

2019 ACTION PLAN FOR THE NORTH DAKOTA CONSOLIDATED PLAN 2015-2019

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ALTERNATIVE FORMATS ARE AVAILABLE UPON REQUEST

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I. EXECUTIVE SUMMARY

A. INTRODUCTION

The Action Plan is that portion of the Consolidated Plan that is prepared each year as the grant application for the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Solutions Grant (ESG), and National Housing Trust Fund (NHTF) programs. The purpose of the Action Plan is to identify the various federal and state resources that might be expected to be available to address the priority housing and non-housing community development needs and objectives in the Strategic Plan section of the Consolidated Plan. In addition, the Action Plan describes how funds will be distributed through the CDBG, HOME, ESG, and NHTF programs; the activities planned for homeless and other special needs persons; other actions required by U.S. Department of Housing and Urban Development (HUD); and the short-term non-housing objectives for each planning region in the state. The Action Plan contains only summaries of the CDBG, HOME, ESG, and NHTF programs.

B. CITIZEN PARTICIPATION SUMMARY

For the development of the Action Plan, the Division of Community Services (DCS) followed its Citizen Participation Plan by arranging for the eight Regional Planning Councils to hold one public hearing in each region. The 2019 Action Plan was made available for public comment during the period of April 8, 2019 through May 7, 2019. The Citizen Participation Plan is included in Appendix A.

C. 2019 ANNUAL ACTION PLAN SUMMARY

The State of North Dakota is required by the HUD to prepare an Action Plan for Housing and Community Development annually. Timely completion of the Plan in a HUD-acceptable format helps ensure continued funding of housing and community development activities throughout the state. Beginning in 2014, the State of North Dakota prepared its Five-Year Consolidated Plan, covering the program years 2015 – 2019. This Consolidated Plan contains information about demographic, economic, and housing market trends in the state; analysis of statewide affordable housing needs; findings from the citizen participation process; and an analysis of the needs of special populations.

The following represents the fifth of that five year plan, the 2019 One-Year Action Plan for allocating the state's federal block grant funds to address housing and community development needs. In order to make the document more informative for citizens and more useful for policy makers and those engaged in the production of affordable housing, the document describes actions and activities to be undertaken with resources beyond the federal grant programs and by organizations other than those administering the federal grant programs. It is intended to represent a comprehensive Action Plan for affordable housing and community development activities statewide. The goals and activities identified here can by no means be accomplished through the use of the federal grant programs alone. Where possible, the plan specifies those actions or activities that are expected to be undertaken with other resources as well as the related outcomes expected to be achieved.

D. EVALUATION OF PAST PERFORMANCE

North Dakota Department of Commerce’s evaluation of its past performance has been completed in a thorough Consolidated Annual Performance and Evaluation Report (CAPER). These documents state the objectives and outcomes identified in each year’s Annual Action Plan and includes an evaluation of past performance through measurable goals and objectives compared to actual performance. These documents can be found on North Dakota Department of Commerce’s website at:

<http://www.communityservices.nd.gov/communitydevelopment/ConsolidatedPlan/>

II. ANNUAL ACTION PLAN DEVELOPMENT PROCESS

A. LEAD AGENCY AND ADMINISTERING AGENCIES

The North Dakota Department of Commerce, DCS, is designated as the lead agency for developing, implementing, monitoring, and reporting on the achievements of the Consolidated Plan. Other entities that play a key role in the implementation of the Plan are the state's eight Regional Planning Councils, seven Community Action Agencies (CAAs), Community Development Housing Organizations (CHDO), non-profits, the North Dakota Housing Finance Agency (NDHFA), Cass County Housing Authority, Stutsman County Housing Authority, and the cities of Bismarck and Grand Forks.

B. CONSULTATION AND COORDINATION

When preparing the Consolidated Plan, consultation is made with public and private agencies that provide housing, health and social services. State health and child welfare agencies are also consulted concerning lead-based paint hazards.

The system in place to implement the CDBG, HOME, ESG and NHTF programs is well established and permits the opportunity for close coordination to identify needs and to employ the available resources. The CDBG program is well coordinated through the eight Regional Planning Councils, each receiving an allocation with which to fund economic development, housing, and public facilities projects. They in turn coordinate with various housing groups, the Public Housing Authorities, local economic developers, and state agencies to use CDBG funds to fund the most cost effective and low-income targeted projects. In addition, since the DCS is located in the North Dakota Department of Commerce, the staff is able to have daily coordination with the North Dakota Economic Development and Finance division in funding economic development projects. The CAAs are intricately involved in the implementation of the HOME program, and both coordinate housing projects with the Regional Councils. As indicated in the affordable housing goals, some Councils are partnering with CAAs to assist with lead-based paint requirements. The HOME program also coordinates closely with the entitlement cities of Grand Forks and Bismarck to address their local low-income housing needs. ESG program works very closely with approximately 30 agencies in the state and the North Dakota Homeless Coalition to identify and address the needs of the homeless and the chronic homeless. The NHTF program is administered by the state Housing Finance Agency (HFA), which also administers other state and federal affordable housing programs throughout all of North Dakota. As such, the HFA is regularly in consultation with the state's metropolitan and rural jurisdictions to identify needs, provide technical assistance, and help create housing strategies and solutions. Additionally, the HFA coordinates closely with the DCS in the creation and support of those elements of the Consolidated Plan and Action Plan which address the NHTF program. At the present time we do not believe that the system has any gaps that need to be addressed.

Consultation with Local Governments

The state has or will comply with the following:

1. It has consulted with affected units of local government in the non-entitlement area of the State in determining the method of distribution of funding;

II. Annual Action Plan Development Process

2. It engages in or will engage in planning for community development activities;
3. It provides or will provide technical assistance to units of local government in connection with community development programs; and
4. It will not refuse to distribute funds to any unit of general local government on the basis of the particular eligible activity selected by the unit of general local government to meet its community development needs, except that a state is not prevented from establishing priorities in distributing funding on the basis of the activities selected.

C. EFFORTS TO ENHANCE CITIZEN INVOLVEMENT

Public involvement for the 2015-2019 Consolidated Plan began in August 2014 and extended over a period of several months. Three key steps were taken in the involvement process. One was the implementation of three focus group meetings involving experts in housing and community development issues for the state of North Dakota, another was eight Regional Council meetings, with one held in each region, and the other was a set of public input meetings during which citizens were provided the opportunity to offer feedback and input regarding the Consolidated Plan.

Three focus groups were held in early January of 2015 with the purpose of drawing upon the expert knowledge of stakeholders and their thoughts on barriers and constraints encountered in North Dakota's housing and community development arena. These focus groups were designed around three key topic areas: affordable housing, homelessness and infrastructure. These meetings allowed key stakeholders and statewide leaders the opportunity to explore the depth of the respective housing and community development barriers and uncover creative solutions to emerging problems.

The 2014 Housing and Community Development Survey was designed to incorporate feedback from both community leaders and the public into the planning process. The survey included a variety of questions asking respondents to rate the need for various housing and community development activities throughout the state. The survey was available online and a total of 165 responses were received statewide.

For the development of the Action Plan, the DCS followed its Citizen Participation Plan by arranging for the eight Regional Planning Councils to hold one public hearing in each region. The 2019 Action Plan was made available for public comment during the period of April 8, 2019 through May 7, 2019. The Citizen Participation Plan is included in Appendix A.

D. ACTIONS TO BE TAKEN TO ENHANCE THE INSTITUTIONAL STRUCTURE AND ITS COMMUNICATION

At this time we have no specific plans to enhance coordination. The CDBG program has been implemented for 35 years in the state, and the system in place provides for more than enough coordination, especially when considering the limited funds available and the continued high demands for housing rehabilitation, public facilities, and economic development. If more funds become available, some additional things might be possible, but for now the system for coordination is more than adequate. This also applies to the HOME program which has been in place for 25 years, and the ESG program which has been in place for 30 years. Despite the relative recency of the NHTF program, created in 2008 and first funded in 2015, the systems put

II. Annual Action Plan Development Process

in place at the state level have resulted in strong coordination and communication among its stakeholders, effective program administration, and efficient use of limited public funds. Working together we are very successful in identifying needs. The problem is the lack of funds to address the needs. Every entity involved in the implementation of the Plan does everything in its power to assure that funds are targeted to the most beneficial projects and to the neediest households and individuals.

III. ALLOCATING HOUSING AND COMMUNITY DEVELOPMENT RESOURCES

A. OVERVIEW OF AVAILABLE RESOURCES

With North Dakota Department of Commerce as the lead agency overseeing development, numerous state and federal programs support the implementation of the state’s Consolidated Plan. Interagency cooperation and coordination of state, federal, and local agencies and organizations is critical to the success of many projects. The following summaries describe programs supporting the overall implementation of North Dakota’s Consolidated Plan with respect to affordable housing, public facilities, economic development, and homelessness.

B. FEDERAL RESOURCES

HUD Formula Grants

The State of North Dakota receives annual funding from four HUD formula grant programs:

- CDBG Program, administered by Department of Commerce, DCS;
- HOME Program, administered by Department of Commerce, DCS;
- ESG Program, administered by Department of Commerce, DCS;
- NHTF Program, administered by Housing Finance Agency, HFA.

The state is also part of a tri-state program what receives Housing Opportunities for Persons with AIDS (HOPWA) funding. Tri-State Housing Environment for Living Positively (HELP) administers this program for Montana, North Dakota and South Dakota.

Community Development Block Grant (CDBG) Program

The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to general units of local government and states.

The North Dakota Department of Commerce, DCS administers the CDBG Program. The allocation from HUD for the State CDBG Program in North Dakota for 2019 is \$3,955,356. Table III.1 shows this allocation.

CDBG funding	Amount
Total FY 2019 Allocation	\$3,955,356
Program Income	\$1,000,000
Prior Year Resources	\$ 0
Total	\$4,955,356

HOME Investment Partnerships (HOME) Program

The HOME program provides formula grants to states and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. HOME is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. HOME funds are awarded annually as formula grants to participating jurisdictions (PJs). The program’s flexibility allows states and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancements, or rental assistance or security and utility deposits.

The HOME program, administered by the DCS, is to receive \$3,005,732 in HUD funds for the 2019 plan year.

Table III.2 2019 HOME Funding State of North Dakota NDDOC	
HOME funding	Amount
Total FY 2019 Allocation	\$3,005,732.00
State Program Income	\$0.00
Recaptured Funds	\$0.00
Total	\$3,005,732.00

Emergency Solutions Grant (ESG) Program

The ESG Program, formerly named the Emergency Shelter Grant, provides formula funding to address homelessness to eligible jurisdictions. The North Dakota Department of Commerce is to receive \$465,045 for the ESG Program.

Table III.3 2019 ESG Funding State of North Dakota NDDOC	
ESG funding	Amount
Total FY 2019 Allocation	\$465,045
Program Income	\$ 0
Prior Year Resources	\$ 0
Total	\$465,045

HUD Competitive Grants

Competitive grant programs allow eligible applicants to request funding directly from HUD by submitting an application. Each year, HUD’s SuperNOFA (Super Notice of Funding Availability) process makes competitive funds available for the selection of proposals submitted by government agencies and nonprofits. These proposals address special projects of national significance and long-term projects in areas that are not eligible for formula allocations.

Continuum of Care (CoC)

In 2019, the State of North Dakota’s Statewide CoC received a total of \$1,876,781 in CoC funding for a total of 16 projects. Table III.4 shows the funded projects for FY 2019.

Table III.4 ND-500 Continuum of Care (CoC) Awards 2019 Statewide US Department of Housing and Urban Development		
Project Name	Program	Amount
2018 S+C Continuum of Care Grant Renewal	CoCR	\$207,468
BCHA Shelter Plus Care Vouchers 2018	CoCR	\$223,544
CoC Planning Project Application FY2018	CoCR	\$52,836
Cooper House SHP	CoCR	\$57,700
FHRA Rental Assistance SHP 2018	CoCR	\$255,168
FHRA SRO SHP 2018	CoCR	\$85,238
Fraser, Ltd. Permanent Supportive Housing	CoCR	\$123,615
HMIS Renewal 2018	CoCR	\$74,072
Permanent Supportive Housing Renewal FY2018	CoCR	\$4,845
Prairie Harvest Mental Health SHP	CoCR	\$89,727
SHP Transitional Housing Renewal FY2018	CoCR	\$77,500
SW ND Supportive Housing Project	CoCR	\$36,500
Youthworks Joint PH-RRH and TH 2018	CoCR	\$96,384
YWCA Cass Clay DV	CoCR	\$145,478
YWCA Cass Clay SHP Consolidated	CoCR	\$131,206
YWCA Cass Clay TH	CoCR	\$215,500
ND-500 Total		\$1,876,781
North Dakota Total		\$1,876,781

OTHER HUD RESOURCES

National Housing Trust Fund

The National Housing Trust Fund (NHTF) established in July 2008 as part of the Housing and Economic Recovery Act of 2008 (HERA) required that Fannie Mae and Freddie Mac pay 4.2 basis points of their annual volume of business to two funds. The NHTF was to receive 65% and the remaining 35% was to go the Capital Magnet Fund (CMF). In 2016, the requirement that Fannie Mae and Freddie Mac contribute to the two funds was suspended when the companies were taken into conservatorship in September 2008 at the height of the housing crisis. The Director of the Federal Housing Finance Agency lifted the suspension on Fannie Mae and Freddie Mac’s obligation to fund the National Housing Trust Fund (NHTF) and the CMF. The NHTF is a block grant to the states, the District of Columbia, Puerto Rico, and the U.S. territories. The purpose of the NHTF is to increase and preserve the supply of housing, principally rental housing for extremely low-income households. HUD administers the NHTF and on January 30, 2015, issued an interim program rule (FR-5246-I-03) to implement the NHTF. The regulations can be found at: <http://www.gpo.gov/fdsys/pkg/FR-2015-01->

[30/pdf/2015-01642.pdf](#). The Final Rule is expected to be released after the NHTF program has been implemented for at least one year.

The law that created the NHTF requires HUD to use a formula to distribute NHTF dollars directly to states.

North Dakota Housing Finance Agency (NDHFA) on behalf of the State of North Dakota will prepare a NHTF “Allocation Plan” as part of the Annual Action Plan every year. That Allocation Plan will show how NDHFA will allot the NHTF dollars it will receive in the upcoming year. NHTF dollars will be distributed by the NDHFA based on the priority housing needs in the Consolidated Plan. HUD codified the NHTF regulations in a new Part 93 of the Code of Federal Regulation. The NHTF is incorporated into the Consolidated Plan as a source of funds. The Consolidated Plan public participation process will provide advocates sufficient opportunities to influence how the NHTF resources are allocated by the NDHFA.

OTHER FEDERAL RESOURCES

Low Income Housing Tax Credits (LIHTC)

The NDHFA is responsible for implementing the Low-income Housing Tax Credit program. Developers looking to use the program must be able to document a particular housing need and demonstrate that the need is consistent with the Consolidated Plan. Each project is rated against specific criteria, eighteen of which are intended to assure a project is targeted to benefit low-income families.

C. STATE RESOURCES

The State of North Dakota utilizes a variety of resources to meet the goals it has established in its Consolidated Plan. The following state resources are expected to be used to address statewide housing needs:

1. START Downpayment Assistance program;
2. Helping Hands Across North Dakota program for housing;
3. Rehab Accessibility Program;
4. Rural Housing Rehabilitation Loan Program;
5. State Revolving Fund program for waste water and drinking water systems;
6. Housing Incentive Fund; and
7. North Dakota Homeless Grant.

