ALASKA HOUSING FINANCE CORPORATION

GOAL PROGRAM

(Greater Opportunities for Affordable Living)

Program Policies and Procedures

Funding Sources:
HOME Investment Partnerships Program (HOME)
Low Income Housing Tax Credit Program (LIHTC)
Senior Citizen's Housing Development Fund Program (SCHDF)

Revision Date 8/18/06

TABLE OF CONTENTS

A. GENERAL PROVISIONS 1

1. PURPOSE 1
2. STATUTORY BASIS FOR PROGRAMS 2
3. GOAL PROGRAM RATING AND AWARD CRITERIA PLAN (OR QUALIFIED ALLOCATION PLAN) 2
4. APPLICATION PROCESSING AND REVIEW 3
5. REJECTION OF APPLICATION DUE TO POOR PRIOR PERFORMANCE 4
6. MARKET STUDY/CAPITAL NEEDS ASSESSMENT REQUIREMENT 4
7. ELIGIBLE ACTIVITIES: 5
8. PROHIBITED USE OF GOAL FUNDS 6
9. GENERAL ELIGIBLE DEVELOPMENT COSTS 6
10. INELIGIBLE DEVELOPMENT COSTS 7
11. ELIGIBLE COST FOR HOMEOWNERSHIP PROJECTS ONLY 8
12. THE HOME OPPORTUNITY PROGRAM AND GOAL FUNDS 8
13. PROJECT COST LIMITATIONS 9
14. PROJECT SUBSIDY LIMITATIONS 11
15. MAXIMUM APPRAISED VALUE 12
16. AFFIRMATIVE MARKETING AGREEMENT 13
17. LEASE TO PURCHASE 13
18. CHANGES TO APPLICATIONS AFTER AN AWARD IS MADE 14
19. DEBARMENT AND SUSPENSION 14
20. PROJECT LEVERAGING AND/OR “MATCHING” CONTRIBUTIONS 14
21. MINIMUM REQUIRED PROPERTY STANDARDS 14
22. SITE AND NEIGHBORHOOD STANDARDS 17
23. PERIODS OF AFFORDABILITY 17
24. REPLACEMENT AND OPERATING RESERVES 18
25. SET-ASIDE REQUIREMENTS AND TENANT INCOME LIMITATIONS 19
26. RENT RESTRICTIONS OF SET-ASIDE UNITS 20
27. TENANT AND PARTICIPANT PROTECTIONS (HOME RENTAL DEVELOPMENT PROJECTS) 20
28. GOAL PROGRAM FUNDS EXPENDITURE TIME FRAMES 23
29. PROJECT TERMINATION 24
30. REVOCATION OR RECAPTURE OF GOAL FUND AWARDS 24
31. RESTRICTED USE AGREEMENTS AND COVENANTS 24
32. REPORTING REQUIREMENTS 25
33. POST-COMPLETION COMPLIANCE MONITORING 26
34. PERIOD OF RECORD RETENTION 26
35. ACCESS TO RECORD(S) 27
36. PROGRAM FEES 27

B. SPECIFIC REQUIREMENTS FOR THE LOW-INCOME HOUSING TAX CREDIT PROGRAM 29

1. AMOUNT OF CREDIT AWARDED TO ALASKA 29
2. LEASE PURCHASE PROGRAM GUIDELINES 29
3. LIMITS ON THE USE OF THE TAX CREDIT 29
4. VALUE OF THE CREDIT 30
5. DETERMINING ELIGIBLE AND QUALIFIED BASIS 30
6. SELECTING THE CREDIT PERCENTAGE 31
7. DETERMINING FEDERAL SUBSIDY 31
8. INCREASE IN ELIGIBLE BASIS FOR DIFFICULT TO DEVELOP AREAS 32
9. DETERMINING THE APPROPRIATE AMOUNT OF CREDIT 32
10. ALLOCATIONS FOR PROJECTS FUNDED 50% OR MORE BY TAX-EXEMPT BOND ISSUES. 33

11. NOTIFICATION OF LOCAL JURISDICTION....34
12. TRANSFER OF CREDIT ALLOCATION PRIOR TO PLACEMENT IN SERVICE 34

C. TECHNICAL NOTES SECTION.... 35

1. TECHNICAL ASSISTANCE RESOURCES 35
2. CALCULATING MAXIMUM RENTS (INCLUDING UTILITIES) UNDER THE LOW INCOME HOUSING TAX CREDIT PROGRAM....36

D. DEFINITIONS SECTION 39

E. OTHER FEDERAL RULES THAT APPLY TO HOME PROJECTS.... 46

1. DAVIS-BACON ACT....46
2. SECTION 504 COMPLIANCE 46
3. FLOOD DISASTER PROTECTION ACT....47
4. THE FAIR HOUSING ACT (42 U.S.C. 3601-20)....47
5. EXECUTIVE ORDER 11063....47
6. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 2000D) 47
7. AGE DISCRIMINATION ACT OF 1975 (42 U.S.C. 6101-07)....48
8. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (12 U.S.C. 1701U)....48
9. EXECUTIVE ORDERS 11625, 12432 AND 12138 (MINORITY BUSINESS ENTERPRISE AND WOMEN'S BUSINESS ENTERPRISE) 48
10. DRUG FREE WORKPLACE ACT OF 1988 (41 U.S.C. 701) 48
11. UNIFORM RELOCATION ASSISTANCE ACT OF 1970 50
12. ENVIRONMENTAL REVIEW (25 CFR PART 58)....50
13. LEAD-BASED PAINT POISONING PREVENTION ACT (42 U.S.C. 4821, ET SEQ.) AND THE IMPLEMENTING REGULATIONS AT 24 CFR PART 35. 50
14. UNIFORM ADMINISTRATIVE REQUIREMENTS (24 CFR 92.205) 50

A. GENERAL PROVISIONS

1. Purpose

The purpose of Alaska Housing Finance Corporation's (AHFC's) Greater Opportunity for Affordable Living (GOAL) program is to expand the supply of decent, safe, sanitary, and affordable rental housing for occupancy by lower-income persons and families, persons with special needs and senior citizens.

The GOAL program is funded through four sources, the HOME Investment Partnerships program (HOME, federal), the Low Income Housing Tax Credit program (LIHTC, federal), the Senior Citizens Housing Development program (SCHDF, state) and Alaska Housing Finance Corporation (AHFC) matching contributions.

Grants and zero-interest loans are available under the HOME program. LIHTC's are an indirect source of money. To turn the LIHTC's into funding for a project, an investor must be found to purchase the credit and provide cash to the developer/sponsor of the project. A partnership, formed between the investor and developer/sponsor, becomes the owner of the project and is considered a tax-paying entity. The SCHDF provides grants for the development of senior housing, as defined in 15 AAC 151.950. The table below shows what type of funding is available and who is eligible.

APPLICANT TYPE	FUNDING TYPE			
	HOME Rental*	HOME Homeownership*	SCHDF	LIHTC
501(c)(3) or (4) Non-Profit Corporations	X		X	X
Community Land Trusts, USDA 523 Program Participants and Habitat for Humanity Affiliates	X	X	X	X
Municipalities	X		X	X
Regional Housing Authorities	X		X	X
Private For-Profit Developers/Organizations	X (0% interest loans only)			X

*Housing developments funded with AHFC HOME funds must be located outside of the Municipality of Anchorage. The Municipality of Anchorage receives separate HOME program funds which it administers in accordance with its own administrative plan.

Use of HOME funds by Religious Organizations: Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to apply of HOME funds. Organizations that receive HOME funding may not engage in inherently religious

activities, such as worship, religious instruction or proselytization, with HOME grant/loan funds. An organization that participates in the HOME program shall not, in providing program assistance, discriminate against a program beneficiary on the basis of region or religious belief. In addition, HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. All HOME funds provided by faith-based organization must be used in accordance with HUD regulations 24 CFR 92.257.

Payments made under a HOME loan may be amortizing, or based on a percentage of excess cash flow after payment of acceptable operating expenses and superior debt service, as proposed by the applicant, and determined to be acceptable by AHFC. In either case, payment due will be on an annual basis, over the term of the loan, not to exceed the "period of affordability", unless otherwise determined by AHFC to be in the best interests of the program.

When combining HOME funds with LIHTC's, it may be more advantageous to a non-profit developer to receive HOME funds in the form of a loan versus a grant. Generally, a project which receives HOME funds in the form of a loan is eligible for more LIHTC's.

2. Statutory Basis for Programs

Use of HOME funds is subject to the provisions of 24 CFR Part 92 and AHFC grant and/or loan agreement terms and conditions. The laws governing the LIHTC program are contained in Title 26, United States Code Section 42 for the Internal Revenue Service. Alaska Administrative Code (AAC) 15 AAC 151.710-840 governs the allocation of the tax credit in Alaska. The Senior Citizens Housing Development Fund (SCHDF) Program is operated in accordance with AS 18.56.800, as implemented by 15 AAC 154.010 - 15 AAC 154.080 and 15 AAC 154.100 - 15 AAC 154.110.

Omission within this Program Guide of provisions found at 24 CFR Part 92, Title 26, U.S.C. Section 42, state regulations and/or terms and conditions of the grant and/or loan agreement does not nullify or in any way relieve the applicant or AHFC of responsibility for complying with these rules and regulations. It is the responsibility of the individual taxpayer who applies for low-income housing tax credit to determine the appropriateness of the tax credit to the taxpayer's federal income tax situation.

3. GOAL Program Rating and Award Criteria Plan (or Qualified Allocation Plan)

The Rating and Award Criteria Plan (RACP) serves as the mechanism for evaluating applications and distributing funds for the GOAL program. It also fulfills the federal requirement for a *qualified allocation plan* under the LIHTC program. This document and other related information are available from AHFC or through the Internet at http://www.ahfc.state.ak.us under the "download" section of the webpage.

The RACP is reviewed each year to insure that it reflects current housing needs in Alaska. If changes are made, a public comment process including review and approval by AHFC's board of directors is undertaken.

The table below identifies the current rating criteria and the associated points which may be earned in each.

Evaluation Criteria	Maximum Points rental projects	Maximum Points homeownership projects
A. Project Serves The Lowest Income Tenants	20	N/A
B. Extended Low-Income Project Use	10	10
C. Community revitalization projects located in qualified census tracts	5	5
D. Development and Operation Supporting Material	35	25
E. Project Leveraging and "Matching" Contributions	20	20
F. Applicant Characteristics	10	7
G. Need for the Project in the Local Area	10	10
H. Project Characteristics (Eight Categories) 1. Number of equipped units for persons with disabilities (10) 2. Serving Special Needs Populations (15) 3. Availability of Larger Units for Households with Children (15) 4. Tenant Ownership (5) 5. Use of Existing Housing as Part of Community Revitalization Plan (5) 6. Rehabilitation Project (10) 7. Innovative Design (10) 8. Preference for Homeless Persons (5)	75	60
I. Project Location ("Rural")	15	15
J. Public Housing Waiting List Preference	4	4
K. Job Training Program	10	N/A
TOTAL POINTS POSSIBLE	214	156

Projects that do not receive a minimum of one third (1/3) of the total possible points and at **least 50% of the points available in criteria "D"**, based on the ranking by the review committee, will not be considered for funding under any of the programs covered by this rating and award plan. The projects may be re-submitted for review in subsequent funding rounds.

