



## **2012 HOME PROGRAM DESCRIPTION**

The Department of Housing and Urban Development (HUD) has designated the State of North Dakota as a participating jurisdiction (PJ) and as such it may apply for and distribute HOME funds. The agency responsible for administration of the North Dakota HOME Program is the Department of Commerce, Division of Community Services (DCS).

This is a description of how the state plans to distribute FY2012 HOME funds and administer its program. The plan demonstrates consistency with the goals identified in the state's Consolidated Plan (CP). Accordingly, the state can use its HOME funds for the following activities to help meet the identified housing needs:

- Rehabilitation of Owner-occupied and Rental Property
- Homebuyer Assistance
- Refinancing of Homeowner-occupied Housing Only
- Tenant Based Rental Assistance (including security and utility deposits)
- Acquisition, New Construction, Site Improvements, or Demolition Linked to a Project
- Administrative Costs
- Operating Expenses for Community Housing Development Organizations (CHDOs)

### **DISTRIBUTION PLAN**

The state will administer its program through agreements with CHDOs, state recipients, and subrecipients. The HOME Program will be allocated through non-competitive set-asides based on priority needs as established by the recipient. Set-asides will be awarded based on regional, multi-regional or statewide plans.

The state may reallocate funds from one category to another, or one recipient to another, because of high demand, an emergency due to a natural disaster or determinations that performance based measures have not been met.

State program income received by DCS may be allocated, at DCS's sole discretion, to any CHDO, subrecipient, or state recipient, for any project or activity DCS deems necessary.

Relocation is the only allowed activity in a designated flood plain under the state's multi-year environmental review. Local governments may complete their own environmental reviews and make their own flood plain determinations on a case-by-case basis.

All recipients are expected to locally meet the HOME Program match requirement of 25 percent unless specifically waived by the DCS. Existing general waivers include a state policy that homeowner rehabilitation and TBRA activities are excluded from the match requirement.

Only the forms of HOME assistance listed in Part 92.205(b) will be allowed. Applicants should use private funds, tax credits, Rural Development, Federal Home Loan Bank, CDBG, Department of Energy, or other grant/loan programs to help leverage HOME activities.

The North Dakota HOME Program will include the following components:

### **1. Community Housing Development Organizations (CHDOs)**

HOME funds will be reserved for the two multi-regional Community Housing Development Organizations (CHDOs). The multi-regional CHDOs are nonprofit agencies that meet the CHDO requirements as defined in HOME program regulations. The western multi-regional CHDO will cover planning regions I, II, VII and VIII. The eastern multi-regional CHDO will cover planning regions III, IV, V and VI. Each multi-regional CHDO board must consist of representation from all four regions in its jurisdiction.

CHDOs which existed prior to January 1, 1998, were offered the opportunity to participate on the Multi-Regional CHDO board. To access the multi-regional CHDO set-aside, interested parties may contact and partner with either the Affordable Housing Developers Inc in planning regions I, II, VII and VIII or the Eastern Dakota Housing Alliance in planning regions III, IV, V and VI. These two entities will have equal access to each fiscal year's CHDO allocation and will be eligible for the operating set-aside.

DCS reserves the right, at its sole discretion, to certify additional CHDOs and/or adjust set-asides as may be deemed necessary.

Up to ten percent of each multi-regional CHDO set-aside may be used for pre-development loans to assist specific projects. Predevelopment loan repayments must be sent to the DCS. The repaid funds will be added to the next FY allocation. Each multi-regional CHDO must have a scoring criteria developed that is consistent with the state's Consolidated Plan.

The application process will be a two stage process.

- a. **Submission of the multi-regional CHDO Plan(s) by March 1, 2012.**  
This will become the CHDO performance goals for the FY 2013 HOME Program Distribution.

b. **Submission of the fully completed project application(s) by November 1, 2012.**

Please note that no construction activities may begin until this process is fully completed, and the DCS has issued the Notification of Release of Funds. Also, all CHDO projects **must** include at least 10% (of the HOME funds requested) as owner equity in the project unless specifically waived by DCS. ***Owner equity cannot be eligible HOME match listed under 92.220, match used for other programs, other federal funds or tax credits.*** This owner equity is above the required match to the program.

