



# HOME/LIHTC Developments Implementation Manual

## SC HOUSING

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# Getting Started

## IMPLEMENTATION SCHEDULE

The development Implementation Schedule is provided as **Attachment A** to the HOME Funding Agreement. The schedule is intended to coincide with the **Tax Credit Program's Awarded Development Timeline** that is posted on the Authority's website. If the HOME Implementation schedule conflicts with any LIHTC Program requirements, unless otherwise instructed, the requirements identified in the LIHTC Timeline shall take precedence. The only exception is the deadline to begin construction. **HOME developments must begin construction within 12 months of executing the HOME award agreement.**

## STAFF CONTACT INFORMATION

Contact information for the **Community Development Division Staff** is listed below.

Staff Name:	Phone:	Email:
Jennifer Cogan Director of Community Development	803-896-9824	jennifer.cogan@schousing.com
Kelley Kays Multi-family Underwriter	803-896-9120	kelley.kays@schousing.com
Leanne Johnson Multi-family Underwriter	803-896-9384	leanne.johnson@schousing.com
Jessica Donald Development Auditor	803-896-8669	jessica.donald@schousing.com
Demian Carpenter Fiscal Portfolio Analyst	803-896-8741	demian.carpenter@schousing.com
Jeff Lauffer Program Coordinator (SRDP only)	803-896-9345	jeffrey.lauffer@schousing.com
Eric Kiesling Program Coordinator	803-896-9843	eric.kiesling@schousing.com
Brenda Becraft Program Coordinator	803-896-9171	brenda.becraft@schousing.com

## CHOICE-LIMITING ACTIONS PENDING ENVIRONMENTAL CLEARANCE

In accordance with 24 CFR Part 58, the Recipient acknowledges and agrees that **NO funds, HUD or non-HUD, may be committed to physical or choice-limiting actions and no physical or choice-limiting actions may be undertaken with respect to the development, including, but not limited to, the following:**

1. Property acquisition;
2. Demolition;
3. Procurement;
4. Notice of Award;
5. Execution of Construction Contract; and/or
6. Rehabilitation/Construction

**Violation of this provision before the environmental review process has been completed and the Authority has received HUD form 7015.16, "Authority to Use Award Funds," may result in the automatic termination of the conditional**

**commitment of HOME funds.** If questions arise on what actions are or are not choice-limiting, call Authority Development staff for guidance.

**In addition, if at any time it is determined that the area of land disturbance will exceed the parameters of the site for which the environmental review was completed the developer must notify SC Housing immediately. An increase in the area of land disturbance will require the scope of the environmental review to be expanded to include the additional land that will be disturbed during construction.**

## **AWARD REVISIONS**

**The Authority must approve any changes or amendments to the HOME application addendum that result in changes to development funding or structure. All requests for award revisions must be submitted in writing to your assigned Program Coordinator.**

## **PUBLIC DISCLOSURE REQUIREMENTS**

HOME program regulations require that award recipients disclose publicly receipt of their federal funding and any opportunities that may result from the funding. Sample language is provided in the ***M-4 Notice of Award***. The notice must be published in the legal section of a local newspaper that is circulated in the development area for at least **one day**. A copy of the published notice must be submitted to the Authority not later than the date identified in the Implementation Schedule. The purpose of publishing this notice is to ensure the community and potential beneficiaries are informed that opportunities may exist arising from the federal HOME funds awarded in their area. The notice **must include** the Equal Housing Opportunity Logo (found at: <https://www.hud.gov/library/bookshelf11/hudgraphics>) and encourage the participation of women and minority businesses. Developments subject to Section 3 requirements must also encourage the participation of Section 3 businesses and residents.

## **FINANCIAL COMMITMENTS**

Final financial commitments are required as part of the application review process. If the terms and conditions of financial commitments are revised for any reason, as approved by Authority underwriting staff during the application review process; Development staff must be notified promptly. Changes to the financial structure of a development may require a subsequent evaluation to determine if the financial structure still meets the Authority's underwriting criteria. **Regardless of the stage of development completion, Recipients must notify their Program Coordinator immediately of any changes to the development's financial structure.**

## **LOAN CLOSING REQUIREMENTS**

All HOME funds are awarded in the form of a loan. Upon the receipt of a completed ***M-13 HOME Loan Matrix Form*** the Authority will prepare a loan closing package which will be sent to your chosen attorney for closing. The loan closing package will include instructions for executing the promissory note, mortgage, truth in lending disclosure, and the HOME Loan Agreement. Before the HOME loan documents can be prepared and sent to your attorney, the ***M-13 HOME Loan Matrix Form*** must be completed by your attorney and submitted to the Authority. A copy of the deed, legal description, tax map number and numbered street address of the subject property must be submitted along with the form. The mortgage must be insured by a policy of mortgage title insurance on the subject property. The Authority requires that a Commitment for Title Insurance be provided for review prior to loan closing. The closing cannot be scheduled until the Authority's staff has reviewed and approved the Commitment for Title Insurance. The HOME Loan Agreement will address Federal HOME regulations, along with other terms and conditions which consist of guidelines, laws, and requirements

under which the loan is to be administered. If the HOME funding is to be subordinated to conventional financing, a draft copy of the subordination agreement should be included with the loan closing documents. ***To begin the loan closing process, you must submit all necessary documentation to your Program Coordinator at least thirty (30) days prior to the day in which you anticipate closing the HOME loan.***

## **FINANCIAL MANAGEMENT & AUDIT REQUIREMENTS**

### **FINANCIAL ACCOUNTABILITY**

Financial Management requirements must be provided to the appropriate finance staff of the HOME Recipient. Recipients must maintain complete and accurate financial records for all transactions performed under the HOME agreement. Audited financial statements must be annually and throughout the duration of the affordability period. Financial statements must be compiled, reviewed or audited by an independent CPA. Financial Statements must include an Income Statement and Balance Sheet.

Each HOME recipient's financial management systems must have a budget control system that makes it possible to compare actual expenditures with budgeted amounts for the development. Recipients must have a cash management procedure in place that minimizes the elapsed time between receipt and expenditure of HOME funds. Recipients must monitor the cash management to ensure that systems are in compliance. Financial management systems must also have sound internal control procedures that cover cash, real property, and other assets. The internal control system must safeguard all HOME funded property and ensure that such property is used solely for authorized purposes.