4. Application Processing and Review

Applications for GOAL funds will be accepted during the official application round(s) held each calendar year. Notice of the application cycle will be published in newspapers of general circulation throughout the state. In conjunction with the notice, a Notice of Funding Availability (NOFA) will be issued that details the application requirements and evaluation

and award processes. Traditionally, the NOFA is released in late summer or early fall of each calendar year (August to November).

The only exception to the application process is for projects which are requesting LIHTC's through the "non-competitive" process. This process is described more fully in the LIHTC section of this guide.

AHFC reserves the right to reject any grant application or request for funding from any applicant who has failed to perform or is partnered with a person or organization who has failed to perform any previous grant or contract with AHFC; who has previously failed to perform properly or to complete on time contracts of a similar nature; who qualifies or changes terms and conditions of the Notice of Funding Availability (NOFA), applicable restrictive covenants or loans in such a manner that is not responsive to the purpose sought by AHFC in issuing the NOFA, covenants or loans; who submits an application that contains faulty specifications or insufficient information that, in the opinion of AHFC, makes an application non-responsive to the NOFA; who submits a late application; who has not signed the application; who is not in a position to perform the work proposed in the application; who habitually and without just cause neglected the payment of bills or otherwise disregarded its obligations to subcontractors, material men, or employees; who has shown a consistent practice of non-compliance with State and federal rules that govern housing development programs; who has unpaid taxes due to the State of Alaska or the U.S. government; where there is a conflict of interest with the applicant and board member or employee of AHFC; or when AHFC determines that the application is not in AHFC's best interest.

5. Rejection of Application Due to Poor Prior Performance

An application may be rejected by AHFC if an applicant is considered a "non-responsible bidder." A non-responsible bidder is one who has failed to comply with NOFA requirements; who has failed to perform under any previous grant, tax credit allocation or loan; who has previously failed to perform properly or to complete on time projects of a similar nature; or who without cause neglected the payment of bills or otherwise disregarded its obligations to subcontractors, material suppliers, or employees.

6. Market Study/Capital Needs Assessment Requirement

All **rental development** projects receiving GOAL funds must have a market study completed by a disinterested third party, who has been approved by AHFC in advance. The cost of the market study must be paid by the developer or owner. AHFC will provide guidance on the requirements of the market study and whether or not the market study firm has been approved by AHFC. The market study is required at time of application and must follow the market study guidelines established by AHFC.

A capital needs assessment must be prepared for all acquisition or acquisition and rehabilitation projects. The report must be prepared by a competent third party (licensed architect or engineer) that has the expertise necessary to identify code deficiencies and rehabilitation needs and the cost of repairs or upgrades needed to address the physical problems found. The rehabilitation shall insure that the useful life of the building is no less than the term of the appropriate compliance period for the project. The capital needs assessment is required at time of application.

7. Eligible Activities:

GOAL funding may be used for the following purposes:

(A) New Construction;

(B) Rehabilitation (a minimum of $15,000 per unit is required);

(C) Acquisition

(D) Stand-alone pre-development activities may be funded through the SCHDF under a separate NOFA.

Housing must be non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs and relocation expenses of any displaced persons, families, businesses, or organizations. The housing must be permanent or transitional housing. Under the LIHTC, transitional housing is only allowable as Single Room Occupancy (SRO) type housing or for the homeless.

Homeownership new construction projects can only be funded by the HOME program. Furthermore, these projects can only be undertaken by Community Housing Development Organizations, USDA 523 Program Participants and Habitat for Humanity Affiliates. Housing built can not exceed 95 percent of the median purchase price for that type of single-family housing for the area, as published by HUD. The median purchase price limits, also known has the FHA 203(b) mortgage limits, can be found on HUD's website at https://entp.hud.gov/idapp/html/hicostlook.cfm and are updated regularly.

LIHTC's for acquisition costs may be awarded only if the property has not been *placed in service* in the ten years prior to the sale to the taxpayer/developer applying for tax credits. Substantial rehabilitation and/or a change in ownership may create a new placed in service date. This requirement is called the "ten year rule."

The IRS may waive the *ten year rule* in order to avoid a federally assisted property from going into default, low-income housing from being lost due to prepayment of a federal mortgage, or to purchase a property from a failed depository institution. Owner-occupied single family residences are exempt from the ten year rule.

Acquisition of vacant land or demolition must be undertaken only with respect to the construction or reconstruction of a particular housing development intended to provide affordable housing. All demolition costs must be approved in plan submitted to AHFC.

8. Prohibited Use of GOAL Funds

(A) GOAL funds may not be used for any purpose associated with an emergency shelter;

(B) GOAL funds may not be used to refinance any outstanding obligation, or proposed obligation or equity contribution which was anticipated as part of the development's financing package approved prior to the start of the application cycle;

(C) HOME funds may not be used to carry out activities authorized under 24 CFR Part 968 (Public Housing Modernization), 24 CFR Part 905 (Indian Housing Modernization), and 24 CFR Part 965 (PHA Owned or Leased Projects - Maintenance and Operation);

(D) HOME funds may not be used to provide assistance to a development previously assisted with HOME funds during the "period of affordability." However, additional HOME funds may be provided to a development up to one year after "project completion" subject to maximum per-unit subsidy limits established at 24 CFR Part 92.250; and

(E) HOME funds may not be used to pay for the acquisition of property owned by AHFC.

9. General Eligible Development Costs

Most development costs associated with housing projects can be paid for by GOAL funds. The GOAL program financial feasibility form has a list of the development cost categories that may be considered. Some of these costs are not eligible for funding with HOME or LIHTC funds, see #10 below for a listing. Eligible costs generally fall into three categories:

(A) *Development Hard Costs,* defined as the actual costs of constructing or rehabilitating the housing project, including construction financing costs and contractor profit and overhead;

(B) *Acquisition Costs*, defined as the cost of acquiring improved or unimproved real property; and

(C) *Related Soft Costs*, defined as other reasonable and necessary costs incurred by the owner and associated with the financing and/or development of housing such as architectural and engineering, permitting, legal, accounting or related professional

services, costs associate with the sale of tax credits, fees, etc.

10. Ineligible Development Costs

Due to the federal nature of the HOME and LIHTC programs, several types of costs are not eligible to be paid for with these subsidy funds. All development related costs are eligible under the SCHDF program. ***The exceptions listed below are general rules and must be evaluated for applicability by the applicants/sponsors certified accountant or tax attorney***:

(A) Costs associated with the acquisition of land or improvements to land are not eligible under the LIHTC program.

(B) Offsite expenses are not eligible under LIHTC or HOME. Examples are utility extensions of the main utility line. Generally, any cost associated with an activity outside of the property line is ineligible under HOME and the LIHTC.

(C) Costs associated with the sale of the LIHTC's to generate capital funds are not eligible for LIHTC funding. For example, the legal costs associated with setting up the ownership entity (partnership), or the cost of consultants used to help sell the LIHTC's, or any legal or accounting services related to the sale of LIHTC's.

(D) Costs associated with the permanent financing are not eligible for LIHTC's. Examples include, loan fees, closing costs, origination fees, appraisal fees if solely related to the permanent financing, etc.

(E) Construction contingencies can not be funded with HOME funds.

(F) Costs associated with the prepayment of Escrow Items like insurance, taxes and interest associated with permanent financing can not be paid with HOME funds or included in the projects basis for the LIHTC's.

(G) Costs associated with the relocation of tenants, rent-up reserves and marketing reserves are not eligible for funding under the HOME or LIHTC programs.

(H) Personal property (for example, furniture) costs are not eligible expenses under HOME but ***are*** under LIHTC and SCHDF when undertaken with respect to a development project. Generally, no more than 10% of the SCHDF program funds may be spent on personal property.

(I) HOME funds may not be used to pay for delinquent taxes, fees, or charges.

(J) HOME funds may not be used to provide a development reserve or replacement reserve account;

(K) All costs other than land acquisition and site improvements are not eligible for homeownership project funding.

There may be other costs that are ineligible for funding under the HOME and LIHTC that are not referenced here. The project sponsor, not AHFC, is responsible for insuring that the cost certification provided to AHFC accurately reflects eligible costs under HOME statutes and the federal tax code.

11. Eligible Cost for Homeownership Projects Only

The following table includes the only eligible acquisition and development hard and soft costs for homeownership projects. In general, homeownership project funding is limited costs related to land acquisition and site improvements.

1.	**Acquisition Costs**
	Acquisition of Land and Buildings
2.	**Construction Hard Costs**
	Site Work
3.	**Construction Soft Costs**
	Contractor Overhead and Profit
	Survey
	Appraisal Fee(s)
	Environmental Report
	Soils Report
4.	**Administrative Costs**
	Overhead Costs
	Consultant Costs

12. The HOME Opportunity Program and GOAL Funds

HOME Opportunity Program (HOP) funds can be used in conjunction with GOAL homeownership projects who receive direct development subsidy. However, households that receive GOAL development direct subsidy are not eligible for HOP buy-down funds. A household that receives HOME funding under the GOAL and HOP Program is only eligible for downpayment and closing cost assistance based on the guidelines found in the *HOP Policy and Procedure Manual*. The utilization of both programs may increase the affordability restrictions placed on the property. Please review Section 22 regarding affordability restrictions under the HOME program.

13. Project Cost Limitations

(A) Per Unit Total Development Costs Limits

Per unit Total Development Costs (TDC's) are generally limited to those amounts identified under the 221(d)(3) limits for non-profits (elevator construction) established by HUD. These limits change periodically and are updated each year for the annual application cycle. Consult AHFC's website www.ahfc.state.ak.us or HUD's (www.huduser.org) for the most current 221(d) (3) limits. TDC's in excess of the limits must be justified in writing and submitted prior to review of the GOAL application by the evaluation committee. The justification will be examined by AHFC as part of the review process and taken into consideration while assigning points in the "Supporting Development and Operations Data" criteria.

(B) Developer Fees, Contractor Fees, and General Requirement Limit

The limitations discussed below pertain to the amounts which will be considered when determining the subsidy funding available to the project (the "subsidy layering review"). In all cases, AHFC will also analyze the projected net return to the developer and or contractor/builder. Generally, the gross developer fee and contractor fee/overhead charged to the development may not exceed the amounts specified in the original application, or the following table, whichever is less.

Total Development Costs (TDC's) for the purposes of calculating the development fee will not include payments ***for profits or fees received*** by any participating entity to the project, if there is any identity of interest between that party and any member of the development team, project owner or sponsor (i.e. contractor profit, profit/fees associated with the A&E, consulting, etc.).

Where an identity of interest exists between the developer, consultants or any other party to the development, the maximum developer and/or contractor fee may be further reduced to an amount determined to be appropriate by AHFC. Exceptions will be considered only if significant evidence is provided which suggests that the project is of a nature that warrants such higher fees.