2. **State Recipient Set-Aside**

HOME funds will be reserved for the two communities (Bismarck and Grand Forks) that are entitlement cities, but not PJs. This program component is non-competitive, and each city will be eligible to apply for a predetermined amount of funding based on population, number or percentage of low income households, and housing needs. Although these cities will be able to design their projects to meet local needs, all activities must be within the parameters of the State HOME Program. **Each city must submit the annual HOME plan by March 1, 2012.** This plan will reserve their set-aside funds and become their performance goals for 2012. The cities must submit their final HOME Project Application(s) and certification of Consolidated Plan compliance before HOME funds will be committed. The HOME Project Application(s) must be fully completed and received by **November 1, 2012.** Please note that no construction activities may begin until this process is fully completed, and DCS has issued the notification of release of funds.

3. **Sub recipient Set-Aside**

HOME funds will be set aside for the ND Housing Finance Agency, two Housing Authorities and the seven Community Action Agencies to complete activities in their jurisdiction that are consistent with the State's Consolidated Plan and are a priority for their area. **The completed HOME Application Plan must be submitted to the DCS no later than March 1, 2012.**

**Housing Finance Agency Set-Aside**

HOME funds may be used for homeowner assistance. Assistance can be in the form of down payment and closing costs assistance. The HOME investment that is subject to recapture is the HOME assistance that enabled the homebuyer to buy the dwelling unit. This direct subsidy includes any HOME assistance that reduced the purchase price from fair market value to an affordable price. The resale/recapture options described below apply to all home ownership cases. This program will be administered as a statewide program through an agreement with the North Dakota Housing Finance Agency.

Neither the initial purchase price, nor the appraised value at acquisition (including any required repairs needed to meet property standards) of the housing, shall exceed 95 percent of the median purchase price for a single family residence, FHA 203b mortgage limits (single family residence, condominium unit, cooperative unit, or combination

manufactured home and lot). The housing must be the principal residence of an owner whose family qualifies as a low-income household at the time of purchase. Also, the housing unit must be purchased within 36 months if a lease-purchase agreement was used in conjunction with a homebuyer program to acquire the housing. Finally, all applicable regulatory provisions under 24 CFR Part 92.254 will be followed if not specifically mentioned in this description. The minimum recapture provisions or resale restrictions described below are applicable for a period determined by the amount of HOME assistance per unit:

<b>HOME Assistance Per Unit</b>	<b>Period of Affordability</b>
Less than \$15,000	5 yrs.
\$15,000 - \$40,000	10 yrs.
More than \$40,000	15 yrs.

The resale or recapture limits must be assured so that the unit remains affordable through deed restrictions, covenants attached to the land, mortgages, or other similar mechanisms. The deed restrictions will terminate upon occurrence of any of the following: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The restrictions shall be revived according to the original terms, if during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property. Recipients will be encouraged to use purchase options or first refusal provisions to enforce provisions and to purchase the property before foreclosure to preserve affordability.

Below are the Resale and Recapture Provisions. Recapture provision will be used for all projects unless the HOME assistance is used only for the development subsidy and therefore the Resale provision option must be used.

**Option 1 - Resale Provision**

This option must follow the provisions of 24 CFR 92.254 (a) (5) (I) which requires the present owner to make the housing available for subsequent purchase only to a low income family. Affordability for the subsequent LMI purchaser means that the payment of principal, interest, taxes, and insurance (PITI) will not exceed 30 percent of gross income adjusted by family size. This subsequent purchaser must use the property as their principle residence. The sale must provide the owner with a fair return on investment. *A fair return on the owner's investment is defined as the return of the owner's closing costs, principal payments, and improvement costs, less any repairs required to meet code or HUD's Housing Quality Standards at the time of resale.* All time remaining in the period of affordability must transfer to subsequent purchasers. Any violation of this resale provision would require the initial HOME investment to be repaid.