### **FINANCIAL RECORDS**

Separate accounting records must be maintained for HOME funds. The co-mingling of funds is not permitted. HOME funds must be kept in a non-interest-bearing account. Not only will separate records serve to meet required recordkeeping requirements, but it will also eliminate potential conflicts with the Recipient's usual recordkeeping systems, which may reflect a different local fiscal year or accounting functions by department rather than by property and activity. In addition, separation of accounts reduces conflicts with other funds. All records and correspondence pertaining to HOME must reflect the award number. At the time of a financial review, whether it is during the oversight period of the program or during the affordability period, the ledger and journals listed below must be available for review. The ledger and journals should be able to demonstrate that a budget control system exists in the accounting record system.

Financial records must be fully supported with source documentation. Examples of source documentation include: contracts, canceled checks, wire transfers, paid bills, invoices, draw request documents, deposit slips or other original documents supporting income or expenditures. This documentation must be on hand at the time disbursements are made and must be kept in one central location.

Recipients are required to establish procedures for recording HOME-related transactions and establishing the appropriate checks and balances for accounting transparency

#### **a. General Ledger**

This ledger must be maintained to summarize cash receipts and disbursements on property basis. Entries to the General Ledger must be made from the Cash Receipts and Cash Disbursements Journal and must be kept separately for each activity.

#### **b. Cash Receipts Journal**

This journal must be maintained to record the receipt of all funds (local, state and federal) used for program activities. The journal must include the date funds were received, the amount of funds received, the source of funds and the properties for which the funds were received.

#### **c. Cash Disbursements Journal**

This journal must be maintained to record checks issued for payment of program costs. It must include the date of payment, the payee, check number, amount and the property for which the disbursement was made against.

#### **d. Development Summary Journal**

This journal is required for HOME developments which have multiple activities. This journal contains entries for each receipt and disbursement related to a particular activity or development. It also contains reference numbers to the Cash Receipts and Disbursements Journals. A cash balance column is used to keep a running balance of the difference between receipts and disbursements.

#### **e. General Journal**

This journal may be maintained to enter all non-cash transactions. These entries must include a long-line statement to explain the origin or reason for the amount. The amount is then entered into the General Ledger.

**Questions related to financial management should be directed to Jessica Donald, Development Auditor at 803-896-9253 or [jessica.donald@schousing.com](mailto:jessica.donald@schousing.com).**

#### ***OMB A-133 AUDIT REQUIREMENTS***

Audit Requirements for non-profits and governmental entities are annual requirements that remain in effect from award inception until the affordability period of the development has expired. Each year at end of the entity's fiscal year, a determination must be made as to whether or not the entity is exempt for the fiscal year or if audit requirements have been triggered and an audit will need to be submitted. ***Non-Profit and government entities are required to submit an M-5A Audit Requirements Certification Form annually no later than 30 days from the end of their fiscal year.***

HOME award Recipients that are non-profits and governmental entities that **expend \$750,000.00 or more in total federal financial assistance** within any one fiscal year are required to obtain an independent audit in accordance with OMB Circular A-133 as referenced at **2 CRF Part 200, Subpart F**. The computation of the total of such assistance includes **all federal funds expended by the entity** and not just the amount of HOME dollars. For purposes of determining the amount of federal assistance expended, all federal assistance shall be considered, including that which is received directly from federal agency, passed through a state or local government, passed through a non-profit organization or any combination thereof.

For those required to submit an audit, the annual due date is no later than nine months from the end of the entity's fiscal year that triggered the audit. Award Recipients that expended less than \$750,000.00 during their fiscal year, in federal financial assistance, are exempt from federal audit requirements. However, the Recipient must still have financial records available for review by the Authority.

The costs incurred to complete audits cannot be paid for with HOME development funds. In addition, non-federal entities cannot charge the following to a federal award:

- The cost of any audit completed under the Single Audit Act Amendments of 1996, not conducted in accordance with 2 CRF Part 200, Subpart F.
- The costs of auditing non-federal entities which are exempt from 2 CRF Part 200, Subpart F.

For questions regarding audit requirements, contact Jessica Donald, Development Auditor at (803) 896-9253 or [jessica.donald@schousing.com](mailto:jessica.donald@schousing.com).

## CONFLICT OF INTEREST REQUIREMENTS

Recipients must maintain in their procurement and beneficiary selection procedures a written code of conduct to govern the performance of its officers, employees or agents in contracting with and expending HOME funds. HOME recipients are required to comply with the conflict of interest regulations found at **2 CFR Part 200 Subpart B and 200.112 Subpart B** in all cases not governed by 200.112 and 200.318 the provisions of 24 CFR Part 92.356 will apply. Written procurement and selection procedures should contain the following regarding conflicts of interest:

1. **Applicability:** In the procurement of property and services by the Recipient the provisions of this section apply.
2. **Conflicts prohibited:** No persons described in this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
3. **Persons covered:** The conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official, owner, developer or sponsor of a development assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for-profit or non-profit, may not occupy a HOME-assisted affordable housing unit in a development of the participating jurisdiction, which are receiving HOME funds.
4. **Exceptions:** Upon the written request of the Authority, an exception may be awarded from HUD with regard to the provisions of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Program and the effective and efficient administration of the Authority's program or development. An exception may be considered only after the recipient has provided the following:
  - a) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
  - b) An opinion of the Recipient's attorney that the interest for which the exception is sought would not violate State or local law.
5. **Factors to be considered for exceptions:** In determining whether to award a requested exception after the recipient has satisfactorily met the requirements the Authority will consider the following:
  - a) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or development which would otherwise not be available;
  - b) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - c) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
  - d) Whether the interest or benefit was present before the affected person was in a position as described in number (3) of this Section;
  - e) Whether undue hardship will result either to the Recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

- f) Any other relevant considerations.
6. **Owners and Developers:** No owner, developer or sponsor of a development assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer, or sponsor) whether private, for profit or non-profit may occupy a HOME-assisted housing unit in a development. This provision does not apply to an employee or agent of the owner or developer of a rental housing development who occupies a housing unit as the property manager or maintenance worker.