D. LEVERAGING AND MATCHING OF FEDERAL DOLLARS

Federal funds will continue to be leveraged with nonfederal resources to achieve the objectives of this plan. Matching requirements will be achieved through a variety of methods. Grant recipients are encouraged to utilize funds from the private sector, state and local programs, and other sources to assist in meeting HUD matching requirements and to increase the amount of funds available to provide affordable housing, expand economic opportunities, improve infrastructure, and provide community facilities.

Community Development Block Grant

The Federal resources listed have limited funds available so the programs, when administered by the state, are generally designed to require the use of other funds to complete projects. For instance, all CDBG economic development projects require, by design, a 50 percent match of other funds. For CDBG public facilities projects, the Regional Councils generally require some percentage of other funds. Administrative costs that are required to be matched for the CDBG and HOME programs are included in the DCS budget.

Home Investment Partnerships Program

Applicants should use private funds, tax credits, Rural Development, Federal Home Loan Bank, CDBG, North Dakota Housing Incentive Fund, Department of Energy, Housing Trust Fund, or other grant/loan programs to help leverage HOME activities.

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.

Emergency Solutions Grant Program

The state will continue to meet the ESG match requirements in the same manner as it has in past grant years. Each grant year, the State contributes \$120,000 in general funds to match the federal allocation. The remaining matching funds are provided by ESG subrecipients. Matching funds are used to enhance and expand eligible ESG components and sub-activities.

National Housing Trust Fund Program

In accordance with the Interim Rule at 24 CFR Part 93, North Dakota's NHTF Qualified Allocation Plan identifies a preference in the selection of projects based on the amount of committed non-federal leveraging that can be demonstrated by the applicant.

E. GEOGRAPHIC DISTRIBUTION OF HUD RESOURCES

The HOME, ESG, and NHTF program funds will be available to eligible applicants statewide. Fargo receives their HOME funds directly from HUD. The CDBG program is available to eligible applicants in every city and county, except the three entitlement cities of Grand Forks, Fargo, and Bismarck.

F. OBSTACLES IN MEETING UNDERSERVED NEEDS

The major obstacle to meeting underserved needs is the small amount of funds the state receives through the CDBG, HOME, ESG, and NHTF programs. The needs far exceed the ability of these programs to make any significant impact, which is why the state continues to fund the same type of housing and non-housing activities each year. Housing rehabilitation continues to be a high priority need, but the interest in doing more rehabilitation is severely hampered by the lead-based paint requirements. Costs to investigate and mitigate lead-based paint are very high and the lack of funds means fewer opportunities for rehabilitation. Since there is nothing we can do to change either of these problems, no actions are planned.

IV. HOUSING AND COMMUNITY DEVELOPMENT STRATEGIES

A. 2015-2019 HOUSING AND COMMUNITY DEVELOPMENT PLAN SUMMARY

The following list presents the overriding strategies of the North Dakota Five-Year Consolidated Plan for Housing and Community Development, including selected performance criteria associated with each strategy and goal. Furthermore, there may be a need to direct such housing resources by use of project selection criteria, which may be updated annually, based upon year-to-year need and local circumstances.

The strategies the state will pursue over the next five years are as follows:

HOUSING STRATEGIES:

1. Preserve and improve the quality and condition of the existing rental and owner-occupied housing stock through rehabilitation of lower-income, disabled and elderly households
2. Fund homeownership opportunities for lower-income residents
3. Provide funding to increase the supply of multifamily housing

HOMELESS STRATEGIES:

1. Support emergency shelters and transitional housing for the homeless
2. Create additional transitional and permanent supportive housing facilities
3. Provide financial support to assist those at imminent risk of homelessness, including rapid rehousing
4. Fund homeless prevention activities, including data collection and prevention services

NON-HOUSING COMMUNITY DEVELOPMENT PRIORITIES:

1. Encourage economic development opportunities that retain and expand existing businesses
2. Improve and enhance local public infrastructure, including water, sewer, streets and sidewalks
3. Encourage communities to address local public facilities and service needs
4. Encourage communities to do strategic planning

Each of the priorities identified above, as well as the objectives consistent with each strategy are discussed in greater detail below. Performance measurement criteria are presented at the end of each priority narrative.

HOUSING STRATEGIES

The population throughout North Dakota continues to increase, and this growth is occurring more quickly in certain areas of the state with dramatic economic change. The demand for quality affordable homeowner and rental housing will continue to rise along with population, but at different rates depending on the local community’s economic, demographic and housing market conditions. As the State of North Dakota strives to meet the needs of its residents, housing remains a top priority.

1. Preserve and improve the quality and condition of the existing rental and owner-occupied housing stock through rehabilitation of lower-income, disabled and elderly households

North Dakota Department of Commerce will offer funding to rehabilitation activities that address the needs of lower-income and elderly households, including rental and owner-occupied rehabilitations.

Outcome:	Sustainability
Objective:	Provide Decent Affordable Housing
Funding:	HOME, Housing Trust Fund, CDBG
Five-Year Goal:	Unit of Measure:
400 Rental Units Rehabilitated	Number of Households Housing Units
250 Homeowner Housing Rehabilitated	Number of Households Housing Units
One-Year Goal:	Unit of Measure:
80 Rental Units Rehabilitated	Number of Households Housing Units
50 Homeowner Housing Rehabilitated	Number of Households Housing Units

2. Provide funding to increase the supply of multifamily housing

North Dakota Department of Commerce will fund eligible nonprofit and for-profit housing builders with financial subsidies for the development of rental properties affordable to low-income households.

Outcome:	Availability/Accessibility
Objective:	Provide Decent Affordable Housing
Funding:	HOME, Housing Trust Fund, CDBG
Five-Year Goal:	Unit of Measure:
100 Rental Units Constructed	Number of Household Housing Units
One-Year Goal:	Unit of Measure:
20 Rental Units Constructed	Number of Household Housing Units

HOMELESS STRATEGIES

The State of North Dakota is committed to helping to work towards the goals of reducing and ending homelessness throughout the state by prioritizing homelessness with funding and program initiatives.

1. Support emergency shelters and transitional housing for the homeless

North Dakota Department of Commerce will provide funding for a number of services needed by homeless persons, such as case management, health services, and outreach. Funding will also be provided to assist with shelter maintenance and operations.

Outcome:	Sustainability
Objective:	Create Suitable Living Environments
Funding:	ESG
Five-Year Goal:	Unit of Measure:
65,000 Homeless Person Overnight Shelter	Number of Persons Assisted
One-Year Goal:	Unit of Measure:
13,000 Homeless Person Overnight Shelter	Number of Persons Assisted

2. Create additional shelters, transitional and permanent supportive housing facilities

The State of North Dakota supports efforts to acquire additional housing structures for homeless shelters, transitional and permanent supportive housing in the non-entitled areas.

Outcome:	Availability/Accessibility
Objective:	Provide Decent Affordable Housing
Funding:	ESG, CDBG, NHTF
Five-Year Goal:	Unit of Measure:
15 Overnight/Emergency Shelter/ Transitional Housing Beds added	Number of beds added
One-Year Goal:	Unit of Measure:
5 Overnight/Emergency Shelter/ Transitional Housing Beds added	Number of beds added

3. Provide financial support to assist those at imminent risk of homelessness, including rapid re-housing

The Department of Commerce will provide financial support, including providing rapid re-housing.

Outcome:	Affordability
Objective:	Create Suitable Living Environments
Funding:	ESG
Five-Year Goal:	Unit of Measure:
2,250 Rapid Re-housing	Number of Households Assisted
One-Year Goal:	Unit of Measure:
450 Rapid Re-housing	Number of Households Assisted

4. Fund homeless prevention activities, including data collection and prevention service

The Department of Commerce will fund prevention activities, including services and outreach for persons at imminent risk of becoming homeless.

Outcome:	Sustainability
Objective:	Create Suitable Living Environments
Funding:	ESG
Five-Year Goal:	Unit of Measure:
2,500 Homeless Prevention	Number of Persons Assisted
One-Year Goal:	Unit of Measure:
500 Homeless Prevention	Number of Persons Assisted

NON-HOUSING COMMUNITY DEVELOPMENT PRIORITIES

Throughout the State of North Dakota, there are various community development needs, including public facilities, infrastructure as well as the need for additional planning. This plan prioritizes funds to meet those needs to serve the residents of the state.

1. Encourage economic development opportunities that retain and expand existing businesses

North Dakota Department of Commerce will participate in funding economic development activities that retain or expand existing businesses and jobs.

Outcome:	Availability/Accessibility
Objective:	Create Economic Opportunities
Funding:	CDBG

Five-Year Goal:

25 Businesses Assisted

Unit of Measure:

Number of Businesses Assisted

One-Year Goal:

5 Businesses Assisted

Unit of Measure:

Number of Businesses Assisted

2. Help improve and enhance local public infrastructure including water, sewer, streets and sidewalks

The Department of Commerce will participate in funding activities that improve the existing infrastructure through updating street, water and wastewater systems and sidewalks/paths.

Outcome:

Sustainability

Objective:

Create Suitable Living Environment

Funding:

CDBG

Five-Year Goal:

6,000 Public Facility or Infrastructure
Activities other than Low/Moderate
Income Housing Benefit

Unit of Measure:

Number of households assisted

One-Year Goal:

1,200 Public Facility or Infrastructure
Activities other than Low/Moderate
Income Housing Benefit

Unit of Measure:

Number of households assisted

3. Encourage communities to address local public facilities and service needs

The Department of Commerce will participate in funding quality public service activities that benefit the low/mod populations throughout North Dakota.

Outcome:

Availability/Accessibility

Objective:

Create Suitable Living Environments

Funding:

CDBG

Five-Year Goal:

65,000 Public service activities for Low/
Moderate Income Housing Benefit

Unit of Measure:

Number of households assisted

One-Year Goal:

13,000 Public service activities for Low/
Moderate Income Housing Benefit

Unit of Measure:

Number of households assisted

4. Encourage communities to do strategic planning

As part as the on-going effort to improve the quality of living environments for North Dakota residents, the Department of Commerce will provide funding for planning activities for local units of government.

Outcome: Sustainability

Objective: Create Suitable Living Environments

Funding: CDBG

Five-Year Goal:

3 Other: Planning Activities

One-Year Goal:

3 Other: Planning Activities

B. ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

In accordance with the applicable statutes and regulations governing the consolidated plan, the State of North Dakota certifies that they will affirmatively further fair housing. This means that the state has conducted an AI within the state, will take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard. A summary of the most recent AI is noted below.

According to HUD, impediments to fair housing choice include actions or omissions in the state that constitute violations of the Fair Housing Act. Further, impediments mean actions or omissions that are counter-productive to fair housing choice or that have the effect of restricting housing opportunities based on protected classes.

B.1. FAIR HOUSING CERTIFICATION

In accordance with the applicable statutes and regulations governing the consolidated plan, the North Dakota Department of Commerce certifies that they will affirmatively further fair housing. This means that the North Dakota Department of Commerce has conducted an AI within the state, will take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard. A summary of the most recent AI is noted below.

B.2. A SUMMARY OF THE 2015 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

AI PURPOSE AND PROCESS

As a requirement of receiving funds under the CDBG, HOME and ESG, entitlement jurisdictions must submit certification of affirmatively furthering fair housing to the HUD. This certification has three elements:

- Complete an Analysis of Impediments to Fair Housing Choice (AI);
- Take actions to overcome the effects of any impediments identified; and
- Maintain records reflecting the actions taken in response to the analysis.

In the *Fair Housing Planning Guide*, page 2-8, HUD provides a definition of impediments to fair housing choice as:

1. Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices [and]
2. Any actions, omissions, or decisions which have [this] effect.¹

The list of protected classes included in the above definition is drawn from the federal Fair Housing Act, which was first enacted in 1968. However, state and local governments may enact fair housing laws that extend protection to other groups, and the AI is expected to address housing choice for these additional protected classes as well.

The AI process affirmatively furthers fair housing involves a thorough examination of a variety of sources related to housing, the fair housing delivery system, and housing transactions, particularly for persons who are protected under fair housing law.

The development of an AI also includes public input and review via direct contact with stakeholders, public meetings to collect input from citizens and interested parties, distribution of draft reports for citizen review, and formal presentations of findings and impediments, along with actions to overcome the identified impediments.

IMPEDIMENTS TO FAIR HOUSING CHOICE AND SUGGESTED ACTIONS

Private Sector Impediments, Suggested Actions, and Measurable Objectives

Impediment 1: Discrimination based on disability, familial status, and race. This impediment was identified through review of complaints lodged with HUD and the North Dakota Department of Labor and Human Rights (DOLHR), and in consultation with the High Plains Fair Housing Center (HPFHC). Discrimination based on familial status was second only to disability-based discrimination as the most common allegation in complaints lodged with HUD, and was the third most common allegation in complaints lodged with the DOLHR.

¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide*. Vol. 1, p. 2-8.
http://www.hud.gov/offices/cpd/about/conplan/fairhousingexs/Module5_TopSevenAFFH.pdf

Discrimination based on race was the third most commonly cited motivation for discrimination among complaints lodged with HUD, and was second most common among DOLHR complaints. In addition, a representative of the HPFHC noted that the complaints that the organizations receives reveal “continuing evidence of discrimination, particularly against persons with disabilities, Native Americans, New Americans, and families with children.”

Action 1.1: Partner with the HPFHC and other non-profit organizations to conduct outreach and education to professionals in the housing industry on the subject of disability, familial status, and legal prohibitions on discrimination against families with children.

Measurable Objective 1.1: The number of outreach and education activities conducted by the HPFHC and other organizations.

Action 1.2: Partner with the DOLHR to conduct education activities to professionals in the housing industry on the subject of disability, familial status, and legal prohibitions on discrimination against families with children.

Measurable Objective 1.2: The number of education activities conducted.

Action 1.3: Partner with the HPFHC and other non-profit organizations to conduct outreach and education to professionals in the housing industry on the subject of disability, familial status, and racial forms of discrimination.

Measurable Objective 1.3: The number of outreach and education activities conducted.

Action 1.4: Partner with the DOLHR to conduct education activities to professionals in the housing industry on the subject of disability, familial status, and racial forms of discrimination.

Measurable Objective 1.4: The number of education activities conducted.

Impediment 2: Failure to make reasonable accommodation. This impediment was identified through review of complaints lodged with HUD and the DOLHR, as well as the results of the 2015 North Dakota Fair Housing Survey, and in consultation with the HPFHC. Disability-based complaints were the most common complaints that HUD received from residents of the state’s non-entitlement areas from 2004 through 2014, and accounted for more than half of all complaints lodged with the DOLHR. Failure to make reasonable accommodation, a discriminatory issue that uniquely impacts residents with disabilities, was the second most commonly alleged discriminatory action in HUD and DOLHR complaints.

In addition, though respondents to the 2015 Fair Housing Survey were largely unaware of questionable practices or barriers to fair housing choice in the private or public sectors, over one in ten respondents were aware of issues in the housing construction or accessible housing design fields, and those who provided additional commentary on this question maintained that neglect of ADA requirements in new construction was relatively common. Similarly, several of those who provided commentary on challenges in the public sector noted a lack of tax incentives to

promote accessible development, as well as a failure on the part of construction companies to incorporate such elements in the design and construction of new units.