## **Option 2 - Recapture Provision**

This option must follow the provisions in 24 CFR 92.254 (a) (5) (ii) which allows for recapturing the entire amount of HOME investment, or HOME investment amount can be prorated based on the time the homeowner has owned and occupied the unit measured against the required affordability period (e.g., 5 year residence/15 year affordability = 1/3 reduction).

The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property. If the net proceeds (sales price minus loan repayment, other than HOME funds, and closing costs) are not sufficient to recapture the HOME investment and enable the homeowner to recover his homeowner investment (the amount of their down payment and any documented capital improvement investments), the HOME recapture amount can be set as follows:

$$\frac{\text{HOME Investment}}{\text{HOME Investment} + \text{Homeowner Investment}} \times \text{Net Proceeds} = \text{HOME Recapture Amount}$$

Any recaptured funds must be used to carry out eligible HOME activities. If HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used.

## **Housing Authorities**

The Stutsman County Housing Authority and Cass County Housing Authority will receive a set-aside to complete a security or utility deposit program, or an approved TBRA program. Each region in the State must complete a security and utility deposit program. These HOME dollars will be used in emergency situations to prevent homelessness or to assist persons in transitional housing to secure permanent rental housing. Funds may also be used to assist low income families in securing a more affordable rental unit. Funds will be used only for security or utility deposits, or an approved TBRA program.

Recipients must develop written guidelines that meet program requirements and comply with 24 CFR part 92.209, to include the following:

- The security or utility deposit may not exceed the equivalent of one month's rent for the housing unit,
- Tenant selections must comply with 92.209 (c),
- Only the prospective tenant may apply for HOME security deposit assistance, although the funds must be paid directly to the landlord,
- Rental units must be inspected for Housing Quality Standards compliance.
- The lease must comply with the requirements of section 92.253 (a), (b), (c), and
- The assistance may be in the form of a grant or as a loan. **If the assistance is to be provided as a loan, the agency's loan program must be pre-approved by the state.**

**Community Action Agency Set-Aside**

Eligible activities can include all necessary **rehabilitation** required to bring an existing owner-occupied home up to Section 8 Housing Quality Standards (HQS) and the ND HOME program’s Rehabilitation Standards, **Tenant Based Rental Assistance** including security and utility deposits, and eligible **CHDO activities**. All rehab work must meet all applicable state and local code requirements. When rehabilitation is selected as a regional priority, neither the estimated value of the house prior to rehabilitation or the after-rehab value of the housing shall exceed 95 percent of the median purchase price for a single family residence (single family residence, condominium unit, cooperative unit, or combination manufactured home and lot). Each homeowner will be required to sign a Housing Rehabilitation Program Homeowner Agreement that stipulates a minimum of a five (5) year period of affordability. The terms of the agreement for repayment may allow for a pro-rata reduction of the recapture amount in monthly increments as follows:

Month	Recapture										
1	100%	11	83.3%	21	66.6%	31	50.0%	41	33.3%	51	16.6%
2	98.3%	12	81.6%	22	65.0%	32	48.3%	42	31.6%	52	15.0%
3	96.6%	13	80.0%	23	63.3%	33	46.6%	43	30.0%	53	13.3%
4	95.0%	14	78.3%	24	61.6%	34	45.0%	44	28.3%	54	11.6%
5	93.3%	15	76.6%	25	60.0%	35	43.3%	45	26.6%	55	10.0%
6	91.6%	16	75.0%	26	58.3%	36	41.6%	46	25.0%	56	8.3%
7	90.0%	17	73.3%	27	56.6%	37	40.0%	47	23.3%	57	6.6%
8	88.3%	18	71.6%	28	55.0%	38	38.3%	48	21.6%	58	5.0%
9	86.6%	19	70.0%	29	53.3%	39	36.6%	49	20.0%	59	3.3%
10	85.0%	20	68.3%	30	51.6%	40	35.0%	50	18.3%	60	1.6%