Development Type	Maximum Gross Developer/Admin Fee*	Maximum Gross Contractor Fee/Overhead**	General Requirements***
New Construction	15%	10%	10%
Acquisition & Rehabilitation or Rehabilitation Only	15% of Rehabilitation Cost	10% of Rehabilitation Cost	10% of Rehabilitation Cost
Acquisition Only (HOME/SCHDF Only)	5% of Acquisition Cost	0%	0%

*as a percentage of total development costs less any fees or payments to the developer or related parties.
** as a percentage of hard construction costs
***as a percentage of construction costs, not including contractor fee/overhead and general requirements

The maximum allowable developer fee or administrative fees must include all payments made to any consultants or other third parties hired to advise the sponsor (general partner, limited partner) where the cost of said intermediaries is included as a project cost.

Additionally, AHFC reserves the right to reduce the above identified fees if, in AHFC's opinion, it is warranted based on the scope of work proposed to be performed by the developer and/or contractor.

"Contractor Overhead" is defined as any cost related to the administration of the project that is **not unique** to the specific project, i.e. office personal, accounting, legal fees, etc. and is limited to 10% of the hard construction cost.

"General Requirements" or "general conditions" is defined as any overhead cost **solely related** to the construction of the specific project, i.e. backhoe or other equipment rentals, mobilization costs, payment and performance bonds, contractor paid project fees, and is limited to 10% of the hard construction cost.

Construction Contingencies are limited to 5% of the hard construction cost for new construction projects, and 10% of the rehabilitation contract for rehabilitation projects.

(C) Development/Administrative Fees Paid by Grants

Part of the development/administrative fee may be paid through grant funds (HOME, SCHDF, etc.). The maximum amount that can be paid by grant funds is equal to the proportion of grant funds to other funding sources. If the grant funds are 20% of the funding for the project, then only 20% of the developer fee can be paid by the grant. The rate at which the development fee portion paid by the grant may be drawn down, is equivalent to the percentage of the total development activity that has taken place as determined by AHFC.

(D) Project HOME-subsidy limit

For rental development projects, the HOME subsidy is limited to the lesser of $850,000 or the funding gap determined by the subsidy layering review, not to exceed the HOME total per unit cost limitation.

For homeownership development projects, the HOME subsidy is limited to the lesser of the amount of funding gap as determined by the subsidy layering review or $40,000.

14. Project Subsidy Limitations

(A) Subsidy Layering Review. A subsidy layering review is required to be performed on each project receiving GOAL funds to ensure that the amount of GOAL funds provided does not exceed the amount necessary to provide affordable housing. Successful applicants must notify AHFC immediately of any deviation in the sources and uses (including amounts) of funds, as identified in the application, to be contributed toward the project during its development. Changes which, in AHFC's opinion, result in more funds being contributed than the amount necessary to result in a feasible, affordable project, may result in a reduction in the GOAL funds provided. In the event that all GOAL funds have been disbursed, the requirement that the excess amount, as determined by AHFC, be repaid to AHFC.

A positive determination in each of the following key evaluation points is required to pass the subsidy layering review:

(i) A determination that the total proposed funding (both private and public) does not exceed the total development costs for the project;

(ii) A determination that the costs are customary for the development of the project and reasonable in terms of industry standards;

(iii) A determination that projected rates of return are reasonable and that the applicants are not receiving excessive profit or windfalls from the project.

All GOAL awards are limited to that amount that is necessary to achieve development and operational feasibility, including any debt the project cash flow can support.

(B) Program Specific Subsidy Limitations. Award amounts are further restricted under the LIHTC and HOME as follows:

(i) Unless a project has elected a thirty (30) year affordability period, or the project is designated as a special needs project, or where the majority of tenants served are below 50% of the median income, the maximum amount of LIHTC's that may be awarded to the project will be limited such that the gross proceeds do not exceed 50% of the total development costs of the project at the time of application. If the gross proceeds increase as a result of a higher credit price paid to the general partner, then the 50% cap may be exceeded with approval from AHFC.

(ii) HOME rental development awards cannot exceed $850,000, per project.

(iii) HOME homeownership awards cannot exceed the CHDO set-aside. Funds awarded through the homeownership developer subsidy are further restricted to the lesser of

(a) the difference between the appraised value of the home and total development costs; and

(b) the appraised value of the home and the per unit total development cost limits in 9(A) of these Policy and Procedures, for elevatored non-for-profit projects, adjusted for bedroom size; and

(c) the difference between other sources available to the project and the total development costs.

(iv) For SCHDF grant requests for housing development over $500,000, the underwriting analysis performed by AHFC for determining the recommended amount of senior housing grant funds will be based on analysis of the debt carrying capacity of the project. AHFC will use the underwriting criteria for its multi-family loan program to determine the potential amount of debt the project could support. Project income will be estimated by using the HUD established Fair Market Rent for the geographic location. The maximum SCHDF award will be the difference between the estimated debt capacity (loan amount) and total development costs.

15. Maximum appraised Value

For homeownership projects only, the maximum property value after construction can not exceed 95 percent of the median purchase price for that type of single-family housing for the area, as published by the Department of Housing and Urban Development. This

value is also known as the FHA 203(b) limits and can be found on the HUD website at https://entp.hud.gov/idapp/html/hicostlook.cfm. These limits are updated regularly based on market conditions.

At project closeout all homeownership units have an appraisal prepared by a licensed free appraiser to ensure that the house does not exceed 95 percent of the median purchase price for that type of single-family housing for the area.

16. Affirmative Marketing Agreement

All applicants for GOAL funds shall adopt affirmative marketing procedures and policies for all housing produced under this NOFA, in accordance with the State of Alaska's GOAL Program Rating and Award Criteria Plan. This affirmative marketing plan shall include the following:

(A) Methods for informing the public, owners and potential tenants about fair housing laws and the owner's policies regarding compliance with fair housing laws. Homeownership projects must include practices regarding equal opportunity lending practices.

(B) A description of what the owner will do to affirmatively market housing assisted with GOAL funds.

(C) A description of what owners will do to inform persons not likely to apply for housing without special outreach. Based on historical data for the HOME program, the groups least likely to apply are persons who are minorities such as Hispanic, Black, and Asian or Pacific Islander, people who have Limited English Proficiency (LEP) and persons living in rural communities in the State.

(D) A description of how the owner will maintain records documenting actions taken to affirmatively market GOAL - assisted units and to assess marketing effectiveness.

(E) A description of how the owner's affirmative marketing efforts will be assessed and what corrective actions will be taken where requirements are not met.

17. Lease to Purchase

A lease-purchase option may be used in conjunction with a homeownership project. Ownership must be conveyed to an eligible homebuyer with 36 months of signing the lease-purchase agreement, or within 42 months of project completion.

If at the end of the 35-month period, the household occupying the lease-purchase unit is not eligible or able to purchase the unit; the PJ has an additional six months to identify

and eligible homebuyer to purchase the unit. In all cases, if a homebuyer does not purchase the unit by the end of the 42-month period, it must urn into a HOME rental unit.

18. Changes to Applications after an Award is Made

AHFC will not approve any project changes pertaining to rating criteria that would modify the order in which applications were ranked during the rating process. For requested changes which would not affect the ranking order, AHFC will consider such changes only if there is substantive reason(s), in AHFC's opinion, to believe that in not approving the change, the financial feasibility of the project will be compromised.

If the Corporation determines that a proposed change has a significant impact on the ranking and or financial evaluation of the application, it may revoke the reservation or allocation (15 AAC 151.700-890).

19. Debarment and Suspension

Neither applicant, nor its principals, may be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any State and/or Federal programs. In addition, the applicant is responsible to ensure that each contractor and subcontractor performing work on the assisted housing is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any State and/or Federal programs. See federal "Excluded Parties Listing System" at www.epls.arnet.gov (.)

If awarded GOAL funds, the recipient must obtain a certification, utilizing an appropriate form provided by AHFC, from each contractor or subcontractor which performs work on the assisted property. A copy of the certification must be maintained by the recipient in the development file. The recipient may rely on the certification received from the contractor or subcontractor, unless it knows the certification is erroneous.

20. Project Leveraging and/or "Matching" Contributions

AHFC encourages applicants to explore other sources of local, state, federal, and private funding which may be used in conjunction with GOAL funds.

Some sources of funds contributed as part of the development's financing package which constitute leveraging, may not qualify as a "match" contribution. Forms of "matching" contributions, and examples of the way in which match contributions are calculated, are available from AHFC.

21. Minimum Required Property Standards

Housing that is constructed or rehabilitated with GOAL funds must meet each of the following minimum property standards:

(A) Uniform Physical Conditions Standards (Federal Register Volume 66 No. 227/Monday November 26, 2001/pp. 59084-59118). (These standards are very similar to the Section 8 Housing Quality Standards at 24 CFR 982.401)

(B) Newly constructed or rehabilitated housing shall meet all applicable local building codes, the **State's Building Code** (AS 18.56.300) as implemented by 15 AAC 150.030 and Building Energy Efficiency Standard (AS 46.11.040) as implemented by 15 AAC 155.010.

If the Summary of Building Inspection (PUR-102) form or Building Energy Efficiency Standard Certification (PUR-101) is required (per AS 18.56.300 or AS 46.11.040, respectively), the project must be inspected and the form must be executed by a qualified inspector(s) at various stages of project development. For most projects the inspector must be state certified. ***Do not*** wait until the project is completed to obtain the necessary inspections and inspector signatures. This may result in requiring a destructive inspection. Instructions and forms are provided on AHFC's website: http://www.ahfc.state.ak.us (see links to "construction" and "BEES" at bottom of the website page).

(C) All residential buildings with four or more units must obtain a permit from the Alaska State Fire Marshall, as per AS 18.70.010-18.70.100. In communities that have accepted a deferral for full code enforcement, plans should be submitted directly to the city (Anchorage, Juneau, Fairbanks, Kenai, Seward, Kodiak, Sitka and Soldotna). For more information, contact the Alaska State Fire Marshall (http://www.dps.state.ak.us/Fire/asp/).

(D) All applicable local codes, rehabilitation standards, ordinances, and zoning ordinances.

(E) All projects must meet the following minimum accessibility laws:

- **Americans with Disabilities Act**
- **Fair Housing Amendments Act of 1988**
- **Alaska Statute AS 18.80.240**
- **Local Government Ordinances**

In accordance with the Fair Housing Act, all **"covered multifamily dwellings"**[1] designed and constructed for initial occupancy after March 13, 1991, must comply with the following:

[1] **"Covered multifamily dwellings"** are all units in elevator buildings with four or more units and all ground floor units in other buildings with four or more units.

(i) At least one building entrance must be on a handicapped-accessible route unless such access would be impractical because of the terrain or unusual site characteristics. The builder of the housing has the burden of proving that such access is impractical; the construction of the project without such access must be specifically approved by AHFC in writing.

(ii) Public and common areas must be designed and constructed in such a way that the public and common areas are readily accessible to and usable by handicapped persons and all the doors designed to allow passage into and within the units, and are wide enough to allow passage by handicapped persons in wheelchairs.