Finally, a representative of the HPFHC noted that legal requirements pertaining to design and construction are not well understood, and that “requests for reasonable accommodation are frequently resisted.”²

Action 2.1: Partner with the HPFHC to conduct tests on selected newly constructed housing units and apartment complexes.

Measurable Objective 2.1: The number of tests conducted and the results of those tests conducted.

Action 2.2: Partner with the HPFHC, other non-profit organizations, and local ADA coordinators to conduct outreach and education to professionals in the housing construction industry on the subject of accessibility and reasonable accommodation.

Measurable Objective 2.2: The number of outreach and education activities conducted by these entities.

Action 2.3: Partner with the DOLHR to conduct education activities to professionals in the housing construction industry on the subject of accessibility and reasonable accommodation.

Measurable Objective 2.3: The number of education activities conducted by these entities.

Impediment 3: Discriminatory advertising. This impediment was identified through review of complaint data filed with the DOLHR. According to those data, complaints citing discriminatory advertising were the fourth most common among all complaints and complaints considered to have cause. More than a third of complaints that were settled or resolved, or that ended in a charge of discrimination, cited discriminatory advertising as among the discriminatory actions that housing providers had taken against them.

Action 3.1: Partner with the HPFHC to conduct periodic reviews of rental housing advertisements in a variety of media (i.e., Craigslist, newspapers, etc.). Refer any discriminatory advertisements to the DOLHR for investigation.

Measurable Objective 3.1: The number of advertisements reviewed and discriminatory advertisements identified and referred reported by the HPFHC.

Action 3.2: Initiate or enhance public outreach, through partnership with the HPFHC and through the state’s online/media presence, to identify examples of discriminatory advertising and encourage state residents to report such advertising when they see it.

Measurable Objective 3.2: Number of outreach and education activities taken, the number of reported instances of discriminatory advertising reported by the HPFHC.

² Margaret Moore Jackson, High Plains Fair Housing Center (personal communication April 24, 2015).

Impediment 4: American Indian and Hispanic home loan applicants tend to have higher rates of denials than white and non-Hispanic applicants. This impediment was identified through review of data gathered under the Home Mortgage Disclosure Act (HMDA). According to those data, 31.8 percent of home loan applications submitted by American Indian applicants were denied over the ten-year period between 2004 and 2013, inclusive. By comparison, only 13 percent of applications from white residents were turned down during that same period. Similarly, the denial rate for Hispanic applicants was 22.9 percent, compared to 13 percent for non-Hispanic applicants.

Action 4.1: Convene a committee or panel, in coordination with HPFHC and the DOLHR, and seek participation from professionals in the home lending industry; with the goal of identifying factors that contribute to differential denial rates to American Indian and Hispanic applicants.

Action 4.1.1: Request recommendations on how to mitigate the factors contributing to higher denials rates for American Indian and Hispanic residents.

Measurable Objective 4.1: The establishment of the committee, the list of factors identified, and the recommendations developed.

Action 4.2: Working in coordination with accredited local and statewide for-profit and non-profit organizations and government agencies, enhance credit counseling and education to prospective home buyers, focusing on strategies to build credit for home purchases, in partnership with local lenders and civic institutions.

Measurable Objective 4.2.1: The number of credit counseling and education activities conducted.

Measurable Objective 4.2.2: The number of agencies and organizations contacted.

Impediment 5: Discrimination against public assistance income. In spite of the fact that discrimination based on the receipt of public assistance is illegal under state law, complaint data from the DOLHR indicate that nearly twelve percent of those who filed a complaint with the agency believed that they had suffered discrimination on that basis.

Action 5.1: Contract with the HPFHC to conduct outreach and education to housing providers on the subject of public assistance, noting that discrimination based on use of public assistance is illegal under state law.

Measurable Objective 5.1: Number of outreach and education activities conducted.

Action 5.2: Coordinate with the DOLHR to conduct education activities to housing providers on the subject of public assistance, noting that discrimination based on use of public assistance is illegal under state law.

Measurable Objective 5.2: Number of education activities conducted.

Action 5.3: Contact the state attorney general and request that future materials and publications concerning landlord-tenant rights and responsibilities include an explanation of public assistance discrimination.

Measurable Objective 5.3: Record of contact with the state attorney general and his office response.

Impediment 6: Lack of understanding of fair housing law and policy. This impediment was identified through review of responses to the 2015 North Dakota Fair Housing Survey and the discussions with the Public Housing Agency and Non-Entitlement Grantee Outreach Committee. Between a quarter and half of respondents to survey questions concerning impediments to fair housing choice in the private and public sectors responded to each question with “don’t know”, which may suggest a widespread lack of confidence in their own ability to identify the kinds of policies and practices that count as discriminatory. In addition, a fifth of respondents stated that they were “not familiar” with fair housing laws, and several survey respondents maintained that there was a need for more education on the subject of fair housing. This opinion was shared by participants in the February 20th meeting of the Public Housing Agency and Non-Entitlement Grantee Outreach Committee Meeting, who maintained that enhanced outreach and education should form a major part of the actions and objectives adopted to promote fair housing choice in the state.

Action 6.1: Contract with the HPFHC to conduct outreach and education to housing providers and property managers on the subject of affirmatively furthering fair housing, and what the law requires.

Measurable Objective 6.1: The number of outreach and educational sessions offered and the number of attendants and participants.

Action 6.2: Establish yearly advertising and outreach activities, to take place during Fair Housing month (April), in partnership with HPFHC and other non-profit organizations, the DOLHR, regional councils, homeless providers, and CDBG grantees. Such activities could include panel discussions, fair housing presentations, web-based advertising (i.e., state and local jurisdiction websites, Facebook, etc.).

Measurable Objective 6.2: Number of advertising and outreach activities established, number of interagency and public/private partnerships established, the record of materials prepared for discussions and meetings, and the number of participants in such discussions and meetings.

Public Sector Impediments, Suggested Actions, and Measurable Objectives

Impediment 1: Apparent shortage of accessible and visitable housing in rural North Dakota. This impediment was identified through review of responses to the 2015 Fair Housing Survey.

Action 1.1: Partner with Regional Councils and CAAs to encourage communities to apply for homeowner and renter rehabilitation funding to modify existing dwellings with the goal of expanding the supply of accessible and visitable housing in rural North Dakota.

Measurable Objective 1.1: The number of communities who are contacted and encouraged to apply for rehabilitation funding and the number of communities who apply for such funding.

Action 1.2: Partner with Regional Councils and CAAs to encourage communities to apply new construction funding with the goal of expanding the supply of accessible and visitable housing in rural North Dakota.

Measurable Objective 1.2: The number of communities who are contacted and encouraged to apply for new construction funding and the number of communities who apply for such funding.

Impediment 2: Lack of understanding of fair housing law and duty to affirmatively further fair housing. This impediment was identified through review of responses to the 2015 North Dakota Fair Housing Survey and the discussions with the Public Housing Agency and Non-Entitlement Grantee Outreach Committee. As noted in the discussion for Private Sector Impediment 5, a large percentage of respondents answered each question with “don’t know”, and a fifth of respondents stated that they were “not familiar” with fair housing laws. Several survey respondents maintained that there was a need for more education on the subject of fair housing, an assessment that was shared by participants in the February 20th meeting of the Public Housing Agency and Non-Entitlement Grantee Outreach Committee Meeting, who maintained that enhanced outreach and education should form a major part of the actions and objectives adopted to promote fair housing choice in the state.

Action 2.1: Partner with the DOLHR to conduct education activities for local jurisdictions and Regional Councils on behalf of local jurisdictions seeking CDBG grant funding concerning state and federal fair housing law and the certification to affirmatively further fair housing.

Measurable Objective 2.1: The number of education sessions offered by the DOLHR.

Action 2.2: Partner with the HPFHC to conduct outreach and education to local jurisdictions and Regional Councils on behalf of local jurisdictions seeking CDBG grant funding concerning state and federal fair housing law and the certification to affirmatively further fair housing.

Measurable Objective 2.2: The number of outreach and education sessions offered by the HPFHC.

Action 2.3: Establish yearly advertising and outreach activities, to take place during Fair Housing month (April). Such activities could include panel discussions, fair housing presentations, and web-based advertising (i.e., state and local jurisdiction websites, Facebook, etc.)

Measurable Objective 2.3: Number of advertising and outreach activities established and the record of materials prepared for discussions and meetings.

B.3. ACTIONS NDDOC WILL TAKE IN 2019

The State of North Dakota, specifically the DOLHR, will continue to insure the enforcement of the fair housing law and provide fair housing education and outreach in cities throughout the state by utilizing promotional items such as fair housing and human rights brochures. The items provide specific information on what fair housing is, the law, and how the DOLHR handles specific housing complaints. They also provide an overview of the DOLHRs' relationship with HUD and how the state's laws are substantially equivalent to the Federal Fair Housing Law.

In addition, the North Dakota Department of Commerce has partnered with HPFHC. The Center assists people who believe they have experienced discrimination while attempting to rent or purchase housing, provides community education to promote fair housing, and conducts preliminary investigations of potential housing discrimination. HPFHC will conduct some testing throughout the state and where there are instances of discrimination. HPFHC will provide targeted training and follow up testing to ensure that there are no further instances of discrimination. Moreover, HPFHC will review policies and practices in the state of North Dakota to identify instances of discrimination particularly in the area of disparate impact-such as translation barriers.

The North Dakota Department of Commerce has also partnered with the Native American Development Center (NADC) to provide technical assistance for certifications in Financial Skills for Native Families, certification in Homeownership Counseling and training in Home Buyer Education.

The NADC, founded in 2012, is located in Bismarck, North Dakota. The NADC is a Native American led nonprofit corporation that provides education and support services to the largest urban diversified Native American population within our state.

They work towards helping families obtain economic security. The NADC works with other existing service organizations to meet the needs of persons and families. They intentionally integrate our culture with economic advancement opportunities. They offer our community the access to a cultural diversity platform. NADC's mission is to strengthen and advance Native American individuals and families by providing supportive services and resources designed to preserve culture and promote economic security.

C. BARRIERS TO AFFORDABLE HOUSING

The 2014 Housing and Community Development Survey included a question about barriers to affordable housing. Table IV.1 shows the responses received. The top responses included the cost of land, cost of labor, lack of qualified contractors or builders and cost of materials.

The regional public input meetings also had comments that related to the barriers to affordable housing in various parts of the state. Some of the comments are as follows:

- High cost of land
- Conservative lending practices
- Lack of qualified affordable housing developers
- High price of land
- High construction costs
- Lack of incentives to build affordable units

The State of North Dakota will take the following actions to remove barriers to affordable housing:

The assessed barriers are primarily local issues over which the state has little or no authority. However, we do have a state building code and we will continue to promote its adoption and enforcement and continue to provide training support to local building officials through the North Dakota Building Officials Association. In addition, we will promote the use of CDBG and HOME funds for development whenever it becomes a potential.

Barrier	Number of Citations
Cost of Land or Lot	36
Cost of Labor	35
Lack of Qualified Contractors or Builders	30
Cost of Materials	30
Lack of Affordable Housing Development Policies	29
Not In My Back Yard (NIMBY) Mentality	25
Lack of Available Land	22
Lack of Other Infrastructure	18
Lack of Sewer System	12
Lack of Water System	10
Construction Fees	10
Density or Other Zoning Requirements	9
Building Codes	7
Permitting Fees	6
Impact Fees	5
Permitting Process	4
Lot Size	4
Lack of Water	2
ADA Codes	2
Other Barriers	9

D. LEAD-BASED PAINT HAZARDS

Housing units built before 1940 are most likely to contain lead-based paint.

Units built between 1940 and 1978 have a lesser risk (lead was removed from household paint after 1978), although many older units may have few if any problems depending on construction methods, renovation and other factors.

Table IV.2 presents data regarding the vintage of households, broken down by presence of children age 6 and under and income. There were 33,683 units built prior to 1940, of which some 4,128 had children present under the age of 6. In addition, there were 91,410 households in units built between 1940 and 1979, with 12,795 households containing children under the age of 6.

Table IV.2			
Vintage of Households by Income and Presence of Young Children			
Non-Entitlement Areas of North Dakota			
2007–2011 HUD CHAS Data			
Income	One or More Children Age 6 or Younger	No Children Age 6 or Younger	Total
Built 1939 or Earlier			
30% HAMFI or less	350	4,315	4,665
30.1-50% HAMFI	452	4,005	4,457
50.1-80% HAMFI	936	5,670	6,606
80.1%-100.0% HAMFI	775	3,640	4,415
100.1% HAMFI and above	1,615	11,925	13,540
Total	4,128	29,555	33,683
Built 1940 to 1979			
30% HAMFI or less	1,745	10,245	11,990
30.1-50% HAMFI	1,590	9,790	11,380
50.1-80% HAMFI	2,435	15,105	17,540
80.1%-100.0% HAMFI	1,720	8,650	10,370
100.1% HAMFI and above	5,305	34,825	40,130
Total	12,795	78,615	91,410
Built 1980 or Later			
30% HAMFI or less	795	4,655	5,450
30.1-50% HAMFI	955	4,755	5,710
50.1-80% HAMFI	1,510	7,375	8,885
80.1%-100.0% HAMFI	1,240	5,185	6,425
100.1% HAMFI and above	5,755	25,855	31,610
Total	10,255	47,825	58,080
Total			
30% HAMFI or less	2,890	19,215	22,105
30.1-50% HAMFI	2,997	18,550	21,547
50.1-80% HAMFI	4,881	28,150	33,031
80.1%-100.0% HAMFI	3,735	17,475	21,210
100.1% HAMFI and above	12,675	72,605	85,280
Total	27,178	155,995	183,173

Table IV.3 shows households at risk of lead-based paint by tenure and income. There were a total of 8,802 owner-occupied households with children aged 6 and younger at risk of lead-based paint exposure. There were an additional 3,997 renter-occupied households with children aged 6 or under at risk of exposure.

Table IV.3			
Households at Risk of Lead Based Paint by Tenure by Income			
Non-Entitlement Areas of North Dakota			
2007–2011 HUD CHAS Data			
Income	One or More Children Age 6 or Younger	No Children Age 6 or Younger	Total
Owner Occupied Households			
30% HAMFI or less	445	5,809	6,254
30.1-50% HAMFI	703	6,828	7,531
50.1-80% HAMFI	1,630	11,238	12,868
80.1% HAMFI or more	1,563	7,490	9,054
100.1% HAMFI and above	4,461	31,126	35,588
Total	8,802	62,492	71,294
Renter Occupied Households			
30% HAMFI or less	1,109	5,348	6,457
30.1-50% HAMFI	833	3,727	4,560
50.1-80% HAMFI	941	4,589	5,531
80.1% HAMFI or more	355	1,927	2,283
100.1% HAMFI and above	759	4,332	5,091
Total	3,997	19,924	23,921
Total			
30% HAMFI or less	1,554	11,157	12,711
30.1-50% HAMFI	1,536	10,555	12,091
50.1-80% HAMFI	2,571	15,828	18,399
80.1% HAMFI or more	1,919	9,418	11,336
100.1% HAMFI and above	5,220	35,458	40,678
Total	12,800	82,416	95,216

NORTH DAKOTA LEAD REMOVAL EFFORTS

In 2018, some 6,205 children in North Dakota were tested for blood lead levels. Table IV.4 shows the number of children that had elevated blood lead levels. There were 106 children that demonstrated some level of elevated blood lead levels in 2018. This accounted for 1.7 percent of the children tested.

During this program year we will continue working with the North Dakota State Health Department and the University of North Dakota to provide training for lead-based paint risk assessors. In addition, we expect to see more coordination with the CAAs to increase the amount of lead-based paint testing activities.

