King County

Housing and Community Development:
Housing Finance Program

# Housing Finance Program Guidelines

## 2015 Update

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# Funds for Affordable Housing

## Fund sources

The King County Housing Finance Program (HFP), a section of the Housing and Community Development Program (HCD), administers capital funding for affordable housing projects. These funds are governed by federal, state, and local laws and by a number of plans, updated periodically. Federal funding sources include the HOME Investment Partnership Program (HOME), and the Community Development Block Grant (CDBG) Program. Local funding sources include the Regional Affordable Housing Program (RAHP) and revenue from the Homeless Housing Document Recording Fee Surcharge (2331), both of which derive from state laws authorizing the collection of surcharges on document recording fees. In addition, a portion of the voter-approved Veterans and Human Service Levy funds is administered through HFP as capital for housing.

Each funding source must conform to the policies and requirements in its enabling legislation. The laws do not cover every administrative issue, however, so there is room for some level of local discretion within the statutory directives. Local plans and guidelines are adopted, when appropriate, to assure that this discretion is exercised within the bounds of good public policy. Guidelines related to administration of federal HOME Program funds were updated in 2014. This document represents the 2015 update to the guidelines that pertain to all other fund sources and programs administered by HFP.

Table 1, below, is an overview of the general housing finance program guidelines that apply to each fund source.

| Fund source | Population | Affordability |
|---|---|---|
| HOME Program | Families and individuals with low incomes (rental housing and home ownership) | Household incomes at or below 60 percent AMI (rental housing), including those with special needs<br>Household incomes at or below 80 percent AMI (home ownership) |
| Regional Affordable Housing Program (RAHP) | Families and individuals with low incomes | Household incomes at or below 50 percent AMI |
| Community Development Block Grant | Families and individuals with low incomes, including those with special needs | Household incomes at or below 80 percent AMI |
| 2331 Homeless Housing Funds | Homeless families and individuals, including chronically homeless and households with a history of rental instability or other barriers to housing at risk of homelessness | Household incomes at or below 40 percent AMI |
| Vets and Human Services Levy | Homeless families and individuals (veterans and others), including chronically homeless and households with a history of rental instability or other barriers to housing | Household incomes at or below 50 percent AMI |

| Fund source | Population | Affordability |
|---|---|---|
| Housing Innovations for Persons with Developmental Disabilities (HIPDD) | Individuals with developmental disabilities (DD) or families with a member with DD. For rental housing, these funds are prioritized to support units set aside for persons with DD within a larger multi-family housing project in preference to group homes for persons with DD. | Households incomes at or below 50 percent AMI (rental)<br>Households incomes at or below 80 percent AMI (home ownership) |

Each year capital funding priorities are established by the King County Funders Group, which includes representatives from the City of Seattle, King County, United Way of King County, A Regional Coalition for Housing, the King County and Seattle Housing Authorities, suburban cities, Building Changes, and the Committee to End Homelessness. The priorities are outlined in the Combined Funders Notice of Funding Availability. Capital priorities must also be consistent with the King County Consortium's Consolidated Housing and Community Development Plan which outlines five-year priorities for the use of federal funds.

In addition to direct capital funding for project development, King County also administers a program of loan guarantees known as the Credit Enhancement Program, which can help project sponsors secure advantageous terms for short- and long-term financing. The Credit Enhancement Program operates in accordance with County ordinance and program-specific guidelines and is administered in consultation with a credit committee made up of representatives from the Department of Community and Human Services (DCHS), the Department of Finance, the County Office of Performance, Strategy, and Budget, and outside financial experts.

**Forms of financial assistance**

For rental housing projects, HFP financial assistance is generally provided in the form of a loan with a term of fifty years, carrying no interest or one percent simple interest, with all payments deferred to the maturity date. Loans are generally payable in full upon sale, change of use, or upon maturity, and repayment will generally include a proportional share of the net appreciated value of the property. In some cases financial assistance may be provided as a low-interest amortizing loan or a loan with payments contingent on available cash flow, if the operating budget of the project can support payments.

For homeownership projects, loan terms will vary depending upon the design of the project. Loans will general have terms of fifty years but may go longer in certain circumstances. Loans to agencies administering down payment assistance loan programs will be deferred payment loans due upon sale or refinance of the home. HFP may require interest or shared appreciation for loans to homeownership programs or projects, depending upon the program design. Programs based on resale will be expected to emphasize long-term affordability.

**Use of funds**

Most of the funds administered by HFP are subject to laws, regulations, and plans established at the federal, state, or local level, as well as to guidelines developed by county staff in consultation with consortium city staff and stakeholders, which are reviewed and adopted by the inter-jurisdictional Joint Recommendations Committee (JRC). HOME Program guidelines that are within the discretion of the HOME Consortium and King County are reviewed by staff of the

King County HOME Consortium member jurisdictions and recommended for approval by the JRC. Regional Affordable Housing Program (RAHP) guidelines that are within the discretion of the RAHP Consortium members are reviewed with participating city staff and recommended to the JRC for approval.

Specific guidelines for the use of King County funds, such as Mental Health Chemical Abuse and Dependency Services (MHCADS) Division funds, Funds for Housing Innovations for Persons with Developmental Disabilities (HIPDD)**,** and other county funds are reviewed and approved by the Director of the Department of Community and Human Services (DCHS). General guidelines related to the use of Veterans and Human Service Levy funds are reviewed and adopted by the respective levy citizen boards. County funds are used in coordination with other funds administered by HFP and are subject to the discretionary guidelines in this document.

## Funding Process and Awards

### Application process

All applicants for housing capital fund are required to participate in HFP's pre-application process. Notification regarding the pre-application process will be posted on the HFP website and announced each year via e-mail around the beginning of the second quarter. Scheduling for required meetings will begin in April or May, and will conclude by June 15th. Dates for the issuance of the housing capital RFP, submission of applications, announcement of awards, and other information relevant to the funding process will be posted to the HFP website in July.

The staff of the Housing Finance Program will arrange and conduct pre-application meetings and will provide additional opportunities for technical assistance to prospective applicants up to the date the housing capital RFP is issued. After that date and until final funding decisions are published, all questions must be submitted through the County's Procurement and Contract Services (PCS) Division. Information, relevant links, and contact information related to the RFP process will be posted on the HFP website. Applicants must submit one complete original hardcopy application, an additional copy of the original application in hardcopy, and two CDs or flash drives containing all electronic files required for a complete application. All applications will be received and given preliminary review for timeliness and completeness by PCS staff. In cases where the hardcopy and the electronic files differ, the hardcopy version will be considered authoritative.

Agencies are expected to submit only one project application for capital funding in a funding round. If an agency submits more than one application HFP will ask the agency to prioritize one of the applications.

Announcements of housing capital funding awards will occur as soon as possible following the November meeting of the JRC, and will be issued by Procurement.

### Eligible applicants

The following types of organizations are eligible to apply for housing development funds:

- Public housing authorities
- Nonprofit organizations

- Local governments
- Community Housing Development Organizations (CHDOs)
- For-profit developers (limitations apply).

Partnerships are encouraged among local governments, public housing authorities, other nonprofit housing developers, for-profit developers, and service providers in order to produce the greatest number of units for the most reasonable public investment, and to ensure appropriate supportive services for residents with special needs.

**Eligibility of primarily religious organizations**

Federal funds - HOME or CDBG - may be awarded to primarily religious organizations that consider religious affiliation as a factor in hiring. There are rules and requirements that such organizations must observe in developing and operating the housing, however. For example, staff who manage the housing development process, manage the housing after it is built and in operation, and provide services that are necessary for the tenants of the housing must be hired through a strictly non-discriminatory process that does not consider religious affiliation. A religious organization need not necessarily create a wholly secular entity independent of the religious organization, but must hire all staff who work on the housing project throughout the contract period through a non-discriminatory process. In addition, the completed housing project must be available to all persons regardless of religion, and there must be no religious or membership criteria for tenants of the property.

Local funds administered by HFP - all funds other than HOME and CDBG - are subject to the non-discrimination requirements of the King County Code and may not be awarded to an organization that hires through a process that considers religious affiliation as a factor for hiring any position in any part of the organization.

**Eligible project categories**

The types of activities that may be supported by funds administered by HFP are established by law or regulation for most fund sources. HFP staff may not expand the range of eligible activities for most fund sources, but may restrict the range in accordance with local priorities. Eligible activities include the following:

- Projects that increase the supply of rental housing affordable to low-income or special needs households.
- Projects that preserve existing affordable housing likely to be lost due to conversion to other uses or because of health and safety concerns.
- Projects that create home-ownership opportunities for income qualified homebuyers.

**Eligible housing types and uses of funds**

Funding is available for the following housing project types and development activities, which are not listed in order of priority:

- Acquisition of a site for permanent affordable housing
- Construction or preservation of permanent low-income rental housing units

- Acquisition and rehabilitation of existing housing units that will be made permanently affordable
- Construction or preservation of permanent non-time limited rental housing units with supportive services
- Construction or acquisition and rehabilitation for sale of homeownership housing units
- Relocation costs
- Site improvements
- Capitalized replacement reserves
- Capitalized operating reserves
- Community Housing Development Organization (CHDO) capacity-building activities
- Down payment assistance, homeownership education, and counseling

**Eligible beneficiaries and affordability requirements**

Criteria for eligible beneficiaries are established in federal, state, or local law and regulations for most fund sources administered by HFP. Within the broad range established by these laws and regulations, local administrators may prioritize particular populations and income groups, as long as the income level served does not exceed the income limit imposed by law or regulations. For example, HOME funds for rental housing may serve individuals or families with incomes up to 80 percent of area median income (AMI), but HFP staff may recommend and the JRC may approve projects that target populations with lower incomes. All projects supported by federal funds administered by HFP must provide housing that is affordable to income-eligible households according to income limits set every year by US Department of Housing and Urban Development (HUD). (See Table 1, above, for affordability guidelines.)

Rents in funded projects, including utilities, may not exceed 30 percent of the maximum monthly income level established for each assisted housing unit. The maximum allowable rents each year will be based on King County household income guidelines as published annually by HUD. Projects that receive HOME funds may be subject to more restrictive federal rent limits. In projects where housing will be rehabilitated, rents charged after rehabilitation should not exceed prior rent levels.

**Consistency with local plans**

Projects assisted with HFP funds must be consistent with the affordable housing strategies of the King County Consortium's current Consolidated Housing and Community Development Plan ("Consolidated Plan"). The Consolidated Plan may be accessed at:

http://www.kingcounty.gov/socialservices/Housing/PlansAndReports/HCD_Plans/ConsolidatedPlan.aspx

Projects in unincorporated areas must also comply with the King County Comprehensive Plan, and projects in suburban cities must comply with applicable local comprehensive plan requirements. All projects must meet all applicable local zoning and building code requirements. Sponsors are encouraged to locate housing projects at sites in walkable locations with access to jobs, transportation, exercise, services and other amenities that promote a healthy lifestyle.

The King County Strategic Plan 2010-2014: Working Together for One King County has transformed the County's commitment to equity and social justice from an initiative into an integrated effort to create, through all county activities, equitable opportunities for all people and communities. The DCHS is committed to addressing the root causes of inequities by building the capacity of culturally sensitive community-based organizations to respond to issues, and to develop and implement culturally appropriate solutions. In accordance with this commitment, areas and populations that lack equitable access to housing and services are prioritized; http://www.kingcounty.gov/exec/equity/vision.aspx

The most competitive applications for funding will be responsive to the King County Health and Human Services Transformation Plan, particularly around partnerships and shared measurement. As the plan states, "When complementary strategies are agreed upon and a robust system of measurement and continual learning is in place, the ability to make progress toward a given outcome can be far greater than any single organization, funder, or sector could achieve on its own"; http://www.kingcounty.gov/exec/HHStransformation/plan.aspx

**Where HFP affordable housing capital funds may be used**

Veteran and Human Services Levy (V-HS Levy) funds may support projects located anywhere in King County, including Seattle.

Document Recording Fee Surcharge for Homeless Housing (2331) may support projects located anywhere in King County, including Seattle.

Regional Affordable Housing Program (RAHP) funds may support projects located throughout King County in jurisdictions that have signed the RAHP interlocal agreement, including Seattle. The RAHP guidelines, adopted by the interjurisdictional Joint Recommendations Committee and periodically renewed, contain specific goals for equitable sub-regional geographic distribution of funds over the three-year period covered by each Interlocal Agreement.

HIPDD funds may support projects located anywhere in King County, including in Seattle. The specific geographic distribution of projects and funds will vary depending on need, opportunities, project feasibility, and the availability of funds.

HOME funds may be used only in projects located in unincorporated King County or in jurisdictions outside Seattle that are members of the King County HOME Consortium. HOME funds will be allocated to projects so as to achieve equitable geographic distribution of projects and funds across the Consortium, as required by King County Ordinance 10427. The actual geographic distribution of projects and funds in a given year will vary depending upon needs, opportunities, project feasibility, and the availability of other funding in each year's funding round. HOME funds may not be spent in jurisdictions that are not members of the King County HOME Consortium.

CDBG funds may be used only in projects located in unincorporated King County and in jurisdictions outside Seattle that are members of the King County CDBG Consortium. CDBG funds may not be spent in jurisdictions that are not members of the King County CDBG Consortium and there are limitations on spending CDBG funds in jurisdictions that receive their own direct CDBG entitlement. Information about jurisdictions that are members of the HOME Consortium and the CDBG Consortium can be found on the HFP website.

**Affordability**

Rents in housing subsidized by the County must, as a general rule, be below the market rate for the area in which the project is located, so as to provide an affordable housing opportunity not otherwise available in the community. Projects must follow the income and rent limits established for each fund source. Exceptions may be granted if there is a compelling reason, which will be reviewed as part of the project selection process. Information regarding market rents is available from HFP staff.