(iii) The interior of each unit must include an accessible route into and through the unit; accessible light switches; electrical outlets; thermostatic controls, and other environmental controls; reinforcements in bathroom walls to allow the installation of grab bars around the toilet, tub, shower stall, and shower seat. All switches and outlets must be an appropriate distance from the floor. The stove must have controls on the front. The bathrooms and kitchens must meet code requirements for a wheelchair's turning radius (see definitions in 24 CFR Ch. I, Subch. A, App.II). These adaptive design requirements will be satisfied by compliance with the applicable standard of the American NSI.

(F) All projects must meet the following minimum design standards:

(i) No T1-ll, board and batten, or similar type of wood siding may be used on any exterior wall surfaces;

(ii) All projects targeting families must have a recreation area on-site for children which is designed and equipped with age appropriate equipment; and

(iii) All projects must meet the State thermal energy standard (BEES) which includes recording a PUR-101.

(G) ***For projects funded with HOME funds***, Section 504 of the Rehabilitation Act of 1973 (29 USC 794). Physical standards must meet the accessibility requirements of the Uniform Federal Accessibility Standards (UFAS).

(H) ***For projects funded with HOME funds***, and if newly constructed, the **current edition of the Model Energy Code** published by the Council of American Building Officials. Generally, projects meet the Model Energy Code if they also meet the Alaska State Building Energy Efficiency Standards (BEES).

(I) ***For projects funded with HOME funds,*** construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280.

(J) ***For projects funded with HOME funds,*** if an applicant proposes to rehabilitate a building built before 1978, a lead based paint inspection and risk assessment performed by an EPA-certified lead-based paint inspector/risk assessor must be completed, and the abatement of all present lead-based paint in the project must be included as part of the project.

22. Site and Neighborhood Standards

Housing opportunities provided as a result, in whole, or in part, of the GOAL assistance provided must promote "greater choice" housing opportunities. Applicants must certify in the application package that the housing being constructed or rehabilitated will not promote an undue concentration of poverty in any given area.

23. Periods of Affordability

A recipient of GOAL funds must agree to a "*period of affordability*", or period of time in which the project must be "affordable". SCHDF only funded projects do not require a "period of affordability" unless the applicant proposed "affordable" units as part of their application for GOAL funds. The actual term of the "Period of Affordability" varies dependent upon the type of development activity and amount of HOME or LIHTC assistance provided. The chart below shows the period of affordability for projects that receive any HOME or LIHTC assistance.

Applicable Minimum Periods of Affordability:

Type of Activity/ Per Unit Subsidy	Period of Affordability LIHTC	Period of Affordability HOME
Rehabilitation or acquisition of existing rental housing:		
Under $15,000	30 years	5 years
$15,000 to $40,000	30 years	10 years
$ Over $40,000	30 years	15 years
New construction or acquisition of newly constructed rental housing	30 years	20 years
Rehabilitation, acquisition or new construction of homeownership housing (CHDO only)	Not eligible	15 years

For HOME projects, the Period of Affordability begins on the date in which the project is complete as evidenced by AHFC's acceptance of the final closeout of the HOME grant or loan agreement.

For LIHTC projects, the Period of Affordability (Credit Period) starts on the beginning of the first calendar year in which LIHTC's are claimed by the owners of the property.

The applicant should note that a reduction in development costs during the development phase, without a commensurate reduction in the sources of funds, may result in an amended determination of the number of HOME-assisted units. This, in turn, may result in a change in the per-unit subsidy determination, which may then effect the term of the Period of Affordability for HOME-assisted projects.

24. Replacement and Operating Reserves

All project owners receiving GOAL program funds will be required to maintain a "replacement reserve" for the project to pay for extraordinary maintenance or repairs that occur over time. Examples of "extraordinary maintenance or repairs" are roof replacement, heating system replacement, complete painting of the building exterior, etc. Normal repairs or maintenance that result from tenant wear are not considered "extraordinary."

The amount of the replacement reserve will be a minimum of $300 per unit, per year. All replacement reserve funds shall be held in a federally insured financial institution. This requirement will be subordinate to any terms or conditions placed on loan or grant financing associated with the project.

Operating Reserves that are funded with proceeds from GOAL funds must be placed in an escrow account which will be jointly managed by AHFC and the project owner, unless otherwise approved by AHFC. Any unused portion of the operating reserve will remain in the escrow account for the duration of the compliance period. Unless otherwise approved by AHFC the operating reserve funded in the first year shall be limited to one year of the project's full operating expense, not including the reserves for capital replacement.

Projects choosing to fund their Operating Reserves with HOME must be in accordance with 24 CFR Part 92. Under the HOME regulations operating reserves maybe used to meet any shortfall in income during the period of project rent-up (not to exceed 18 months) and may only be used to pay project operating expenses, scheduled payments to replacement reserve, and debt service. Any HOME funds placed in an operating deficit reserve that remain unexpended after the period of project rent-up may be retained in the reserve fund to be used for activities in accordance with 24 CFR Part 92. There is not a minimum or maximum balance that must be kept in this fund; however, the maximum amount of HOME funds that can be placed in an operating reserve fund are determined by the following formula:

Number of HOME Units (Federal Set-aside) x Current HOME Program Rents x 18 months = Maximum Operating Reserve

The current HOME rents can be found on the HUD website at http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/.

25. Set-Aside Requirements and Tenant Income Limitations

In order for a project to qualify for HOME and LIHTC funds, a minimum number of units in the development must be set aside for qualified low-income families.

For LIHTC Projects:

A project owner may select one of two different **minimum** set-aside elections; the *20-50* test or the *40-60* test.

The 20-50 test means that 20% of the units available for rental by the general public must be occupied by families whose gross income is at or below 50% of the area gross median income. The 40-60 test means that 40% of the units are occupied by families at or below 60% of the area gross median income.

Additional requirement: LIHTC Projects that also use HOME funds must elect a 40-50 set aside. This means that 40% of the units available for rental by the general public must be occupied by families whose gross income is at or below 50% of the area gross median income.

For Rental Development HOME Projects:

In order to request HOME funds, you must agree to set-aside 40% of the units at 50% of the area median income. The number of federally designated HOME units is equal to the ratio of HOME and match funds to total development costs, multiplied by the total number of units in the project. These units are referred to as "HOME-assisted" units for the units associated with HOME funds. Other units in the project that need to be designated in order to meet the 40/50 set-aside are known as HOME-Like units or State Set-Aside units. These units must comply with all of the HOME federal regulations.

For Homeownership Development HOME Projects:

All homes that will benefit from a HOME developer subsidy must be restricted to persons/families whose annual income does not exceed 80% of the area median income.

All Projects:

A project sponsor may elect to serve a greater number of low-income families than either of the above minimums in order to increase the number of points or amount of LIHTC or HOME funds they might receive during the application process. However, **any set-aside election, once made, is irrevocable.**

In order to insure that the families are income qualified (i.e. have incomes less than or equal to 50% 60% or 80% of the median) project sponsors are required to verify the families income prior to occupancy and generally, annually thereafter. A family's gross income which determines their eligibility for a set-aside unit must be calculated using the guidelines of the U.S. Department of Housing and Urban Development's (HUD) Section 8 Housing Choice Voucher Rental Assistance Program. A compliance manual is available from AHFC upon request. AHFC strongly recommends that applicants review the compliance manual before deciding to apply for GOAL Program Funding.

26. Rent Restrictions of Set-Aside Units

All units which are subject to the income restrictions identified in Section 19 above, are subject to maximum rental charge limitations, as applicable by federal law.

A technical note at the end of this guide details the process for calculating the maximum rent allowed for LIHTC units. The maximum monthly rent allowed for HOME-assisted units are provided by HUD on an annual basis.

Maximum LIHTC and HOME program unit rental charges are identified in a Rental Charge Supplement available from AHFC.

The maximum rent for both HOME and LIHTC-assisted projects must include all utilities, and any other fees for services that residents are **required** to pay (i.e., storage fees, rec. room fees, etc.).

27. Tenant and Participant Protections (HOME rental development projects)

Required Lease Terms

(A) Lease period: at least one year, unless documented by a mutual agreement between the resident and the owner.

(B) Upon a twenty-four (24) hour written notice to the resident, AHFC IAs, accompanied by the owner or agent, shall be permitted to enter the dwelling unit during reasonable hours to perform a property standards inspection.

(C) Include a mechanism for termination of the agreement and eviction for violation.

(D) Contain a provision for the resident to provide accurate information to determine eligibility prior to move-in and at each annual recertification. This provision must state that on commencement of the Lease, and every year thereafter, the resident shall provide the owner with such certifications, verifications, and information as owners may require in order to perform an examination, reexamination or determination of the family's income and eligibility as provided in the Rental Development Compliance Manual - Post Development Completion, as well as other applicable Federal or State programs.

(E) The provision must also state that failure to provide such certification, verifications and information, or any falsification or willful misrepresentation of such shall be deemed to be a violation of the Lease Agreement, and the owner/property manager will terminate the lease agreement and begin the eviction process in such cases.

(F) At recertification, for units that are not Low Income Housing Tax Credit set-aside units, if the family income exceeds the maximum limit, the tenant shall be permitted to continue to occupy such dwelling unit, provided that the tenant pay as rent the lesser of:

1. the amount payable under State or local law;
2. 30% of the family's "adjusted monthly income," as recertified annually; or
3. the market rent for comparable, unassisted units in the neighborhood.

(G) At recertification, for units that are not Low Income Housing Tax Credit set-aside units, if the family income exceeds the maximum limit, the tenant shall be permitted to continue to occupy such dwelling unit, provided that the tenant pay as rent the lesser of:
1. Security deposit amount and utility information;
2. Monthly rental amount;
3. Signatures of all parties; and
4. A statement that the Lease complies with all State and local laws.

(H) The Lease must agree to give the resident a 30-day advance written notice of any increase in the monthly rents.

Prohibited Lease Terms

The Lease may not contain any of the following provisions:

(A) Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the Lease;

(B) Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;

(C) Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

(D) Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;

(E) Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties;

(F) Agreement by the tenant to waive any right to a trial by jury;

(G) Agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court, a court decision in connection with the Lease; and

(H) Agreement by the tenant to pay attorneys fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

(I) The lease can not be conditional on participation in any service programs. In addition, the lease can not include mandatory service charges for items such as food, medical care etc.

Termination of Tenancy

An owner/property manager may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; or for other good cause. To terminate or refuse tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

Recommended Lease Terms

An owner/property manager is encouraged, but not required, to include a lease provision that requires a non-disabled family occupying an accessible unit to move if a family with a

disability needing that size unit applies and there is an appropriately sized non-accessible unit available for the relocating family.

An owner/property manager is encouraged, but not required, to include a lease provision that allows regular "housekeeping" or "safety" inspections of units at least twice a year.