E. ANTI-POVERTY STRATEGY

In this section we are required to describe the state’s goals, programs, and policies for reducing the number of poverty level families, and how the state’s goals, programs, and policies for producing and preserving affordable housing will be coordinated with other programs and services for which the state is responsible, and the extent to which they will reduce the number of poverty level families, taking into consideration factors over which the state has control.

Lead Level	Number of Children
5-9.99 ug/dL	75
10-14 ug/dL	16
15-19 ug/dL	4
20-24 ug/dL	5
25-29 ug/dL	4
30+ ug/dL	2
Subtotal	106
Total Number of Children Tested	6,205

The primary tool at the state level for providing assistance to deal with poverty is the Community Services Block Grant (CSBG) program. This program provides funds to the state’s seven CAAs to ameliorate the causes and conditions of poverty. The funds provide a range of services and activities to assist the needs of low-income individuals, including the homeless, migrants, and the elderly. In North Dakota the funds are used to reduce poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient. This program is located in the North Dakota Department of Commerce, DCS, which provides an opportunity for almost daily interaction and coordination with the CDBG, HOME, and ESG programs.

The CAAs also play a key role in providing housing opportunities, most of which are included in the state’s affordable housing goals, through the implementation of the state’s HOME program. Their low-income clientele, most of whom live in poverty, are the primary beneficiaries of HOME funds for obtaining housing as owners or renters. Families are also provided assistance in weatherizing their homes through the Weatherization program, which is a program within the DCS, and is often used in conjunction with HOME and CDBG funds that are used for housing rehabilitation. As noted in the affordable housing goals, some Regional Councils are partnering with CAAs to deal with lead-based paint issues, and these are targeted to assist extremely low-income households. Homeless people also benefit through the CAAs through enrollment in the state’s Self-Sufficiency Program.

The primary focus for the use of CDBG funds in addressing poverty, besides an emphasis on rehabilitating homes owned and rented by extremely low-income households, will continue to be through the creation of jobs. This is consistent with the short-term non-housing objectives established within each region for providing funds for economic development projects. The ESG program provides emergency shelter for many persons and families living in poverty; and the Shelter Plus Care program provides these people with transitional and permanent housing opportunities through the CoC.

The institutional structure and programs, along with close coordination between implementing agencies, are all in place, and many families and individuals have benefited. However, there is no way to demonstrate or predict just how these programs and services will reduce the number of people living in poverty. Since the state's affordable housing goals, the goals of the ESG and CDBG programs, emphasize targeting extremely low-income families, most of whom live in poverty. Because of the primary focus of the CSBG program in providing services to people living in poverty, we believe that no additional goals are needed to specifically target poverty level families.

2019 Actions to reduce the number of poverty-level families

The primary activities will be to create jobs with CDBG funds, encourage referrals of low-income persons and families to the Self-Reliance program (although no data can be obtained showing referrals because of confidentiality), and, as reflected in our affordable housing goals, to target HOME and CDBG funds to low-income households.

F. ANTI-DISPLACEMENT AND RELOCATION PLAN

The State of North Dakota will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

V. ONE YEAR ACTION PLAN

The following narrative describes the activities that the State of North Dakota will undertake for each of the formula grant programs to which it receives funding: the CDBG, HOME, ESG, and NHTF programs.

METHOD OF DISTRIBUTION

To distribute the CDBG funds, the state provides an allocation of funds to each of the state's eight Regional Planning Councils to recommend grant awards on a competitive basis. Each Regional Council is responsible for developing a program distribution statement describing how it will award funds. The state's role is to provide overall direction for the CDBG program and to review each project for compliance with the state CDBG Program Distribution Statement and the respective regional program statement. In addition, a set-aside is available for the Governor to fund economic development projects, new housing and emergency projects addressing health and safety concerns in coordination with the Regional Councils. For the HOME program, funds will be allocated to each of the state's seven CAAs, two CHDOs, two housing authorities (HA), and the cities of Bismarck and Grand Forks. Funds from the ESG and NHTF programs will be distributed on a competitive basis to eligible applicants. More detailed information for accessing and awarding funds under these three programs may be found on the DCS web site.

The criteria for approving projects under the CDBG program for each region are based directly on the state's affordable housing goals and long-term non-housing community development objectives, emphasizing all needs identified as a high priority and primary benefit to households of 0 to 51 percent MFI. The HOME program is designed to achieve the affordable housing goals identified in the Strategic Plan, and the ESG program is focused on broadening existing emergency shelter and homelessness prevention activities, emphasizing rapid rehousing and helping people quickly gain stability in permanent housing after experiencing a housing crisis and or homelessness.

The following provides an overview description of each program:

A. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

The purpose of the CDBG Program Distribution Statement is to describe how the State of North Dakota intends to distribute its CDBG Public Facilities, Housing and Economic Development funds.

To better address local community development needs, the Governor has directed that the state's allocation be divided among each of the eight Regional Planning Councils that have established procedures to review and rank applications submitted within their respective regions.

Program Goals and Objectives

- Creation of permanent jobs for very low and low-income persons
- Economic diversification
- Leveraging of private and local investment

V. One-Year Action Plan

- Benefit to the state's economy
- Water and sewer activities which currently present a threat to health and safety
- Removal of architectural barriers which will permit access for the handicapped
- Direct benefit to a locality's very low and low-income persons
- Leveraging local and other available financial resources to finance the cost of the activity
- Meeting the health and safety needs of very low-income persons by bringing the rehabilitated housing up to a minimum of the Section 8 Housing Quality Standards
- Making more affordable housing available for very low and low-income persons

Eligible Applicants

Eligible applicants under the North Dakota CDBG program are limited to counties and incorporated cities.

Allocation of Funds

FY2019 Allocation	\$3,955,356
Less State Administration	\$118,211
Less Regional Council Contracts	\$60,896
Less 1% Technical Assistance	\$39,554
Total Allocation Available for Projects	\$3,736,695
Less Governor's Set Aside for Community Development*	\$1,661,250
Total Allocation Available for Regional Distribution	\$2,075,445
Plus Projected Program Income**	\$1,000,000
Funds Available for Distribution	\$3,075,445
*Any loans made with the Governor's Fund will revolve back into the Governor's Loan fund.	
** All CDLF projects will be funded with CDLF Program income prior to CDBG allocation funds.	

Governor's Fund for Community Development

The Governor's Fund for Community Development primary focus will be to fund primary sector economic development projects. However, other eligible CDBG projects may also be funded, including those that will alleviate an immediate health and safety condition in the community. The Governor's Fund may be used for permanent supportive housing to address long term homelessness. Housing projects funded with the Governor's Fund will be based on increased housing needs due to economic development activities.

Section 108 Loan Guarantee Program

The state will not use CDBG funds to access the Section 108 Loan Guarantee program.

Regional Allocations

Table V.1 represents the regional CDBG allocations for 2019.

Table V.1 2019 CDBG Allocation Based on the American Community Survey 5-Year 2011-2015 Low and Moderate Income Summary Data					
Region	Total LMI Persons	Percent LMI Persons	LMI Allocation	50% Base Allocation	Total Allocation
1	13,577	7%	76,999	129,715	206,714
2	35,191	19%	199,658	129,715	329,373
3	22,959	13%	130,234	129,715	259,949
4	13,276	7%	75,443	129,715	205,158
5	27,286	15%	154,829	129,715	284,544
6	23,558	13%	133,659	129,715	263,374
7	31,644	17%	179,526	129,715	309,241
8	15,390	8%	87,377	129,715	217,092
Total	182,881	100.00%	1,037,725	1,037,720	2,075,445

Each region will decide how to allocate funds they have been appropriated. Each Regional Planning Council will recommend projects to be funded for 2019. Application criteria for each region and links to each region’s priorities will be available on North Dakota Department of Commerce’s website.

B. HOME INVESTMENT PARTNERSHIP PROGRAM

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 FY 2019 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
- Security and Utility Deposit Assistance
- Acquisition, New Construction, Site Improvements, or Demolition Linked to a Project
- Administrative Costs
- Homebuyer Assistance

TIMELY PRODUCTION AND OCCUPANCY OF ASSISTED HOUSING

The 2013 Final Rule revised a number of commitment and completion deadlines and imposed new occupancy deadlines:

- **HOME projects must be completed within 4 (four) years of commitment.** Any project that is not completed in a timely manner will be terminated and PJs will be required to repay HOME funds drawn. [*§92.205(e)(2)*]
- **HOME-assisted rental units must be occupied by income-eligible households within 18 months of project completion.** If not, PJs must repay HOME funds for the vacant units. (Note: for units that remain vacant for six months following completion, the PJ must identify and develop an enhanced marketing plan and report this information to HUD). [*§92.252*]
- **A homebuyer unit must have a ratified sales contract within nine months of construction completion.** The PJ, State recipients and subrecipients must either convert the unit to a HOME rental property or repay the full HOME investment. [*§92.254(a)(3)*]
- The Consolidated Appropriations Act of 2019 temporarily suspended the Community Development Housing Organization (CHDO) 24-month commitment requirement for set-aside funds to specific projects. The suspension applies to 2018-2021 CHDO funds. This appropriation act also continues the temporary suspension of the regular HOME funds 24-month commitment requirement to specific projects for 2016-2021 funds. Both commitment requirements are suspended through December 31, 2021. The PJ can no longer “reserve” CHDO funds for future projects identified at a later date. [*§92.2 Commitment, §92.300(a)(1)*]

- Since FY 2015 appropriations, HOME funds have a period of 9 (nine) fiscal years until expiration. This period is based on 4 (four) fiscal years during which HUD may obligate funds to the PJ (i.e. period of availability in the appropriation act) plus 5 (five) years. This nine-year period begins when the PJ receives its formula allocation. *[\$92.500(d)(1)(A) and (C), and §92.500(d)(2)]*

DISTRIBUTION PLAN

The state will administer its program through State recipients, subrecipients, non-profits, and CHDOs. The HOME Program will be allocated to State recipients and subrecipients through a non-competitive set-aside. The non-profit and CHDO category will be competitive and receives awards based on scoring criteria. If CHDO funds remain, a second round of applications will be accepted from CHDOs only.

Applicants new to the HOME Program are required to partner with an experienced developer, sponsor, or consultant (i.e., someone with completed projects and operating successfully).

A CHDO must have a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization and have demonstrated capacity for carrying out housing projects assisted with HOME funds. *[\$92.2]*

The state may reallocate funds based on high demand, a natural disaster, or other determinations where performance-based measures have not been met.

State program income, repayments, and recaptured funds received by DCS will be allocated, at our discretion, for any project or activity, in the proceeding program year and committed before any HOME funds are drawn from the Treasury account, except for the funds in the Treasury account that are required to be reserved, in accordance with the HUD Interim Final Rule for the HOME program published 12/2/2016 and 24 CFR Part 92.503.

Under the state's multi-year environmental review, relocation is the only activity allowed in a designated floodplain. Grand Forks and Bismarck may complete their own environmental reviews and make their own floodplain determinations on a case-by-case basis.

HOME Goals and Eligible Activities

The HOME Program focuses on 4 (four) major housing needs:

1. Single-family Rehabilitation – CAAs;
2. Rental Production and Rehabilitation – CHDOs and Non-profits;
3. Security and Utility Deposit Assistance - HAs; and
4. Homebuyer Down Payment Assistance

Each of these housing needs is considered a high or medium priority need for the use of HOME funds. These needs are addressed and prioritized locally by set-asides, determined by the DCS, to their recipients and subrecipients. Each State recipient and subrecipient delivers the HOME Program in their region, city, or multiple regions. Each year, the state will review the needs and completed goals to determine if goals will be updated based on the new developments that create changing housing needs around the state.

HOME Performance Measures

The state collects performance data on the state's in-house HOME Program data collection system. Recipients and subrecipients are required to report performance data for all activities. Performance data reporting consists of entering one of three objectives for the program: 1) Create a Suitable Living Environment; 2) Provide Decent Affordable Housing; and 3) Create Economic Opportunities. In addition, the following appropriate outcomes are also required: Availability/Accessibility, and 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).

V. One-Year Action Plan

2019 Summary of Funding			
2019 HUD Award	\$3,005,732.00		
State Program Income	\$ 0.00		
Recaptured Funds	\$ 0.00		
Total 2019 Allocation	\$3,005,732.00		
Total Available for Project Set-Aside	\$2,705,158.80		
Total Available for Administration Set-Aside	\$ 300,573.20		
Recipients	Project	Administration	Operating
City of Bismarck	\$ 335,000.00	\$ 15,000.00	
City of Grand Forks	\$ 335,000.00	\$ 15,000.00	
Minot Community Action Partnership (Reg. II)	\$ 140,000.00	\$ 10,000.00	
Dakota Prairie Community Action Agency (Reg. III)	\$ 140,000.00	\$ 10,000.00	
Red River Valley Community Action (Reg. IV)	\$ 140,000.00	\$ 10,000.00	
Southeastern ND Community Action Agency (Reg. V)	\$ 140,000.00	\$ 10,000.00	
Community Action Region VI	\$ 0	\$ 0	
Bismarck Community Action Program (Reg. VII)	\$ 140,000.00	\$ 10,000.00	
Dickinson/Williston Community Action Partnership (Reg. I & VIII)	\$ 140,000.00	\$ 10,000.00	
Great Plains Housing Authority	\$ 30,000.00	\$ 3,000.00	
Cass County Housing Authority	\$ 30,000.00	\$ 3,000.00	
Open Funds	\$ 684,299.00	\$ 5,000.00	
Nonprofit and CHDO(s) (minimum of 15% of 2019 award to CHDO(s))	\$ 450,859.80		\$ 0.00
State Administration		\$199,573.20	
TOTAL	\$2,705,158.80	\$300,573.20	\$ 0.00

SECTION I

State Recipients and Subrecipients

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. All estimated match must be reported at project application and finalized before final draw.

Only HOME assistance forms listed in Part 92.205(b) will be allowed. Applicants should use private funds, tax credits, Rural Development, Federal Home Loan Bank, Community Development Block Grant, North Dakota Housing Incentive Fund, Department of Energy, Housing Trust Fund, or other grant/loan programs to help leverage HOME activities.

Additional match sources not identified by close-out in IDIS must be reported throughout the period of affordability. **Match source data is required upon request from DCS or no later than July 15th of each year.**

State Recipient Set-Aside

HOME funds will be reserved for two communities, Bismarck and Grand Forks, which are CDBG entitlement cities, but not HOME PJs. This program component is non-competitive. Each city will be eligible to apply for a predetermined amount of funding based upon 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 their annual HOME plan by August 1, 2019.** This plan will reserve their set-aside funds and establish their performance goals for 2019. 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 completed and received by December 2, 2019.** Please note that no funds may be committed, or construction or other choice-limiting activities may begin until this process is fully completed and DCS has issued the notification of release of funds, as required by §58.22.

Subrecipient Set-Aside

HOME funds will be set aside for the two housing authorities and seven community action agencies. These funds will be utilized to complete activities in their jurisdiction that are consistent with the State's Consolidated Plan and identified as priorities for their areas. **The completed HOME Application Plan must be submitted to DCS no later than August 1, 2019.**

Subrecipient Definition

A subrecipient is defined as a public agency or non-profit organization selected by the PJ to administer all or some of the PJ's HOME programs to produce affordable housing, provide homeowner rehabilitation, or provide TBRA. A public agency or non-profit organization that receives HOME funds solely as a developer or owner of a housing project is not a subrecipient. The PJ's selection of a subrecipient is not subject to the procurement procedures and requirements.