Housing projects that include units affordable to a wide range of household incomes may be eligible for all fund sources. Funds awarded by the County will be used only for assisted units that meet fund source requirements. Projects serving households with incomes up to 60 percent of median income are specifically encouraged under the HOME guidelines to allow leveraging of federal low-income housing tax credits.

Rent plus monthly utilities may not exceed 30 percent of the maximum monthly income level established for each assisted housing unit. The maximum allowable rents will be based on King County household income guidelines published annually by HUD. In projects where housing will be rehabilitated, rents charged after rehabilitation should not exceed the prior rent levels and must be consistent with current rent guidelines.

In ownership programs maximum sales prices will be established based on household incomes, current interest rates, low or no down payment, and typical lending qualification guidelines. Ownership pricing will typically be based on the assumption that mortgage payments plus taxes and insurance payments should not exceed 35 percent of the maximum monthly income level established for each assisted housing unit. Projects must ensure that housing remains affordable to eligible households throughout the term of the agreement. If it does not, subsidy funds will be recaptured upon resale, to be re-allocated to other affordable housing projects.

**Developer fees**

It is the policy of HFP to harmonize guidelines and policies for affordable housing programs with other public funders to the extent possible. With regard to developer fees in housing projects, HFP is working to develop a policy that is equivalent to that of the Seattle Office of Housing and consistent with the policies of other public funders. The developer fee is compensation to the developer for the time and risk involved to develop the project. The HFP policy, when it is established, will included guidelines for maximum developer fees and may include incentives for developers to constrain the use of contingency budgets.

As a general guideline, developer fees should not exceed ten percent of the total development cost of the project. Developer fees will be paid out at approximately the same rate as all HFP administered funds committed to the project, and will not be paid out more rapidly. If County funds are committed to acquisition and developer fee only, developer fee will be paid out according to a specified schedule, to be determined in the process of drafting overall guidelines for developer fees. As an example, 30 percent of the developer fee could be paid at acquisition, 30 percent at the start of construction, 30 percent during construction administration in proportion to the percent of construction completed, and 10 percent at project close-out.

## Funding award limits and matching requirements

The total HFP funding awarded to a project, including any amendments, may not exceed 50 percent of the total development budget unless there are unusual circumstances that justify a higher percentage. HFP funds are intended to leverage other housing funds to maximize the available resources for housing. Leverage requirements that establish maximum percentages of a project's total costs to be funded from a single source are set by law for some fund sources administered by HFP, and by these guidelines for other sources administered by HFP. Sources of leverage may include public and private grants, loans, equity investments, fund-raised dollars, and in-kind contributions.

Table 3 below summarizes current award limits and leverage requirements. Exceptions to these guidelines may be considered on a case-by-case basis at the discretion of HFP staff.

| **Table 3 – Funding award limits by fund source** | |
|---|---|
| CDBG, V-HS Levy, RAHP, and 2331 funds | Limit is generally 50% of total development cost per unit *(exceptions will be considered on a case by case basis).* |
| HOME Program funds | Limit is generally 50% of total development cost, up to a maximum amount per unit determined by HUD based on the number of bedrooms. The maximum subsidy per unit is set every year by HUD, with the following chart as an example:<br><br>0 bedroom = $132,814<br>1 bedroom = $152,251<br>2 bedrooms = $185.136<br>3 bedrooms = $239,506<br>4 bedrooms = $262,903<br><br>Note: If State HOME funds are used in a project together with County HOME funds, the limits will be applied to the combined HOME awards. |
| HIPDD | Limit is $50,000 per unit, with exceptions subject to KC DD discretion. |

## Project selection process

All sponsors intending to apply for capital funding for housing projects are required to participate in the HFP pre-application process. This process begins with a scheduled meeting with HFP staff during a period several months in advance of the funding application deadline. At the pre-application stage HFP staff will review project proposals for site-specific risks that may be identifiable prior to a phase one environmental review. Prospective applicants may be required at this stage to provide evidence that the project can secure insurance related to particular risks at a level required by King County Risk Management. If insurance is obtained, the cost will be considered as an element in the cost of development. If evidence of ability to secure insurance cannot be provided when it is required, the project will not be invited to submit a full application.

All applications will receive a thorough review for feasibility and for consistency with Housing and Community Development Program plans, guidelines, and policies. This review is conducted under the direction of the director of the Department of Community and Human Services (DCHS). The first level of review includes the following participants:

- Housing Finance Program staff
- Members of the Inter-Jurisdictional Advisory Group (city staff from local jurisdictions), and oversight boards associated with particular fund sources
- Experts in housing finance and construction
- Experts in housing-related supportive services.

Following this review, HFP staff will prepare recommendations for the Joint Recommendations Committee (JRC). The JRC includes representatives from King County and cities within King County. The full JRC recommends allocations of RAHP, Homeless Housing Funds (2331), HOME and Veterans/Human Services Levy funds, and King County JRC members recommend allocations of HIPDD funds. Projects funded with CDBG are selected by CDBG Consortium JRC representatives.

JRC recommendations are reviewed by the DCHS director for final approval. Applicants selected for funding awards will be notified by letter or email. HOME and CDBG funding awards are then published for a 30-day public comment period in the amended Action Plan for the King County HOME and CDBG Consortia.

Applicants who want to request reconsideration of an award decision must submit a written request to the DCHS director within ten working days of receiving an award letter from King County. The letter must present a well-founded argument that the HFP inappropriately applied the evaluation factors published in the request for proposals in a way that negatively affected the applicant’s project. The DCHS director will review valid requests reconsideration and will issue a final written decision.

### Evaluation criteria

New project applications will be evaluated based on a threshold review and a full review based on a number of factors related both to the sponsor agency and the project itself. To be funded by the County, projects must be consistent with the program priorities, funding guidelines, and regulations of the various fund sources. The threshold review will determine if the application has been submitted on time and whether the applicant has participated in the required pre-application process. Applications that are received after the time specified in the RFP or that are later found to be incomplete will not be accepted.

In the full review, an assessment of the sponsor’s capacity, financial soundness, and compliance on existing contracts will be made. The capacity assessment will be based on the number and qualifications of staff including development staff in relation to the size of the sponsor agency; the sponsor’s project portfolio and its condition; and the sponsor’s development pipeline. The examination of the financial soundness of the sponsor agency will involve the most recent consolidated audit, and current and prior year operating budgets. HFP staff will assess the sponsor’s compliance on existing contracts, including such factors as whether the sponsor is up to date with HFP reporting requirements and has no outstanding concerns resulting from on-site monitoring. Applicants are also expected to be in full compliance with requirements of all other funders. An assessment will also be made as to the sustainability of the sponsor's project portfolio with respect to all projects under contract with King County based on such factors as cash flow, project reserves in relation to current capital needs assessments, vacancy rates, and others.

The full review will also assess the competitiveness of the project itself, based on such factors as project compatibility with current funder priorities; the need and demand for the proposed housing; the financial feasibility of the project; the proposed structure for long-term affordability; access to transportation; and geographic distribution of projects and funds. Proposals recommended for funding will be those that are most competitive based on the project factors, and that are sponsored by agencies considered to be the strongest based on project sponsor factors.

**Funding awards**

Applicants are encouraged not to direct their proposals to a specific fund source, as HFP staff and the Joint Recommendations Committee (JRC) will determine the sources of funds awarded to projects. In addition, HFP reserves the right not to recommend the award of all available funds in a given funding round. Funds not allocated during one funding round may be awarded during a subsequent funding round for new proposals. Federal deadlines for commitment of HOME Program funds may require reallocation of funds if implementation of a HOME-funded project is significantly delayed.

**Contingent awards**

In any funding round, it may happen that there are more capital projects that present strong applications than can be awarded funding. A project evaluated by HFP staff as being worthy of funding that cannot immediately be funded due to limits on available funds may be recommended to the JRC for a contingent award. A project to which a contingent award has been made will only receive a funding award if funds become available during the time up to the next year's funding round, through recapture of funds due to project under-expenditures, or availability of a source of funds not known to be available at the time of the last funding round. If more than one project is recommended for such an award, the projects may be ranked in order of priority or designated as eligible only for a particular funding source.

If sufficient funds do become available to meet the request of a project placed on the contingent award list by the JRC, the project will be subject to a full updated review by HFP staff based on such current information as may be requested by HFP staff. The JRC will be briefed on the project as soon as feasible following HFP project review. A project given a contingent award that does not receive full funding by the time of the next funding round will be prioritized for funding in that round, provided that an updated application is submitted and the application remains highly rated.

**Contract amendments**

Contracts may on occasion be amended to increase an award or contracted amount, to change the population served or the affordability of a project, to change the effective dates for a project, or to reflect updated or newly developed guidelines with respect to tenant eligibility. All such requests will be considered on a case-by-case basis. In general, amendments to increase an award will only be granted if total development costs have increased during the period between the award of funds and completion of construction due to unforeseen factors beyond the control of the sponsor. In considering a funding amendment, the basic nature of the project and the qualifications of the residents to be served may not have materially changed, and the total funding award, including any amendment, must still meet HFP requirements. For example, the total HFP award with an amendment generally may not exceed 50 percent of the total project budget or the maximum amount per housing unit permitted for a particular fund source. Exceptions may be considered on a case-by-case basis.

Project funding amendment requests will be subject to the following conditions:

- The applicant must explain the reasons for and magnitude of the budget increase, and must demonstrate that project changes and increased costs will not diminish the ability of the development team to complete the project successfully.
- The applicant must provide an evaluation of all available fund sources, applicant contributions, and budget adjustments that potentially could make up the budget shortfall. The applicant must make every reasonable effort to leverage other public and private funding, reduce costs, or otherwise materially contribute to reducing the newly identified funding gap.
- Applicants requesting additional funds must submit revised development and operating budgets showing the difference between original estimates and current projections. The applicant must explain the impact on the project if additional funds are not made available, and must demonstrate that additional funds are necessary.

Evaluation of amendment requests will take into consideration, among other factors, the urgency of the need for HFP funding, impact of the amendment on the geographic distribution of funds, and effects on competing requests for project amendments. If additional funds are found to be justified, HFP staff may recommend an award, which will depend on the availability of an appropriate fund source and the sources of funds already awarded to the project.

If an amendment request exceeds 50 percent of the original County award, HFP staff will prepare a recommendation for action by the JRC at a regularly scheduled meeting. If the amendment is for less than 50 percent of the original award, the recommendation for additional funding will be prepared for a decision by the DCHS department director, with a status report to the JRC presented at the next scheduled JRC meeting.

Requests for contract amendments to change the population served in a project or to modify the affordability will be based on review and evaluation of a range of relevant information, which will be specified by HFP staff and will depend on the circumstances of the project and the nature of the changes requested.

Up to five percent of the total amount of HFP funds available through the regular funding round may be reserved for project amendments. At the time of the annual funding round, staff will recommend a specific amount of each fund source to be reserved. The amount of funds recommended for reserve may change over time based on such factors as the use of reserve funds from the previous year, status of previously funded projects, and competition for current year funds. At the time of the funding round, reserved funds not needed for previously funded projects may be allocated to projects in the current year’s funding round.

# General Project Requirements

## Contracting

King County's terms for HFP-funded housing projects will be explicitly stated in the most current version of the Housing and Community Development contract as approved by the Office of the King County Prosecuting Attorney. Contracts will comprise a boilerplate document and an exhibit or scope of work. The contract boilerplate describes in detail a standard set of performance guidelines, stipulations, and requirements that are reviewed and updated on an annual basis.

The language in the boilerplate section is generally not subject to negotiation or modification. Exceptions to boilerplate provisions, including those incorporated in the contract exhibit, must be reviewed and approved by the King County Prosecuting Attorney. The exhibit portion of the contract is designed to be flexible enough to capture each project's unique and specific scope of work. It will reflect the terms of any capital funding award made to the project and other conditions negotiated by the county and the project sponsor. These terms and conditions will include but not be limited to how county funds are to be used, specific populations to be served, levels of affordability, maximum rents, number of regulated units, sources and uses for county funds included in the development budget, and timeframes for compliance during the project's construction phase and throughout the remainder of the contract period, which in most cases will be 50 years.

Funds awarded to projects will be available not earlier than January 1st of the year immediately following a capital funding round. In the case of federal funds, the county may not go under contract before receiving the HUD grant agreement, official notice of the availability of federal funds. This agreement depends on Congressional action and may not occur until several months into the calendar year. If additional funds are needed as a result of unforeseen circumstances, a contract amendment may be requested, subject to the conditions explained in the Contract Amendments section, above.

All projects must submit a management plan with specific requirements outlined in the project contract exhibit. Housing sponsors are required to report annually on demographic characteristics and income for all residents served in the project, and on the financial performance of the project in the prior year.

King County will generally secure its interest in projects through execution of a promissory note and the recording of a deed of trust and a covenant restricting the use and resale of the property. In the event of a default, the County contribution to the project will be subject to repayment along with a proportional share of the net appreciated value of the property. The County will retain five percent of the total value of funds provided to a project or $25,000, whichever is less, which will be released only after all construction activities are completed and standards related to labor and the environment are met.

## Loan terms

Loan terms for multifamily rental housing capital awards will be for a minimum of 50 years. Interest rates between zero percent and three percent will apply depending upon the population to be served and the project design, with one percent interest as the norm. Interest on loans will be calculated annually as simple interest and payments, if any, will be applied first to accrued interest and then to principal. Loans will generally be deferred payment loans payable in full on sale, change of use, or at the end of the term. Loan terms may permit borrowers to further defer payment of principal, deferred interest, and contingent interest by extension of the loan term beyond the original contract period. Loan amortization may be required if project operating budgets show sufficient cash flow to support repayment while meeting required rent levels and debt coverage ratios.

Homeownership program loan terms will vary depending upon the design of the program. Down payment assistance loans will be deferred payment loans, due upon sale or refinance, and will have terms up to 30 years. Homeownership programs may require payment of interest or shared appreciation depending upon program design.