Recipients must include the ***M-58 Conflict of Interest Certification*** Form in all bid packages. Each contractor or firm awarded a contract to be paid for with HOME funds, must complete the certification form. Recipients must notify the Authority when a conflict of interest arises. Recipients that choose to request an exception from HUD must contact their Awards Management Program Coordinator for the specific requirements for submitting an exception application package.

### **RECORD KEEPING REQUIREMENTS**

HOME Recipients must establish and maintain sufficient records that clearly and satisfactorily demonstrate that program requirements are being met. All records must be retained for the period as described in the Funding Agreement. Recipients must provide records with respect to any questioned costs, audit disallowances, litigation or dispute between the Recipient and SC Housing shall be maintained for the time needed for the resolution of said question and that in the event of early termination of the funding agreement, or if for any reason SC Housing shall require a review of the records related to HOME, recipients shall, at their own cost and expense, segregate all such records related to HOME from its other records of operation.

Recipients must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable state and local laws regarding privacy and obligations of confidentiality. SC Housing, U.S. Department of Housing and Urban Development, the Inspector General, and any of their representatives, will have the right of access to any pertinent books, documents, papers or other records of the Recipients, in order to make audits, examinations, excerpts and transcripts.

Period of retention for HOME rental developments is five years after development completion for development related records. The records of individual tenant income verifications, development rents, and inspections must be retained for the most recent five year period, until five years after the termination of the affordability period. Retention periods for other federal requirements are provided in the Funding Agreement.

### **SECTION 3 DEVELOPMENT APPLICABILITY**

A ***M-11A Section 3 Applicability Form*** must be submitted not later than the date identified in the Program Implementation Schedule. This form is used to determine whether or not your development will have to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] which is HUD's legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded developments. Additional information about the requirements of Section 3 is found on **Page 20**.

# Pre-Construction Requirements

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## INDEPENDENT COST ANALYSIS, FINAL PLANS & SPECIFICATIONS

Final plans, specifications, and cost estimates are to be submitted to the Authority's LIHTC staff no later than the date specified in the **Tax Credit Awarded Development Timeline**. The Authority's consultant will review these items for both HOME and Tax Credit requirements. Submitting an additional copy of these items to your HOME program coordinator is **NOT** required. The Authority must approve cost estimates, plans and specifications **prior to** commencing procurement or executing a construction contract. Cost estimates are part of the application process. Providing updated costs is not required until the Placed-In-Service Application is submitted.

ALL HOME funded developments are required to submit a **M-7B Lead-Based Paint Applicability Form**. HUD requires that this form is completed and maintained in the file for all developments regardless of construction type. Developments claiming exemption due to LBP inspection results or previous reduction activity that have received clearance must provide a copy of the LBP inspection or clearance report with the **M-7B**. An **M-7B Lead-Based Paint Applicability Form** must be submitted by the deadline identified in the Implementation Schedule.

## PROCUREMENT REQUIREMENTS

### General Information

Contracts for professional and construction services must be procured after the HOME conditional commitment has been issued, environmental clearance has been received, and Final Plans & Specifications have been approved. Recipients must follow procurement procedures that are in compliance with 2 CFR Part 200 (sections 319-321), and all applicable state and local laws and regulations. This section describes the policies and procedures that must be followed when entering into contractual agreements with other entities when HOME funds are being used. Such entities may include governmental agencies, professional services firms, consultants, construction contractors, providers of goods and services, and others. The primary purpose of these requirements is to assure free and open competition is achieved. Any exception to the Authority's procurement requirements must be approved in writing by the Authority.

Procurement policies or bid selection procedures must comply with the regulations of Section 3, MBE/WBE outreach requirements, and federal labor standards when applicable. Developments subject to Section 3 regulations must include the **M-11 Section 3 Recipients/ Contractors/Subcontractors Packet** and **M-11C Section 3 Business Concern Certification** in all bid packages when applicable.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Recipient shall be alert to prohibited conflicts of interest, as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Solicitations shall clearly set forth all requirements that the bidder shall fulfill in order for the bid to be evaluated by the Recipient. Bidders must be informed of all the federal requirements the development will be subject to. Contracts shall be entered into only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

Examples of what is considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business
- Non-competitive practices between firms
- Conflicts of interest
- Unnecessary experience and bonding requirements

A minimum of three bids is preferred. The bids shall be from general contractors or residential builders who are licensed in the State of South Carolina. All bids shall be submitted with line item costs. The acceptable bid for a general contractor shall be no more than 10% higher or lower than the independent cost analysis or the work write-up approved by the Authority. **Any exception to the Authority’s procurement requirements must be approved by the Authority.** If there are no bids received that fall within the 10% limitation, contact your Program Coordinator for guidance.

### ***Contractor Credential Requirements***

Selected general contractors must meet the following minimum requirements to be awarded HOME construction contracts. Documentation that the contractor meets these requirements must be included in the bid package and submitted proposals.

1. Construction companies must have been in business for a minimum of five years and have permanent full-time employees.
  - Documentation must be provided that demonstrates the construction company been in business for at least five years of continuous operation, operating under the same business name.
  - Documentation that the company is in good standing with the SC Secretary of State
  - Copy of most current license issued by SC Department of Licensing, Labor and Regulations
  - Completed W-9
2. Provide a list of similar developments the construction company has successfully completed during the last five years. Include the following information for each development:
  - Development Name
  - Development Owner
  - Development Address
  - # of Units and Type (affordable, market rate)
  - Construction Start/End dates
  - Development Type (New Construction, Rehab, Adaptive Re-Use, Conversion) - Description of Funding Sources
  - Color Photo of Completed Developments
3. Provide the construction company's organizational chart (including employee names and titles) and employee roster. The construction company must have full-time permanent employees, including full-time on-site job superintendents/development managers. Provide the following information for each employee:
  - Employee Name
  - Job Title
  - Resumes of all key staff members and principals
  - Description of responsibilities and job duties
  - Type (i.e. full-time/part-time)
4. Contracts cannot be awarded to contractors that are working on other Authority funded projects that have fallen behind schedule. Behind schedule refers to the project’s Implementation Schedule and/or the construction

Final plans and specifications must be approved by the Authority prior to bidding out developments. Failure to follow this procedure may result in project delays and disallowed costs.

completion schedule or completion requirements identified in the construction contract. Any exception to the Authority's contractor requirements must be approved in writing by the Authority.