28. GOAL Program Funds Expenditure Time Frames

Use of HOME or LIHTC funding requires that certain development milestones be achieved in order to retain these forms of federal funding. To reduce the potential lapse in funding or recapture of funds, development time schedules must include the following:

(A) For developments which consist only of acquisition of real property, acquisition, as evidenced by a recorded document effecting the transfer of title, shall be completed within six (6) months of the date of the grant agreement or LIHTC reservation document.

(B) For developments which consist of rehabilitation or new construction activities, significant development activities must begin within six (6) months and actual rehabilitation or new construction activity must begin within twelve (12) months of the date of the grant agreement or LIHTC reservation document and be completed within twenty-four (24) months of the same date.

(C) For developments utilizing HOME funds, all required environmental review information shall be submitted to AHFC within four (4) months of the initial award.

Carry Over Requirements for LIHTC-Assisted Projects

A conditional carryover allocation will be issued by August 31, of each calendar year. The project sponsor will have six months from the date of the conditional carryover allocation to provide AHFC with documentation proving that at least 10 percent of the "reasonably expected basis in land and buildings" has been incurred before the end of the six month period, or January 31 of the year subsequent to the reservation, whichever is earlier. Failure to submit this information will result in the revocation of the conditional carryover agreement. An audited cost certification performed by a CPA or tax attorney is required to verify satisfaction of the 10% expenditure test.

Upon receipt of a carryover allocation, the applicant/developer has two calendar years to complete the project. The expenditures necessary to meet the 10% must be spent by the entity receiving the carryover allocation. There are specific IRS rules regarding what is an eligible expense for the 10% calculation.

29. Project Termination

GOAL funds disbursed to a project which is terminated before it is completed, whether voluntarily by AHFC or the recipient, or otherwise, will be recaptured by AHFC. HOME funds must be repaid to AHFC (24 CFR Part 92.252). Since LIHTC's are not formally allocated to a project until it is complete, the LIHTC award will be revoked.

30. Revocation or Recapture of GOAL Fund Awards

GOAL fund awards may be revoked or recaptured, at AHFC's discretion, for violations of program rules, regulations, or statutes; inability of the applicant/sponsor to complete the project on time; failure of the sponsor/applicant /owner to meet deadlines or other reporting requirements during the development phase of the project; fraudulent activities; performance on previous AHFC financed or funded projects; or knowingly mislead AHFC through actions or statements concerning the award of GOAL funds.

If AHFC determines that the award of LIHTC, HOME, or SCHDF must be revoked or recaptured the project sponsor/applicant/owner will receive a written explanation detailing the following items:

(A) The reason for the action;
(B) The federal or state rules, regulations or statutes violated;
(C) AHFC remedy for the action; and
(D) The appeal process that is available to the project sponsor or recipient of GOAL funds.

31. Restricted Use Agreements and Covenants

Successful applicants to the GOAL Program will be required to execute a Land Use Restriction Agreement (LURA), Declaration of Covenants, Conditions, and Restrictions (DCCR), and/or Note and Deed of Trust, as appropriate, prepared by AHFC, to be recorded and run with the real property for the duration of the Period of Affordability. These documents, as applicable, shall identify all, or part, of the provisions of the GOAL Award, including set-aside elections, affordability provisions, and any other agreements made between the project sponsor/owner and AHFC.

Special Case for LIHTC-Assisted Projects

A restricted use agreement for a LIHTC-assisted project may only be terminated in the case of foreclosure, or after the 15th year if the applicant has not agreed to the full 30 year period. In order to terminate the agreement in the 15th year, a sale of the property must occur. Recent IRS Guidance has determined that like the HOME program, a "good cause" eviction provision is in force on LIHTC projects for the full 30 years of the compliance and extended

use periods. In addition, the rent charged to low-income tenants may not be increased during the three-year period after a transfer of ownership after the 15th year.

Special Case for HOME-Assisted Homeownership Projects with Resale Restrictions

Under the HOME-funded home ownership component, the restrictive covenant must restrict the transfer of title of the property to income-eligible households at or below 80% of the median family income for the area, adjusted by household size, as determined by HUD throughout the "period of affordability". These restrictions, called "resale restrictions" must also ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's original investment and any subsequent homeowner investment in capital improvements). Resale restrictions must be proposed by the CHDO developing the homes and approved by AHFC in advance.

Special Case for HOME-Assisted Homeownership Projects with Recapture Restrictions

HOME-funded homeownership projects that have chosen in their Application to use the recapture option must sell the property must be sold to an income-eligible household at or below 80% of the median family income for the area, adjusted by household size, as determined by HUD. A Note and Deed must be recorded on the property that ensures that funds will be repaid to AHFC, if the affordability conditions are not met. AHFC may also determine that other funds must be repaid to AHFC when the property is sold in order to recycle the HOME assistance as program income and help other future program participants. When the recapture method is used, it is AHFC's responsibility to service the lien that has been placed on the property.

32. Reporting Requirements

All projects receiving GOAL Program assistance, must comply with the reporting requirements that are specified in any grant agreements, award letters/documents or loan documents. These reporting requirements are detailed in the documentation provided to successful GOAL recipients. These requirements generally fall into four categories:

(A) **Quarterly Progress Report.** Until the project is 100% complete and all required final reports are submitted to AHFC, the recipient must submit a quarterly progress report. The content of this report will be specified in the grant agreement.

(B) **Resolution Report of Monitoring Findings.** During the course of project development, AHFC may perform administrative monitoring of the recipient, which may include on-site monitoring of the development.

The recipient shall prepare a Resolution Report that addresses any problems found by AHFC during the review. This report shall be provided to AHFC within a timeframe specified by AHFC, up to 45 calendar days following the date of the monitoring report.

(C) **Final Cost Certification and Closeout Documentation Checklists.** Before payments of any funding retainages or completion of the final tax documents for the LIHTC's, the recipient shall provide to AHFC a Certified Public Accountant or Tax Attorney's certified audited statement of Final Development Costs. The requirements of this final cost certification are contained with in the AHFC publication Guide to Performing Cost Certifications available from AHFC or by downloading it from AHFC's web page at http://www.ahfc.state.ak.us.

Sponsors of SCHDF and HOME funded projects must also submit other closeout documentation specified within the grant and/or loan agreements.

(D) **A Financial Audit** as may be applicable under State or Federal laws.

33. Post-Completion Compliance Monitoring

For projects which receive SCHDF assistance only, monitoring will consist of verification of senior citizen occupancy requirements, property standards compliance, and any low income set-asides proposed for the project.

AHFC monitors all HOME and LIHTC assisted projects constructed in Alaska for compliance with all applicable federal and state laws for the duration of the period of affordability. Compliance audits are conducted annually and cover all facets of the tenant selection and qualification process, and occupancy rules established under federal law for the HOME and LIHTC programs. In addition, any representations made to AHFC by the sponsor/owner that are included in the *Restricted Use Agreements and Covenants* will also be audited. Compliance monitoring manuals have been developed for both programs and may be obtained from AHFC.

Special Consideration of Housing Choice (Section 8) Voucher Program participants

Project Owners and their representatives may not refuse to lease to a holder of a certificate of family participation under 24 CFR part 982 (Housing Choice/Section 8 Voucher Program) or to a holder of a comparable document evidencing participation in a LIHTC or HOME tenant-based assistance program because of the status of the prospective tenant as a holder of such voucher or comparable HOME tenant-based assistance document.

34. Period of Record Retention

Different funding sources under the GOAL Program have different retention schedules for records. If multiple funding sources are involved in a project, then the most restrictive requirement must be followed.

Record retention requirements for LIHTC-assisted projects are referenced in the AHFC publication "GOAL Program Rating and Award Criteria" available from AHFC or through the agency web page at http://www.ahfc.state.ak.us. The general requirements are that all tenant files and project records be kept for a period of seven years after the end of the tax year for which the LIHTC's were claimed by the owner of the project. Records from the first year the LIHTC were claimed should be kept for twenty-two (22) years.

HOME-assisted project records, except as provided in (A), (B), or (C) below, must be retained for three years after AHFC closes out the applicable federal fiscal year funding with HUD.

(A) If any litigation, claim, negotiation, audit, or other action has been started before the expiration of the regular period specified above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period, whichever is later.

(B) Records regarding project requirements (per unit subsidy, property standards, affordability, and tenant and participant protections records) and Equal Opportunity and Fair Housing, Affirmative Marketing, and Flood Insurance, and the written agreement and inspection and monitoring reports must be retained for three years after the required period of affordability.

(C) Records covering displacements and acquisition must be retained for at least three years after the date by which persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR Part 92.353.

35. Access to Record(s)

The recipient must provide AHFC, HUD, the Comptroller General of the United States, the Internal Revenue Service, or any of their representatives, with reasonable access to all and any records pertaining to the recipient's administration of GOAL Program funds provided by AHFC.

36. Program Fees

(A) HOME and SCHDF Programs: There are presently no required fees under these programs, however AHFC reserves the right to charge $100 per day late fees for late filings of closeout documentation.

(B) Low Income Housing Tax Credit Program: LIHTC processing fees and compliance monitoring fees are required for LIHTC-assisted projects. Fee discounts are applicable to projects that have AHFC financing and USDA Rural Housing Service financing and rental assistance under the Section 515 program.

(i) Project Review and Allocation Fee (**non-refundable**): A non-refundable Project Review and Allocation Fee according to the schedule below is required to be submitted to AHFC before a low-income housing tax credit allocation certification (IRS Form 8609) will be issued by the AHFC. This fee is due upon project completion or at the time of "carryover", whichever occurs first:

(a) Non-Profit Organizations:

1-4 Units:	No fee required
5-10 Units:	.5% of ten year credit amount
11+ Units:	1% of ten year credit amount
Maximum $10,000	

(b) For-Profit Organizations:

1-4 Units:	No fee required
5-10 Units:	.5% of ten year credit amount
11+ Units:	1% of ten year credit amount
Maximum $20,000	

(v) Compliance Monitoring Fees for Rental Projects (non-refundable):

The monitoring fee will be $25 per tax credit unit up to a maximum of $1,000 per project in the first year and every third year. In the other years the monitoring fee will be 50% of the original amount. AHFC reserves the right to charge the full $1,000 fee, or the actual cost to AHFC of conducting an annual audit for compliance, for those projects that continue to exhibit poor performance.

The first credit year's monitoring fee shall be payable upon issuance of the IRS Form 8609. For the following years, the monitoring fee shall be payable by the anniversary of the placed-in-service date for the project

Late fees of $25 per day may be assessed against project owners who do not comply in a timely manner for requests for documentation required to complete compliance monitoring audits.

B. SPECIFIC REQUIREMENTS FOR THE LOW-INCOME HOUSING TAX CREDIT PROGRAM

1. Amount of Credit Awarded to Alaska

The amount of LIHTC's available in Alaska is limited to $1.75 per person with a minimum allocation of $2 million per year, with annual adjustments for inflation. Of this total, ten (10%) percent of the state cap must be set-aside for projects with qualified non-profit participation. A "qualified non-profit" is defined under section 501(c) subsection (3) and (4) of the IRS code. One of the non-profits stated purposes must be the fostering of low-income housing. See the Rating and Award Criteria Plan (Allocation Plan) for specific limitations on the allocation of credit and set-asides. AHFC has developed two other set-asides, 20% for USDA Section 515, and 538 program projects and other HUD Section 8 Contract Project Based Rental Assistance projects whose contracts are expiring.