Housing Authorities (HA)

The Great Plains Housing Authority and Cass County Housing Authority will receive a set-aside to complete a **security and utility deposit program**, which is determined as a priority. These HOME dollars will be used for 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 (**specifically at or below 60 percent adjusted gross income – HOME Income Limits – up to 80 percent upon approval by DCS on a case-by-case basis**) in securing a more affordable rental unit. Funds will be used only for security and utility deposits. Utility deposits may only be provided in combination with security deposit assistance.

Recipients must develop written guidelines that meet program requirements and comply with 24 CFR Part 92.209, and includes the following:

- a. The criteria used to determine applicant eligibility based on income as defined by Part 5/Section 8 annual income;
- b. The security or utility deposit may not exceed the equivalent of one month's rent for the housing unit;
- c. Tenant selections must comply with 92.209(c);
- d. Only the prospective tenant may apply for HOME security deposit assistance, which must be paid directly to the landlord. If a utility deposit is provided in combination with the security deposit, it must be paid directly to the utility provider;

V. One-Year Action Plan

- e. Rental units must be inspected for Section 8 Housing Quality Standards (HQS) (or other standards set by HUD) set forth in 24 CFR 982.401, only at the time the security deposit assistance is provided;
- f. The lease must comply with the requirements of the lease, prohibited lease terms and termination of section 92.253(a)(b)(c);
- g. The agency must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units;
- h. The assistance may be in the form of a grant;
- i. Utility deposit assistance can only be provided for electric, gas, water and trash, and must be combined with a security deposit; and
- j. The recipient may require the family to use the assistance within their geographic boundaries or may permit the family to use the assistance outside its boundaries.

Community Action Agency (CAA) Set-Aside

CAA can no longer transfer funds from one activity to another (e.g., rehab funds to multi-family project). Funds not used for originally approved purpose must be returned to DCS. Eligible activities can include all necessary **rehabilitation** required to bring an existing owner-occupied home up to the HOME property standards as defined in 92.251(b) and the North Dakota State Building Code (or locally amended North Dakota State Building Code). 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) as defined by HUD. Each homeowner will be required to sign a Housing Rehabilitation Program Homeowner Agreement that is determined on the amount of funds provided to the homeowner. In addition, all homeowners must sign the Community Action Agency's policy stating the Community Action Agency's right to walk away from a project. Homeowners must also sign a restrictive land use covenant prior to work beginning or a final LURA at project completion.

Please note that no choice limiting actions may be taken and no construction activities may begin until the Site Specific Checklist has been completed, and the DCS has issued the Release of Funds.

The period of affordability is as follows:

HOME Assistance Per Unit	Minimum Period of Affordability
Less than \$15,000	5 yrs.
\$15,000 - \$40,000	10 yrs.
More than \$40,000	15 yrs.
New Construction Rental	20 yrs.

The terms of the agreement for repayment may allow for a pro-rata reduction of the recapture amount in monthly increments. Below is an example of a five-year plan:

Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture	Month	Recapture	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). The HRG must be submitted with their application and contain the following:

- a. The criteria used to determine applicant eligibility based on income as defined by either Part5/Section 8 annual income or adjusted gross income as defined for reporting on IRS Form 1040, assets, ownership, occupancy, and location. Any priorities which are used to select households for assistance (e.g., households with income less than 50 percent of median annual income) along with how the income information will be verified;
- b. The types of property or properties eligible for assistance (e.g., single-family unit, condominium unit, mobile home/manufactured home [permanent foundation on private lot], and cooperative unit);
- c. Provide a description of any type of homeowner contribution required (cash, labor, or materials);

- d. A description of how you will inspect for HOME property standards as defined in 92.251(b). Assurance that all work complies with the North Dakota State Building Code (or a locally amended North Dakota State Building Code). Also include how your agency will assure that newly constructed housing meets the current edition of the Model Energy Code, Uniform Building Code, and Uniform Mechanical Code;
- e. Define how you will meet lead-based paint regulations of section §92.355 and 24 CFR Part 35;
- f. Describe the minimum and maximum amount of assistance allowed along with the terms of the assistance. Indicate what will happen if a house cannot be brought up to HOME property 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. Specify the form of financial assistance in which HOME funds are provided (e.g. grant or deferred-payment loan);
- i. Address special requirements for reconstruction or rehabilitation of manufactured housing units as set forth in section §92.251(e);
- j. Describe the process for written construction documents and cost estimates as required by 92.251(b)(2), contractor selection to ensure cost reasonableness, and inspections and approvals of work as required by 92.251(b)(3);
- k. Define the staff, owner, and contractor roles and responsibilities. Include a grievance procedure for applicants and disputes between an owner and a contractor;
- l. Provide a statement that outlines your conflict of interest policy in Section II, HOME Statement of Assurances; and
- m. Describe the homeowner counseling services that are available to each client.

Recapture Requirements for Homebuyer Downpayment Assistance

DCS expects that all homebuyer assistance will include direct assistance to the homebuyer. Therefore, a recapture provision will be used. In the event circumstances arise where there is no direct subsidy to the homebuyer and HOME funds are used for a development subsidy only, a resale provision will be used.

In order to ensure the period of affordability, any of the entities who have elected to provide homebuyer assistance are required to specify their recapture provisions. The recapture provisions will be included in their written agreement with the DCS.

Required Recapture Provisions

Recapture provisions must ensure that the PJ recoups all or a portion of the HOME assistance to the homebuyers if the housing is no longer the principal residence of the family during the period of affordability (see Period of Affordability Table). The HOME investment 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 (direct subsidy) but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The direct subsidy may include down payment assistance, closing costs, or any other HOME assistance provided directly or indirectly to the homebuyer to enable the homebuyer to purchase the home. The period of affordability is based upon the total amount of initial HOME funds subject to recapture.

The recapture provisions must be assured so that the unit remains affordable through deed restrictions, covenants attached to the land, mortgages, or other similar mechanisms. The State recipient or subrecipient will specify which enforcement mechanism it will use. In addition, DCS and the State recipient or subrecipient will execute an agreement with each homebuyer to specify the affordability requirements to enable DCS to retain the authority to enforce them.

- The entity will follow the recapture option in 24 CFR 92.254(a)(5)(ii)(A)(2) which allows for recapturing a reduced amount during the affordability period. The entity will require the minimum affordability period based on the amount of the direct home subsidy. Beginning in year one, the recapturable amount of the HOME investment will be reduced on a pro-rata basis, as long as the homeowner continues to own and occupy the unit. (For instance, if the affordability period is ten years and the owner occupies the unit for six years, then 6/10ths (60%) of the recapture amount will be forgiven, and 40% of the direct home subsidy amount will be recaptured.)
- If the net proceeds (sale 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 the amount of the homeowner's investment (the amount of their down payment), the HOME recapture amount will be set as follows:

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

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

Principal Residency

The initial buyer must reside in the home as his/her principal residence for the duration of the period of affordability.

Triggering Recapture

If, during the period of affordability, an owner voluntarily or involuntarily transfers his/her property (e.g., through sale or foreclosure), the RECAPTURE provisions will go into effect.

Direct HOME Subsidy/Amount Subject to Recapture

The amount subject to recapture is the direct HOME subsidy. The direct HOME subsidy is the total amount of HOME assistance that enables the buyer to purchase the unit. This amount includes assistance for: downpayment, closing costs, and the amount reducing the purchase price from fair market value to an affordable price. The State recipient or subrecipient can adopt any of the methods for recapture that are outlined in the HOME regulations:

- Recapture of the entire direct HOME subsidy;
- Reduction during the affordability period;
- The owner investment is returned first; and
- Shared net proceeds.

The State recipient or subrecipient may also adopt recapture provisions that differ from the model provisions in the HOME regulations. The particular recapture provision adopted (whether one of the models or an alternate approach) requires specific approval by DCS and HUD.

DCS can never recapture more than the amount of available net proceeds upon sale. Net proceeds is defined as the sale price of the home minus the superior loan repayment (not including HOME loans) and any closing costs.

Period of Affordability

The recapture provisions are in effect for a period of affordability. This period is based on the amount of direct HOME subsidy to the buyer, as follows:

HOME Assistance to the Buyer	Minimum Period of Affordability
Less than \$15,000	5 yrs.
\$15,000 - \$40,000	10 yrs.
More than \$40,000	15 yrs.
New Construction Rental	20 yrs.

Compliance

During grant monitoring of the HOME Program subrecipients, the State will review the deed restrictions, covenants attached to the land, mortgages, or other similar mechanisms placed on the HOME-assisted property to ensure the provisions being used are in accordance with those stated in the written agreement with the subrecipient.

During the affordability period, the State recipients/subrecipients must complete an annual compliance check to ensure that the initial homebuyer still resides in the property as his/her principal residence. The most current utility statement, proof of paid taxes, and homeowner's insurance are acceptable documentation.

Noncompliance

During the affordability period, noncompliance occurs when an owner (1) vacates the unit or rents the unit to another household, (2) sells the home without DCS receiving recaptured funds due at time of sale.

In the event of noncompliance, the owner is subject to repay all HOME funds invested in the housing. This amount is based on HOME funds invested and includes both development funds and direct subsidy to the buyer minus any principal HOME loan repayments. Please note the repayment amount is not subject to any reductions that might be otherwise applicable under a recapture provision (such as forgiveness for the term of occupancy or repayment to owner first).

Use of Recaptured Funds

The recaptured funds must be used to carry out HOME-eligible activities or returned to DCS if the program is not active.

Resale

The following entity intends to provide assistance to homebuyers via a Community Land Trust and will use the following resale provisions:

- **The Grand Forks Community Land Trust (CLT): Resale Provision**

- The entity will follow the resale option in 24 CFR 92.254 (a) (5) (i) (A) if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. The housing will be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence. The resale requirement will ensure that the price at resale provides the original HOME-assisted owner a fair return on investment (including the homeowner's investment and any capital improvement) and ensure that the housing will remain affordable to low-income homebuyers whose income does not exceed eighty percent (80%) of the area median income for that area.
- Upon receiving a Notice of Intent to Sell from the homeowner, the Grand Forks Community Land Trust shall commission an appraisal to be performed by a licensed appraiser who is acceptable to the homeowner. The appraisal shall be conducted by analysis and comparison of comparable properties as though the title to the land and home were held in fee simple absolute by a single party, disregarding all of the restrictions of the GF CLT Ground Lease on the use, occupancy and transfer of the property.
- The CLT shall have the option to purchase the home at the Purchase Option Price calculated below. The Purchase Option is designed to further the purpose of preserving the affordability of the home for succeeding HOME-eligible low-income persons while taking fair account of the investment by the homeowner. If the CLT elects to purchase the home, it shall exercise the purchase option by either proceeding to purchase the home directly or assigning the Purchase Option to a HOME-eligible low-income person. If the purchase (by CLT or CLT's assignee) is not completed within 120 days as stated in the executed GF CLT Ground Lease, the homeowner may sell the home and homeowner's rights to the leased land for a price no greater than the then applicable Purchase Option Price, to any party if that party is a HOME-eligible low-income person. If the CLT does not exercise its option and complete the purchase of the homeowner's property as described above, and if the homeowner (a) is not then residing in the home and (b) continues to hold the homeowner's property out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one year of the date of the Notice of Intent to Sell, the CLT may appoint its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purpose of the GF CLT Ground Lease, sell the property, and pay to the homeowner the proceeds of the sale, minus the CLT's costs of sale and any other sums owed to the CLT by the homeowner.

- PURCHASE OPTION PRICE EQUALS LESSER OF APPRAISED VALUE OF HOMEOWNER'S OWNERSHIP INTEREST OR FORMULA PRICE: In no event may the home be sold for a price that exceeds the Purchase Option Price. The Purchase Option Price shall be the lesser of (a) the appraised value of Homeowner's Ownership Interest at resale as calculated in line "d" of below or (b) the Formula Price calculated below.
- HOW THE FORMULA PRICE IS CALCULATED: The Formula Price shall be equal to (A) the amount of Homeowner's Base Price (as stated below), plus (B) forty percent (40%) of any increase in the appraised value of Homeowner's Ownership Interest (as calculated below).
 - a. Homeowner's Base Price: The parties agree that the price paid by the homeowner upon the execution of the GF CLT Ground Lease (Homeowner's Base Price) is \$PRICE. (Homeowner's Base Price equals the Homeowner's Ownership Interest at time of purchase.)
 - b. Initial Appraised Value of Home and Leased Land: The parties agree that the total appraised value of home and leased land at the time of homeowner's purchase (the Initial Appraised Value) is \$FEE SIMPLE APPRAISAL as documented by the appraiser's report.
 - c. Ratio of Homeowner's Base Price to Initial Appraised Value. The parties agree that the Ratio of Homeowner's Base Price to Initial Appraised Value, expressed as a percentage, is PERCENT%.
 - d. Appraised Value of Homeowner's Ownership Interest at Resale. The appraised value of Homeowner's Ownership Interest at time of resale equals the appraised value of Home and Leased Land at resale, as determined in accordance with the GF CLT Ground Lease, multiplied by the Ratio of Homeowner's Base Price to Initial Appraised Value (PERCENT%) as calculated in line "c" above.
 - e. Increase in Appraised Value of Homeowner's Ownership Interest: The increase in appraised value of Homeowner's Ownership Interest equals the appraised value of Homeowner's Ownership Interest at resale determined in accordance with paragraph "d" above minus the Homeowner's Base Price stated in line "a" above.
 - f. Homeowner's share of Increase in Appraised Value of Homeowner's Ownership Interest: Homeowner's share of the increase in the appraised value of the Homeowner's Ownership Interest equals forty percent (40%) of the increase in the appraised value of Homeowner's Ownership Interest as calculated in line "e" above.

- g. Formula Price: The Formula Price equals the Homeowner's Base Price (line "a") plus Homeowner's share of Increase in the appraised value of the Homeowner's Ownership Interest (line "f").
- The CLT shall issue a new ground lease to any person who purchases the home in accordance with the terms above. The terms of such lease shall be the same as those of new leases issued to HOME-eligible low-income homebuyers at that time for land not previously leased by the CLT.

Administration

The State (as the PJ), State recipients, and subrecipients are allowed to receive HOME money for administrative expenses. These costs may not exceed ten percent of the entire HOME allocation for North Dakota.

Open Funds

Unobligated performance funds may be reallocated to other state and subrecipient(s) that can demonstrate all years including 2019 allocation is fully committed, have an unmet need, ready to proceed and have capacity to spend the funds in a timely manner may request the unobligated performance funds.

CHDO/Non-profit

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) are allowed. Applicants should use private funds, tax credits, Rural Development, Federal Home Loan Bank, CDBG, North Dakota Housing Incentive Fund, Department of Energy, Housing Trust Fund or other grant/loan programs to help leverage HOME activities.

Submission of the CHDO and Non-profit Application(s) are due by September 30, 2019.

The application process for CHDOs/Non-profits will be a competitive process. If CHDO funds remain, a second round of applications will be accepted from CHDOs only. If Non-profit funds are available, Non-profit agencies that have expended and drawn down 75% of their 2019 grant award and can provide documented additional needs for their service region, may be eligible for additional Non-profit funds. **Non-profit agencies may request additional funds via a Request for Amendment to their existing grant, after January 1, 2020.**

If CHDO funds are available, a second round of applications will open January 6, 2020. This second round of CHDO applications are due to DCS February 14, 2020. Application can be found at:

<http://www.communityservices.nd.gov/uploads/9/HOMERentalApplicationwithProformawithDCR.xls>

Project underwriting standards can be found at:

<http://www.communityservices.nd.gov/uploads/9/HomeUnderwriting.pdf>

Please note that no choice limiting actions may be taken and no construction activities may begin until a completed financial award has been signed, and the DCS has issued the Notification of Release of Funds.