**Environmental review in rental housing projects**

Because of the possibility that a project may be awarded federal funds, environmental restrictions begin at the time an agency applies for capital funds. From that date until environmental review is completed, applicants may not spend any funds on physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, or construction. Property acquisition may not be considered choice-limiting, however, if it is accomplished using a purchase and sales agreement that includes certain HUD-required stipulations with regard to environmental review. Work completed prior to making application is not affected by this restriction. In addition, contracts entered into prior to making application, including purchase and sale agreements, may not be affected by this restriction. Agencies should contact the environmental review specialist in HFP for clearance on honoring existing contracts and information on HUD requirements for purchase and sale agreements entered into after applying to King County HFP, and must follow the directions of their assigned HFP project manager while environmental review is in process.

Any purchase and sale agreement entered into after application is made to HFP must contain the language and conform to the deposit restrictions found at the following website: https://www.hudexchange.info/resources/documents/NSPPolicyAlert_EnvironmentalReview_091611.pdf

Some projects are excluded from the requirement for public notice and HUD approval to release funds. These include one- to four-unit residential projects when the density on a site is not increased beyond four units, the land use is not being changed, and the footprint of a building located in a floodplain or wetland is not being increased.

Also excluded are multifamily residential buildings when the density is not changed more than 20 percent; there are no changes in land use from residential to non-residential; and the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation. This lower level of review also applies to acquisition, rehabilitation, or new construction of one to four homes on a single site, or of five or more housing units developed on scattered sites, when the sites are more than 2,000 feet apart.

Environmental reviews will typically take four to six weeks to complete. If certain forms of mitigation are required, the need for public notice and HUD clearance will extend the time by an additional four weeks. Examples of projects in which mitigation may be needed include acquisition and rehab of structures more than 45 years old, structures built prior to 1978 or that have been tested for and found to contain lead based paint, and structures assumed or found to contain asbestos.

For all other projects, most of which will involve new construction of housing, HFP will complete an environmental assessment, publish a notice, and request release of funds from HUD. This level of review will take at least two months or more depending on the level of consultation needed and the availability of third parties staff must consult with, including the Department of Ecology, the county archeologist, the State Office of Archeology and Historic Preservation and in some cases the federal Fish and Wildlife Service.

**Green building and the Evergreen Sustainable Development Standard**

Sustainable development can be defined as "...development that meets the need of the present without compromising the ability of future generations to meet their own needs", according to the World Commission on Environment and Development. Out of concern for both present and future generations, all rental housing projects funded by the County must follow the current Washington State requirements for Evergreen Sustainable Development Standards (ESDS). These standards were made applicable by the state legislature to all projects funded by the Washington State Housing Trust Fund by RCW 39.35D.080. Full details on the current Evergreen Standard are available through the Washington State Department of Commerce at this web address - http://www.commerce.wa.gov/Programs/housing/TrustFund/Pages/EvergreenSustainableDevelopment.aspx

The criteria included in the Evergreen Standard have been extensively reviewed by stakeholders and set a minimum standard for affordable housing development funded by King County. The Evergreen Standard is subject to periodic revision by the Department of Commerce, so it is the responsibility of prospective applicants to remain up to date on its requirements. The Evergreen Standard includes several dozen criteria, of which some are mandatory and some optional. Not all criteria will apply to every project, since some are relevant for new construction and others apply only to rehab projects. In version 2.2, which was the standard through the 2014 capital funding round, new construction projects had to earn at least 50 points from the optional criteria, rehabilitation projects had to earn at least 40 points, and all projects had to meet all applicable mandatory criteria. An appropriate number of points is assigned to each criterion to provide numerous ways to accumulate the necessary point total to pass the threshold. The County reserves the right to provide preference in funding to projects that show the greatest creativity and commitment to sustainable design in their application of the Evergreen Standard. Prospective applicants are encouraged to consult with County staff if they have questions about which optional Evergreen Standard criteria are considered to be the most significant for project sustainability from the point of view of a public funder.

The Evergreen Standard should be viewed as setting a minimum level of green and sustainable design for projects eligible for funding. Non-profit sponsors may exceed the Evergreen Sustainable Development Standard by using another standard, if they wish to. Projects aspiring to incorporate higher standards of sustainability - defined primarily in terms of durability, low maintenance, and extreme energy efficiency - are encouraged, and may receive preferential recommendations in the County’s annual funding round within priority categories. Projects that can convincingly demonstrate a potential for significantly higher standards of performance at a cost comparable to the existing average per-unit development cost will receive preference within priority categories.

Beginning in 2015, HFP will place increased emphasis on the ESDS criteria related to the process of developing high performance housing. The criteria that refer to the green development plan (criterion 1.1 in ESDS 2.2) will be strengthened in ESDS version 3.0. The updated criteria may require applicants to develop and document an integrative design approach, set performance targets related to such factors as energy efficiency and water use, and submit a written green development plan explaining this approach and illustrating how each member of the development team will be involved in meeting performance targets. This criterion will also recommend that applicants use a number of analytical tools such as life-cycle cost analysis and total cost of ownership when considering alternative materials and products, while continuing to emphasize the use of more durable and less polluting alternatives.

**Housing for persons with special needs**

Most fund sources administered by HFP may be used to create housing for persons with special needs, including individuals with chronic mental illness or are in recovery from substance abuse issues; households who are chronically homeless; victims of domestic violence; individuals with HIV/AIDS; victims of traumatic brain injuries; individuals with developmental disabilities or who are physically challenged; frail elderly; youth; and veterans.

As a general policy, the County prefers that the agency that owns the property be distinct from the agency providing services to tenants, in projects where services are an essential element of the housing. In practice, this means that in cases where an agency seeks funds for group homes to serve small numbers of tenants who require ongoing services to maintain housing, the owner agency should not be the same entity as the service provider. Exceptions to this policy may be made when the project consists of premises licensed for a particular use.

Agencies using Housing Finance Program funds to provide housing units for persons with developmental disabilities must sign referral agreements with the State Division of Developmental Disabilities (DDD), subject to approval by the County. In addition, HFP requires all providers of housing for tenants with DD to sign an agreement with the on-site service providers in a form approved by HFP and DDD that outlines the responsibilities of the service provider with regard to helping tenants maintain the property in good condition and alerting the property owner about any potential maintenance or repair issues.

- Eligible persons - Households with one or more member who receive services through the Washington State Department of Social and Health Services (DSHS) Region 4 Division of Developmental Disabilities (DDD).
- Median income levels - Households with incomes at or below 30 percent of area median income.
- Maximum subsidy amount - The maximum subsidy amount is $50,000 per unit.
- Number of set-aside units - The set-aside units should total no less than two units per project, and no more than five units for projects with 50 units or less, or no more than ten units for projects with more than 50 units.
- Size of units - The set-aside units can be studios or 1-, 2-, 3- or 4-bedroom units, with a priority for 2-bedroom and larger units.
- Universal Design - The DD set-aside units shall include universal design features. Applicants must complete and include with their funding application a universal

design checklist, identifying the universal design elements that will be included in the project.

**Fair housing, access, and affirmative marketing**

Fair housing is the right to choose housing free from unlawful discrimination. Fair housing laws at the federal, state and local levels prohibit discriminatory practices in housing based on membership in a protected class. The laws protect identified classes, defined as race, color, national origin, disability, gender, religion, familial status (having children under 18), sexual orientation, age, and veteran or military status. All projects funded by the County are subject to federal and state law and may also be subject to additional class protections prescribed by local laws.

Fair housing laws cover a number of issues related to the design and operation of housing projects, including accessibility requirements, discriminatory conduct toward current and prospective tenants, affirmative marketing of available housing, and providing reasonable accommodations for persons with a disability. Housing providers should be aware that occupancy limits for housing units that are more restrictive than those allowed by local building codes may be in violation of fair housing law if they are applied to families with children. Targeting units for specific sub-populations of a protected class, in the absence of a requirement associated with a particular fund source, may also conflict with fair housing laws.

King County uses federal grant funds to support affordable housing, so the County is required to affirmatively further fair housing. This obligation is passed on to the agencies that contract with the County to provide affordable housing. In the context of fair housing, this means engaging in affirmative marketing based on a strategy designed to attract renters of all majority and minority groups, regardless of race, color, national origin, disability, or any of the other protected class qualifiers. Affirmatively furthering fair housing, therefore, means more than merely avoiding discrimination.

Owners also have a positive responsibility to remove barriers that reduce the accessibility of housing for protected classes, and to take actions that serve to overcome the impacts of segregation history in King County. A housing provider may not, for example, refuse to let a tenant make reasonable modifications to a dwelling or common use areas at the tenant's expense, if necessary, for the tenant to use the housing. A housing provider also may not refuse to make reasonable accommodations in rules, policies, practices or services if necessary for a tenant to use the housing.

More information about fair housing, resources for tenants, complaint resolution, and related subjects may be found on the website of the King County Office of Civil Rights (KCOCR) website: http://www.kingcounty.gov/exec/CivilRights.aspx. KCOCR is also available to consult with providers regarding fair housing related questions and can be reached at 206-263-2446.

**Contractor selection, construction contracting, and construction management**

HFP strives to ensure fair contracting methods and competitive pricing in the construction of affordable housing. Agencies awarded affordable housing capital funding must select contractors through an open and competitive process or a competitive bid process open to pre-qualified contractors. Agencies must submit a summary of their proposed competitive selection process, and HFP reserves the right to review and approve the process prior to its implementation, including all bid documents. HFP may publish additional procurement requirements in its annual notice of funding availability (NOFA).

In contracting with firms that will execute a construction project, agencies may use one of a number of contract types, subject to review and approval by HFP. Allowable contract types, depending on the nature of the project, include cost-plus-fee with a guaranteed maximum, fixed-price/stipulated sum, and others as appropriate. The contract with the general (prime) contractor and any amendments to the contract shall be submitted to HFP prior to execution.

Applicants proposing to manage their own projects must demonstrate capacity to the satisfaction of HFP. Such applicants must have prior experience managing projects of a comparable scope and complexity, and must be able to demonstrate that they have staff available for the necessary work at the time required. If applicants do not have sufficient in-house construction management capacity, they will be required to contract for this service.

All applicants awarded funds must provide the County with copies of written cost estimates, construction contracts, and construction documents. These documents must present the scope of work and associated budgets at a level of detail that enables the County to conduct progress and final inspections, to determine that construction is being done in accordance with applicable codes, the construction contract, and construction documents.

**Management plan**

Consistent, comprehensive and considerate property management is crucial to the success of each affordable housing project funded by the County. Project owners will be required to submit a property management plan specific to each real property location. For acquisition and rehabilitation of an existing building, a management plan will be due by the end date specified in the contract project exhibit. For new construction projects, the due date will be not later than three months after the date of the certificate of occupancy. The management plan must include the following elements:

- A general description of the physical environment, including the type of housing, number and size of units, type of unit, amenities such as common space or playground, accessibility, and other relevant characteristics.
- The proposed tenant population including household composition, demographics, number of households.
- A description of any services offered as part of the project, including supportive services, if needed, and information about how services will be delivered and who will deliver the services.
- A detailed discussion of the Agency's response to the requirement for housing and services to be offered in a culturally competent manner.
- A narrative giving further details on the proposed management and operation of the premises including a description of the management entity, staffing, and key roles; tenant selection and eligibility determination; marketing plan; rules for operation of the premises and enforcement procedures; procedures for dealing with tenant complaints including community involvement; description of security and emergency

plans; and maintenance and repair program, with examples of schedules, forms or documentation that will be used.

**Capital needs assessment**

Within six months after the completion of a project involving new construction, project sponsors must complete and submit to HFP a capital needs assessment (CNA) on all the properties for which funds have been awarded. The capital needs assessment must include a list of all major replacement components of the building; the typical or expected remaining life of each component; the estimated replacement cost of each component factored for inflation; a 20-year schedule for the replacement of each component; and a schedule of replacement reserve deposits, replacement expenditures, and reserve balances. The planned schedule of replacement reserve deposits must be adequate to meet the capital needs of the property over at least a 20-year period and the CNA must include information at a level of detail sufficient to demonstrate the adequacy of annual deposits to reserve accounts as shown on the County-approved operating budget. The methodology for the capital needs assessment is subject to approval by the County, and the assessment shall be conducted by a professional firm having prior experience in this field, except as approved in writing by the County. Project sponsors must update and submit to the County a CNA at least every ten years for each County-funded project, throughout the compliance period.

Project developers are encouraged to use life-cycle cost analysis as often as possible with regard to selection of materials and major project components during the design phase of the project. They will also be encouraged, beginning in 2015, to prepare a CNA for each project during the design phase and to use it to calculate and justify assumptions about annual per-unit reserve contributions. Policies related to the sustainability of County-funded housing projects are in the process of evolution with the strengthening of the Evergreen Standard, and County policies will be aligned with those of other funders as the public funders and development community work together to deliver higher levels of value for the public investment in housing.

**Community and neighbor relations**

Project sponsors are encouraged to undertake activities to establish and maintain positive relationships with neighbors of assisted housing. HFP staff will offer guidance as needed in designing a positive and pro-active community relations process and will provide referrals as needed. This process will typically include introducing the agency; describing the proposed project; providing information about the client population; inviting input from neighbors; and facilitating community meetings as needed. If requested, HFP staff may also provide names of other agencies that have developed successful community relationships, and may attend community meetings at the request of the project sponsor. The community relations process is voluntary and funding decisions will not be conditioned upon community response to a proposed project or the agency’s decision to pursue or not to pursue a community relations process. The County understands that some agencies may choose to initiate fewer community contacts to protect the privacy and confidentiality of the residents.

**Employment and training opportunities**

For housing projects where the total project construction costs are $200,000 or more, apprentice training program requirements will be included in the construction contractor bid package. King County will require awardees to select prime contractors that will hire apprentices enrolled in an approved apprenticeship program and who will procure sub-contractors working under contracts of $100,000 or more who will also hire apprentices enrolled in an approved apprenticeship program as described in RCW 39.04.300 through 39.04.320.