## ***Method of Procurement***

The appropriate procurement method to use for soliciting construction services is the competitive sealed bid method. The current Simplified Acquisition Threshold is \$150,000. **Drafts of all bid packages must be provided to SC Housing for review prior to commencing the bid solicitation process.**

### **PROCUREMENT METHOD: COMPETITIVE SEALED BID**

The competitive sealed bid method is required when procuring for **ALL construction contracts** and for all goods and services costing more than \$150,000.

During the competitive sealed bid process, bids are publicly solicited and a firm, fixed-price contract is awarded to the most responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. In order for sealed bidding to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively for the business, and
3. The procurement lends itself to a firm, fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

1. **Publication Period:** The invitation for bids will be publicly advertised for **a minimum of 7 days** and bids shall be solicited from an adequate number of known suppliers, providing them **at least 21 days to submit a bid**, the advertisement should also indicate the date set for opening the bids;
2. **Federal Funding Advertised:** The advertisement should indicate that the project is being funded with HOME funds and that federal requirements will apply to the contracts;
3. **Clear Definition:** The invitation of bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
4. **Itemized Costs:** Bids must show the quantity and cost of each line item. Lump sum bids and/or bid items that are not specifically identified or are generally grouped as miscellaneous or contingency are not allowed;
5. **Public Opening:** All bids will be publicly opened at the time and place prescribed in the invitation for bids;
6. **Selection and Contracting:** A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder; and
7. **Rejection of Bids:** Any or all bids may be rejected if there is a sound documented reason.

**Negotiations after Unsuccessful Competitive Sealed Bidding:** Recipients must notify the Authority upon realization that the bid procedure was unsuccessful. Bid processes are deemed unsuccessful when an insufficient number of proposals are submitted or proposals received are not within 10% of the cost estimate approved by the Authority. The Authority, at its discretion, based on the circumstances, may allow a bid to be awarded, permit negotiations or require the project be re-bid.

## **Preparing a Bid Package for Construction Services**

**Step 1: What should be included?**

An architect or engineer will typically prepare the technical bid specifications for new construction and Recipients will typically prepare the necessary work write-up for rehabilitation. The information concerning both of these types of activities should provide a complete and accurate description of the work to be completed, specifications for materials, products, and services to be provided or performed. In addition, Recipients must ensure that the bid package includes HOME mandatory design criteria, design and amenity criteria included for points, required federal and State provisions and clauses, such as compliance with minimum standards for accessibility by the physically handicapped (Section 504), Davis-Bacon, Section 3, and Lead-Based Paint regulations when applicable.

**Bid and contract documents should include, but are not limited to the following:**

- Technical specifications
- Local, State and Federal requirements
- Equal opportunity requirements including **M-11B**, Section 3 Clause, **M-11**, Section 3 Award Recipient/Contractor/Subcontractor Packet, and **M-11C**, Section 3 Business Concern Certification
- Labor standards requirements (if applicable)
- General contract terms and conditions such as termination clauses, access to and retention of records, etc.
- Timeframe for contract completion
- General industry conditions
- Itemized cost and pricing information by line item
- All bids for any project shall include costs of permits, licenses and fees applicable to work. All bids for material and/or equipment shall include all transportation and freight cost to the job
- If required for fabrication, installation or if required by General contractor, all subcontractors and suppliers will be required to furnish shop drawings, certificates, tests and/or samples for approval
- Each bidder performing work on any project will be required to remove completely from the job site his own construction debris, trash, etc. and to leave his work in a neat and workmanlike manner
- Method of payment and amount of contract
- Advertisement for Bid
- A request that all bidders return bids even if they are not going to bid. Have them mark the bid "No Bid." A "No Bid" is considered a bid.

**Step 2: Reviewing the bid package prior to soliciting bids:**

Prior to bidding the project, Recipients should review the bid documents to ensure that the scope of work is consistent with the approved home project.

**Step 3: What method to use when soliciting bids:**

Construction bids must be publicly solicited using sealed bids.

**Step 4: Handling corrections to bid package:**

If any amendments are made to the bid documents, they must be sent to all bidders who were sent or who obtained bid documents. A log should be maintained of all bidders who were sent or obtained bid documents. All bids received during the bidding period should be logged with the name and address of the bidder and the date and time of receipt.

**Step 5: Confirm Davis-Bacon Wage Decision (if applicable)**

Wage decision must be confirmed no later than ten days prior to bid opening.

**Step 6: Conduct a public bid opening**

All bids should be read aloud during this meeting and minutes kept.

### **Step 7: Review Bids**

- Determine if bids are legally and technically responsive and fall within 10% of the approved cost estimate.
- Check with the State’s Licensing Board for General Contractors to verify contractor’s business license number and type, and the types of work the contractor is permitted to bid on or perform.
- Evaluate the contractor’s capacity.
- Check to make sure the contractor has not been debarred from participating in federally funded developments (SAM.gov).
- Notify the Authority if an insufficient number of bids are received.
- Submit contractor credentials, documentation of procurement and a draft of the contract to SC Housing for review.
- Prepare and mail a notice of intent to award to the selected bidder after procurement and contract credentials have been approved by SC Housing.