When housing rehabilitation is selected, each CAA must develop Homeowner Rehabilitation Guidelines (HRG). This HRG must contain:

- a. The criteria used to determine applicant eligibility in terms of income, assets, ownership, occupancy, and location. Include any priorities which are used to select households for assistance (e.g. households with income less than 50 percent of median). And how income information will be verified.
- b. The types of property or properties eligible for assistance i.e. single family unit, condominium unit, mobile home/manufactured home (permanent foundation on private lot), and cooperative unit.
- c. Describe any type of homeowner contribution required (cash, labor, or materials).
- d. How will you inspect for Housing Quality Standards (HQS) Requirements (24 CFR 882.109), ND HOME program Rehabilitation Standards, and assure that all work completed meets the North Dakota State Building Code (or a locally amended North Dakota State Building Code)? How will your agency assure that newly constructed housing meets the current edition of the Model Energy Code, 1991 Uniform Building Code, and Uniform Mechanical Code?

- e. Define how you will meet lead-based paint regulations.
- f. Describe the minimum and maximum amount of assistance allowed and the terms of the assistance. Indicate what will happen if a house cannot be brought up to HQS and ND HOME program Rehabilitation Standards with the maximum investment.
- g. Describe how you will assure that no more than the necessary amounts of HOME program funds are invested in any one project. (Layering)
- h. Define the role and responsibilities for staff, owner, and contractor. Describe the grievance procedure for applicants and for disputes between an owner and a contractor.
- i. Describe your conflict of interest policy.
- j. Describe the homeowner counseling services that are available to each client.

When **Tenant Based Rental Assistance** is determined as a priority in the region, the HOME funds must be earmarked for security or utility deposits or for an approved TBRA program. These HOME dollars can be used in emergency situations to prevent homelessness, to provide assistance to persons in transitional housing to secure permanent rental housing, and to assist low income families in securing a more affordable rental unit. The TBRA program funds must be used in accordance to 92.209 and be tied to an existing self-sufficiency program.

Recipients of security and utility deposit funds must develop written guidelines that meet program requirements and to include the following:

- The security or utility deposit may not exceed the equivalent of one month's rent for the housing unit,
- Tenant selections must comply with 92.209 (c),
- Only the prospective tenant may apply for HOME security deposit assistance, although the funds must be paid directly to the landlord,
- Rental units must be inspected for Housing Quality Standards compliance.
- The lease must comply with the requirements of section 92.253 (a), (b), (c), and,
- The assistance may be in the form of a grant or as a loan. If the assistance is to be provided as a loan, the agency's loan program must be pre-approved by the state.

Any **CHDO activities** will originate from the multi-regional CHDO. Subrecipients must deobligate funds for a CHDO activity and develop a partnership with the Multi-Regional CHDO. The deobligated funds must be part of the Multi-Regional CHDO plan that is submitted to the DCS. If the CAA is to subcontract any of the administration from the Multi-Regional CHDO, all the requirements of 24 CFR 92.504 must be followed.

This program will be administered on a regional basis through agreements with Community Actions Agencies (CAA). To encourage good planning and cooperative efforts, each Community Action Agency is encouraged to contact their respective Regional Council to notify them of the assistance they may provide through the programs they administer.

#### **4. Administration**

The state as the participating jurisdiction, state recipients, and subrecipients will be allowed to receive HOME monies for administrative expenses. These costs may not exceed ten percent of the entire HOME allocation for North Dakota.

#### **5. Performance Based Set-Asides**

##### **State and Subrecipient Set-Asides**

The amounts listed in the Summary of Funding will not be awarded the next fiscal year unless an acceptable level of disbursement of funds previously awarded has been attained (*disbursement means funds are drawn from the U.S. Treasury*). The state will review past performance to determine the level of funding. If an agency cannot meet their performance measures by December 1st of each year, they must submit a letter of justification prior to that date. This letter must explain why they believe they cannot meet their performance measure and justify their requested set-aside. Each case will be reviewed separately and the decision of the Director of the DCS will be final.