King County requires that these projects work with the King County Work Training Program to recruit and hire workers whenever there is the need for a contractor to hire additional workers. These workers include adults engaged in pre-apprenticeship and certificated environmental clean-up and green jobs training.

**Close-outs and monitoring**

All project owners must submit an annual report to the HFP within 30 days of the close of each calendar year, beginning no later than the year of the end date of the contract. Owners must report the total number of units in the project; the number of bedrooms per unit; rents and utility allowances; the income, size, ethnicity, and composition of tenant households; and, if applicable, information regarding the homeless or special needs households served.

If a contract includes HOME funds, additional information is required for each HOME-assisted unit. The report must identify the HOME-assisted units; the number of bedrooms, total rent and utility allowance per unit; and the income, size, race, ethnicity, and type of households.

Annual report forms and access to the Web-Based Annual Reporting System (WBARS) will be provided to owners by HFP. WBARS is shared by all capital funders of rental housing projects in the state. The funders set up new projects in WBARS ever year, once construction is complete and lease-up has commenced. Desk monitoring reviews are performed based on the WBARS data, which is downloaded into an HFP database that produces individual project reports. These reports allow County staff to review the project rents, unit affordability, and provide information on actual tenant incomes and rental subsidies within a project. Note that if there are HOME funds in a project, the specific tenant data for HOME-assisted units must be reported using HUD’s Integrated Disbursement and Information System (IDIS) in the year in which construction is completed and lease-up has commenced.

During the project close-out process following completion of construction the County will require a copy of the certificate of occupancy, the final development budget, a current operating budget, documentation regarding wages paid for construction signed by the owner and the construction contractor, documentation of Section 3 compliance if applicable, documentation of ADA accessibility, and other reports the County may need.

Initial site visits will be conducted by County staff to review initial tenant eligibility for occupancy and to verify that the rents conform to the requirements of the County contract. Physical inspections will be conducted to ensure that the property is being well maintained and that the owner is or has conducted a capital needs assessment, and review records related to maintenance repairs and documentation of inspection of major building systems.

If there are HOME funds in a project, source documentation for tenant incomes will be examined and the rent and utility information verified against the data reported in WBARS. Copies of tenant leases will be collected to verify compliance with HOME tenant protections, and copies of the sponsor’s affirmative marketing plan, waiting list policy, and on-site management plan will be collected and reviewed.

Project owners must provide HFP with the following information pertaining to their projects and to the owner organization on an annual basis: 1) annual operating statements for each project detailing income, expenses, and cash flow; 2) separate annual account statements for replacement and operating reserves, including year-end balances and withdrawal and deposit activity; 3) an audited financial statement for each year throughout the period of contract compliance; 4) the federal form 990 at the time it is required by the federal government; 5) a report of board meetings and board activities, with names and addresses of current board members and officers; and 6) other reports that the County may request , such as those related to inspections, tenant income monitoring, and property and liability insurance.

County staff will make periodic on-site monitoring visits to housing projects to examine files. Files to be examined will include individual tenant files, source documentation used to verify household income, and demographic information to select. Owners will be required to provide back-up documentation for a sample of units that are reported in WBARS. Records of individual tenant income verifications and project rents must be retained for the most recent five-year period, and for six years after the contract's termination date.

If compliance issues arise during a desk review or on-site record review, questions will be presented to the project owner in writing and the owner asked to respond in writing. Minor reporting issues may generally be resolved by the owner modifying internal procedures or processes so that similar reporting problems are avoided in the future. HFP will verify compliance with the next report submitted by the owner.

If there is a pattern of repeated non-compliance with respect to reporting, HFP may meet with the owner and provide one-on-one technical assistance to address the problem. The owner may be asked to develop a plan to correct the problems within a specific timeframe and the implementation of this plan will be monitored.

If severe compliance issues persist, specific remedies allowed under the contract boilerplate may be applied. Instances of gross negligence, fraud, or discrimination, or persistent conditions that pose an imminent threat to the tenants' health and safety are taken seriously. HFP staff will meet with owners and property managers to identify the specific violations, develop an agreement laying out steps to address the violations, and may impose additional sanctions such as financial penalties, replacement of staff involved in the violation, or legal action. The County will follow-up closely to determine that the violations are corrected and the owner will be required to report more frequently on progress. More frequent on-site visits will be conducted until all issues have been successfully resolved.

On-site physical inspections for all projects funded by HFP will be conducted at least every five years beginning in the year the project is closed out and continuing throughout the compliance period. HFP will develop a risk assessment process for all projects which will be used to determine which projects should be inspected more often. Projects at highest risk may be inspected as often as every year until it is determined that less frequent inspections are warranted. For information on physical inspections specific to HOME funded projects, see the subsection on HOME project physical inspections in the HOME Program section of these guidelines.

**Transfers, assumptions, and refinancing of HFP contract obligations**

The DCHS director may permit the transfer and assumption of a HFP contract and loan from one entity to another, with a related transfer of the property that was acquired, constructed, or rehabilitated using County funds. Repayment of principal, interest, or other amounts owing under the loan at the time of the transfer will not be required under the following circumstances:

- The loan is assumed by a tax credit entity and the entity makes a substantial equity investment in the low-income housing;
- The property is transferred by a tax credit entity to a nonprofit corporation, a limited liability corporation or partnership established by a nonprofit corporation, or a public agency approved by the director of DCHS, including with limitations a transfer to the general partner or manager pursuant to the terms of an option agreement made in connection with the formation of the tax credit entity; or
- The property is transferred, with the approval of the director of DCHS, to a qualified nonprofit corporation or public agency without substantial consideration to the transferor other than assumption by the transferee of outstanding obligations.

Prospective new owners must complete a transfer of ownership application.

DCHS may review a request from an agency to refinance private debt with non-federal County funds in cases that will result in a lower interest rate and reduced debt service; or that produce some other long-term project benefit. DCHS will consider each such request on a case-by-case basis and will conduct an in-depth analysis with the agency, including review of the proposed new financing terms, transaction costs, an updated capital needs assessment, status of reserve accounts, and additional information as needed.

Net appreciated value will be calculated according to a formula established by DCHS, which will be included in each project's promissory note. The formula will reflect the amount of departmental funds contributed as permanent financing to a project modified by any additional funds contributed during the loan term, such as capital contributions approved by DCHS or sponsor subsidies contributed to cover operating losses.

## Affordable Ownership Housing

### General program guidelines

The County provides financial assistance to sponsors who help income-qualified families purchase homes they will occupy as their principal residence. Homeownership programs will target households with incomes between 50 and 80 percent of the area median income (AMI). Programs targeting households with incomes below 50 percent AMI may be considered on a case-by-case basis. Ownership programs may be based on any of a number of models: limited equity cooperatives, community land trusts, self-help "sweat equity" programs, partnerships with for-profit organizations to develop houses for first-time homebuyers, or nonprofit acquisition of a mobile home park in danger of conversion to another use.

The public benefit basis for HFP's commitment to funding low income ownership programs is based on their providing low income families with opportunities for entry into a challenging housing market, the potential to create wealth-building opportunities for low income families, and their contribution to the stability of families and neighborhoods.

Funds may be used to provide down payment assistance, interest buy-downs to a first mortgage lender, or development subsidies to reduce the price of newly constructed homes. Public funds may also be used to reduce the cost of property for development, with the benefit passed on to buyers. Ownership programs must be based on either a resale or recapture model, and may not combine characteristics of both. In resale programs initial and resale prices must be affordable to a defined range of income-qualified home buyers, the public subsidy remains in the homes, and the program will include a resale formula that provides a fair return to the owner. In recapture programs, the public subsidy helps with the initial purchase and returns to the public funder upon resale. King County fund sources may not be used for program administration.

When County funds are used to help pay development costs for new construction and acquisition-rehabilitation ownership projects, those funds may be used for acquisition, infrastructure, rehabilitation, building construction, and “soft costs” such as design and engineering. Evidence of site control is required at the time of application for funds except in the case of projects that will acquire existing scattered-site single-family homes. Developers must specify the proposed income restrictions and affordability periods in their application and the maximum subsidy per unit may be no more than 50 percent of the total per-unit cost of the project. There are limitations on using HOME funds for some of categories of expenditure and other requirements may apply when federal funds are used in ownership projects.

County funds used as down payment assistance are limited to $35,000 per unit. Development subsidies will be subject to the per-unit maximums established by federal regulations for the use of HOME funds in rental housing. Ownership programs will be subject to maximum ratios of housing costs to total monthly income, based on the sum of principal, interest, taxes and insurance (PITI), plus homeowner dues, which should not exceed 38 percent of an owner’s gross monthly income. Maximum home prices will be based on current HUD-published guidelines. Requests for County funds for new or existing revolving loan funds will be considered on a case-by-case basis. In general, preference will be given to ownership projects that create long –term affordability through resale provisions and community land trust structures.

The following entities are eligible to manage home ownership programs using funds awarded by the County: public housing authorities; nonprofit organizations; local governments; community housing development organizations (CHDOs); and for-profit housing developers, subject to limitations.

Ownership program sponsors are required to determine income qualification for prospective homebuyers; partner with or provide affordable mortgage programs; provide homeownership education and counseling, and monitor long-term affordability requirements including recapture or resale restrictions. Program sponsors will also be required to track the recapture of County funds, and provide demographic data on homeowners as required by HUD, in programs using federal funds.

In down payment assistance programs based on recapture of the public investment, the affordability period will typically be as long as the term of the first mortgage, with the County loan being forgiven if the owner occupies the home throughout this entire period. In programs using federal funds, the period during which federal rules and reporting apply will be the minimum required by HUD. The down payment assistance provided by the County will as a matter of policy be less than $40,000 so this period will be ten years or less. Down payment assistance loans will be deferred payment loans, due upon sale or refinance. King County will secure its interest in recapture-type projects by recording a deed of trust, a promissory note, and sometimes a covenant restricting the use and resale of the property. A home ownership program may be structured so that funds subject to recapture are reduced according to a calculation that gives credit to the homeowner for the time that person has owned and occupied the unit. Each subrecipient will determine the way in which the recapture of funds will be reduced, if such a provision is included in the program design. The following is an example of how a subrecipient might do this: divide the number of years the homebuyer occupied the home by the period of affordability and multiply the resulting figure by the total amount of direct subsidy originally provided to the homebuyer.

The affordability period for a project or program using resale provisions, typically a land trust model, is based upon the term of the ground lease. The period during which federal rules and reporting apply will be the minimum required by HUD. A subsidy of less than $15,000 per unit will require five years of federal requirements; $15,000 to $40,000 – ten years; over $40,000 – 15 years. If the home is sold or transferred during the affordability period, it must be to another income qualified household. If a home is sold or transferred during the period when HUD rules apply, a new such period will begin. King County will secure its interest in resale-type projects by recording a deed of trust, a promissory note, and a covenant restricting the use and resale of the property.

**Reporting responsibilities for ownership projects**

Each January throughout the affordability period all project owners must send the County an annual report in a format similar to that required by the Department of Commerce Housing Trust Fund staff at the same time it is due to the State. The report will include data for the reporting period of the previous calendar year. Owners will report on the number of home buyers assisted, the number of loans in default and how defaults are being resolved; the number of foreclosures; and a summary of all homes resold through either resale or recapture.

Agencies administering a revolving loan fund must provide annual reports on the balance of all funds available for homeownership activities, how much of the balance consists of HFP dollars, how much has been spent in the past year, and the number of home buyers assisted.

The annual report due by June 30th must also include the most recent annual audit, the annual budget for the owner organization for the current year, and a copy of the current certificate of insurance. A full list of submissions and report instructions can be found at this web address:

http://www.commerce.wa.gov/Programs/housing/TrustFund/Pages/AnnualReporting.aspx

All agencies managing County funded homeownership programs are responsible for informing HFP immediately when homes are resold. Such agencies must provide evidence to HFP that the buyer is income qualified and that applicable resale or recapture provisions have been followed. HFP must also be provided copies of the new homebuyer's promissory note, executed HOME Use Agreement if applicable, and demographic data for the home buyer.

Agencies managing HFP-funded homeownership programs are responsible for ensuring that homeowners understand the obligation to occupy an HFP-assisted home as their principal residence for the required period of time, and the obligation to pay back HFP funds pursuant to a formula, if they do not. Agencies must inform the County as to the method they will employ to monitor their portfolio of current loans.

For construction or acquisition projects, HFP will conduct one or more physical inspections of the property and the agency must provide evidence that the housing meets the required housing quality standards.

**Environmental review in ownership projects**

Recipients of down payment assistance must document compliance with federal Environmental Review requirements by completing a determination of exemption and a determination of categorical exclusion. This includes documentation that the housing is not within a 100-year floodplain, and is not located within 2,500 feet of a civil airport or 15,000 feet of a military airfield. Additional detail and documentation requirements may be found in HFP's Environmental Review Documentation Guide, which will be updated as necessary to reflect current federal regulations and rules.

In programs providing down payment assistance where project activities will include acquisition, rehabilitation, or new construction, recipients must stop all choice-limiting activities upon applying for funds, including acquisition, demolition, rehabilitation, and any ground disturbance until the County completes an environmental review.

## Portfolio Preservation Loans

**General policies and types of loans**

The Housing Finance Program will consider requests for loans to pay for repairs or replacements in projects already in the county's housing portfolio on a case-by-case basis. Small emergency loan requests may be made at any time, but will be subject to availability of funds. Review of such requests will include acquiring and analyzing information on available reserves, if any, as well as other resources that may be available to the requesting agency. "Emergency" is defined in this context as meaning that without immediate repairs, (1) the owner will not be able to maintain all units and common areas in a safe, decent, and sanitary condition; and (2) the financial sustainability of the project is likely to be compromised. A typical example of this kind of request might be a single-family home used as an adult group home for a population with special needs that requires a roof replacement or a new heating system, where the owner lacks the necessary reserves. These loans are expected to be under $20,000 and agencies requesting them will be required to submit a new or updated capital needs assessment (CNA) showing how the project will be financially sustainable for the balance of the original compliance period. Depending on the size of the loan, the compliance period may be extended, with the new period reflected in an amended covenant and deed. HFP will undertake to reserve funds in each year's capital funding round for this type of loan, with the goal of maintaining an emergency loan reserve of at least $100,000.