### **BEST PRACTICES TO FOLLOW WHEN PROCURING**

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. This description must not, in the case of competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, set forth minimum essential characteristics and standards to which it must conform to be satisfactory. Clearly set forth all requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals.
- Awards shall be made only to responsive and responsible contractors who possess the ability or have access to resources to perform successfully under the terms and conditions of a proposed procurement. Consideration must be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- Proposed procurement actions must be reviewed by the Recipient to avoid purchasing unnecessary or duplicative items.
- The Cost Plus a Percentage of Cost Method of contracting shall not be used.
- Contracts with other public agencies will only allow actual costs to be paid. No profit is allowable when contracting with other public agencies.
- Recipients must maintain sufficient records detailing the significant history of the procurement. These records must include, but are not necessarily limited to:
  1. Information pertinent to the rationale for the method of procurement
  2. Selection of contract type
  3. Contractor selection or rejection
  4. The basis for the cost or price
  5. Copy of the advertisement for bids
  6. Copy of the bid package that was provided to bidders
  7. Bid tabulation of all bids received
  8. Copies of all bids received, including “no bids”
- Recipients must maintain a contract administration system that ensures contractors perform in accordance with the terms, conditions and specifications of their contract.
- It is recommended that development owners require a bid guarantee from each bidder equal to 5% of the bid price. If utilized, the bid guarantee should consist of a bid bond, certified check, or other negotiable instrument accompanying the bid.

## **Submitting Procurement Documentation**

HOME Recipients may not award contracts until documentation of procurement and the contractor's credentials have been approved by SC Housing. The following documentation must be submitted for review:

1. **M-57 Contract Submittal Form** with required forms, contractor documents and documentation of credential requirements;
2. Copy of the Bid Advertisement
3. Copy of the Bid Package provided to bidders
4. Copy of all bids received, including "no bids"
5. Bid Tabulation that identifies which contractor the Recipient would prefer to select
6. Draft of Contract
7. Draft Construction Schedule

## **Identity of Interest Relationships**

In circumstances where the HOME award recipient is also the owner, and wishes to have a related entity perform the general contracting services, the recipient must request approval by submitting a completed **M-8A Request for Identity of Interest and an M-8 Identity of Interest Certification Form**.

## **AWARDING CONTRACTS**

### **Contract Approval**

**Drafts** of the contract along with an **M-57 Contract Submittal Form** and applicable forms and contractor credential documents must be submitted for approval. **All contracts must be approved by the Authority prior to execution.** Once approved, the executed contract needs to be submitted with a construction schedule that has been signed off on by the architect, contractor and the owner. HOME Recipients must award contracts that address the federal regulations provided in this section. Failure to include all applicable provisions will result in the return of the contract and cause delay of contract approval. **Contracts must be approved by the Authority prior to execution.**

### **HOME Contract Provisions**

All contracts are required to contain federal and state provisions pertaining to equal opportunity, labor standards, and general terms and conditions. The Authority has provided a standard set of these provisions, provided as **M-55 HOME Contract Provisions** for use in construction contracts and must be incorporated within construction contracts as an addendum, exhibit, or line item under the table of articles.

### **Bonding & Insurance Requirements**

**Contracts Less than \$150,000:** Contracts less than \$150,000 are not subject to federal bonding requirements. HOME recipients are required to follow local procedures relating to bonding and insurance. Recipients should consult their engineers to protect their interests.

**Construction Contracts Over \$150,000:** For construction contracts over \$150,000, the minimum bonding and insurance requirements are as follows:

- A bid guarantee from each bidder equal to 5% of the bid price. The bid guarantee shall consist of a bid bond, certified check, or other negotiable instrument accompanying the bid.

- HOME Recipients must require adequate insurance from contractors (hazard/liability, automobile, workers' compensation). Builder's Risk insurance coverage amounts, at a minimum, must be equal to the entire contract amount.

### ***Change Orders***

Change order requests only need to be submitted for review and approval to HOME Staff if the change order will result in a change in cost or scope of work that will affect the approved HOME budget and/or any lead-based paint exemption status or calculated level of assistance.

# Post Construction Requirements

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## FINAL INSPECTION REQUIREMENTS

Recipients must receive a notification from the Authority that the development has passed a final inspection prior to allowing tenants to occupy units. HOME/LIHTC developments must follow the inspection requirements and processes as described in the **Construction Inspection Form** located on the Authority's Tax Credit site at: <https://www.schousing.com/Home/HousingTaxCredits>

## REQUESTING DISBURSEMENT OF HOME FUNDS

HOME funds are requested at development completion. In general, Recipients must meet the below requirements before the final request for payment can be submitted. This list is not inclusive of all requirements.

- All cost estimates, plans, specifications, and contracts must be approved.
- The development must have passed a final inspection conducted by the Authority
- The HOME loan documents must be closed and the executed/recorded documents submitted to the Development Division's loan closing coordinator.
- Developments must be compliant with Davis-Bacon and Section 3 requirements.

Once the Authority receives a correct **M-15A Request for Payment** and **M-15F Draw Summary Form** that includes all the appropriate documentation a check can be expected to be received within 21 days. Recipients should do everything feasible to disburse funds within three business days of deposit. In situations where payment takes longer than three business days, written justification should be maintained in the file as to the reason for the delay of disbursement.

A correct **M-15A Request for Payment Forms** and **M-15F Draw Summary Form** is one that contains the correct activity number, award number, etc. Submitting incomplete draw paper work will delay payment. Any request for payment that is not completed properly or accompanied by the appropriate documentation will be returned to the Recipient without being processed. Common reasons a request for payment may be returned include the following:

- Funds requested exceed approved budget amount
- Recipient's name is not written on form exactly as it is recognized by the IRS (*\*must match name exactly as it appears on your W-9*)
- The Federal Tax Identification # provided does not match your organization
- There is a reason to stop payment on the award (see below)

The Authority at its discretion reserves the right to withhold payments for any issues related to compliance with federal or state requirements. The Authority may elect to stop payment of HOME funds for the below reasons. This list is not inclusive of all instances in which payments may be held.

- Required reports are not received
- Audit reports not received
- Recipient is not in compliance with Davis-Bacon regulations, Section 3, or other HOME requirements

# Additional Federal & State Requirements

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HOME funded developments are subject to several federal regulations. Recipients are responsible for understanding which of those federal requirements their developments are subject to comply with. This section discusses those various regulations and their applicability.