Any available performance funds may be reallocated to other recipients that have met the following criteria or allocated to a specific project or recipient that the State Director of DCS deems appropriate:

- Agencies that can demonstrate unmet needs (10 pts).
- Agencies that have a waiting list of applicants (10 pts).
- Agencies that have met their performance criteria (20 pts).
- Agencies that have committed 100% of their funds on the IDIS system. (40 pts)
- Agency past performance (subjective, 0 to 20 pts)

## **CHDO Performance Based Set-Asides**

All CHDO funds must be dedicated by December 31st of the year in which funds were received. (*Dedicated funds are funds awarded to a specific project*) If any funds remain, the CHDO must justify why the funds are undedicated. Any available CHDO funds may be reallocated to interested agencies that meet the following criteria or allocated to a specific project that the State Director of DCS deems appropriate:

- Agencies that can demonstrate unmet needs (10 pts).
- Agencies that have a waiting list of applicants (10 pts).
- Agencies that have met their performance criteria (20 pts).
- Agencies that have committed 100% of their funds on the IDIS system. (40 pts)
- Agency past performance (subjective, 0 to 20 pts)

DCS will notify agencies of the availability of these funds, and will accept letters of application that address the above criteria.

All grantees are eligible to apply for Performance Based Set-aside funds (if available). If you are applying for these funds, use section 7 of this manual and your application will be scored using the above criteria.

## **6. HOME Goals**

The HOME program focuses on four major housing needs;

1. Single Family Rehabilitation
2. Homeowner Assistance
3. Rental Production and Rehabilitation
4. Tenant Based Rental Assistance

Each of these needs is considered high or medium priority need for use of HOME funds. These needs are addressed and prioritized locally by set-asides made by the Division of Community Services to their grantees. Each grantee delivers the HOME program in their region, city or multiple regions. Each year the State will review the needs and completed goals and make a determination if the goals should be changed based on new developments that have created different needs around the state.

## 7. HOME Performance Measures

The state collects performance data on HOMENet, the state's in-house HOME Program data collection system. Grantees are required to report performance data for all activities. The performance data consists of entering one of three **objectives** for the program; Suitable Living Environment, Decent Housing, and Creating Economic Opportunities. In addition, an appropriate **outcome** is also required; Availability/Accessibility, Affordability, or Sustainability. Based on the objectives and outcomes selected, the system will populate the specific **output indicators** for each activity. DCS will then enter this information on HUD's Integrated Disbursement and Information System (IDIS).

<b>2012 Summary of Funding ESTIMATE</b>			
2012 HUD Award	\$ 3,000,000.00		
State Program Income	\$ 175,000.00		
Total 2012 Allocation	\$ 3,175,000.00		
Total Available for Project Set-Aside	\$ 2,775,000.00		
Total Available for Administration Set-Aside	\$ 300,000.00		
Total Available for Operating Set-Aside	\$ 100,000.00		
Recipients	Project	Administration	Operating
Bismarck	\$ 335,000.00	\$ 15,000.00	
Grand Forks	\$ 335,000.00	\$ 15,000.00	
Community Action Agency - Minot (Reg. II)	\$ 140,000.00	\$ 10,000.00	
Dakota Prairie CAA (Reg. III)	\$ 140,000.00	\$ 10,000.00	
Red River Valley Community Action (Reg. IV)	\$ 140,000.00	\$ 10,000.00	
Southeastern North Dakota CAA (Reg. V)	\$ 140,000.00	\$ 10,000.00	
Community Action Program Reg. VI	\$ 140,000.00	\$ 10,000.00	
Community Action Program Reg. VII	\$ 140,000.00	\$ 10,000.00	
Community Action & Development (Reg. I & VIII)	\$ 280,000.00	\$ 20,000.00	
Stutsman County Housing Authority	\$ 30,000.00	\$ 3,000.00	
Cass County Housing Authority	\$ 30,000.00	\$ 3,000.00	
North Dakota Housing Finance Agency	\$ 288,850.00	\$ 15,000.00	
Eastern Dakota Housing Alliance (CHDO)	\$ 320,000.00		\$ 50,000.00
Affordable Housing Developers Inc. (CHDO)	\$ 316,150.00		\$ 50,000.00
State Administration		\$ 169,000.00	
Performance Set-Aside			
<b>TOTAL</b>	<b>\$ 2,775,000.00</b>	<b>\$ 300,000.00</b>	<b>\$100,000.00</b>