Requests for larger loans to assist projects in the County's portfolio will be considered in the context of each year's annual funding round. Agencies requesting such loans, which may occur as part of a recapitalization or resyndication plan, will be expected to provide detailed information about how the proposed loan fits into a comprehensive portfolio preservation plan. At a minimum, HFP staff will want to review current CNAs for all projects in the agency portfolio and a plan covering at least the next 10 years for meeting the portfolio's anticipated capital needs. The compliance period for new contracts that encompass major portfolio preservation loans will be fifty years, starting at the date of loan issuance. A new covenant and deed will be recorded and the most current contract requirements will apply. A minimum 50 percent match will be required from other public or private sources.

Exceptions to these guidelines will be considered on a case-by-case basis. It is anticipated that HCD will review the portfolio preservation program guidelines annually and propose updates or improvements for JRC approval as needed. Funding priorities for each year's capital round will be determined by the Combined NOFA, usually published in July, and these may affect priorities applied to portfolio preservation loan requests. All requests for portfolio preservation loans will be closely analyzed for the potential to postpone funding for rehab or repair work until a later funding round.

### Application process

The application requirements for portfolio preservation loans will be essentially the same as those for capital funding for new housing projects. Portfolio preservation loans will be subject to all terms and conditions of the existing King County contract including affordability and set-asides for particular populations, unless these provisions have been modified as a necessary condition for granting a new loan. If it is necessary to modify the affordability requirements as a condition of providing additional assistance to a project, any such modifications will be subject to review and approval by other public funders who also have invested in the project. Modifications will be based on detailed analysis of the sustainability of the project over the balance of the existing compliance period and any new compliance period that extends the termination date.

All work except work done to address emergencies shall result in the property meeting at a minimum the current HUD Uniform Physical Condition Standard (UPCS). Section 8 Housing Quality Standards, as amended.

### Priorities for portfolio preservation program

The following priorities will apply to use of funds for portfolio preservation:

1. Housing which has an existing King County investment that is facing a true emergency repair need which could prevent the housing from continued use if not addressed, and for which there are not adequate reserves to cover the entire cost of the rehabilitation work.
2. Housing which has an existing King County investment and may need additional assistance from public funders to fulfill its contractual compliance period.

## Relocation

### Displacement policy

Where possible, applicants are encouraged to propose projects that avoid or minimize displacement by acquiring only vacant properties, properties being voluntarily sold by an owner-occupant, rehabilitation projects that require only temporary relocation, or new construction projects. If federal HOME or CDBG funds will be used in a project that involves acquisition of a property with residential or commercial tenants, federal Uniform Relocation Act or Section 104(d) requirements must be met. If only local funds will be used, relocation assistance will be provided to tenants according to policies in the King County Consortium's Consolidated H&CD Plan. Applicants whose projects involve acquisition of properties with residential or commercial tenants in place or demolition of any housing should contact Wendy DeRobbio at (206) 263-

9070 for assistance with planning and budgeting for potential relocation benefits. Applicants for King County Consortium funding through the Housing Finance Program will be required to submit a realistic relocation plan supported by information about current tenants, comparable housing units, and current market rents.

The King County Consortium publishes its displacement practices and federal relocation requirements in the current Consolidated Housing and Community Development Plan pursuant to federal regulation. Please refer to the Consortium's displacement practices in Appendix G of the current Consolidated Housing and Community Development Plan. The relocation guidelines in this document are supplementary to the federal relocation requirements and primarily address relocation guidelines for projects that do not include federal funds, and the Consortium's use of CDBG funds for relocation only, which does not invoke the federal requirements.

In order to receive an approval of relocation plan from the King County Consortium, a project must submit a plan that is substantially in compliance with current requirements and includes all notices required under the County's relocation policies. The amount of relocation benefits that must be paid to displaced tenants, if any, will depend on the sources of public funding included in a project's development budget. The specific guidelines are presented below.

**Relocation guidelines**

Projects that include or that will include federal funding (HOME and CDBG), and will acquire, demolish, or rehabilitate property that has residential or commercial tenants in place, must follow the federal relocation requirements of the Uniform Relocation Assistance (URA) and the Real Property Acquisition Regulations for Federal and Federally Assisted Programs, as well as the Barney Frank Amendment, Section 104(d), if applicable. Please see the relevant appendix of the current Consolidated Housing and Community Development Plan for more information.

Projects applying for funds through the Housing Finance Program that also include or will include Washington State Housing Trust Fund (HTF) money, but do not include federal funding, must follow the relocation requirements of the HTF, which are substantially equivalent to the URA. The relocation requirements of the HTF are in RCW 8.26, which be accessed via the web at http://apps.leg.wa.gov/rcw/default.aspx?cite=8.26. Applicants should review these requirements carefully, as they are very similar to the URA for displacement of residential tenants, but are more restrictive for displacement of commercial tenants. King County will require that applicants develop a relocation plan that conforms to the state requirements.

If a project will displace residential or commercial tenants and has both HTF and federal funding, the project must comply with the most restrictive regulations concerning displacement.

Projects that include or will include only local county funds (HOF-CX, RAHP, Mental Health, or HIPDD Developmental Disabilities Funds) for the acquisition, demolition, and or rehabilitation of property that has existing residential tenants that may be displaced, must follow the following local relocation guidelines. Project owners who contract with the King County Housing Finance Program for housing project funding will be required to provide relocation benefits to all displaced households.

Effective October 1, 2014, the benefit amount for each displaced household will be $2,933 per household. The Joint Recommendations Committee (JRC) of the King County Consortium may review and recommend annual increases to the benefit amount each year based on the consumer price index.

Projects involving displacement of tenants are required to provide notice to all existing tenants that mirror the requirements below. A list of all displaced households, including name, unit number, household size, ethnicity, and monthly gross income must be provided to the King County relocation specialist, along with documentation of all the payments made to displaced tenants. All relocation costs must be included in the project development budget.

The Washington State Housing Finance Commission (WSHFC) tax-exempt bond financing program and low-income housing tax credit (LIHTC) program require project sponsors to have a relocation plan approved by the local jurisdiction as part of the application process. The King County Consortium cannot require that projects in this category provide relocation benefits to displaced tenants; however, the project owner may elect to provide financial assistance to displaced tenants as a courtesy. Such assistance can minimize the severe impacts of displacement and potential negative fallout from those impacts.

The King County Consortium encourages that, whenever possible, conversion of an apartment community to a low-income housing project be attempted without relocation of any tenants. Tenants who are not income qualified should be replaced through unit “turnover”. When a non-qualified tenant moves out of the project, the vacant unit should be held open until a qualified low income tenant is found.

Relocation should occur only to the extent necessary to allow the project owner to meet the requirements of the project’s “Terms of Compliance”.

**Notice of project conversion**

Immediately after closing on project loan and not later than 10 days after closing, an open letter from the owner to all residents of the project must be delivered to each household. The letter must explain that the project is being converted to affordable housing units, and also what information is needed for income verification to determine whether current tenants are eligible to live in the new affordable housing. The letter must give the deadline to receive income verification information and state the possibility that some residents may be asked to relocate. Tenants must be informed that they may be asked to relocate if they do not comply with the income verification request. The letter should also specify the time and location of a meeting to further explain the process of project conversion and to address individual questions.

**Relocation tenant selection and notification**

A relocation tenant is a tenant who has been requested to cease tenancy of the subject property by the owner of the property for the specific purpose of compliance with an affordable housing program or to rehabilitate the unit.

Tenants who voluntarily decide to move from the project because it is being converted to an affordable housing project, or for any other personal reason, are deemed to do so as their own free will and choice, and therefore are not subject to any further notification requirements.

Relocation tenants will be selected from a list of non-qualified tenants, whose incomes exceed the income limits of the program. A qualified tenant is a tenant whose income meets the income level of the program. Qualified tenants should not be relocated unless it is necessary to accomplish rehabilitation of their unit.

Non-qualified tenants should be selected according to the following criteria:

- Non-responding tenants: tenants who do not respond to repeated request for income verifications, or are unwilling to participate in income verification procedures, should be the first Relocation Tenants.
- Volunteers: tenants who offer to relocate should be selected next.
- Income: tenants with the highest incomes should be the next group asked to relocate.

Households with children, and elderly or handicapped tenants should be last when selecting Relocation Tenants.

All tenants selected for relocation will be given formal notification regarding the need to relocate with a minimum of ninety (90) days notice of the date they must relocate, along with information about why they were selected. Consideration of a longer notice period may be granted if the tenant demonstrates a special circumstance (for instance, health reasons) which would be alleviated by extending the notice period. The owner must provide copies of all notices sent to tenants and a list of all tenants that were displaced by the project to the Housing Finance Commission.

**Guidelines for using CDBG funds for relocation only**

Federal regulations permit King County Consortium CDBG funds to be used, in specific circumstances, to pay relocation benefits to tenants displaced by otherwise non-federally-assisted projects. Federal URA and Barney Frank Amendment requirements do not apply when CDBG funds are used in this manner.

The following guideline will apply if the King County Consortium elects to provide CDBG funds to a project for relocation assistance only.

The award of relocation must meet a national CDBG objective in that either: (1) relocation payments are made directly to very-low to moderate-income people or (2) the subsequent use of the property benefits very low- to moderate-income people.

- If federal funds are used to pay relocation costs, the project must be located within King County's CDBG or HOME Consortium areas.
- The project sponsor is responsible for screening tenants and must provide documentation to King County to show income eligibility, if income screening is necessary to meet the national objective.
- The project sponsor must provide the grantee with a list of names and addresses of the eligible households along with documentation of payments.
- The household receives relocation payments from any government-sponsored entitlement program, CDBG benefits will be reduced by that amount.
- Nothing in this guideline precludes a project sponsor or a jurisdiction from providing additional relocation assistance using other sources of funds.

## HOME Investment Partnerships Program (HOME) Policies and Requirements

The HOME Investment Partnerships Program (HOME) provides formula grants to States and localities from the federal Department of Housing and Urban Development (HUD). Communities use these funds, often in partnership with local nonprofit organizations, to fund a wide range of activities including building, buying, and rehabilitating affordable housing for rent or ownership. HOME provides local governments with the flexibility to decide what forms of housing assistance will be most appropriate to meet local housing needs. The following local guidelines are subject to approval by the Joint Recommendations Committee (JRC) for use of HOME funds in the County HOME Consortium. The JRC periodically updates these policies to make sure they are aligned with the current HOME Consortium Interlocal Cooperation Agreement.

The statutory focus of the HOME Program is to create affordable permanent housing for low and very low income residents. Of the total federal HOME grant amount, up to 10 percent can be used to cover administrative costs. The balance of the funds is made available through a competitive process for development of permanent affordable housing. At least 15 percent of the funds awarded to projects must be set aside for a particular type of nonprofit housing provider called community housing development organizations or CHDOs. HOME funds may be used to develop affordable rental housing and promote homeownership opportunities by providing financial help directly to buyers or by helping developers buy property to build homes on. HOME funds may also be used for site improvements, new construction, and rehabilitation of existing houses.

Projects awarded HOME funds for new construction, must be under contract within 17 months of the start of the year of the funds and must begin construction within 12 months of when a contract with the County is signed. Projects must be completed within four years from the year of the HOME funds. [Clarification or minor change in HUD rule – 92.205(e)(2)]

**Eligible HOME costs**

HOME funds may be used to pay development “hard” costs for the new construction, acquisition, and rehabilitation of multi-family buildings and single-family houses. HOME funds may also be used to cover the cost of acquiring improved or unimproved real property. HOME funds may also be used to pay a variety of so-called “soft” or non-construction costs including fees for architectural, engineering, or related professional services; impact fees; costs for project audits; costs to provide information services such as affirmative marketing and fair housing information; and relocation costs. These funds may also be used to pay for development soft costs such as finance fees and most predevelopment expenses.

In projects that include either new construction or rehabilitation, HOME funds can pay costs to demolish existing structures for improvements to the project site, and to make utility connections. In new construction projects, HOME funds may be used to fund a reserve to cover operating deficits, up to a maximum of the equivalent of 18 months’ operating expenses. This reserve may be used for project operating expenses, scheduled payments to a replacement reserve, or debt service.
As a general rule, HOME funds may not be used in public housing, defined as units receiving either operating or capital funding assistance under section 9 of the United States Housing Act of 1937 (the “1937 Act”). The HOME regulations grant an exception when public housing is being revitalized under section 24 CFR 92.213(b) of the 1937 Act - the HOPE VI grant program - as

long as no capital fund assistance under section 9(d) of the 1937 Act is used in the development of the units. (CFR is an acronym for the Code of Federal Regulations. Citations in this document, like the one at the end of this paragraph, will omit the "24 CFR" portion and refer only to the section of Title 24.) If HOME is used to support some units in a project that also include public housing units developed without HOME assistance, separate waiting lists for the HOME and public housing units must be maintained. [Clarification or minor change in HUD rule - 92.213.]

**Maximum and minimum HOME subsidies per unit**

HUD sets limits on the per-unit investment of HOME funds under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)). These limits may be adjusted in high-cost areas to 240 percent of the original per-unit limits, based on the extent that the cost of multifamily housing construction exceeds the section 221(d)(3)(ii) limits. These maximum cost limits apply to both rental and ownership housing funded with HOME. King County staff will carry out a calculation of the maximum allowable HOME subsidy per unit before awarding HOME funds to a project and will prepare a detailed cost allocation for any rental project awarded HOME funds. A subsidy layering review is required for all projects assisted with HOME to prevent the investment of federal funds beyond the amount needed to make a project financially feasible. HOME subsidy limits for housing projects are established and updated periodically by HUD and are not affected by the presence in a project of low income housing tax credits. [Clarification or minor change in HUD rule 92.250 and CPD Notice 98-2)]

The County's maximum subsidy per unit shall be no more than 50 percent of the total per-unit cost of the project, regardless of the maximum noted above. A unit is defined as anything in which a household can reside, ranging from a single-room-occupancy hotel unit or single-family home, up to a multi-bedroom apartment. If more than one household share a single-family house, the house is counted as one unit. The minimum level of HOME funds for rehabilitation projects is $1,000 per unit, calculated as the average HOME investment per unit. The County's annual request for proposals will list the current per-unit maximum amount of HOME funds that may be used in multifamily projects, which varies according to the number of bedrooms in the units. [Clarification or minor change in HUD rule - 92.250(a) which refers to section 221(d)(3)(ii) of the National Housing Act (12 U.S.C.17151(d)(3)(ii)) for elevator- type projects.]