## FEDERAL DEBARMENT CERTIFICATION

HOME funded developments may not employ any contractors and/or subcontractors that have been debarred or suspended from participating in federally funded programs. A listing of debarred contractors can be found on the **System for Award Management (SAM)** website at [sam.gov](http://sam.gov). HOME Recipients are responsible for checking the website to verify a contractor's status prior to executing contracts. All contractors and subcontractors awarded contracts \$100,000 or greater must sign the **M-9 Debarment Certification Form** certifying that they are not included on the Excluded Parties Listing System and are eligible to participate in federally assisted programs. An **M-9 Debarment Certification Form** must be submitted along with each contract awarded with a copy of the search results from sam.gov. Separate searches must be conducted on sam.gov for the firm name and owner name(s).

## FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act (FLSA) contains Federal minimum wage rates and overtime (O/T) and child labor requirements. These requirements generally apply to any labor performed and may be pre-empted by other Federal standards such as the Davis Bacon Act, related prevailing wage requirements, and Contract Work Hours and Safety Standards Act O/T provisions. Only the Department of Labor (DOL) has the authority to administer and enforce FLSA. HUD will refer to the DOL any possible FLSA violations that are found on HUD developments.

## BYRD ANTI-LOBBYING CERTIFICATION

Contractors who apply or bid for awards in excess of \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization influencing or attempting to influence an officer employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 USC 1352. Each tier should disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Recipient. An **M-59 Byrd-Anti Lobbying Certification** form must be completed by the Recipient and each contractor awarded a contract in excess of \$100,000.

## SC ILLEGAL IMMIGRATION REFORM ACT

Effective July 1, 2009, South Carolina businesses that employ 100 or more workers must verify the legal status of new employees and remove from their payrolls any worker who is not legally in the United States and authorized to work. The requirements are a part of the South Carolina Illegal Immigration Reform Act that became effective on June 2, 2008.

Beginning July 1, 2009, all businesses in South Carolina are imputed a South Carolina employment license which permits an employer to hire employees. The imputed employment license remains in effect as long as the business abides by the law. Employers who employ less than 100 workers have until July 1, 2010 to fully comply with the law. The South Carolina

Department of Labor, Licensing and Regulation will investigate complaints and conduct audits of employers to assure compliance with the law.

An ***M-56 SC Illegal Immigration Reform Act Certification Form*** must be submitted along with each contract awarded. If development is subject to Davis-Bacon requirements; an ***M-56 SC Illegal Immigration Reform Act Certification Form*** must be submitted for each sub-contractor.

#### **Verification Requirements:**

In addition to completing and maintaining the federal employment eligibility verification form, more commonly known as the Form I-9, all South Carolina employers must, within five days after employing a new employee, verify the following:

1. The employee's work authorization through the E-Verify federal work authorization program administered by the U.S. Department of Homeland Security; or
2. The employee possesses a valid South Carolina driver's license or identification card issued by the South Carolina Department of Motor Vehicles; is eligible to obtain a South Carolina driver's license or identification card; or possesses a valid driver's license or identification card from another state whose qualification requirements are as strict as those of the state of South Carolina.

For information on E-Verify, and to register for the program, go to the **E-Verify** web site at: <https://www.e-verify.gov/>

#### **Compliance Dates:**

Compliance with verification requirements began on July 1, 2009 for private employers who employ 100 or more employees. For private employers who employ less than 100 employees, the compliance date is July 1, 2010.

#### **Enforcement and Penalties:**

The South Carolina Department of Labor, Licensing and Regulation is responsible for:

- Notifying the United States Immigration and Customs Enforcement of suspected unauthorized aliens employed by a private employer;
- Notifying state and local law enforcement agencies responsible for enforcing state immigration laws, and;
- Assessing penalties for violations of the Act.

For violations of the procedures for verifying worker eligibility, a private employer can be assessed a civil penalty of not less than \$100 and not more than \$1,000 for each violation. Upon the first violation, the employer can avoid assessment of a penalty if, within 72 hours of notification of a violation, the employer complies with the verification provisions. An employer who knowingly or intentionally hires an unauthorized alien faces suspension or revocation of the employer's imputed license. During the time that the license is suspended or revoked, the employer cannot employ any employees.

## **SECTION 3 REGULATIONS**

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for developments designed to build and rehabilitate housing, improve roads, develop community centers and otherwise assist families to achieve the American Dream. The Section 3 regulation recognizes that HUD funding typically results in developments/activities that generate new employment, training and contracting opportunities. These economic opportunities not only provide "bricks and mortar", but can also positively impact the lives of local residents who live in the neighborhoods being redeveloped.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] is HUD's legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or

gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded developments. Further, as a condition of receiving HUD Community Planning and Development assistance, Recipients certify that they will comply with the requirements of Section 3. Accordingly, HUD has the legal responsibility to monitor Recipients for compliance and can impose penalties upon those that fail to meet these obligations.

### ***Applicability of Section 3 to HOME Developments***

A Section 3 project means housing rehabilitation, housing construction, and other public construction projects that are assisted under HUD programs which provide housing and community development financial assistance for the project that exceeds the threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C.1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq*).

Therefore, SC Housing and the entities to which it provides HOME, NHTF and NSP funds (collectively HUD Funds) in excess of \$200,000 must comply with Section 3, as amended. Whether the project is fully or partially assisted under HUD CPD programs, Section 3 applies to the entire project [24CFR 75.3(a)(2)(iii)]. **All Contractors and Subcontractors** must be made aware of the need to comply with Section 3 requirements.

Section 3 requirements do not apply to material supply contracts [24 CFR 75.3(b)] or “non-construction” professional service jobs that require an advanced degree or professional licensing, including but not limited to contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

### **Section 3 Covered Community Planning and Development Funding:**

The following federal programs are subject to the requirements of Section 3:

- Community Development Block Awards (CDBG)
- Home Investment Partnership Assistance (HOME)
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Awards (ESG)
- Homeless Assistance
- University Partnership Awards
- Neighborhood Stabilization Program (NSP)
- Certain Awards Awarded Under HUD Notices of Funding Availability (NOFAs)
- National Housing Trust Fund (HTF)

### ***Section 3 Reporting Requirements***

All contractors and subcontractors are required to submit a **HOME-11F-G Contractors/Subcontractors Total Labor Hours Report**, along with supporting documentation, if applicable, to the Award Recipient upon completion of their construction contract. Award Recipients are required to submit an **M-11H Master Award Recipient Total Labor Hours Report along with all collected Section 3 contractor and subcontractor documentation and reports to SC Housing with the Placed-in-Service Application**. The following labor hours data will be reported for each construction and contract and subcontract awarded to the project:

- a. Total Labor hours during construction
- b. Total Labor hours during construction for Section 3 Workers.
- c. Total Labor hours during construction for Targeted Section 3 Workers
- d. Qualitative efforts that were taken if benchmarks are not met. Documentation of these efforts is submitted with the reports.