## **MINORITY AND WOMAN BUSINESS OUTREACH PROGRAM**

Executive Orders 11625, 12432, and 12138 require the encouragement and use of minority and women-owned businesses in conjunction with the HOME Program. To encourage the use of minority and women-owned businesses in bids for the various programs under the North Dakota HOME Program, the DCS (DCS) will include the latest list of certified minority and women-owned businesses with each application package.

In addition, the DCS will include a statement that minority and women-owned business enterprises are welcome to apply for funds and are encouraged to participate as suppliers, contractors, lenders, etc. to provide services to projects assisted with HOME funds in all notices and advertisements related to the HOME Program.

A list of certified minority and women-owned business enterprises will be added to our mailing lists to ensure that they are notified of the training sessions related to HOME program that will be held.

To maintain statistical data on the use and participation of minority and women-owned business enterprises as contractors or subcontractors in HOME-assisted program contracting activities, owners will be required to identify jobs that have been bid by minority or women-owned businesses. In addition, the applicant may inspect the site to confirm the percentage of minority and women laborers working at the site.

### **AFFIRMATIVE MARKETING PROCEDURES**

The DCS will take the following actions to provide information to attract eligible persons from all racial, ethnic, and gender groups in the housing market area that is assisted by HOME funding.

All correspondence, notices and advertisements related to the HOME Program, must contain the Equal Housing Opportunity logo or slogan.

Participants in the HOME Program will be required to use affirmative fair housing marketing practices in soliciting renters or buyers, determining their eligibility, and concluding all transactions. Any HOME-assisted housing must comply with the following procedures for the required compliance period, depending on the program used:

1. Owners advertising vacant units must include the equal housing opportunity logo and/or slogan. Wherever a phone number is provided, there must also be a TDD/TTY phone number, or equivalent, provided. The Relay North Dakota TDD number is 800.366.6888. Advertising media may include newspapers, radio, televisions, brochures, leaflets, or a sign in a window. In addition, owners will be required to have written communication to Fair Housing organizations.

2. The owner will be required to solicit applications for vacant units from persons in the housing market who are least likely to apply for the HOME-assisted housing without the benefit of special outreach efforts. In general, persons who are not of the race or ethnicity of the residents of the neighborhood in which the rehabilitated building is located, shall be considered those least likely to apply. Special outreach efforts will include contacts with community action agencies, human service centers and county social service offices.
3. The owner must maintain a file containing all marketing efforts (e.g., copies of newspaper ads, memos of phone calls, copies of letters, etc.) and the records to assess the results of these actions are to be available for inspection by the DCS.
4. The owner shall maintain a listing of all tenants residing in each unit from the time of application through the end of the compliance period.

The DCS will assess the affirmative marketing efforts of the owner by comparing predetermined occupancy goals (based upon the area from which potential tenants will come) to actual occupancy data that the owner is required to maintain. The owner's outreach efforts will also be evaluated by reviewing marketing efforts. The DCS will assess these efforts by use of a compliance certification or a personal monitoring visit to the project at least annually.

Where an owner fails to follow the affirmative marketing requirements, corrective actions shall include extensive outreach efforts to appropriate contacts to achieve the occupancy goals or other sanctions that the DCS may deem necessary. In addition, owners will be counseled as to affirmative marketing requests. In the event they continue to be in non-compliance, they may not be allowed to receive future HOME funds.

All units of local government that receive HOME funds must submit affirmative marketing procedures they've adopted to the DCS.