**Construction management in HOME projects**

All applicants awarded funds must provide the County with copies of written cost estimates, construction contracts, and construction documents. These documents must show the scope of work and associated budgets at a level of detail that allows the County to conduct progress and final inspections to determine that construction is being done in accordance with applicable codes, the construction contract, and construction documents. [New HUD rule – 92.251(a)(2)(iv) and (v).]

Within six months after the completion of a project involving new construction, project sponsors must perform and submit to the County a capital needs assessment (CNA) on all the properties for which funds have been awarded. The CNA must include a list of all major replacement components of the building; the typical or expected remaining life of each component; the estimated replacement cost of each component factored for inflation; a 20-year schedule for the replacement of each component; and a schedule of replacement reserve deposits, replacement expenditures, and reserve balances. The CNA must include information at a level of detail sufficient to demonstrate the adequacy over at least a 20-year period of planned annual deposits to reserve accounts as shown on the County-approved operating budget. The methodology for CNAs is subject to approval by the County, and the assessments must be conducted by professional firms having prior experience in this field, unless approved in writing by the County. Project sponsors must update and submit to the County CNAs at least every ten years throughout the compliance period.

**Federal matching requirements**

All participating jurisdictions (PJs) must contribute or match no less than 25 cents for each dollar of HOME funds spent on affordable housing in the form of permanent contributions to projects from non-federal sources. Matching requirements are program-wide and not project specific. All acquisition, rehabilitation, new construction and first-time homebuyer activities will generate a match obligation. HOME match is calculated by HUD based on the federal fiscal year but will be reported annually to HUD based on the County’s calendar year.

Matching funds may include local or state general revenues; housing trust fund grants or the grant-equivalent of a below-market rate loan; foundation grants or donations; state appropriations; excess reserves from housing finance bond issues; and general obligation bonds. Match may also be provided in the form of waived impact fees or of an interest rate subsidy achieved by exemption of state or local taxes or the proceeds from bond financing (up to 50 percent for rental housing and up to 25 percent for ownership housing) up to a limit of 25 percent of the match obligation. Other sources of match include the value of donated land or of site preparation, construction materials, or donated or voluntary labor in connection with the site preparation and construction or rehabilitation of affordable housing.

Projects eligible for an award of HOME funds, for which the required match can readily be met using non-federal sources such as local levy funds, local general funds, document recording fees or private funding, will be given priority for funding in relation to similarly eligible projects where this cannot readily be done.

**Recapture and reallocation of HOME funds, program income**

Federal regulations require that each program year’s HOME allocation be committed to projects and start spending within 24 months. When funds are recaptured from a project that is unable to begin using them within 18 months, the money will be recommitted to other HOME-eligible activities. Funds recaptured from a CHDO must be reallocated to another CHDO.

Any program income generated by HOME-assisted projects must be reported to the County and committed to eligible HOME activities, unless the County authorizes a CHDO to keep and use the program income.

**Environmental review in rental housing projects**

From the date of application until environmental review is completed and environmental clearance is documented, applicants cannot spend any funds on physical or choice-limiting actions. These actions include property acquisition, demolition, movement, rehabilitation, conversion, repair, or construction. Property acquisition includes entering into a purchase and sale agreement that does not meet HUD specifications. Work completed prior to submitting a funding application is not affected by this restriction. In addition, contracts entered into prior to making application, including purchase and sale agreements, may not be affected by this restriction. Applicants should contact Al D’Alessandro at (206) 263–9077 for clearance on honoring existing contracts and information on HUD requirements for purchase and sale agreements entered into after applying to King County HFP.

Any purchase and sale or option agreement entered into after a funding application is submitted to the County must contain the language and conform to the deposit restrictions found at: https://www.onecpd.info/resources/documents/NSPPolicyAlert_EnvironmentalReview_091611

Applicants must follow the directions of the assigned Housing and Community Development Program (HCD) project manager while application review is in process. No purchase or action that affects existing buildings or land is allowed until clearance is given by the HCD project manager.

**Rental housing requirements**

Rental Project Underwriting and Layering Review

Underwriting for HOME loans for rental housing projects will be based on an analysis of market demand for the location and type of housing to be developed; the level of proposed affordability; the financial capacity and fiscal soundness of the developer; the likely sustainability of the proposed project; and the financial performance of other rental housing projects in the developer's portfolio. The County will certify to HUD that it has completed its underwriting review on each project that receives HOME funds when funds are committed in HUD's Integrated Disbursement and Information System (IDIS).

County staff will perform a subsidy-layering review of all the proposed sources in a project to ensure that no more HOME funds are invested than is necessary to provide affordable housing that is financially viable at least throughout the HOME period of affordability and that meets applicable standards for quality. HOME requires documentation that the development costs for HOME units are comparable to development costs for any non-HOME units in the project. The proposed development budget and operating budget will be reviewed to assess the reasonableness of the replacement reserves and the asset management fee paid to the project owner. King County HOME-assisted units are typically in buildings that contain only affordable units serving households with income at or below 80 percent of the area median income (AMI), so all development costs, excluding those related to any commercial space, will be eligible under HOME guidelines. The comparability of the HOME units and the non-HOME units will be documented as to the number of bedrooms, size of the units in square feet, and other relevant features. Common area costs will be shared proportionally between HOME and non-HOME units in the project.

County staff will also prepare a cost allocation worksheet for all HOME-assisted projects showing how the total development costs are proportionally shared among all units and how federal funds are proportionally allocated among the HOME units. Following the guidance provided by HUD, the cost allocation approach used for each project will be specifically developed based on the project's characteristics and will be a variant of cost allocations the County provided to HUD in 2013. [New HUD rule– 92.250(b); 92.504(a) and clarification of CPD Notice 98-2.]

**Duration of low-income benefit**

All HOME recipients must be able and willing to establish a legally binding public interest, secured through a lien on the property recorded as a deed of trust and affordable housing covenant, and a promissory note explaining all sale and change of use provisions. The project will remain affordable for at least 20 years after completion, referred to as the HOME compliance period, and will be ineligible for additional HOME dollars during the compliance period. Property inspections will occur periodically, annually or at multi-year intervals determined by the County based on the project size.

The period of affordability for HOME investment in rental housing is given in the following table.

| **Rental housing activity** | **Minimum HOME period of affordability:** |
|---|---|
| Rehabilitation or acquisition of existing housing, HOME funds under $15,000 per unit | 5 years |
| Between $15,000 and $40,000 per unit | 10 years |
| Over $40,000 per unit | 15 years |
| New construction or acquisition of newly constructed housing | 20 years |

The particular units in a project that are counted for purposes of meeting HOME affordability requirements may change or “float” over the HOME compliance period, so long as the total number of affordable units remains the same and the substituted units are comparable in size, features, and number of bedrooms to the originally designated HOME units. Contracts involving HOME funds will designate whether the HOME units are “fixed” – unchanging over time - or floating. [Clarification or minor change in HUD rule - 92.252]

### Property standards for rental housing

Housing units assisted with HOME funds must meet or exceed the Uniform Housing Code. Rental housing rehabilitated with HOME funds must meet the Section 8 Housing Quality Standards defined in 24 CFR 982.401. All newly constructed HOME units must comply with currently applicable building codes, electrical codes, plumbing codes, and energy codes, and must meet or exceed all standards set by the most current Washington State Evergreen Sustainable Development Standard (ESDS). Compliance with ESDS will be monitored throughout construction, with retainage released only when the County receives documentation that all mandatory and selected optional elements have been satisfied. All housing constructed using HOME funds will address relevant seismic codes to mitigate the impact of potential disasters.

All substantially rehabilitated housing must meet applicable local codes, ordinances, and zoning codes. [New HUD rule - 92.251(a)]

HOME assisted projects must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Covered multifamily dwellings as defined at 24 CFR 100.201 must also meet the design and construction requirements at 24 CFR 100.205 which implement the Fair Housing Act (42 U.S.C. 3601–3619).

The 2013 revised HOME Program rule requires that the County develop written rehabilitation standards to ensure that the major housing systems have a useful life at least as long as the required HOME period of affordability. Standards will be developed by the County and submitted to the JRC for review and approval by July of 2015. [New HUD rule - 92.3 and 92.251(b)]

The County requires that any housing assisted with federal funds meet lead-based paint requirements defined at 24 CFR Part 35.

Construction of all manufactured housing, including manufactured housing that replaces an existing substandard unit under the definition of "reconstruction", must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280. These standards preempt state and local codes if they are not identical to the federal standards for the new construction of manufactured housing. King County will comply with applicable state and local laws or codes. All new manufactured housing must be on a permanent foundation that meets the requirements for foundation systems as set forth in 24 CFR 203.43f(c)(i). All new manufactured housing 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's owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

**Tenant incomes and rents in rental housing**

To qualify for tenancy in HOME-assisted rental housing, households must have an adjusted gross income at or below the affordability levels set for the project, which are defined as a percentage of the area median income or AMI. The project owner must assess prospective tenants' income qualification at initial move-in based on household size and composition and on adjusted gross income as defined in 24 CFR Part 5. After the first year, tenants may self-certify their incomes. Every sixth year from the date the project is completed, however, source documentation must again be used to verify tenant eligibility. At least two months of source documentation such as wage statements, interest statements, unemployment compensation documentation, or SSI documentation are required to verify household income. Rents may not be increased more than once per year and the owner must provide written notice to tenants at least 30 days prior to implementing any increase. [Clarification or minor change in HUD rule - 92.203(1)(i)]

All rental projects that receive HOME funds must meet the regulatory definitions of "affordable". A rental housing project qualifies as affordable housing if it meets the following criteria.

- HOME rents do not exceed 30 percent of the adjusted income of a family whose gross income is 65 percent AMI or the fair market rents (FMR) for a comparable project, whichever are lower.
- In projects with five or more units, 20 percent of the HOME assisted units are either (a) occupied by very low-income families paying rents that are no more than 30 percent of their adjusted monthly incomes; or (b) occupied by very low-income families where rents for the units do not exceed 30 percent of the gross monthly income of a family whose income equals 50 percent AMI.
- The rest of the units in the HOME-assisted portion of the project are occupied by households that qualify as low-income, with household incomes not greater than 80 percent AMI. Units not assisted with HOME funds may have market rate rents.

The HOME-assisted units will remain affordable subject to deed restrictions, for not less than 20 years beginning on project completion.

Maximum rents for each regulated income level and unit size in a HOME-assisted project shall be the HOME rents as published annually by HUD or the HUD Multifamily Section 8 rents published annually by the County, whichever is lower. In no case shall the rent including a utility allowance exceed the fair market rent for the unit size as published annually by HUD. [Clarification or minor change in HUD rule – 92.252 (a) and (b)]

HOME-assisted units can be leased to a participant in the project-based Section 8 program. If the project has HUD project-based Section 8 rental subsidy, the maximum rent cannot exceed the Section 8 contract rent. [Clarification or minor change in HUD rule – 92.252(b)(2)]

At least 20 percent of the units in HOME assisted rental projects must be occupied by households whose income does not exceed 50 percent AMI. For projects involving rehabilitation only, the after-rehabilitation rents for HOME assisted units should generally not be higher than they were before the rehabilitation. During the HOME affordability period, HUD allows rents to be increased only in connection with increases to the region's median income and fair market rents. Rents may also be reduced in a HOME assisted project if the region’s median income or fair market rents decline.

**Tenant protections required by HOME program**

Tenants must be given certain protections in any HOME-assisted project, including having a lease with a period of at least one year. After the first year, the lease period may be shorter if the owner and tenant both agree. There may not be provisions in the lease requiring the tenants to waive any rights and an owner may not terminate tenancy or refuse to renew a lease except for violations of the terms of the lease or for violation of applicable federal, state, or local law. Owners must have and follow written tenant selection policies and criteria that are consistent with the purpose of providing housing for the very low-income and low-income families. These policies and criteria must also be reasonably related to program eligibility and to applicants’ ability to perform the obligations of the lease, and they must give reasonable consideration to the housing needs of families that may be eligible for preference under section 6(c)(4)(A) of the 1937 Act.

Owners must create and maintain a written waiting list and must select tenants from it. Rejected applicants must be given prompt notice of the grounds for any rejection. Selection of tenants must be in the chronological order of their application, to the extent that this is practicable. In projects with some units designated for specific income levels or populations, such as households with incomes below 30 percent AMI or qualified veterans, the County will consider tenant selection procedures that are based on more than one waiting list, provided the lists are appropriate for the project and the populations served. When demand for units in a project results in very long waiting lists, owners may require that prospective tenants call in periodically to reaffirm their need for housing and maintain their positions on the waiting list. [Clarification per HUD rule - 92.253(d)(5)]

Owners are responsible for administering any applicable restrictions on assistance to noncitizens in accordance with current regulations. When administering the restriction, the owner must treat all applicants equally, applying the same noncitizen rule procedures without regard to race, color, national origin, sex, religion, disability, or familial status. [Clarification per HUD rule - 92.350(a)]

In projects developed with CHDO funds, HOME regulations require owners to submit a tenant participation plan describing a program for ensuring tenant participation in management decisions, and fair lease and grievance procedures. CHDOs may receive guidance from HCD staff on the components of this plan.