## Benchmarks

The Section 3 benchmarks established by HUD for all Award Recipients/Contractors/Subcontractors are:

- **25%** or more of total labor hours of the development construction must be worked by Section 3 Workers, **AND**
- **5%** or more of total labor hours of the development construction must be worked by Targeted Section 3 workers

**If the Award Recipient's/Contractor's/Subcontractor's reporting indicates the Section 3 benchmarks have not been met, qualitative efforts must be included in the M-11G Qualitative Efforts Report and *evidence* must be provided indicating that, to the greatest extent feasible, low- and very low-income persons were given employment and training opportunities.**

### Qualitative Efforts include but are not limited to:

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funded Targeted Workers
- Direct, on-the-job training (including apprenticeships)
- Indirect training such as arranging for, contracting for, or paying tuition for off-site training
- Technical training such as arranging for, contracting for, or paying for tuition for off-site training
- Outreach efforts to identify and secure bids from Section 3 Business Concerns
- Technical assistance to help Section 3 business concerns understand and bid on contracts
- Division of contracts into smaller jobs to facilitate participation by Section 3 Business Concerns
- Provided or connected residents with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting resident to job placement services
- Held one or more job fairs
- Provided or connected residents with supportive services that can provide direct services or referrals
- Provided or connected residents with supportive services that provide one or more of the following: work readiness, health screenings, interview clothing, uniforms, test fees, transportation
- Assisted residents with finding childcare
- Assisted residents to apply for or attend community college or a four-year educational institution
- Assisted residents to apply for or attend vocational/technical training
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business Concerns
- Provided or connected residents with training on computer use or online technologies

Award Recipients, Contractors and Subcontractors will be considered compliant if they meet both benchmarks for total

hours worked for Section 3 workers and Targeted Section 3 workers as stated above.

If Award Recipients, Contractors or Subcontractors did not meet the benchmarks, but can provide evidence that they made qualitative efforts to provide low- and very low-income persons with employment and training opportunities, they will be considered compliant with Section 3. Documentation of qualitative efforts must be provided along with the **M-11G – Section 3 Qualitative Efforts Report**.

### **Section 3 Clause**

In accordance with 24 CFR Part 75.27, all Section 3 covered contracts shall include the following clause **VERBATIM** (referred to as the Section 3 clause):

#### **Section 3 Clause:**

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by HUD financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive HUD financial assistance for housing and those residing in communities where the financial assistance is expended.
- B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR Part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- C. The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 Clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- D. Noncompliance with HUD’s regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

Award Recipients, Contractors, and Subcontractors must retain all records pertaining to Section 3 for a period of five (5) years after project completion.

Refer to the **M-11 - Section 3 Packet for Award Recipients/Contractors/Subcontractors** for additional information on compliance with Section 3 regulatory requirements. Anyone with questions about Section 3 requirements should Jennifer Cogan at (803) 896-9824 or email at [jennifer.cogan@schousing.com](mailto:jennifer.cogan@schousing.com).

## **SMALL & MINORITY BUSINESS INVOLVEMENT**

When procuring goods and services, HUD requires that Recipients encourage and support the involvement of small, minority and female-owned business firms in HOME funded developments. HUD has placed the following requirements with regard to the HOME programs to ensure the following minimum affirmative steps are taken to afford MBE/WBE owned businesses every opportunity to participate in HOME generated contracts:

- Placing minorities and women on solicitation lists;
- Assuring that MBE and WBE firms are solicited whenever they are potential sources;
- Dividing the total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business enterprises and women business enterprises;

- Where the requirement permits, establishing delivery schedules that encourage participation by small and minority business enterprises, and women business enterprises;
- Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontractors are to be let, to take all the same affirmative steps listed here.

Additional guidance can be found at:

<https://www.hudexchange.info/resource/248/guidance-on-minority-business-enterprise-and-womens-business-enterprise-outreach/>.

The **South Carolina Minority Business Directory** is a valuable resource for attracting services from minority owned businesses located in South Carolina. A link to download the directory can be accessed at <https://osmba.sc.gov/directory.html>.

If a contractor cannot demonstrate an ability to comply with federal requirements, such as Section 3 and minority outreach requirements, it should not be selected to perform work in connection with any HOME funded developments. It is important to effectively communicate up front all applicable HOME requirements related to HUD generated economic opportunities by clearly stating what is required in all contract solicitations. All HOME Recipients are required to submit the **M-22 MBE/WBE Annual Report (HUD 2516)**, not later than **September 30<sup>th</sup> of each year**.

Anyone with questions about MBE/WBE requirements should email **CommunityDevelopmentPrograms@schousing.com**

## **VIOLENCE AGAINST WOMEN ACT (VAWA)**

HOME funds are subject to the Violence Against Women Act (VAWA) Final Rule issued by HUD, in an effort to support victims of crimes covered by VAWA. The final rule went into effect on December 16, 2016, and the regulations can be found at 24 CFR Part 5. The rule states that applicants and tenants may not be denied assistance or have assistance terminated on the basis, or as a direct result of having been a victim of domestic violence, dating violence, sexual assault, or stalking and allows Recipients to establish a preference for tenants who have been victims of those crimes, and provides guidance on protecting victims from further crimes by establishing emergency transfer plans. The final rule also establishes confidentiality measures put in place to further protect victims, and lease bifurcation regulations in order to protect members of a household when another household member has presented as an actual and imminent threat to them. VAWA Protections are not limited to women and are available to all, without regard to sex, gender identity, or sexual orientation.