2. Lease Purchase Program Guidelines

Under certain circumstances a lease-purchase program may be an eligible use for the LIHTC program. The program rules require that the term of the lease purchase program be 15 years, with the tenants afforded a "first right of refusal" for the sale of the unit after year 15. This type of program would be limited to properties that are structurally configured to accommodate home ownership (i.e. condominiums, single family detached homes). Applicants should contact AHFC for more details about this activity before proposing it in an application.

3. Limits on the Use of the Tax Credit

There are two ways that LIHTC's can produce benefits to a owner of low-income housing. The first is for people who wish to reduce their individual tax burden at the end of the year. Assuming a 28% tax bracket, a person could deduct up to $7,000, per year for 10 years, off the amount of tax owed the IRS. Applicants will need to consult their own tax professional to determine the applicability of the tax credit to their own tax situation.

The second way, and the most common, is for the owner of the building(s) qualifying for tax credits to syndicate the project. The tax credits can be sold to investors, who are subject to passive loss, passive credit, and at-risk rules in federal tax law. The credits can be sold either through intermediaries (syndicators) or directly to investors like banks, foundations, oil companies or native corporations, anyone who has a federal income tax liability.

Some corporations not subject to passive credit and at-risk tax rules may be able to use an unlimited amount of tax credit.

4. Value of the Credit

The value of the credit is determined by the offers the owner/taxpayer receives for the credit through syndication. That value may range from $.70 to $.88 per dollar. The applicant shall estimate how much he/she will receive for the credit. An estimate can be made by investigating the market price for credit with syndicators or investors. A partial list of these organizations is available from AHFC. The final price received, through negotiation, is a function of perceived risk, location of the project, sponsor qualifications, size of project, and the overall dollar amount of the credit reserved, among others.

That credit value is used by the Corporation in its evaluation of the viability of the project and in making a credit determination. Unless the Corporation's knowledge of credit value conflicts with that indicated in the application, the applicant's estimate of "value" will be used. However, the Corporation will establish a minimum credit value to be used for the initial underwriting of the project at time of application.

5. Determining Eligible and Qualified Basis

The amount of credit a taxpayer/developer can apply for, is based on the actual construction/rehabilitation costs associated with the number of units set-aside for low-income use. This amount is called the **"eligible basis"**.

"Eligible basis" is generally defined as any depreciable costs related to the development of a property. More specifically, **it includes** things like engineering studies, hard construction cost, construction interest, fees and taxes, architectural costs, some legal and accounting costs, developer fees and contractor fees and personal property like appliances. **It does not include** costs associated with the land (acquisition costs, include closing and financing fees related to purchase), any costs related to the sale of tax credits, legal, accounting, etc., permanent loan financing costs, fees or interest, rent-up or marketing reserves and federal grants. AHFC does not allow any tax credit application or processing fees in eligible basis unless specifically supported by a CPA or tax attorney written opinion. A CPA or tax attorney signed cost certification is required prior to issuance of the final allocation certificate by AHFC. A guideline for performing these certifications is available from AHFC or over the Internet at http:///www.ahfc.state.ak.us.

For projects that apply for acquisition and rehabilitation or rehabilitation credits only, an average of $15,000 per unit, or 10 percent of the eligible construction costs, must be spent on rehabilitation expenses.

"Qualified basis" is equal to the eligible basis multiplied by the applicable fraction for the property. The applicable fraction is the percentage of the property set-aside for low income families. The applicable fraction is equal to the lesser of the floor space percentage or the unit percentage. The floor space percentage is equal to the square footage of all set-aside units divided by the square footage of all the units in the building.

This distinction becomes very important in projects were two units with the same number of bedrooms have a different square footage and less than 100% of the units are set-aside for low-income families.

The maximum credit allowable under Section 42 is the qualified basis multiplied by a tax credit percentage. The tax credit percentages are established by the U.S. Department of the Treasury on a monthly basis. For new construction projects that have federal subsidies involved in the financing (Rural Development, HUD or tax-exempt financing) a 4% tax credit percentage is used to estimate the maximum allowable credit. For new construction or substantial rehabilitation with no federal subsidies, a 9% credit percentage is used. The actual percentage rate varies from month to month so as to maintain a present value over ten years equal to 70% (9% credit) or 30% (4% credit) of the building(s)'s qualified basis.

THE FINAL DETERMINATION OF ELIGIBLE BASIS, QUALIFIED BASIS AND ANY COMPONENTS OF THEM, MUST BE SUPPORTED BY A CERTIFIED PUBLIC ACCOUNTANT OR TAX ATTORNEY. AHFC DOES NOT PROVIDE LEGAL INTERPRETATIONS OF THE IRS TAX CODE.

6. Selecting the Credit Percentage

AHFC will reserve credits based on the appropriate tax credit percentage determined by the IRS for the month in which the application round ends. The credit percentage used for the final allocation will be the rate issued by the IRS for the month in which the project is placed in service, unless another credit percentage is established through a binding reservation agreement with the Corporation. For bond-financed projects, the credit percentage would coincide with the month the tax-exempt bonds are issued or the month in which the building(s) is placed in service. The election of a credit percentage must be made within 5 days after the end of the month in which a commitment as to the credit amount is made between the corporation and the applicant.

Funds provided under the NAHASDA or HOME programs have a special exemption under the law which allows a project to claim a 9% credit if additional deep rent targeting is used in the project. In order to satisfy this requirement, 40% of the units must be made available to families at 50% or below of the area median income, adjusted for family size. See Technical Notes section (C)(4)(A).

7. Determining Federal Subsidy

A federal subsidy is considered any obligation for which the interest is exempt from tax under Section 103 of the IRS Code, or any below market federal loan. A below market loan is defined as any federal loan with an interest rate below the applicable federal Treasury rate.

8. Increase in Eligible Basis for Difficult to Develop Areas

For projects in "difficult to develop" areas, an applicant may apply for a credit allocation by multiplying a project's eligible basis by 130 percent, after adjustments have been made. Only new construction and rehabilitation expenditures are eligible for this increase in basis. To qualify, a project must be located in either a qualified census tract or a difficult development area as determined by the U.S. Department of Housing and Urban Development (HUD). A qualified census tract is a census tract in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income. A difficult development area is an area which has high construction, land and utility costs relative to area median gross income. See the technical notes section of this guide for the most current list of "high cost areas."

9. Determining the Appropriate Amount of Credit

AHFC evaluates how much credit it will recommend for a project based on two approaches; the equity gap and the legal limit. The scenario below illustrates how this process works. It assumes that there are no federal subsidies and the applicable fraction is 100%. The project is for new construction. Total development costs (hard and soft costs, including land) equal $6,000,000. The project has secured a permanent financing commitment for 80% of the total project costs. Refer to the sections above for definitions.

Eligible Basis:	$5,000,000	1.	$1 million in ineligible basis costs
X Applicable Fraction:	100%	2.	100% of units set aside for low-income
Total Qualified Basis:	$5,000,000	3.	
X Applicable Percentage:	9%	4.	Actual monthly % may differ slightly
Maximum Credit Allowed:			
Per Year For 10 Years:	$ 450,000	5.	
Ten Year Credit Amount:	$4,500,000	6.	

Line 5 represents the total amount allowed under Section 42 of the IRS code or legal limit. It also is the maximum a developer/owner may apply for, if the project is syndicated and assuming $.70 per $1 of credit for the proceeds from selling the credits;

Total Proceeds To Project from Legal Amount: **$3,150,000 7.**

If the project was in a "high cost" area, line 1 could be increased by 30 percent. Line 5 assumes that the developer got the maximum credits allowed under Section 42. Under the 1989 amendments to the program, Congress instructed state agencies to allocate only what was necessary to make the project viable. To determine the

appropriate amount of credit under this mandate, the Corporation uses a "gap financing" method. That is, applying credits to the difference between total sources of funds and the total uses of funds. This difference is called the *Equity Gap*.

In the example above, if the developer was only able to finance 80% of the total development costs, then the gap would be $1.2 million dollars (20% of $6 million). Dividing the "gap" by the dollar value of the credits ($.70) equals $1,714,286. Dividing this figure by 10 is the amount of credit that would be allocated on a yearly basis ($171,428) for ten years. The maximum the Corporation would allocate, in this case, would be $171,428 per year.

AHFC may allocate the full amount of credit to a project when it is necessary to make the project work. The Corporation reserves the right to deny credits, or reduce the amount of the allocation based on its review of the application.

10. Allocations for Projects Funded 50% or More by Tax-Exempt Bond Issues.

Section 42 of the Internal Revenue Service Code allows a credit allocation for projects where 50% or more of the total project cost is funded by the proceeds from a tax-exempt bond issue. This method for obtaining credit is called the “non-competitive” program because the credit does not come from the state’s population credit which is allocated each year in a competitive process. Due to the tax-exempt nature of the bond issuance, a project may receive only the “4%” credit and not the “9%” credit which is available under the competitive process. In addition to the 50% requirement:

(A) The issuance must be subject to Alaska’s private activity bond volume cap.
(B) The project must be considered eligible for low income housing tax credits under Alaska’s Qualified Allocation Plan and meet the threshold point requirement.
(C) Only the amount of credit needed to make the project financially feasible and viable will be allocated. The allocation will be made once the project is complete and a final cost certification has been received by AHFC.
(D) Projects that receive tax-exempt bond financing are eligible for a 4% tax credit. This means that in exchange for the lower interest rate associated with this type of financing, a project would be eligible for less than half the tax credit of a competitive round project, without tax-exempt financing. It is important that a sponsor understand this tradeoff and the impact it will have on a project’s financial feasibility and viability.
(E) All other requirements of the competitive tax credit program pertain to the non-competitive program, including all application, processing and monitoring fees.

Application for tax credits under the non-competitive round will be accepted by AHFC at any time during the calendar year. A complete tax credit application must be submitted, with application fee, for a feasibility and threshold review. Upon completion of the review, AHFC will provide the sponsor with a letter stating the potential amount of credit the project is

eligible for, and any issues that remain regarding the feasibility of the project. There is no reservation document for this allocation method. The final amount of credit is determined when the project is complete.

11. Notification of Local Jurisdiction

Federal law requires AHFC to provide notification to the local jurisdiction of a proposed tax credit project and afford an opportunity for the jurisdiction to comment. As part of the application process, project sponsors will be required to send a form (provided by AHFC) to the jurisdiction regarding their intent to apply for tax credits. The form will request that comments be returned directly to AHFC. Verification that the form was sent will be a condition of the application process.

12. Transfer of Credit Allocation Prior to Placement in Service

Prior written approval, from AHFC, must be obtained at least 60 days before a sale or transfer of any portion of a property receiving a conditional or formal allocation of credits can be executed. For the transfer of a credit allocation to occur, specific legal documents must be submitted to the AHFC prior to approval. These documents may include:

(A) Copy of recorded deed showing transfer of the property title between the two entities.