**Affirmative marketing**

Throughout the period of affordability, projects with five or more HOME-assisted units must comply with non-discrimination and affirmative marketing requirements as defined in 24 CFR Part 92.350 and 24 CFR Part 92.351. The owner of HOME properties shall provide the County with an affirmative marketing plan covering internal procedures and marketing materials specific to the project not later than the date of project completion. The plan must include actions to provide information and otherwise attract eligible persons in the housing market area to available housing without regard to race, color, national origin, sex, religion, familial status, or disability. Other requirements apply as set forth in Part 92.351.

Affirmative marketing requirements also apply to projects funded in whole or in part with CDBG funds.

**Tenant income verification monitoring**

Federal regulations require jurisdictions that invest HOME funds in rental housing projects to ensure that sponsor agencies and their designated property management entities verify tenant incomes correctly. The purpose of this is to ensure that housing units supported with federal funds are occupied by income-qualified tenants. The King County Department of Community and Human Services/Community Services Division/Housing and Community Development Program (HCD) has implemented an accountable system for monitoring tenant income verification that includes the following components: (1) checking and documenting that property managers have verified income qualifications for tenants, and (2) reviewing and documenting that information used for tenant income qualification matches what is submitted in Table 1 of the on-line web-based annual reporting system (WBARS).

The monitoring process will be applied to a sample of housing units in all federally funded projects due for inspection in a given year. The schedule for inspections for each project depends on the number of units in the project, with those having 25 or more units subject to yearly inspection. The number of units for which income verification monitoring will be done will typically be in the range of ten to fifteen percent of all units. Units subject to this monitoring may be the same as the units selected for physical inspection, but HUD does not require them to be the same units. HCD will determine the units to be inspected and/or monitored for income verification each year and will prepare a checklist and schedule for these processes.

Housing owners, property managers, or other designated representatives will be asked to provide electronically whatever income documentation they used to determine initial eligibility for tenancy or to recertify tenant incomes annually as required by HUD. County staff will perform monitoring by reviewing the information provided to ensure that income verification has been performed correctly, and comparing the information with tenant income reported in) through WBARS to determine that the income determination matches.

The standard for compliance with federal regulations regarding tenant income verification and reporting is 100 percent accuracy. Any discrepancies, either in tenant income verification or in on-line WBARS reporting, will be followed up by HCD staff in writing. Missing information (no income information provided for a unit) will be requested again. Incorrectly performed income verification (tenant certified as income qualified but actually not qualified) will be reported to the housing owner for appropriate action. Where there is non-matching information between the tenant files and WBARS, property managers will be asked to confirm which is correct. All cases in which mismatches are found will be documented and reported in writing to the property managers responsible and the housing owners, and a written corrective action plan will be requested.

County documentation of tenant income verification will clearly identify in writing whether there is full compliance or some level of non-compliance with HOME requirements, as stated in this section. There are three levels of non-compliance, ranked in ascending order of severity.

- Level 1: One-time instances of non-compliance that do not constitute gross negligence or fraud.
- Level 2: Repeated issues of noncompliance with either multiple occurrences or a pattern that suggests management or operational issues in carrying out the requirements, but that does not constitute gross negligence or fraud.
- Level 3: Instances of gross negligence or fraud.

The County will follow up on all instances of non-compliance, taking appropriate steps related to the level of the compliance violation, as follows:

Level one non-compliance - HCD will follow up with the project owner to verify that the problem has been corrected and to obtain written assurance that the owner has communicated compliance requirements clearly to property managers to ensure the problem is not repeated.

Level two non-compliance - Level two includes such issues as repeated instances of incomplete income-eligibility documentation of tenants on initial certification, incorrect or missing annual tenant income-eligibility recertification, or failure to set rents correctly and in a timely way, consistent with current HUD income and rent levels. HCD will deliver a written request to the owner to develop and implement a written plan to address level two deficiencies within a specified timeframe. HCD may require that the plan include staff training on HOME requirements and submission of written internal quality control process to ensure that issues do not happen again. HCD may, at its sole discretion and on a case-by-case basis, consider a request for an extension of the specified timeframe for submission of the plan in writing. If the plan is not submitted within the specified time frame and actions have not been taken that demonstrate compliance, HCD will send the agency a written notice that precludes them from receiving any new funding for capital projects until the issues have been satisfactorily resolved. Continued and repeated instances of level two non-compliance issues without resolution and appropriate communication from the agency may be determined to constitute level three non-compliance issues.

Level three non-compliance - Level three includes such issues as repeated misrepresentation of unit availability to qualified applicants, overcharging rents and skimming the difference, and repeated instances of level two non-compliance that have not been resolved despite repeated written requests and opportunities to cure. HCD will convene a meeting with the owner to identify violations and establish a strict timeframe in which to correct them. A written agreement will be executed between HCD and the project owner that specifies terms, conditions, and actions that must be taken to address the violation. Remedies will be specified in the agreement, which may include repayment of overcharged rent to the tenants by the owner, if rents were inappropriately charged. Non-compliance with the written agreement for level three may include a declaration of default under the King County contract with the owner and pursuit of remedies associated with default as outlined in the contract. [Clarification per HUD rule - 92.252(h)]

**Homeownership assistance**

General requirements

HOME funds may be used to provide assistance to families who are income qualified to purchase homes and who will occupy the housing as their principal residence. Income qualification will mean households with incomes at or below 80 percent of the King County AMI, as defined annually by HUD. Assistance may take the form of (a) gap financing covering the difference between the amount payable by the homebuyer and the amount of permanent lender financing; (b) closing costs; (c) a direct mortgage loan to the homebuyer; (d) an interest buy-down to the first mortgage lender; or e) donated or discounted land or property for development. HOME funds cannot be used to pay mortgage loan origination fees or points.

Homeownership activities supported with HOME funds must ensure that prospective homebuyers are screened for income qualification and the probability of success as a homeowner. Programs must ensure long-term affordability through recapture or resale provisions, subject to a minimum affordability period of five to fifteen years as established by HUD through a written agreement enforced by a covenant, deed restriction, or both.

Household income for purposes of income qualification will be calculated based on Internal Revenue Service 1040 definitions for all homeownership programs. HOME-assisted ownership programs will be administered by subrecipients, agencies administering projects using federal funds awarded by the County. These may be nonprofit or for-profit organizations, or public entities. Subrecipients will be required to take the following actions.

- Determine income qualification for prospective homebuyers.
- Provide homeownership education and counseling from a HUD-approved counseling agency.
- Partner with or provide affordable mortgage programs.
- Monitor long-term affordability requirements including recapture or resale restrictions.
- Assist in tracking the recapture of HOME funds.
- Provide demographic data on homeowners assisted with HOME funds as and when required by the County.
- Collect and provide survey information on homebuyers as and when required by the County.
- Assist in monitoring compliance with the HOME regulations to ensure that the homeowners remain the principal occupants of their home during the HOME period of affordability.
- Report on resales if required by their contracts. [Clarification or minor change in HUD rule – 92.254, 92.504(2)]

Homes purchased using HOME funds may not exceed the maximum purchase prices established periodically by the HOME Program. The current limits, set on January 1, 2014, are $288,000 for existing homes or $294,000 for newly constructed homes. [New HUD rule – 92.254(a)(ii) and (iii)]/

The minimum periods of affordability for various levels of HOME investment or direct subsidy is given in the table below.

| Total HOME investment or subsidy per unit | HOME period of affordability |
|---|---|
| Under $15,000 | 5 years |
| Between $15,000 and $40,000 | 10 years |
| Over $40,000 | 15 years |

HOME-assisted homebuyer program activities will generally be targeted toward homebuyers with incomes between 50 percent and 80 percent AMI. A project may specify a narrower range of incomes at the time the project is included in the County's Annual Action Plan.

Education and counseling activities will only be funded as part of a homeownership program or project such as down payment assistance or new construction. Funding for homeownership education and counseling activities will not exceed $25,000 per program or project, and the total funds available for these activities annually will not exceed five percent of the funds available in the annual HOME entitlement. All HOME-funded homebuyer projects or programs will be expected to provide homebuyer counseling, with pre-purchase counseling as a minimum requirement, to prepare home purchasers for the responsibilities of ownership and help the homebuyers avoid predatory lenders.

Homeownership programs may be built on any of the following models.

- A limited equity cooperative or community land trust.
- A self-help or "sweat equity" model.
- A nonprofit organization partnering with for-profit organizations to develop a homebuyer program serving a neighborhood or community.
- A revolving loan fund that provides down payment assistance or a mortgage subsidy through a second or third mortgage loan.
- Nonprofit acquisition of a manufactured home park in danger of conversion to another use in order to maintain its long-term affordability.

Proceeds from repayments of loans to homebuyers will be used for other HOME-eligible activities or to assist other eligible homebuyers. The monitoring of the recapture of HOME funds, subsequent sales, and long-term affordability will be specifically addressed in subrecipient contracts. [Clarification or minor change in HUD rule - 92.254; 92.504(2)]

Agencies managing homeownership programs funded by the County are responsible for informing HCD immediately of any homes that are resold. Such agencies must provide evidence to HCD that the applicable resale or recapture provision have been followed. HCD must also be provided copies of the new homebuyer's promissory note, executed HOME Use Agreement if applicable, and demographic data. [Clarification or minor change in HUD rule -92.254(a)(5)]

Projects awarded HOME funds for new construction are subject to the following deadlines. (1) Project must be under contract within 17 months of the start of the year of the funds. (2) Projects must begin construction within 12 months of executing a contract with the County. (3) Project must be completed, sold and occupied by income-qualified homeowners within four years from the start of the year of the HOME funds regardless of what aspects of the project are paid for with HOME funds. As an example, a project awarded 2015 funds (start date January 1, 2015) must have all the houses in which HOME funds were used built, sold, and occupied by income-qualified buyers by December 31, 2018.

These constraints on the use of HOME funds in ownership projects make it unlikely that HOME funds will be awarded for acquisition or infrastructure work. The construction of homes may take several years, making it difficult to meet the deadline for sale and occupation of the homes. In general, therefore, HOME funds will be awarded to serve as the last portion of financing needed to complete a project prior to sale and occupancy. It can take time to find income-qualified households who are able to secure financing necessary to purchase a home, so recipients of HOME funds must allow ample time in the project schedule so as not to exceed the project duration permitted under HOME rules. [Clarification or minor change in HUD rule – 92.254]

Capital Improvements

Home ownership programs funded with HOME program funds and managed on a resale model may allow limited price adjustments for qualifying capital improvements and capital systems. Capital improvements must increase the gross built living space of the home or have a useful life of ten years or more, and must be built or installed subject to all required permits and approvals. Each HOME-assisted program will set dollar-value threshold limits for qualifying capital improvements subject to approval by the County, and must list items that will be allowed and how they will be valued for calculating fair return. Items such as the following may be considered for capital improvement credit: initial landscaping improvements on new construction with incomplete yards, roof, siding, HVAC, water heater, foundation, sewer and water service lines, electrical service or lines within the house, plumbing lines, windows and doors if they improve energy performance, decks, porches, sheds or garages. Each program must provide buyers with a list of qualifying capital improvements and capital systems, and must clearly state items that are excluded, such as exterior painting, fixtures, flooring and other finishes, interior carpentry or masonry, and any item not expressly on the qualifying list. Subrecipients must clearly state how qualifying capital improvements and capital systems will be valued upon resale. Straight-line depreciation based on current published data or a formula that allows a fixed annual percentage for appreciation is an example of how this might be done.

Homes Purchased with HOME Assistance

Each home purchased with the assistance of HOME funds must be a “qualifying home” that meets the following criteria.

- It is modest single-family housing, a one- to four-unit family residence, condominium unit, cooperative unit, combination of manufactured home and lot, or manufactured home lot.
- It is the homebuyer’s principal residence throughout the HOME period of affordability.

- It meets or exceeds the Uniform Housing Code and the Section 8 Housing Quality Standards.

Newly constructed housing must be placed under a purchase and sale contract with an eligible homebuyer within nine months of the date of completion for construction or rehabilitation, or the housing must be rented to an eligible tenant.

For homeownership housing, the County's standards must require, upon project completion, each of the major systems to have a remaining useful life of at least five years or such longer period as specified by the County, or the major systems must be rehabilitated or replaced as part of the rehabilitation work. [Clarification or minor change in HUD rule – 92.254]

**Recapture provisions**

King County will require the use of recapture provisions in ownership programs that provide down payment assistance to buyers. The amount of down payment assistance using HOME funds must be at least $5,000 and may not exceed $35,000 per home.

HOME funds will be subject to recapture if the housing is not the principal residence of the household throughout the period of affordability. The amount subject to recapture is based on the amount of HOME assistance provided to the homeowner. Recaptured HOME funds will be used for other HOME-eligible activities or to assist subsequent homebuyers. Direct HOME assistance will also be subject to recapture during the period of affordability by the County under the following circumstances:

- The home is sold.
- The title is transferred.
- The home is re-financed and the principal is increased.
- The home is foreclosed upon.
- The homeowner is in default with the terms of the HOME loan.

A home ownership program may be structured so that HOME funds subject to recapture are reduced according to a calculation that gives credit to the homeowner for the time that person has owned and occupied the HOME-assisted unit. Each subrecipient will determine the way in which the recapture of HOME funds will be reduced, if such a provision is included in the program design. The following is an example of how a subrecipient might do this: divide the number of years the homebuyer occupied the home by the period of affordability and multiply the resulting figure by the total amount of direct HOME subsidy originally provided to the homebuyer.