The HOME rental production and rehabilitation application must be submitted with attachments that include the following:

- a. Compliance with Section II HOME Statement of Assurances;
- b. Supporting documentation for Section III Scoring Criteria;
- c. Address special requirements for new construction, reconstruction or rehabilitation and how you will inspect for HOME property standards as defined in 92.251(a)(b)(c)(f). Assurance that all work complies with the North Dakota State Building Code (or a locally amended North Dakota State Building Code). Also include how your agency will assure that newly constructed housing meets the current edition of the Model Energy Code, Uniform Building Code, and Uniform Mechanical Code;
- d. Describe how you will assure that no more than the necessary amounts of HOME Program funds are invested in the project (Layering) as set forth in section §92.250;
- e. Provide evidence of the amount and form of matching contribution as set forth in section §92.220;
- f. Describe the process for written construction documents and cost estimates, contractor selection to ensure cost reasonableness, and inspections and approvals of work as required by 92.251; and
- g. The criteria used to determine that the HOME-assisted units are occupied by households that are eligible as low-income families and meet the requirements of 92.252 to qualify as affordable housing.

Owner

Rental housing is considered “owned” if the housing organization is the owner in fee simple absolute of multifamily, or single-family housing (or has a long-term ground lease) for rental to low-income families in accordance with §92.252. If the housing is to be rehabilitated or constructed, the housing organization must prove internal capacity, or hire and oversee the developer that rehabilitates or constructs the housing. At minimum, the housing organization must hire or contract with an experienced project manager to oversee all aspects of the development, including: 1) obtaining zoning, 2) securing non-HOME financing, 3) selecting a developer or

general contractor, 4) overseeing the progress of the work, and 5) determining reasonable costs. The housing organization must own the rental housing during development and for a period at least equal to the period of affordability in §92.252. If the housing organization acquires housing that meets the property standards in §92.251, the organization must own the rental housing for a period at least equal to the period of affordability in §92.252.

Developer

Rental housing is “developed” by a housing organization if: 1) the housing development organization is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and 2) the housing developer of new housing that will be constructed, or existing substandard housing that will be rehabilitated for rent to low-income families in accordance with §92.252. To be the “housing developer,” the housing organization must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers, and general contractors, overseeing progress of the work, and determining reasonable costs. At a minimum, the housing development organization must own the housing during development, and for a period at least equal to the period of affordability in §92.252.

Sponsor (CHDO only)

Rental housing is “sponsored” by a CHDO if the CHDO “developed” the rental housing project and agrees to convey details of the project to an identified, private nonprofit organization at a predetermined time after completion of the development of the project. Sponsored rental housing is subject to the following requirements:

- The private non-profit organization may not be created by a governmental entity;
- The HOME funds must be provided to the entity that owns the project;
- The HOME funds must be invested in the project that is owned by the CHDO;
- Before commitment of HOME funds, the CHDO sponsor must select the private non-profit organization that will obtain ownership of the property;
- The private non-profit organization assumes the CHDO’s HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development; and
- If the housing is not transferred to the private non-profit organization, the CHDO organization sponsor remains responsible for the HOME assistance and the HOME project.

Community Housing Development Organization (CHDO)

Eligible applicants include community-based non-profit 501(c)(3), 501(c)(4), or 905 (subordinate organization of a 501(c) organization) organizations with the mission statement that identifies decent, affordable housing to low and moderate-income persons. The DCS will certify non-profit organizations that meet defined criteria as CHDOs in the HOME Investment Partnerships Program Final Rule Subpart A, §92.2.

HUD requires that DCS set aside at least 15 percent of HOME annual allocation for CHDOs. In addition, these organizations must meet and satisfactorily demonstrate the prescribed requirements. DCS will be using the HUD guidance on CHDO qualifications. CHDO's are also eligible to participate in non-CHDO housing activities.

Up to ten percent of the CHDO set-aside may be used for pre-development loans to assist specific projects at the discretion of DCS. Per 92.301 these loans can be used for technical assistance and site control, and seed money loans. The CHDO must repay the loan to the PJ from construction loan proceeds or other project income, or the loan may be combined with the subsequent CHDO project funding. The PJ may waive repayment of the loan, in part or in whole, if there are impediments to project development that the PJ determines are reasonably beyond the control of the borrower. Pre-development loan repayments must be sent to the DCS. The repaid funds will be added to the next FY allocation.

CHDO Definition - A non-profit organization that:

- (1) Is organized under state or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A CHDO may be sponsored or created by a for-profit entity, but:
 - (i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm;
 - (ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
 - (iii) The CHDO must be free to contract for goods and services from vendors of its own choosing; and

- (iv) The officers and employees of the for-profit entity may not be officers or employees of the CHDO.
- (4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1)), is classified as a subordinate of a central organization non-profit under section 905 of the Internal Revenue Code of 1986, or if the private non-profit organization is a wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of “CHDO;”
- (5) Is not a governmental entity (including the PJ, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a CHDO; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a CHDO;
- (6) Has standards of financial accountability that conform to 24 CFR 84.21, “Standards for Financial Management Systems;”
- (7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
- (8) Maintains accountability to low-income community residents by:
 - (i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, “community” may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire state); and
 - (ii) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

- (9) Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience, who will work on projects assisted with HOME funds. For its first year of funding as a CHDO, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A non-profit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
- (10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least one year of serving the community.

Non-profits

Note: Non-profits are not required to be designated CHDOs to apply for DCS HOME Program funding, but funding for such projects will not be toward meeting the CHDO set-aside requirement.

Non-profits can participate in the HOME Program as owners or developers of multi-family housing. The non-profit must not be disqualified from any program administered by DCS or under debarment, proposed debarment or suspension by a federal agency.

The non-profit must be able to demonstrate technical expertise of staff and other project partners in housing production and management and meet the following criteria:

- The non-profit has successfully administered (this means following all the cross-cutting requirements, such as: Davis Bacon, Section 3, and Contract Compliance) at least one (1) HOME, CDBG, or NSP funded development of similar nature and scope;

or

- Has a proven track record in affordable housing development and project management for a minimum period of five (5) years prior to the application submission date; and
- Documented capacity to carry out the long-term rental compliance responsibilities associated with the development through the period of affordability.

Other Federal Requirements

- §92.350 Other Federal requirements and nondiscrimination.
- §92.351 Affirmative Marketing; minority outreach program.
- §92.352 Environmental review.
- §92.353 Displacement, relocation and acquisition.
- §92.354 Labor.
- §92.355 Lead-based paint.
- §92.356 Conflict of interest.
- §92.357 Executive Order 12372.
- §92.358 Consultant activities.
- §92.359 VAWA requirements.

For more information on Other Federal Requirements, please refer to the 2019 HOME Program Distribution Statement, Section II.

Scoring Criteria

Each application meeting the threshold requirements will be reviewed and assigned points according to the following selection criteria. **Applications must achieve a minimum score of 80 points to be considered for funding.** Scoring will be on entire project/units (not just HOME units). Only one application per project will be considered. Applicants may request no more than 70 percent of the hard construction costs. Income targeting for HOME requires at initial occupancy that not less than 90 percent of the units assisted with HOME funds be occupied by families at 60 percent and below area median income. If a project has five or more HOME units, 20 percent of those units must have low HOME rents for the period of affordability.

A. Income Targeting

Scoring for additional targeted units must have another program Land Use Restrictive Agreement (LURA) or DCS will restrict these units at the state level.

- 1) Serves Extremely Low-Income Households *0-15 points*

Up to 15 points will be awarded to properties with units both income and rent restricted for households at or below 30 percent of area median income. Elections made in this category must be incorporated into a LURA and will be binding, at a minimum, for the term of the HOME loan.

- 20% of total units income and rent restricted at or below 30% of AMI **15 points**
- 15% of total units income and rent restricted at or below 30% of AMI **10 points**
- 10% of total units income and rent restricted at or below 30% of AMI **5 points**

For purposes of applying the 30 percent rent restriction under this category, and exception for exceeding the 30 percent rent may be granted for Section 8 project-based rental assistance where it can be shown that additional rents are necessary to make the project feasible and that the rent will not exceed 30 percent of the tenant's income. This exception will not apply for Section 8 TBRA.

and/or

2) Serves Very-Low and Low-Income Households **0-15 points**

15 points will be awarded to properties with additional assisted units which are income restricted at or below the 80 percent area median income and rent restricted at or below 50 percent area median income level. Elections made in this category will be incorporated into the LURA and will be binding.

- 20% of total units are income restricted at or below 80% AMI and rent restricted at or below 50% AMI **15 points**
- 15% of total units are income restricted at or below 80% AMI and rent restricted at or below 50% AMI **10 points**
- 10% of total units are income restricted at or below 80% AMI and rent restricted at or below 50% AMI **5 points**

B. Addresses Housing Shortage in Developing Communities of 20,000 or Less **15 points**

15 points will be awarded to projects located in communities under 20,000 in population and that can demonstrate an unmet housing need or shortage. An unmet housing need or shortage can be substantiated per underwriting requirements. The population data will come from census.gov (2010).

C. Leveraging

Up to 25 points

DCS will award up to 25 points based on the amount of HOME funds requested per HOME unit:

<u>Points</u>	<u>HOME Funds per HOME Assisted Unit</u>
25	Less than \$70,000
15	\$70,000-\$99,999
5	\$100,000-\$120,000

D. Financial Support from Local Sources

0-25 points

Of the 25 percent required match, one point will be awarded for every percentage point of the match that comes from a local contribution, defined as:

Local governmental and community private contributions, including but not limited to cash, measurable in-kind services, or tax abatements, to reduce project costs or enhance feasibility.

E. Readiness to Proceed

0-25 points

Applicant must have provided a timeline for completion of the project. Points awarded in this category are based on earliest achievable completion of the activity. Such things as letters of commitment for both construction and permanent financing; ownership or option to purchase land; and availability of infrastructure will be considered in the award of points.

- Ownership or option to purchase land *5 points*
- Letters of commitment for other funding sources *5 points*
- Letters of commitment for permanent financing *5 points*
- Letters of commitment for construction *5 points*
- Availability of infrastructure *5 points*

F. Rehab of Existing Vacant Habitable Structures or Infill Opportunities

15 points

In accordance with the Main Street Initiative (<https://www.mainstreetnd.com>) in building healthy, vibrant communities, citizens gain both the benefits of using existing infrastructure and the opportunity to enhance our communities. Proposals involving the rehabilitation of existing structures that are at risk of becoming uninhabitable or obsolete because of age and deterioration, or proposals involving the concept of infill, in which we build mixed-use structures on empty lots between existing buildings, or build on under-utilized surface parking

lots, and further increase the efficient use of existing infrastructure, may receive up to 15 points.

G. Preservation *5 points*

Federally assisted properties, such as Rural Development 515 financed or those with project-based rental assistance, which are “at-risk” of being lost from the state’s affordable housing inventory, will receive 5 points.

H. Special Needs *5-15 points*

Projects with units targeted to special needs households, including those with physical disabilities, chronic or persistent mental illness, drug/chemical dependency, or frail elderly and can demonstrate appropriate construction design and the availability of appropriate supportive services will receive up to 15 points depending on the number of set-aside units.

- Projects with a minimum of 10 percent of the units set-aside for special needs households *5 points*
- Projects with 11 percent to 15 percent of the units set-aside for special needs households *10 points*
- Projects with more than 15 percent set-aside for special needs household *15 points*

I. Walkability *Up to 15 points*

In accordance with the Main Street Initiative (<https://www.mainstreetnd.com>) in building healthy, vibrant communities, a walkable city is a healthy city.

Walkable cities allow residents of any age to become more physically active and spend more time outdoors, thereby improving wellness and reducing health care costs. And across the country, the greater the walkability, the higher the real estate values. Two large demographic groups, millennials and retiring baby boomers, are seeking walkable neighborhoods where they can live, work, shop, learn and play.

Up to 15 points will be awarded based on the walk score assigned by www.walkscore.com.

- 80-100 point walk score *15 points*
- 60-79 point walk score *10 points*
- 40-59 point walk score *6 points*
- 20-39 point walk score *4 points*
- 10-19 point walk score *2 points*
- 0-9 point walk score *0 points*

J. Public Housing Notification

5 points

A proposal which provides a written commitment to notify local public housing agencies of vacancies and give priority to households on waiting lists of those agencies will receive 5 points.

K. Cross-Cutting Requirements

Up to 25 points will be deducted

Besides the rules and requirements specific to the HOME program, there are several additional broad Federal rules that must be adhered to in the course of administering the program. While the PJ is responsible for implementing these rules, owners, developers, CHDOs, and other non-profits must also be aware of them and actively ensure that a project or activity is in compliance. These other Federal requirements cover the following areas:

- 24 CFR 92.350 – Federal requirements set forth in 24 CFR part 5, subpart A: nondiscrimination and equal opportunity; disclosure requirements, debarred, suspended or ineligible contractors; drug-free work; and housing counseling
- 24 CFR 92.351 – Affirmative marketing; minority outreach program
- 24 CFR 92.352 – Environmental review
- 24 CFR 92.253 – Displacement, relocation and acquisition
- 24 CFR 92.354 – Labor
- 24 CFR 92.355 – Lead-based Paint
- 24 CFR 92.356 – Conflict of interest
- 24 CFR 92.357 – Executive order 12372
- 24 CFR 92.358 – Consultant activities
- 24 CFR 92.359 – VAWA requirements

and/or

DCS may deduct up to 25 points if the applicant has had substantial findings or unresolved issues related to other Federal funds from DCS including the cross-cutting requirements within the last four years.

RESOURCES

- Division of Community Services - HOME Program:
<https://www.communityservices.nd.gov/communitydevelopment/Programs/HOMEProgram/>
- HUD Exchange - HOME Investment Partnership Program:
<https://www.hudexchange.info/programs/home/>
- Electronic Code of Federal Regulations – Title 24, Subtitle A, Part 92:
<https://www.ecfr.gov/cgi-bin/text-idx?SID=38711658c0fa5ce50d3e43055d19756c&mc=true&node=pt24.1.92&rgn=div5>
- Suspension of the HOME Commitment and CHDO Reservation Deadline:
<https://www.hudexchange.info/news/suspension-of-the-home-commitment-and-chdo-reservation-deadline/>
- Notice CPD-18-10: Suspension of 24-month HOME Commitment Requirement:
<https://www.hudexchange.info/resource/5746/notice-cpd1810-suspension-of-24month-home-commitment-requirement-for-deadlines-occurring-in-2016-2017-2018-2019-and-2020/>
- Federal Registrar/Vol. 81, No. 232/December 2, 2016 - Changes to HOME Program Commitment Requirement Interim Final Rule:
<https://www.govinfo.gov/content/pkg/FR-2016-12-02/pdf/2016-28591.pdf>
- FY 2013 HOME Final Rule – Amendment of HOME Program Regulations:
<https://www.hudexchange.info/programs/home/home-final-rule/>
- Title II of the Cranston-Gonzalez National Affordable Housing Act:
<https://www.hudexchange.info/resource/2647/title-ii-of-the-cranston-gonzalez-national-affordable-housing-act/>

C. EMERGENCY SOLUTIONS GRANT PROGRAM

The state’s 2019 ESG allocation will be made available to eligible applicants and will be administered in accordance with the Interim (or Final) Rule regarding Homeless Emergency Assistance and Rapid Transition to Housing: ESG program and Consolidated Plan Conforming Amendments.