(B) Copy of provisions within new and old owners' incorporation documents relating to transfers of real property.

(C) Certification by an authorized representative, of both parties, as to the true transfer of the property title and that it is not a mortgage or transfer for security purposes.

(D) Copy of provisions within both partnership agreements relating to transfers of real property.

(E) Certification by authorized representatives approving the transfer of the property and identifying authorized signatures.

(F) Certification by authorized representative or opinion of an attorney that the new partnership legally exists and has full power to effect the proposed transfer, that the agreement between parties is a legal, valid and binding obligation of the partnership and that the transfer of the property does not violate the partnership agreement, any resolutions of the partnership, or any laws, regulations, administrative orders, contracts or other agreements which apply to the partnership.

(G) Copy of preliminary title insurance commitment/report showing new partnership as the owner of the property.

The exact form of the documentation listed above may vary depending on whether a transfer involves two partnerships, general partners within a partnership, or transfer of the credit allocation without a transfer of real property.

Once AHFC has determined to its satisfaction that the transfer is legal and appropriately documented, a transfer agreement will be executed. The transfer becomes effective upon the date signed by AHFC's representative and released to the parties to the agreement.

C. TECHNICAL NOTES SECTION

1. Technical Assistance Resources

Technical assistance on GOAL Program requirements or the requirements of a specific funding program (LIHTC, HOME and SCHDF) may be obtained from AHFC staff. For technical assistance on development issues, how to apply for funds, and general program rules contact:

The HOME and SCHDF Program Manager at (907) 330-8275

The LIHTC Program Manager (907) 330-8274

For technical assistance on compliance monitoring or project audits contact:

AHFC Internal Audit Department
(907) 330-8410

AHFC also maintains a regular schedule of training workshops on the GOAL program. Contact AHFC's Planning Department for a schedule of upcoming workshops. AHFC also maintains a list of individuals who have asked that their names be provided to applicants for LIHTC's as consultants and resource sources. AHFC makes no representations or warranty as to the qualifications of these individuals or groups. This list is available upon request from the Corporation offices.

Reference Manuals:

(A) *The Low-Income Housing Tax Credit Handbook* - Clark Boardman Company Ltd., 375 Hudson St. NY, NY, 10014. (800-221-9428)

(B) *Tax Credits for Low-Income Housing*, Seventh Edition, Joseph Guggenheim, Simon Publications, P.O. Box 70425, SW Station, Washington D.C. 20024-0425.

(C) *A Developer's Guide to the Low Income Housing Tax Credit* - Herbert Stevens, and Thomas Tracy, National Council of State Housing Agencies, 444 North Capitol St.,

NW, Suite 438, Washington, D.C. 20001, (202) 624-7710

(D) *Low-Income Housing Tax Credit Handbook* - Michael Novogradec, and Jon E Krabbenschmidt, Novogradec & Company, LLP, 425 Market Street, 7th Floor, San Francisco, California, 94105 (415) 356-8000

(E) *Technical Guide for Determining Income and Allowances for the HOME Program*, Second Edition, US Dept. of Housing and Urban Development, June 1999. Order info: 1-800-998-9999.

2. Calculating Maximum Rents (including utilities) under the Low Income Housing Tax Credit Program

Use the methodology in this section to calculate the maximum rent.

(A) Step One. Determine the Area Gross Median Income (AGMI) from tables published annually by the US Department of Housing and Urban Development (also available at www.huduser.org , www.ahfc.state.ak.us and www.novoco.com). (Note: The AGMI's used in this example are fictitious.)

	Family Size				
	1	2	3	4	5
50% AGMI:	21,750	24,900	28,000	31,100	33,600

	Family Size				
	1	2	3	4	5
60% AGMI:	26,100	29,880	33,600	37,320	40,320

(B) Step Two. Using the AGMI's above, calculate 30 percent of the estimated income of a family living in the unit, by unit size, as follows:

(i) Studio Apartment

1 person income at 60% = (26,100 * .3)/12 = 652

(ii) One-bedroom apartment (assume 1.5 persons per bedroom)

1.5 person income at 60% = (26,100+29,880)/2 = 27,990

(27,990 * .3)/12 = 699.75

(iii) Two-bedroom apartment (assume 1.5 persons per bedroom)

3 person income (1.5 *2) at 60% = (33,600 * .3)/12 = 840

(iv) For larger sized units, assume 1.5 persons per bedroom and use the same methodology as above.

(v) Use the income figures for families at 50% of AGMI in the formulas above to get the maximum rents allowable for this population

Effect of HOME and NAHASDA Funds on Tax Credit Projects

If a project receiving tax credits is also receiving funding under the HOME/NAHASDA program, the amount of credit for which the project is eligible may be affected. In general, the amount of funds can not be included in eligible basis, and still have the project be eligible for the 9% credit. However, they may be left in eligible basis, and qualify for the 9%, if the funds are in the form of a loan **and** 40% of the units are set aside for families at or below 50% of the area median gross income. Including these funds in eligible basis may also affect a project's ability to retain the 130% increase in credit for locating in a "difficult-to-develop" area or a Qualified Census Tract. There is some disagreement on how much of an effect HOME or NAHASDA funds can have on the 130% increase. **ALL PROJECT SPONSORS ARE REQURIED TO OBTAIN THEIR OWN TAX ADVICE FROM AN ATTORNEY OR ACCOUNTANT ON THE EFFECT OF USING HOME AND/OR NAHASDA FUNDS**

(C) HOME/NAHASDA loan

(i) If interest rate is **less than** the applicable Federal Treasury interest rate, the loan is considered a federal subsidy and one of the following three alternatives may be used:

(a) 4% option:
- funds may be *included* in "eligible basis"
- eligible only for "4%" credit;
- eligible for 130% High Cost Area Adjustment (HCAA)

(b) 9% option ***with*** 130% High Cost Area Adjustment option
- funds *excluded* from "eligible basis"
- eligible for 9% credit
- may still receive 130% High Cost Area Adjustment, if applicable

(c) 9% option ***without*** 130% High Cost Area Adjustment option
- HOME funds may be *included* in "eligible basis"
- Project must have at least a "40/50" set-aside
- Project may not receive 130% High Cost Area Adjustment

(ii) If the loan interest rate is greater than the applicable Federal Treasury interest rate, the loan is not considered to be a federal subsidy, therefore:

- funds may be included in eligible basis;
- eligible for 9% credit;
- eligible for 130% High Cost Area Adjustment, if applicable;
- project must have at least a “40/50” set-aside.

Interest paid on a HOME loan may be considered “HOME program income”. HOME program income must be returned to AHFC and the State of Alaska’s HOME program.

(D) HOME/NAHASDA GRANT

(i) Considered to be a federal subsidy:

- HOME funds must be excluded from “eligible basis” in all cases in order to retain the 9% credit;
- eligible for 130% HCAA

D. DEFINITIONS SECTION

Annual Income means the anticipated income from all sources received by the household in one year's time period as established at 24 CFR Part 5, or as otherwise defined in 24 CFR Part 92.

Acquisition Costs, defined as the cost of acquiring improved or unimproved real property

Adjusted Income means the annual income minus allowances for dependents, child care expenses, and other eligible allowances as established at 24 CFR 5.

Applicable Fraction means the lesser of the percentage of the number of low income units out of the total number of units available for rent (residential rental units) or the percentage of the square footage of the low income units out of the total square footage of all units available for rent.

HOME-Assisted Units means the rental housing units developed with the assistance of HOME funds. The calculation for determining the number of HOME assisted units is provided later in this Program Summary.

Community Housing Development Organization means a 501(c)(3) or (4) non-profit organization that has been certified by AHFC as meeting the federal definition for Community Housing Development Organizations (CHDO) found in 24 CFR 92.2.

Contingencies are costs that are undefined beyond the general category of expenses on a project, i.e. construction contingencies, soft cost contingencies, etc. Construction contingencies are limited as part of the program policies and procedures.

Contractor Overhead is defined as any cost related to the administration of the project that is **not unique** to the specific project, i.e. office personal, accounting, legal fees, etc. and is limited to 10% of the hard construction cost.

Developer Overhead/Fee is defined as the costs and profit that are paid to the developer of the project. These include all costs of consultants and intermediaries that perform functions that would normally be performed by a developer, i.e. negotiation with LIHTC investors, loan applications, acting as an agent of project owner (if different than developer), etc.

Displaced Person means any individual, family, business, nonprofit organization, or farm that is required to move permanently from the development as a direct result of an assisted acquisition, demolition, or rehabilitation project.

The requirements for notifying, and if applicable, assisting, covered parties are set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URAR), and implementing regulations at 49 CFR Part 24. A summary of URAR requirements is provided as an attachment to this application kit.

Development "Hard Costs", defined as the actual construction costs of constructing or rehabilitating the housing project.

Credit Percentage means the percentage used to estimate the legal amount of credit a project may receive. The credit percentage is prepared by the IRS on a monthly basis and generally is referred to as either a "4%" or "9%" figure.

Eligible Basis is the estimate of total development costs minus items that are not considered depreciable with the building.

Extraordinary Maintenance and Repairs means repairs or maintenance to a building that are not routine. Examples include, roof replacement, heat system replacement, major unit damage, appliance replacement, etc.

General Requirements or "general conditions" is defined as any overhead cost **solely related** to the construction of the specific project, i.e. backhoe or other equipment rentals, mobilization costs, payment and performance bonds, contractor paid project fees, and is limited to 10% of the hard construction cost.

HOME Assisted Units- Units within a HOME project for which rent, occupancy, and/or long-term affordability restrictions apply. The number of units designated as HOME-assisted affects the maximum HOME subsidies that may be provided to a project.

Homeless means a person is considered homeless if he/she resides in places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings (on the street); in an emergency shelter; and in transitional or supportive housing for homeless persons who originally came from the streets or emergency shelters. In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution.

Or:

Is being evicted within a week from a private dwelling unit and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

Is being discharged within a week from an institution, such as a mental health or substance abuse treatment facility or a jail/prison, in which the person has been a resident for more than 30 consecutive days and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

Is fleeing a domestic violence housing situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

Is an individual(s) who lacks a fixed, regular and adequate nighttime residence and includes: children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement.

Low-Income Family means a family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for family size.

Moderate Rehabilitation means the rehabilitation of residential property at an average cost for the project which equals $25,000 or less per dwelling unit.

Permanent Housing means housing which can be occupied for an indefinite period of time by individuals or families.

Person with Disabilities means a household comprised of one or more persons, at least one of whom is an adult, who has a disability. A person is considered to have a disability if the person has a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently; and

(C) Is of such a nature that such ability could be improved by more suitable housing conditions.

A person will also be considered to have a disability if he or she has a development disability, which is a severe, chronic disability that:

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) Is manifested before the person attains age 22;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three or more of the following areas of major life activity: Self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and

(E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated. Notwithstanding the preceding provisions of this definition, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted with SCHDF funds, with the deceased member of the household at the time of his or her death.