# Reporting Requirements

## QUARTERLY REPORTS

Included in this packet is a copy of the **M-18 Quarterly Report**. This report is mandatory and is submitted quarterly until development close-out and is due not later than the following dates listed below:

Quarter	Reporting Period	Due
First Quarter	January 1– March 31	April 15th
Second Quarter	April 1– June 30	July 15th
Third Quarter	July 1– September 30	October 15th
Fourth Quarter	October 1– December 31	January 15th

**NOTE:** Reports must be submitted quarterly until award is 100% completed. If completion benchmarks are not met as identified in the Implementation Schedules, monthly reports may be required until progress has improved. Developments that are drawing funds at project completion must include a copy of the final certified AIA Application for Payment with the Quarterly Report once construction begins.

## FEDERAL REPORTING REQUIREMENTS

Federal Reports are due annually until development is 100% completed, all funds have been drawn, the **M-20 Development Completion Report** is submitted, and the HOME Recipient has received their Award close out letter.

### **M-22 MBE/WBE Annual Report (HUD 2516)**

Recipients are required to submit a **2516 report annually** to the Authority **no later than September 30th**. This annual report collects data on contracts awarded in conjunction with your HOME development. The report must include **all contracts** executed **during the report period of October 1 – September 30** that are for \$10,000 or more. The Authority will email HOME Recipients a reminder annually to submit their 2516 report by the required deadline.

# Award Close-Out Requirements

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**NOTE:** LIHTC developments funded with HOME funds must comply with the Tax Credit **Placed-in-Service Application** process.

## **AWARD CLOSE-OUT MANUAL**

Within approximately two weeks of receiving your final payment for your HOME award, the Authority will provide you with an **Award Close-Out Packet**. This packet provides a deadline to submit your **M-20 Rental Development Completion Report** and contains information on the requirements that you must comply with throughout the affordability periods, along with what you need to know to be prepared for your initial monitoring visit from our Compliance Monitoring staff.

## **DEVELOPMENT COMPLETION REPORT**

**M-20 Rental Development Completion Report** must be submitted within 60 days of receiving the final payment for your HOME award. This report is necessary for Authority staff to input close-out data in HUD's IDIS system for HOME reporting requirements. The date the development completion data is entered into the IDIS system is the date that officially begins the affordability period identified in the HOME restrictive covenants.

HUD requires that all initial occupancy data be entered into the IDIS system. If your development has vacant units at the time the development completion report is submitted, the Authority will follow up with you to provide the occupancy data for vacant units until the information for all units is collected. The Authority will email a **Vacant Unit Status Memo** to collect the tenant data until data for each HOME unit has been provided. All initial tenant data for HOME units must be entered into the IDIS system within eighteen months of the date of development completion. If a HOME unit has not yet been leased to an income eligible tenant within eighteen months, HUD requires that the Recipient repay the HOME funds invested in the unoccupied unit.

## **RESTRICTIVE COVENANT AMENDMENT**

HOME affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership and are imposed by restrictive covenants that run with the land as required by HUD. To ensure that HOME assisted units meet affordability requirements for the duration of the affordability periods, the Authority requires that restrictive covenants are recorded and returned to the Authority within 60 days of receipt. The Authority will prepare and send out amendments to the HOME restrictive covenants upon receipt of the **M-20 Development Completion Report**. The amendments are issued to identify the starting and ending dates of the HOME affordability period. HUD requires that the affordability periods begin on the date the development completion data is entered in the HUD IDIS system.

# HOME Compliance Period

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## MONITORING REVIEWS

### Types of Reviews

HUD requires that the Authority address the below components when monitoring its HOME Recipients. To meet these requirements, the Authority conducts reviews that are undertaken by different divisions of the Authority.

- Programmatic Reviews – *conducted by Development Program Management Staff*
- Rental Development On-Site Compliance Reviews – *conducted by Compliance Monitoring Staff*
- Financial Management Reviews – *conducted by the Development Auditor*

## ANNUAL FINANCIAL OVERSIGHT

A requirement imposed by the 2013 HOME Final Rule requires that the Authority annually examine the financial condition of rental developments with ten (10) or more HOME-assisted units to determine the continued financial viability of the development. The annual review is required throughout the duration of the development's affordability period.

The Owner shall provide the Authority an annual financial operating statement as to the Development containing a balance sheet and a statement of income and expenses. The financial statements must be provided in the manner prescribed by the Authority and may include electronic document submission.

**For questions regarding annual financial reporting requirements, contact Demian Carpenter, Development Fiscal Portfolio Analyst at (803) 896-8741 or [demian.carpenter@schousing.com](mailto:demian.carpenter@schousing.com).**

## MULTIPLE PROGRAMS COMPLIANCE GUIDE

The **Multiple Programs Compliance Guide** can be accessed on the Authority's website at <https://www.schousing.com/library/Monitoring/Multiple%20Program%20Compliance%20Guidebook%20-%20FINAL%2007.01.2022.pdf>. This Manual is prepared by the Authority's Compliance Monitoring staff and contains information needed to prepare for On-Site Compliance Reviews which are conducted throughout the affordability period for rental developments. These reviews focus primarily on occupancy requirements, property standards, and reserve requirements.

Contact [ComplianceDepartment@schousing.com](mailto:ComplianceDepartment@schousing.com) with questions.

The Authority will notify Recipients in advance of planned visits to allow for preparation.

# Other Information

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The information provided in this manual is intended to be a basic guideline for the Recipient to follow and should not be construed as inclusive of every conceivable action that should be taken. Furthermore, this guide should not be used as a substitute for the federal guidance governing the HOME Program as set forth in 24 CFR Part 92. Please read your regulations carefully. Recipients that have questions concerning compliance with HOME regulations, should contact their assigned Program Coordinator immediately.

The Authority reserves the right to revise directives and policies as needed. Recipients will be notified of any changes to program policies and procedures as they are implemented.

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All of the forms referred to in this manual are available on the Authority’s website, located at the link below. Contact your assigned program coordinator if you have any questions or issues with the forms.

<https://www.schousing.com/Home/HOMEInvestmentProgram> → Manuals and Forms, and then choose either HOME/LIHTC Forms or Section 3 Forms tabs.