Allocation of Funds

FY2019 Federal Allocation	\$465,045
Less State Administration (7.5%)	\$ 34,878
FY2019 State Allocation	\$120,000
Total Allocation Available for Distribution	\$550,167
60% may be used for Street Outreach and Emergency Shelter	\$330,100
40% may be used for Homeless Prevention, Rapid Re-Housing and HMIS*	\$220,067

*Homeless Management Information System

The State of North Dakota’s method of distribution provides funding to engage homeless individuals and families living on the street (Street Outreach); improve the number and quality of emergency shelters for homeless individuals and families (Shelter Renovation); help operate these shelters through eligible activities such as maintenance, rent, repair, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies (Shelter Operations); provide essential services to shelter residents (Essential Services); rapid re-house homeless individuals and families (Rapid Re-Housing); and prevent families and individuals from becoming homeless (Homeless Prevention). Communities of 2,500 more populations will be targeted since those are the communities experiencing the greatest need to provide services and facilities for the assistance to the homeless and potentially homeless.

Eligible applicants for the ESG program are Units of Local Government, and private nonprofit organizations. Nonprofit entities located on Indian reservations are also eligible to receive funds.

DCS will review, score, and fund applications based on the ability to achieve the following state program objectives:

1. Need for the funding. (30)
2. Plan for distribution of the funds in an effective, efficient and timely manner. (15)
3. Collaboration efforts with other targeted homeless services and mainstream resources. (20)
4. Active participation in and providing services consistent with the needs identified by the North Dakota Continuum of Care, HMIS and Coordinated Assessment. (20)
5. The applicant’s plan to involve, to maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the grant, and in providing services for occupants of these facilities. Also included is how the Housing First model is used within the agency. (15)

V. One-Year Action Plan

To be eligible for funding, applications must receive a minimum subjective score of 75. All applications with a score of 75 or higher will receive funding based on the average recommended amounts by DCS's application reviewers.

The maximum amount of funds that will be made available to any one homeless facility or agency providing assistance to the homeless is \$50,000.

The state will continue to meet the ESG match requirements in the same manner as it has in past grant years. Each grant year, the state contributes \$120,000 in general funds to match the federal allocation. The remaining matching funds are provided by ESG sub-recipients.

Matching funds are used to enhance and expand eligible ESG components and sub-activities.

During the 2019 program year, any returned funds will be disbursed in a manner which will take into consideration the greatest areas of unfunded need among the remaining programs.

Applications will be requested for submission to the DCS by June 14, 2019.

D. NATIONAL HOUSING TRUST FUND

Appendix C illustrates the State's NHTF One Year Action Plan for 2019.

E. ALLOCATION PRIORITIES

The State of North Dakota and the Department of Commerce prioritize funds based on the priority needs established in this plan. A combination of factors, including the greatest needs, the availability of resources and the capacity of entities within the state help determine how the North Dakota Department of Commerce will fund activities during the program year.

Table B.1 in Appendix B shows the funding Allocation Priorities for 2019.

F. AFFORDABLE HOUSING

The North Dakota Department of Commerce will strive to meet the following goals for Affordable Housing during the 2019 Action Year.

One Year Goals for the Number of Households to be Supported:

Homeless:	450
Non-Homeless:	700

One Year Goals for the Number of Households Supported Through:

Rental Assistance:	1,000
The Production of New Units:	20
Rehab of Existing Units:	130
Acquisition of Existing Units:	0

G. COORDINATING WITH LOW-INCOME HOUSING TAX CREDITS

The NDHFA is responsible for implementing the Low-Income Housing Tax Credit (LIHTC) program. Developers looking to use the program must be able to document a particular housing need and demonstrate that the need is consistent with the Consolidated Plan. Each project is rated against specific criteria, eighteen of which are intended to assure a project is targeted to benefit low-income families.

H. HOMELESS STRATEGIC PLAN

There is one CoC in the State of North Dakota, the North Dakota Statewide CoC. The North Dakota Coalition for Homeless People (NDCHP) is a non-profit organization comprised of agencies that serve homeless populations. The NDCHP is the lead entity of the North Dakota CoC. Eight regional coalitions carry out the work of the statewide CoC at the local level. At least one representative from each regional coalition serves on the CoC Development Committee.

The point-in-time counts done by the North Dakota CoC provide a helpful estimation of the homeless population in the state. It was estimated that 1,089 persons were homeless in the state in 2017, as shown in Table V.2. This is compared to the 923 persons estimated to be homeless in the state in 2016, reflecting an increase in homelessness. The 2018 point-in-time counts are estimated to be complete by the end of April 2019.

Table V.2 Homeless Point in Time Count North Dakota Statewide CoC US Department of Housing and Urban Development									
Status	2009	2010	2011	2012	2013	2014	2015	2016	2017
Emergency Shelter	487	461	415	474	540	639	640	535	584
Transitional Housing	278	307	145	161	134	155	179	172	174
Total in Shelter	765	768	560	635	674	794	819	707	758
Unsheltered	8	31	43	53	1,395	464	486	216	331
Total Homeless	773	799	603	688	2,069	1,258	1,305	923	1,089

In 2017, some 69.6 percent of the counted homeless population was sheltered throughout the state. Some 76.6 percent of the homeless population was sheltered in 2016.

The point-in-time counts also gathered additional data on household type, veteran status, and subpopulation information for each homeless person counted. As seen in Table V.3, there were 77 persons in households with at least one adult and one child in the State of North Dakota during the 2017 count. Of these households, 46.75 percent were sheltered. There were an additional 11 households with only children. Some 70.6 percent of households without children were sheltered during the count.

Table V.3 Homeless Count 2017 North Dakota Statewide CoC US Department of Housing and Urban Development				
Household Type	Emergency Shelter	Transitional Housing	Unsheltered	Total
Households without Children	205	109	131	445
Persons in households without children	522	111	182	815
Households with at least one adult and one child	15	21	41	77
Persons in households with at least one adult and one child	51	57	149	257
Households with only children	10	5	0	15
Persons in households with only children	11	6	0	17
Total Homeless	584	174	331	1,089

Information about the various homeless subpopulations was collected during the 2017 count. Data was collected regarding the following six subpopulations:

- Chronically homeless
- Severely Mentally Ill
- Chronic Substance Abuse
- Veterans
- Persons with HIV/AIDS
- Victims of Domestic Violence

Table V.4 Homeless Subpopulations 2017 North Dakota Statewide CoC U.S. Department of Housing and Urban Development			
Homeless Attributes	Sheltered	Unsheltered	Total
Chronically Homeless Individuals	25	12	37
Chronically Homeless Persons in Families	0	8	8
Severely Mentally Ill	42	27	69
Chronic Substance Abuse	43	27	70
Veterans	58	16	74
HIV/AIDS	0	0	0
Victims of Domestic Violence	53	40	93
Persons not otherwise classified	537	201	738
Total Homeless Persons	758	331	1,089

Table V.4 shows the various subpopulations for the homeless within the state. The largest subpopulation group was those persons not otherwise classified, with 738 persons. The next largest subpopulation group was victims of domestic violence with 93 persons. There were 74 veterans counted in 2017, accounting for 7% of the total homeless population.

Goals for Reducing and Ending Homelessness

The State of North Dakota’s method of distribution provides funding to engage homeless individuals and families living on the street (Street Outreach); improve the number and quality of emergency shelters for homeless individuals and families (Shelter Renovation); help operate these shelters through eligible activities such as maintenance, rent, repair, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies (Shelter Operations); provide essential services to shelter residents (Essential Services); rapid re-house homeless individuals and families (Rapid Re-Housing); and prevent families and individuals from becoming homeless (Homeless Prevention). Communities of 2,500 more populations will be targeted since those are the communities experiencing the greatest need to provide services and facilities for the assistance to the homeless and potentially homeless.

I. FOSTERING AND MAINTAINING AFFORDABLE HOUSING

During the 2019 program year we will continue to promote targeting CDBG, NHTF, and HOME funds to households of zero to 30 percent of the Median Family Income (MFI), persons with disabilities, the elderly, and minorities, focusing primarily on housing rehabilitation and assistance in buying or renting affordable housing.

J. MONITORING AND AUDIT REQUIREMENTS

Monitoring will be the responsibility of the staff assigned to the CDBG, HOME, NHTF, and ESG programs and the organizations that partner with the DCS to implement these programs. This will primarily be accomplished through quarterly and final reports on each funded project. To assure long-term compliance with program requirements, staff will do on-site monitoring of files and each completed project using a systems review of the implementing organizations. Staff will also perform desk-top monitoring using drawdown requests, environmental review notices, Section 504 Self-evaluations, and the Integrated Disbursement Information System (IDIS).

APPENDIX A- CITIZEN PARTICIPATION PLAN

NORTH DAKOTA CITIZEN PARTICIPATION PLAN Consolidated Plan for Housing and Community Development

PURPOSE

In 1994, the HUD issued new rules consolidating the planning, application, reporting, and citizen participation processes of four formula grant programs: CDBG, HOME, ESG, NHTF and Housing Opportunities for Persons with AIDS (HOPWA). The new planning process was intended to more comprehensively fulfill three basic goals: to provide decent housing, to provide a suitable living environment and to expand economic opportunities.

The Consolidated Plan is actually a three-part planning process required by HUD. It comprises developing a five-year strategic plan, preparing annual action plans and submitting annual performance reports. These three parts are intended to furnish the framework whereby North Dakota can identify its housing, homeless, community, and economic development needs, identify resources that will be tapped and actions to be taken to address the needs, as well as look back and evaluate the state's progress toward achieving its strategic goals. Completing these documents on time and in a manner that is acceptable to HUD ensures program funding.

The precursor to the Consolidated Plan is the Citizen Participation Plan (CPP). The objectives of the CPP are to ensure that the citizens of North Dakota, particularly persons of low and moderate income, persons living in slum and blight areas, units of local government, housing agencies and other interested parties, are provided with the opportunity to participate in the planning and preparation of the Consolidated Plan, including amendments to the Consolidated Plan and the Annual Performance Report. In doing so, the CPP sets forth general policies and procedures for implementing and carrying out the consolidated planning process, such as how the Consolidated Plan will be developed, dates and milestones along which the process will proceed and methods for citizens to offer the state assistance and guidance in the formulation of the Plan.

Furthermore, the provisions of the CPP fulfill statutory and regulatory requirements for citizen participation specified in the HUD's rules for the Consolidated Plan, the HOME Program, the CDBG Program, the ESG Program, the NHTF Program, and the HOPWA Program. In North Dakota, the North Dakota Department of Commerce, DCS is the lead agency for developing, implementing, monitoring, and reporting on the achievements of the Consolidated Plan. The Division administers CDBG, ESG, HOME and new funding that may become available. HOPWA funds are administered by Tri-State HELP (Housing Environment for Living Positively).

The Consolidated Plan identifies the housing and community development needs of the State of North Dakota, and sets priorities for spending the HUD grant funds. Public comment is a vital component of identifying the state's housing and community development needs and spending priorities. The Consolidated Plan offers the opportunity for strategic statewide planning to occur alongside citizen participation.

COMMENT ON THE CITIZEN PARTICIPATION PLAN AND AMENDMENTS

North Dakota Department of Commerce will receive comments on the proposed Citizen Participation Plan during a 15 day comment period. In the event that there are substantial amendments to this Citizen Participation Plan, an additional comment period of at least 15 days will be allotted. This proposed Citizen Participation Plan (and, if necessary, the substantially amended Citizen Participation Plan) will be made available to the public before the 15 day comment period begins.

Individuals who require accommodations, including appropriate auxiliary aids, translated documents or interpreters to participate in a public hearing, or who would like to request a copy of the proposed Citizen Participation Plan, or another document, in an alternate format, should contact the Department of Commerce's Section 504 Coordinator, Shantel Dewald via email at dcs@nd.gov or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

ENCOURAGEMENT OF CITIZEN PARTICIPATION

The Consolidated Plan is designed to enumerate North Dakota's overall strategy for coordinating federal and other housing and community development resources to provide decent housing, establish and maintain a suitable living environment, and expand economic opportunities, particularly for low and moderate income persons.

Interested groups and individuals are encouraged to provide input into all aspects of North Dakota's consolidated planning activities, from assessing needs to setting priorities through performance evaluation. By following the CPP, there will be numerous opportunities for citizens to contribute information, ideas and opinions about ways to improve our neighborhoods, promote housing affordability and enhance the delivery of public services to local residents.

Affirmative efforts to encourage and solicit participation from the state's residents and populations least likely to have awareness of HUD-funded programs and processes including low-income residents, individuals with disabilities, racial and ethnic minorities, and female-headed households shall include:

1. Advertising the details of the CPP (e.g. documents for public review, meetings, opportunities to provide feedback and comment) in the State's daily newspapers, and those daily or non-daily publications on or near the Turtle Mountain Band of Chippewa, Spirit Lake Sioux, Standing Rock Sioux, Wahpeton Sisseton Sioux, the Three Affiliated Tribes reservations and Trenton Indian Health Service Area located West of Williston, North Dakota;
2. Sending notice of the CPP (e.g. documents for public review, meetings, opportunities to provide feedback and comment) with advocacy groups, non-profit and for-profit organizations, and state and community agencies that provide services to or advocate for low-income individuals, individuals with disabilities, racial and ethnic minorities, and female-headed households; and
3. Posting Notifications on the DCS website.

LIMITED ENGLISH PROFICIENT PERSONS AND THE LANGUAGE ACCESS PLAN

The State of North Dakota will make every effort to ensure that Limited English Proficient (LEP) persons have meaningful access to federally funded programs and services as is required under Title VI of the Civil Rights Act of 1964.

The State of North Dakota has a diverse population where many languages are spoken. A substantial number of persons that speak these languages do not speak English or do not speak English very well and are considered Limited English Proficient (LEP).

Regardless of which language a person speaks or their ability to speak English, the State of North Dakota will make every effort to ensure that they have meaningful access to federal funding services through either oral interpretation or written translations of vital documents.

Since the State of North Dakota has a number of LEP persons, all countywide public notices and public hearings must ensure that language services are provided or available. For example, each year the public notice for the Annual Action Plan will be printed in various languages and translation services will be provided as necessary for the public hearing.

However, many programs and services delivered within the State of North Dakota, including those carried out by participating cities, have distinct service areas and, as such, an assessment must be made by each agency administering the activity to determine which language services should be provided based on the identified LEP population in the service area.

To assist participating agencies, the State of North Dakota has developed a bulletin instructing them to conduct the four-factor analysis and develop their own Language Access Plan to ensure that LEP persons have meaningful access to their federally funded programs and services. The state will also provide technical assistance to assist the agencies in conducting the four-factor analysis and in developing their Language Access Plans.

The four-factor analysis is as follows:

Factor 1: Determine the number or proportion of LEP persons served or encountered in the eligible service area.

Factor 2: Determine the frequency with which LEP persons come in contact with the program.

Factor 3: Determine the importance of the information, services, program, or the activity to people's lives.

Factor 4: Assess costs versus resources and benefits in providing language services.

The State of North Dakota is confident that no person will be denied federally funded services based on their ability to speak English.