Placed in Service Date means the date in which the building or project is available for its intended purpose. Generally considered to be the date of the Certificate of Occupancy for the building, or, where no Certificate of Occupancy is issued, the date the PUR-102 is completed.

Project (or interchangeably referred to as a "Development" in this NOFA) means a site or an entire building, or two or more buildings, together with the site or sites (when permissible) on which the building or buildings are located, that are under common ownership, management, and financing and are to be assisted with GOAL funds.

Project Management means costs directly related to managing the project during its development to the point of project completion.

Qualified Basis is "eligible" basis multiplied by the "applicable fraction" for the project.

Reconstruction means the rebuilding, on the same lot, of housing standing on a site at the time of project commitment. NOTE: If the development also receives HOME funds, the number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased. The reconstructed housing must be substantially similar (i.e., single- or multi-family housing) to the original housing.

Rehabilitation means the improvement or repair of an existing structure, including one or more of the following:

(A) Reconfiguration to reduce the number of total units in order to increase the number of large family units;

(B) Adding one or more rooms (e.g., bedroom or bathroom) outside of the existing walls for purposes of meeting occupancy or code standards;

(C) Adding one or more units within the existing structure, such as in an existing basement.

"Related Soft Costs", defined as other reasonable and necessary costs incurred by the owner and associated with the financing and/or development of housing including costs to pay for:

(A) Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write ups;

(B) The processing of the financing for a project, such as private lender origination fees, and fees for title evidence, recordation and filing of legal documents, building permits, attorney fees, private appraisal fees, and fees for an independent cost estimate and contractor and developer fees;

(C) A project audit that AHFC may require with respect to the development of the project;

(D) Providing information services such as affirmative marketing and fair housing information to prospective tenants as required by 24 CFR Part 92.351.

(E) Staff and overhead costs directly related to carrying out the project, such as work specification preparation, loan processing inspections, and other services related to assisting potential tenants.

(F) Payment of "impact fees", as that term is defined in 24 CFR Part 92.2.

(G) Relocation payments and other relocation assistance to persons displaced by the project, including:

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

  (ii) Other relocation assistance means staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship.

Senior Citizen Housing means housing where the household consists exclusively of:

  (A) two or more individuals who are related to each other at least one of whom is 60 years of age or older;

(B) the surviving spouse of an individual who (i) was at least 60 years of age or older at the time of his or her death and (ii) was living in the senior housing unit with the surviving spouse at the time of his or her death;

(C) an individual who is 60 years of age or older;

(D) an individual or individuals described in (A), (B), or (C) of this paragraph and others, regardless of their ages, who are essential to the care or well being of the individual or individuals; or

(E) individuals who meet the eligibility requirements of a federal senior housing program that provides financing for the project so long as at least eighty percent of the units in the project are occupied exclusively by individuals who satisfy the requirements of (A), (B), (C) or (D) of this paragraph.

Single Room Occupancy (SRO) Housing means housing consisting of single room dwelling units that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of non-residential space, or reconstruction.

For acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required to be in the unit. However, if the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. SRO does not include facilities for students.

Special Needs Housing means housing where a majority of tenants are physically or mentally disabled, senior citizens, homeless or are earning below 30% of the area median income adjusted for family size.

Substantial Rehabilitation means the rehabilitation of residential property at an average cost for the project in excess of $25,000 per dwelling unit.

Syndication/Syndicator is the process or individual that is responsible for converting LIHTCs from a credit against federal income tax liability to money that is invested into a LIHTC project.

Transitional Housing means housing that the housing:

(A) Is designed to provide housing and appropriate supportive services to persons, including, but not limited to, de-institutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and

(B) Has as its purpose facilitating the movement of individuals and families to independent living within a 24 month period of time, or as determined to be acceptable to AHFC, before occupancy.

Very Low-Income Family means a family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD with adjustments for family size.

E. OTHER FEDERAL RULES THAT APPLY TO HOME PROJECTS

1. Davis-Bacon Act

(40 U.S.C. 276a - 276a5)/Contract Work Hours and Safety Standards Act (40 U.S.C. 327 - 332) Developments which involve the construction (rehabilitation or new construction) of housing that includes twelve (12) or more **HOME-assisted units** must comply with Davis-Bacon Act wage requirements, as well as the provisions of the Contract Work Hours and Safety Standards Act.

In the event that the development's final development costs, as identified in the Final Development Cost Certification results in a determination that the development contains twelve (12) or more HOME-assisted units (wherein the initial determination, based on original development cost data provided as part of the grant application, did not), the recipient will be required to provide a written certification, signed by the Grantee's Executive Director (or equivalent) certifying that the requirements of these Acts have been met.

2. Section 504 Compliance

General Construction and Rehabilitation Requirements: The Grantee must comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with implementing regulations at 24 CFR Part 8.

This requirement applies to the entire project, not just HOME-assisted units within the Project.

Section 504 requirements are mandatory for all new construction of projects with five or more units regardless of the number of buildings, and for rehabilitation projects with more than fifteen units and where the cost of rehabilitation is 75% or more of the replacement cost of the completed housing project.

For applicable projects, a minimum of 5% of the total number of units or at least one unit in a multi-family housing project, whichever is greater, must be accessible to persons with mobility impairments. In addition, for newly constructed housing units, a minimum of 2% of the total number of project units, but not less than one, must be made accessible to persons with hearing or vision impairments.

(A) **Appraisal Completion for Rehabilitation Projects:** To establish whether Section 504 requirements are applicable, for rehabilitation projects which contain more than fifteen units and which do not propose to meet Section 504 requirements, prior to executing the HOME agreement, the developer must provide AHFC with a current appraisal, completed by an independent, appropriately certified, appraiser. The appraisal must establish the replacement value of the as-to-be completed development. If the appraisal establishes that the cost of rehabilitation is 75% or

more of the replacement costs of the as-to-be completed housing development, the requirements of Section 504 must be met.

3. Flood Disaster Protection Act

HOME recipients are subject to the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), which provides that HOME funds may not be used with respect to acquisition, new construction, or rehabilitation of a project located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

The community in which the area is situated is participating in the National Flood Insurance Program (44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

Flood insurance is obtained as a condition of approval of the assistance.

4. The Fair Housing Act (42 U.S.C. 3601-20)

And implementing regulations at 24 CFR part 100.

5. Executive Order 11063

As amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., page 652 and 3 CFR, 1980 Comp., page 307) (**Equal Opportunity in Housing**), and implementing regulations at 24 CFR part 107.

6. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d)

(Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1; Executive Order 11246 (3 CFR 1964-65, Comp., page 339)(Equal Employment Opportunity), as amended by Executive Orders 11375 and 12086, and the implementing regulations issued at 41 CFR chapter 60.

Under these acts, no person shall on the grounds of race, color, religion, sex, national origin or age be excluded from participation in, be denied the benefits or be otherwise subject to discrimination under this program. The recipient will adopt affirmative marketing steps, as described in 24 CFR Part 92.351, consisting of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing.

Please note that HOME funds may not be utilized to pay for any activities that are procured through bid documents that include a specific minority preference, even if such a preference is lawful or required under another source of funds' statute or implementing regulations

(such as the Native preference often used with funds associated with the Native American Housing and Self Determination Act (NAHASDA)).

7. Age Discrimination Act of 1975 (42 U.S.C. 6101-07)

   And implementing regulations at 24 CFR Part 146.

8. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u)

   The purpose of which is to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons, particularly those who are recipients of government assistance for housing.

9. Executive Orders 11625, 12432 and 12138 (Minority Business Enterprise and Women's Business Enterprise)

   Which state that program participants shall take affirmative action to the maximum extent possible to encourage participation by businesses owned and operated by minority groups and women in all contracts entered into with such persons or entities, public and private, in order to facilitate the activities to provide affordable housing under this Agreement.

10. Drug Free Workplace Act of 1988 (41 U.S.C. 701)

    Sponsors must comply by:

    (A) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

    (B) Establishing an ongoing drug-free awareness program to inform employees about –

        (i) The dangers of drug abuse in the workplace;

        (ii) The applicant's policy of maintaining a drug-free workplace;

        (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

        (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(C) Making it a requirement that each employee to be engaged in the performance of the HOME funded activity be given a copy of the statement required by paragraph (A);

(D) Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the HOME funded activity, the employee will -

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of his or her conviction for a violation of the criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(E) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title to every grant officer or other designee whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of the affected HOME funds;

(F) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (D)(ii), with respect to any employee who is so convicted -

(i) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(G) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E), and (F);

(H) Providing the street address, city, county, state, and zip code for the site or sites where the performance of work in connection with the HOME funds will take place. For some applicants who have functions carried out by employees in several departments or offices, more than one location may need to be specified. It is further recognized that some applicants who become HOME fund recipients may add or change sites as a result of changes to program activities during the course of the HOME funded activities. Applicants, in such cases, are required to advise AHFC by submitting a revised "Place of Performance" form. The period covered by the certification extends until all funds under the specific HOME funding has been expended.

11. Uniform Relocation Assistance Act of 1970

As amended, and the implementing regulations at 49 CFR Part 24; **HOME policies for relocation assistance (24 CFR part 92.353).** For SRO projects, recipients must comply with 24 CFR 882.803(d).

Under these acts, the recipient must take all reasonable steps to prevent or minimize the displacement of families, individuals, or businesses. If displacement or relocation will occur, the recipient must certify that it has officially adopted and will follow an anti-displacement and relocation assistance plan, submitted to and approved by AHFC prior to any displacement. Additionally, see application instructions for further application requirements regarding notices required to be submitted to all tenants occupying a unit in the building at the time of application.

12. Environmental Review (25 CFR Part 58).

The applicant will not enter into a contract for, or otherwise commit HOME funds for acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under this grant, prior to AHFC's completion of an environmental review in accordance with 25 CFR Part 58.

13. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and the implementing regulations at 24 CFR part 35.

The use of lead-based paint is prohibited whenever HOME funds are used directly or indirectly for the construction, rehabilitation, or modernization of residential structures. Immediate lead-based paint hazards existing in residential structures assisted with HOME funds must be eliminated, and purchasers and tenants of assisted structures constructed prior to 1978 must be notified of the hazards of lead-based paint poisoning. For rehabilitation projects involving housing built before 1978 using HOME funds, extensive regulations apply to the manner in which housing is inspected, rehabilitation work is completed, and lead based paint clearance is achieved. See 24 CFR part 35 for more details.

<u>If an applicant proposes to rehabilitate a pre-1978 building with the use of HOME funds, a lead based paint inspection and risk assessment performed by an EPA-certified lead based paint inspector/risk assessor, and the abatement of all present lead-based paint in the project must be included as part of the project.</u>

14. Uniform Administrative Requirements (24 CFR 92.205)

(A) Government entities must meet requirements of OMB Circular No. A-87 and

applicable requirements of 24 CFR part 85;

(B) Non-profit organizations must meet requirements of OMB Circular No. A-122 and applicable requirements of 24 CFR part 84;