside funds must be developed, owned, or sponsored by a CHDO and must meet the requirements of 24 CFR § 92.300.

HFA 105.12 Reservations

The Authority's Multi-Family Committee shall make reservations of HOME funds. All other Capital Subsidy funds reservations are made at the staff level. The reservation process serves as a funding set-aside for projects that have scored successfully and appear to be ready to proceed to development within 120 days. The reservation will become effective upon the execution and return of the reservation letter.

HFA 105.13 Commitments

The Authority's Board of Directors shall make commitments of HOME and other Capital Subsidy Program funds. Commitments will be evidenced by a letter describing the conditions necessary to fulfill the loan requirements.

HFA: 105.14 HOME Specific Funding Requirements

All projects that receive HOME funding must comply with all applicable provisions of 24 CFR § 92. Applicants should pay careful attention, however, to the following:

Written Agreements

Before HOME funds can be dispersed, the Owner of the project must enter into a HOME written agreement with the Authority which awards these funds, and documents the funded entity's responsibility to comply with HOME program requirements.

Rent Limitations Requirement

To qualify as a HOME project, a project must maintain a minimum set-aside of rent-restricted units for tenants in a targeted income group. At a minimum, at least 20% of the HOME-assisted units must be rented to very-low income households, defined as households with incomes at or below 50% of AMI, adjusted for household size as determined by HUD. All other HOME-assisted units must be rented to households earning at or below 60% of AMI, adjusted for household size as determined by HUD. Income qualifications are determined pursuant to 24 CFR § 5.

- (a) The Authority will approve rents charged for all HOME-assisted units. Gross rents for HOME very-low income units cannot exceed the lesser of:
 - (1) The HUD published Low HOME rent limit for very-low income units; or
 - (2) Market rents for comparable units in the market areas as determined by the Authority.
- (b) Gross rents for the HOME low-income units cannot exceed the lesser of:
 - (1) The HUD published High HOME rent limit for low income units; or
 - (2) Market rents of comparable units in the market areas as determined by the Authority.

Environmental Requirement

A Phase I Environmental Assessment and HUD statutory checklist must be completed and HUD form 7015.16 (Authority to Use Grant Funds) must be received by the Authority from HUD before any project funds can be used; which includes any private, developer, bank or grant funds. Under no circumstances can any activity begin on site, no matter how preliminary and minimal it may seem, until the Authority to Use Grant Funds form is received.

Subsidy Layering

The Authority developed the following subsidy layering rules as required by [24 CFR §92.250](#):

- (a) The Authority shall only invest the minimum HOME funds necessary in each project to achieve the rent and income targeting in the proposed project.
- (b) HOME funds shall be limited to the project's eligible development cost. The eligible development cost is the total residential development cost attributable to eligible HOME costs for the HOME-assisted units in the project.
- (c) The Authority will assess the reasonableness of all development costs of the project. Cost reasonableness will be based on costs of comparable projects, and may reference recognized industry cost index publications or services. Publishing requests for proposals and soliciting bids are valid methods of determining cost reasonableness.

(d) Up to 90% (based on actual eligible costs) will be made available at construction loan closing. The remaining 10% will be released upon determination by the Authority that the HOME units will be leased up within 100 days.

HOME projects must also comply with [Subpart H of 24 CFR Part 92](#), which includes:

- §92.350 Other Federal Requirements and Nondiscrimination.
- §92.351 Affirmative marketing; Minority Outreach Program.
- §92.352 Environmental Review.
- §92.353 Displacement, Relocation, and Acquisition.
- §92.354 Labor.
- §92.355 Lead-based Paint.
- §92.356 Conflict of Interest.
- §92.357 Executive Order 12372.
- §92.358 Consultant Activities.
- §92.359 VAWA requirements.