The amount of HOME funds recaptured upon the sale of a home will be limited to "net proceeds" since it may happen that the proceeds of a sale are not sufficient to cover outstanding debt and the original HOME investment. Net proceeds are defined as the gross sales price of the home minus any senior debt and closing costs. Recaptured HOME funds will be used for other HOME-eligible activities or to assist subsequent homebuyers, depending upon the design of the homeownership program. [Clarification or minor change in HUD rule - 92.254(a)(5)(ii)]

**Resale provisions**

The County may also use resale provisions for HOME investments in the development and sale of ownership units. Resale may be appropriate when HOME funds are used to acquire land or to construct homes which will remain affordable to income qualified homebuyers over a longer term. The County and all subrecipients must ensure that any resale-based program meet the following requirements: it must serve income qualified homebuyers; the sales price for resale must provide the homeowner with a fair return upon his or her initial investment; and the initial and subsequent sales price must be determined in such a way as to be affordable to buyers within a specified range of incomes.

In all resale programs, initial and subsequent sales during the HOME period of affordability must be to households with incomes at or below 80 percent of the area median income (AMI). HOME-assisted units will be sold at initial and resale prices that are affordable to a range of income-eligible buyers with incomes between 50 and 80 percent AMI. The actual upper limit for the income range of qualified buyers will be determined by the design of each subrecipient's program.

The formula used to determine the maximum allowable resale price must be such that it provides the HOME-assisted homeowner a fair return on her or his investment. The formula must be based on a publically accessible index that is easily measured at the time of original purchase and at resale, such as changes in area median income within the County, the average change in real estate prices for the sub-region served by the subrecipient's program, or on a fixed annual percentage for escalation.

The basis to which the index is applied will include one or more of the following: the homeowner's original purchase price, initial investment, and loan principal payments, plus any approved capital improvements. In a declining housing market where home values are going down, the original homebuyer may not receive a positive return on his or her investment because the home may sell for the same or a lower price than when it was originally purchased. This possibility is consistent with the HOME Program requirement that the homeowner must receive a fair return on investment. Each subrecipient's proposed program will be reviewed and negotiated to ensure a formula that is based on an index or other factors that meets the guidelines of the HOME Program. [Clarification or minor change in HUD rule – 92.254(5)(i).]

**Homebuyer underwriting standards**

Subrecipients must adopt and apply prudent underwriting standards for homebuyer assistance loans funded with HOME funds. The general guidelines for these standards in programs funded by the County using HOME funds will be based on the following factors. Exceptions to these guidelines will be considered on a case-by-case basis, taking into account all factors together and any other relevant information.

- Evidence of ability to secure financing and other resources necessary to complete the purchase the home.
- Evidence of available financial resources sufficient to sustain homeownership.
- Housing debt-to-income ratio ("front-end ratio") no higher than 35 percent (including principal, interest, taxes and insurance). With the inclusion of homeowner dues or lease fees, this percentage may go up to 38 percent.
- Total debt-to-income ratio ("back-end ratio") no higher than 40 percent.
- A minimum credit score of 620, consistent with the guidelines currently used by the Washington State Housing Finance Commission. [New rule by HUD. - 92.254(f)]

**Environmental review in ownership projects**

Recipients of down payment assistance must document compliance with federal Environmental Review requirements by completing a Determination of Exemption and a Determination of Categorical Exclusion. This includes documentation that the housing is not within a 100-year floodplain, and is not located within 2,500 feet of a civil airport or 15,000 feet of a military airfield. Additional detail and documentation requirements may be found in HFP's Environmental Review Documentation Guide, which will be updated as necessary to reflect current federal regulations and rules.

In a program providing down payment assistance where project activities will include acquisition, rehabilitation, or new construction, recipients must stop all choice-limiting activities including acquisition, demolition, rehabilitation or ground disturbance until the County completes an environmental review and, if necessary, receives permission from HUD to release funds. [Clarification per HUD rule – 92.352 and CPD Notice 01-11]

**Community Housing Development Organization (CHDO) Set-aside**

The federal regulations require that 15 percent of the HOME allocation be set aside to be awarded to qualifying community housing development organizations (CHDOs). A CHDO is defined as a private nonprofit organization that meets the following criteria.

- At least one-third of the members of its governing board are residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations.
- It provides a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing[
- It has a history of serving the community within which its program will provide HOME-assisted housing.
- It has a demonstrated capacity for carrying out the proposed HOME-assisted activities.

The County must certify that an organization meets the definition of a community housing development organization before it can be awarded CHDO funds, and must document that the organization has the capacity to own, develop, or sponsor housing. A CHDO may take a number of roles in providing housing, as owner, developer, or sponsor.

Housing is owned by a CHDO if the property is held in fee simple for multifamily or single-family housing (or has a long-term ground lease) for rental to low-income families. If housing is to be rehabilitated or constructed the CHDO will hire and oversee the developer that does the rehabilitation or construction. At a minimum the CHDO must hire or contract with an experienced project manager to oversee all aspects of the development, including zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of the costs. The CHDO must subsequently own the rental housing for a period at least equal to the period of affordability.

A CHDO is considered the developer of rental housing if the CHDO is the owner in fee simple or holder of a long-term ground lease for multifamily or single-family housing in fee simple for which it will act as developer. The CHDO must be in sole charge of all aspects of the development process, including obtaining zoning, securing any non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs. The CHDO must subsequently own the rental housing for a period at least equal to the HOME period of affordability.

A CHDO is considered the sponsor for rental housing if the housing is owned or developed by a subsidiary of a CHDO, a limited partnership of which the CHDO or its subsidiary is the sole general partner, or a limited liability company of which the CHDO or its subsidiary is the sole managing member.

HOME-assisted rental housing is also “sponsored” by a CHDO if it “developed” the rental housing project that it agrees to convey to an identified non-profit organization at a predetermined time after completion of the development of the project. [New HUD rule – 92.2]

**Mixed income and mixed-use projects**

Mixed income rental housing projects may be eligible for HOME assistance if at least 20 percent of the units are affordable to very low-income tenants with household incomes at or below 50 percent AMI. The HOME Consortium encourages the development of mixed income projects, but applicants are cautioned that relocation may be an issue if the purchase of occupied buildings is involved. Applicants are advised to consult with King County staff if they are considering the development of a mixed income project.

Mixed-use projects are eligible for HOME assistance if at least 51 percent of the project space constitutes residential space. HOME funds may be provided only in proportion to the percent of low-income units in the project, and the number of HOME-assisted units will be proportional to the County investment of HOME funds in the total project.

**Property standards**

The County is required by HUD to develop and adopt explicit property standards for housing construction and rehabilitation in accordance with 24 CFR 92.251. The 2013 HOME Final Rule provides more specificity regarding property standards to ensure that adequate improvements are made to support the long-term viability of HOME-funded rehabilitation projects. Subsections of 24CFR 92.251 outline the requirements for projects involving new construction, rehabilitation, acquisition, rental assistance, and manufactured housing. [Clarification or minor change in HUD rule - 92.251]

The 2013 Rule also requires participating jurisdictions to establish ongoing property standards for rental housing that will apply throughout the affordability period. These standards must be in sufficient detail to establish the basis for a uniform inspection of projects.

HUD has suggested “next steps” for participating jurisdictions, including the following.

- Reviewing applicable state or local property standards for each housing activity type.
- Develop or change procedures related to property inspection to ensure compliance with property standards.
- Develop inspection checklists for new construction that reflect applicable standards.
- Train staff and program partners in the new standards and inspection processes.

- Incorporate new requirements in written agreements with subrecipients.
- Incorporate new requirements in monitoring checklists.

The new property standards will apply to all projects to which funds are committed on or after January 24, 2015. Developing the required standards and implementing the other elements necessary to ensure satisfactory monitoring and compliance will be a high-priority work element for HCD in 2015. [New HUD rule – 92.3; 92.251]

**Annual Monitoring and Risk Analysis**

The County relies on the WBARS for annual reporting of demographic information, data on rents and incomes, and financial performance of housing projects funded with HOME and other funds. WBARS collects occupancy data that allows the County to assess compliance with its contract in terms of unit affordability, income qualification of tenants, rents, and data required for reporting on completed projects in HUD’s Integrated Disbursement and Information System (IDIS). WBARS also collects operating and reserve information that can help property owners and funders identify potential issues and anticipate problems. This data gives staff an opportunity to provide technical assistance to property owners in a timely manner. The amended HOME rule requires the County to provide annual review and approval of project rents and utility allowances for each HOME-assisted rental project. HCD will develop a process for this review and approval, pending guidance from HUD. [New HUD rule – 92.252(f)(2)]

Project owners must keep records covering individual tenant income verifications and project rents for the most recent five-year period, and must keep such records for six years after the Termination Date. [Clarification or minor change in HUD rule – 92.203; 92.508]

Project owners must provide HCD with information about their projects on an annual basis. This information includes the following elements.

- Annual operating statements for each project detailing income, expenses, and cash flow.
- Annual account statements for separate replacement and operating reserves including year-end balances and withdrawal and deposit activity.
- An audited financial statement for each year throughout the period of contract compliance.
- The federal form 990 at the time it is required by the federal government.
- A report of board meetings and board activities, and a list of names and addresses of current board members and officers.
- Other reports that the County may request, such as those related to inspections, tenant income monitoring, and property and liability insurance.

During the period of affordability the County will examine the financial condition of HOME assisted rental projects with ten or more units to assess the ongoing financial viability of the housing. This examination will be done annually or more frequently if required by circumstances, and the County will take action to correct problems, to the extent feasible. [New HUD rule – 92.504(d)(2)]

During the project close-out process following the completion of construction, the County will require a copy of the certificate of occupancy, the final development budget, a current operating budget, documentation regarding wages paid for construction signed by the owner and the construction contractor, documentation of Section 3 compliance if applicable, documentation of ADA accessibility, and other reports the County may need.

Site visits will be conducted by County staff to review tenants' initial eligibility for occupancy and to verify that the rents charged are in conformance with the County contract. Physical inspections are performed to ensure that the property is being maintained and that the owner is conducting or has conducted a capital needs assessment, and to review records related to maintenance repairs and documentation of inspection of major building systems. If there are observed deficiencies for any of the items in the property standards established by the County, a follow-up on-site inspection to verify that deficiencies have been corrected will be performed within twelve months. [Clarification or minor change in HUD rule – 92.251]

Source documentation for tenant incomes will be examined and the rent and utility information verified against the data reported in WBARS. Copies of tenant leases will be collected to verify compliance with HOME tenant protections and copies of the sponsor's affirmative marketing plan, waiting list policy, and on-site management plan will be collected and reviewed.

If compliance issues arise during a desk review or on-site record review, questions will be presented to the project owner in writing and the owner asked to respond.

Minor reporting issues are usually resolved by the owner changing internal procedures so similar reporting problems may be avoided in future. HCD will verify compliance with the next report submitted by the owner. If there is a pattern of repeated non-compliance on reporting issues HCD/HFP may meet with the owner and provide one-on-one technical assistance to address reporting problems. The owner may be asked to develop a plan to address the identified problems within a specified timeframe. The implementation of such a plan will be monitored. If severe compliance issues persist, the County's contract allows for specific remedies. Instances of gross negligence, fraud, discrimination, or conditions that impose imminent threat to the tenants' health and safety are taken seriously and will require a meeting to identify the specific violations, develop an agreement that lays out the steps to address the violations, and may lead to financial penalties, replacement of staff involved in the violation, or legal action.

The County will follow up to determine that violations have been corrected. Owners will be required to report more frequently on progress and more frequent on-site visits will be conducted until issues have been successfully resolved. [Clarification or minor change in HUD rule - 92.203; 92.508.]

The 2013 HOME Rule also requires participating jurisdictions to develop and follow written policies, procedures, and systems for assessing risk of activities and projects. The new rule imposes more specific requirements on participating jurisdictions to strengthen their performance in HOME compliance and project monitoring. Suggested next steps for participating jurisdictions include the following, with a deadline for adoption of the required policies and procedures of July 24, 2014.

- Develop or revise written policies, procedures, and systems for monitoring HOME-funded entities, including a process to assess the risk of activities and projects to guide decisions about which entities to monitor on-site.

- Consider the monitoring needs of projects that are in process and those that are completed and in the affordability period.
- Update policies and procedures as needed according to further HUD guidance as it becomes available.

The 2013 HOME Rule also revises to the requirements for written agreements with subrecipients. Written agreements must specify a number of HOME requirements, including income determinations, underwriting and subsidy layering review, rehabilitation standards, refinancing standards, homebuyer program policies, and affordability. Written agreements must also include more detail about the subrecipient's use of HOME funds, tasks to be performed, schedule for completion, and budget for each program. Agreements must specify whether repaid and recaptured HOME funds are to be returned to the participating jurisdiction or retained by the subrecipient to be expended on eligible activities.

Written agreements must include requirements that subrecipients will follow to enable the County to carry out its environmental review responsibilities before HOME funds are committed to a project. Agreements must also include a provision to implement the prohibition on charging fees. The effective date for implementation of new written agreements is August 23, 2013. [New HUD rule - 92.504(c); 92.352 and 92.214(b).]

**HOME project physical inspections**

HOME-funded units will be inspected periodically to ensure that they are decent, safe, sanitary, and in good repair as specified in 24 CFR 5.703. HUD has established the minimum deficiencies that must be corrected under the Uniform Physical Conditions standards (UPCS). The County follows these standards when doing property inspections. The inspection of HOME units is coordinated with other public capital funders and existing memoranda of agreements encompass the HOME requirements.

HOME-funded projects must be inspected at least every three years with the actual frequency determined through the use of a risk profile developed by HCD. The inspection process will be applied to a statistically valid sample of housing units in all federally funded projects that are due for inspection in a given year. The risk profile will take into account project size, operational performance, reporting history, and property condition, and may result in certain projects being subject to inspection as often as every year until it is determined that less frequent inspection is warranted.

The number of units for which physical inspections will be done will typically be in the range of ten to fifteen percent of all units in a project. The units subject to inspection may be the same as the units selected for tenant income verification monitoring, but HUD does not require them to be the same units.

HOME project property owners must annually certify to the County that each building and all HOME-assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, as wells as any property standards specific to the County. It is anticipated that a form for monitoring compliance under this requirement will be added to the WBARS online reporting system by 2015. [New HUD rule – 92.504(d)(ii)(C)]