The State of North Dakota is committed to keeping all interested groups and individuals informed of each phase of the consolidated planning process and of activities being proposed or undertaken under HUD formula grant programs. Opportunities to comment on or participate in planning community development and affordable housing activities and projects will be publicized and disseminated throughout the state.

PUBLIC HEARINGS

Eight public hearings will be held to gather comments on the Consolidated Plan. The hearing will be held prior to drafting of the plan.

A summary of the written and oral public comments from individuals or groups received in writing or at the public meetings will be considered for the Consolidated Plan.

Venues used for interviews, focus groups, grant applications, and public meetings are fully accessible to people with disabilities that impact mobility. Should a venue not be fully accessible, the individual(s) should contact the Department of Commerce's Section 504 Coordinator, Shantel Dewald via email at dcs@nd.gov or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

PUBLICATION OF CONSOLIDATED PLAN DOCUMENTS

The state will publish the draft Consolidated Plan or Annual Action Plan for public review in a manner that affords citizens, public agencies and other interested parties a reasonable opportunity to examine its contents and submit comments. The Draft Plan will be a complete document and shall include:

- The amount of assistance the state agencies expect to receive, and
- The range of activities that may be undertaken, including the estimated amount that will benefit persons of low and moderate income.

A notice for the release of the Draft Plan will be published in several newspapers of general circulation at the beginning of the public comment period. The release will include a list of the locations where copies of the entire proposed Consolidated Plan may be obtained or examined. The following are among the locations where copies of the public comment draft will be made available for inspection:

- North Dakota Department of Commerce, DCS offices
- DCS website: <http://www.communityservices.nd.gov/>

Citizens and groups may obtain a reasonable number of free copies of the proposed Consolidated Plan by contacting the Department of Commerce's Section 504 Coordinator, Shantel Dewald via email at dcs@nd.gov or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

PUBLIC COMMENTS ON THE DRAFT CONSOLIDATED PLAN AND ANNUAL ACTION PLANS

One public meeting will be held in each of the state's Regional Planning Districts prior to drafting the Consolidated Plan, to gather input from citizens regarding proposed changes. Written comments and citizen participation by low and moderate income individuals, minorities, non-English speaking persons and persons with disabilities will be encouraged through the affirmative efforts outlined in the Encouragement of Citizen Participation section on page 2.

Notices of the meetings will be published in the daily newspapers across the state no less than 15 days prior to the meeting and a press release will be forwarded to all newspapers statewide. DCS will also attempt to email a copy of the notice or press release to interested parties.

The proposed Consolidated Plan will be made available to interested parties for a comment period no less than 30 days.

Along with the notification that the proposed Consolidated Plan is available for public comment, a summary of the proposed plan's contents and purpose will be published. The notification will be published on or before the day the proposed Consolidated Plan comment period begins. Locations where copies of the entire proposed plan may be obtained will also be stated in the notice.

The proposed Consolidated Plan will be available at DCS's website at www.communityservices.nd.gov/ for the full public comment period. Copies of the proposed plan will also be available from DCS during the public comment period.

PUBLIC OUTREACH

An informed citizenry is critical to effective and responsive housing and community development programs. Efforts to educate residents and empower their participation are an ongoing element of the consolidated planning process.

Public education and outreach will be facilitated through the use of public advertisements that describe the consolidated planning process, opportunities for citizen participation and available funding through the CDBG, ESG, NHTF, and HOME programs.

TECHNICAL ASSISTANCE

Groups or individuals interested in obtaining technical assistance to develop project proposals or applying for funding assistance through HUD formula grant programs covered by the Consolidated Plan or Annual Action Plan may contact the staff of the North Dakota Department of Commerce, DCS. Such assistance may be of particular use to community development organizations, nonprofit service providers, and for-profit and non-profit housing development groups that serve or represent persons of low and moderate income.

SUBSTANTIAL AMENDMENT CRITERIA FOR THE CONSOLIDATED PLAN

The following will constitute a substantial amendment to the Consolidated Plan:

1. A change in the method of distribution or grant selection criteria.
2. The addition of an activity not initially identified in the Consolidated Plan.
3. Funding of an activity not identified in the Consolidated Plan as a high or medium priority.

ADMINISTRATIVE AMENDMENTS

Administrative amendments are those that are not considered substantial in nature and pertain chiefly to minor administrative modifications of the programs. Thus they do not require in-depth citizen participation.

CITIZEN PARTICIPATION IN THE EVENT OF A SUBSTANTIAL AMENDMENT

In the event of a substantial amendment to the Consolidated Plan, the DCS, depending on the nature of the amendment, will conduct at least one additional public hearing. This hearing will follow a comment period of no less than 30 days, where the proposed substantially amended Consolidated Plan will be made available to interested parties. Citizens will be informed of the public hearing through daily newspaper notification and the state websites prior to the hearing.

Citizens will be notified of the substantially amended Consolidated Plan's availability through newspaper notification prior to the 30-day comment period. The substantially amended sections of the Consolidated Plan will be available on the DCS website, for the full public comment period.

CONSIDERATION OF PUBLIC COMMENTS ON THE SUBSTANTIALLY AMENDED PLAN

In the event of substantial amendments to the Consolidated Plan, the state will openly consider any comments on the substantially amended Consolidated Plan from individuals or groups. Comments must be received in writing or at public hearings. A summary of the written and public hearing comments on the substantial amendments will be included in the amended Consolidated Plan. The final Consolidated Plan will also include a summary of all comments not accepted and their reasons for dismissal.

AMENDMENT CRITERIA FOR THE CDBG PROGRAM DISTRIBUTION STATEMENT

Amendments to Program Statement Affecting the Action Plan of the Consolidated Plan as stated in the Citizen Participation Plan for the North Dakota Consolidated Plan and Annual Performance Report.

The following information must be submitted to DCS when amending Regional Program Statements:

1. The Regional Council Board or its designated committee must approve amendments to the Regional Program Statement prior to notifying cities, counties and other interested parties.
2. All cities, counties and other interested parties in the region must be notified in writing of the intended change and allow 30 days for comment. The written notice should be sent in letter or memo form.

3. A copy of the notification must be submitted to the DCS **within ten working days of the date of the notification**, along with a copy of the board approval and the minutes approving the amendment. **The 15-day comment period must be completed by the application/amendment deadline as stated in the most current Program Distribution Statement.**
4. Upon receipt of the intended change, DCS will forward a copy of all changes to HUD.
5. Changes to the Regional Program Statement cannot be implemented prior to the 30-day process.

What constitutes an amendment to the Action Plan? (the following are examples, but the list is not inclusive)

1. Changes to initially established grant selection criteria.
2. Funding of activities not initially identified in the annual Action Plan.
3. Funding of an activity not identified in the Plan as a high or medium priority.

Amendments to Regional Program Statement for the CDBG Program as stated in the Citizen Participation Plan for the North Dakota Consolidated Plan and Annual Performance Report.

The following information must be submitted to the DCS when amending Regional Program Statements:

1. The Regional Council Board or its designated committee must approve amendments to the Regional Program Statement prior to notifying cities, counties and other interested parties.
2. All cities, counties and other interested parties in the region must be notified in writing of the changes to be made and given 15 days to respond. The written notice should be sent in letter or memo form. **The 15-day comment period must be completed by the application/amendment deadline as stated in the most current Program Distribution Statement.**
3. Changes to the Regional Program Statement cannot be implemented prior to notifying cities, counties and other interested parties.
4. A copy of the notification must be submitted to the DCS **within 10 working days after the end of the 15-day comment period**, along with a copy of the board approval and the minutes approving the amendment. **If the notification is not submitted within the required time frame, the amendment will not be valid.**

What constitutes an amendment to the CDBG Program? (the following are examples, but the list is not inclusive)

1. Transferring money from one emphasis area to another.
2. Modifications to deadline dates.

EXCEPTION:

Transfers without Notice

1. After scoring and ranking has occurred, transfers between funding categories that are \$20,000 and less can be made without public notice.
2. If a balance remains in a funding category, and not all applications received for that category were funded, an explanation must be provided why the applicant(s) were not offered the balance of the funds remaining.
3. Transfers without notice will be limited to two transfers per year.
4. The DCS must be notified of all transfers in writing within ten days of the board decision, along with a copy of the board approval and the minutes approving the transfer.

NOTE: This policy applies to allocation funds only. Revolving Loan funds can only be used for Economic Development projects.

AMENDMENT CRITERIA FOR THE HOME PROGRAM DISTRIBUTION STATEMENT

The state may relocate funds from one category to another, or one State recipient or subrecipient 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 our discretion, for any project or activity deem necessary.

The application process for CHDOs/Nonprofits will be competitive for the first round if any funds remain, and it will be on a first-come, first-served based needs.

CHANGES IN FEDERAL FUNDING LEVEL

Any changes in federal funding level after the Consolidated Plan and Annual Action Plan's draft comment period has expired and the resulting effect on the distribution of funds will not be considered an amendment or a substantial amendment.

ANNUAL PERFORMANCE REPORTS

Performance reports on CDBG, HOME, ESG, and NHTF programs covered by the Consolidated Plan or Annual Action Plan are to be prepared by the North Dakota Department of Commerce, DCS within 90 days of the start of each program year. Draft performance reports will be made available upon written request. The draft performance report will be available for comment for no less than 15 days, and any public comments received in writing will be reported in an addendum to the final performance report.

ACCESS TO RECORDS

To the extent allowed by law, interested citizens and organizations shall be afforded reasonable and timely access to records covering the preparation of the Consolidated Plan or Annual Action Plan, project evaluation and selection, HUD's comments on the Plan and annual performance reports. In addition, materials on formula grant programs covered by the Consolidated Plan or Annual Action Plan, including activities undertaken in the previous five years, will be made available to any member of the public who requests information. A complete file of citizen comments will also be available for review by interested parties.

COMPLAINTS AND GRIEVANCES

Citizens, administering agencies and other interested parties may submit complaints and grievances regarding the programs the North Dakota Department of Commerce, DCS administers; North Dakota Housing Finance Agency administers the NHTF program. Complaints should be in writing, specific in their subject matter, and include facts to support allegations. The following are considered to constitute complaints to which a response is due:

- The administering agency has purportedly violated a provision of the Citizen Participation Plan;
- The administering agency has purportedly violated a provision of federal CDBG, ESG, NHTF or HOME program regulations; and
- The administering agency, or any of its contractors, has purportedly engaged in questionable practices resulting in waste, fraud or mismanagement of any program funds.

Residents may also present complaints and grievances orally or in writing at the community meetings and/or public hearing. All public comments, including complaints and grievances, made either orally or in writing within the 30-day public comment period, will be included in the final Consolidated Plan or Annual Action Plan. Such complaints or grievances for CDBG, HOME, ESG, or NHTF shall be directed to the Consolidated Plan representative at the DCS Community Services Division.

TIMELY RESPONSE TO COMPLAINTS OR GRIEVANCES

Upon receipt of a written complaint, the designated representative at Community Services Division shall respond to the complainant within 15 calendar days and maintain a copy of all related correspondence, which will be subject to review.

Within 15 calendar days of receiving the complaint, the designated representative shall discuss the matter with the department manager and respond to the complainant in writing. A copy of the Community Services Division response will be transmitted, concurrently, to the complainant and to the division directors. If, due to unusual circumstances, the designated representative finds that he/she is unable to meet the prescribed time limit, the limit may be extended by written notice to the complainant. The designated representative's notice must include the reason for the extension and the date on which a response is expected to be generated, which may be based on the nature and complexity of the complaint.

Public review materials and performance reports will include data, as appropriate under confidentiality regulations, on any written complaints received and how each was resolved.

ACTIVITIES EXEMPT FROM SUBSTANTIAL AMENDMENT CITIZEN PARTICIPATION REQUIREMENTS

URGENT NEEDS

It may be necessary to amend the Consolidated Plan or Annual Action Plan in the event of an emergency such as a natural disaster. These amendments may include funding new activities and/or the reprogramming of funds including canceling activities to meet community development needs that have a particular urgency. Therefore, the State of North Dakota may utilize its HOME or CDBG funds to meet an urgent need without the normal public comment period, which is otherwise required for substantial amendments.

To comply with the national objective of meeting community development needs having a particular urgency, an activity will alleviate existing conditions that the State of North Dakota certifies:

- Pose a serious and immediate threat to the health and welfare of the community;
- Are of recent origin or recently became urgent;
- The state is unable to finance the activity on its own; or
- Other resources of funding are not available to carry out the activity.

A condition will generally be considered to be of recent origin if it is developed or became critical within 18 months preceding the Community Services Division's certification.

AVAILABILITY OF THE CITIZEN PARTICIPATION PLAN (CPP)

Citizens and groups may obtain a reasonable number of free copies of the proposed CPP by contacting the Department of Commerce's Section 504 Coordinator, Shantel Dewald via email at dcs@nd.gov or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

APPENDIX B- ADDITIONAL PLAN DATA

Table B.1 Allocation Priorities North Dakota NDDOC											
	Preserve Existing Rental and Owner Housing Stock (%)	Provide Funding to Increase Multifamily Housing (%)	Support Emergency Shelters and Transitional Housing (%)	Create Additional Transitional and PSH (%)	Provide Financial Support to At Risk of Homeless (%)	Fund Homeless Prevention Activities (%)	Encourage Economic Development Opportunities (%)	Enhance Local Public Infrastructure (%)	Encourage Public Facilities and Services (%)	Encourage Communities to do Strategic Planning (%)	Total (%)
CDBG	10						42	9	38	1	100
HOME	60	30				10					100
ESG			60		20	20					100
HTF	33	33		34							100

APPENDIX C- NATIONAL HOUSING TRUST FUND PROGRAM

The state's 2019 NHTF allocation will be made available to eligible applicants through competitive application rounds and will be administered in accordance with 24 CFR Part 93.

Allocation of Funds

FY2019 Federal Allocation	\$3,000,000
Less State Administration*	300,000
Allocation Available for Distribution	\$2,700,000

*Administration of 10% of the State's federal allocation is allowed. However, the State will calculate its Administration Fee based on actual and projected administration costs. Therefore, State Administration may be less than \$300,000 and Allocation Available for Distribution may be more than \$2,700,000.

NHTF funding will be awarded for the development and preservation of affordable multifamily rental housing to serve extremely low income households, particularly those which are or at risk of chronic homelessness. Eligible recipients for funding include units of local, state, and tribal government, local and tribal housing authorities, community action agencies, regional planning councils, nonprofit organizations, and for-profit developers.

The NHTF will be administered in accordance with North Dakota's NHTF Qualified Action Plan (QAP), attached in full to this Annual Action Plan as Appendix C. Per federal statute and regulation, the QAP prioritizes funding based on:

1. Geographic diversity.
2. Applicant's ability to obligate funds and undertake eligible activities in a timely manner.
3. The extent to which the project has rents that are affordable, especially to ELI households, and has federal, state, or local project-based rental assistance so that rents are affordable to extremely low income families.
4. The length of the units' affordability period.
5. Merits of the application in meeting the state's priority housing needs.
6. The extent to which the applicant makes use of non-federal funding sources.

North Dakota employs a set-aside of 10% of the state's NHTF allocation to the highest-scoring eligible Native American application. Remaining NHTF funding is then awarded to the highest-scoring eligible applications. There is no maximum amount of NHTF funding that any one project can receive, although QAP does limit the amount of subsidy which each NHTF-assisted unit can receive.

The deadlines for applications will be due to the HFA by September 30, 2019.