

## **CHAPTER 2 – ADMINISTRATIVE OVERVIEW**

### **Chapter Overview**

Administrative Requirements

Administrative Training

Eligibility

Appeal of Department Decisions

Complaints

Administration of a HOME Project – The Keys

Lead-Based Paint

Lead Paint: Recommended and Prohibited Practices

### **Administrative Requirements**

The Department fully expects recipients of State of Nebraska HOME funds to comply with all administrative requirements. Recipients must become educated on all administrative components, elements and requirements for HOME. A project management plan should include a list of responsibilities for each project team member, a timeline of implementation steps, and a detailed outline of a filing system.

The requirements in this manual provide grantees with standards for administering the HOME Program in a consistent manner. These requirements are in addition to the National Affordable Housing Act of 1990 (NAHA). The federal requirements for the program are described in 24 CFR Part 92.

### **Administrative Training**

The Department provides training on housing related topics and on administering HOME projects. Find information and registration forms on upcoming workshops at the Department's website ([www.neded.org](http://www.neded.org)).

The principal contact at the Department for a particular HOME project is the program representative assigned to the project. The program representative is familiar with the project and assists the local government, public housing agency or non-profit organization with implementation.

### **Eligibility**

Eligibility requirements for participation in the HOME Program are specified in the NAHP Application Guidelines that are published annually and are consistent with the Housing and Community Development Annual Action Plan.

## **Appeal of Department Decisions**

An appeal is a written request directed to the Department by an applicant or grantee for reconsideration of a decision made by Department staff.

### Procedures

1. An applicant or grantee appealing a decision of Department staff must submit a written appeal requesting a reversal of the decision based upon facts of the situation. This appeal must come to the Department from the Chief Elected Official of the local government or the Authorized Official of an agency.
2. The HOME Program Manager will consider the issues and respond within 30 days to the applicant or grantee.
3. If dissatisfied with the HOME Program Manager's decision, the applicant or grantee may appeal to the Department Director. The Department Director may, at the request of the parties, schedule a hearing or simply render a written decision. If a hearing is held, all interested parties will participate.
4. The purpose of this informal hearing, will be to determine the facts of the situation, the appropriateness of the decision, and the justification and appropriateness of the appeal.
5. The Director will make a decision within 30 days of the hearing. This written decision will be sent to all parties.
6. The Director's decision is the final administrative action that will be taken by the Department.

## **Complaints**

Individuals or authorized representatives of individuals who believe they have been the subject of discrimination based upon a disability may file a complaint with the Department or the Fair Housing and Equal Opportunity Office of the Department of Housing and Urban Development located in Kansas City.

### Against Grantee Administration

The Department will accept complaints against grantee administration of the program. Only written complaints against the grantee's administration of the program will be received and acted upon by the Department.

The Department will implement the following procedures for disposition of complaints against local administration:

1. The Department will forward a copy of the written complaint to the grantee.
2. The Department Complaint Manager will request that the grantee respond to the complaint and inform the Department within 30 days of the action to be undertaken to resolve the complaint.

3. If the response by the grantee is determined to be satisfactory, in consultation with the Complaint Review Committee, the grantee will be notified along with the party lodging the complaint.
4. If the response is determined to be inadequate, the grantee will be put on official notice by the Department that the response was inadequate, and will be granted 15 days to reconsider and respond to the party lodging the official complaint. The grantee will submit to the Department the actions occurring to resolve the complaint.
5. The Complaint Review Committee will review the grantee's actions to resolve the complaint. If the actions are deemed satisfactory, the grantee will be notified along with the party lodging the complaint.
6. If the Complaint Review Committee does not consider the grantee's actions satisfactory in resolving the complaint, the Department will impose administrative sanctions upon the grantee. The sanctions will not be lifted until the Department is satisfied with the grantee's actions.
7. The Department Director, or his or her designee, may be consulted to arbitrate all complaints. If, after consulting with the Director or the designee, the grantee and/or the party lodging the complaint are not satisfied with the decision, they may appeal to HUD officials.

#### Against State Administration

The Department will receive complaints against state administration of the program. The Department will only respond to written complaints against the state's administration of the program.

The Department will implement the following procedures in response to complaints against state administration of the HOME Program:

1. When a complaint is received by a Department official it will be forwarded to the HOME Program Manager.
2. Within 30 days of receiving the complaint the HOME Program Manager, in consultation with the appropriate parties, will respond to the complaint.
3. Complaints will be responded to in writing.
4. If dissatisfied with the disposition of the complaint, the party may lodge an official appeal of a decision to the Department Director.

### **Administration of a HOME Project – The Keys**

#### Application

Most funding within the Nebraska Affordable Housing Program (NAHP) is available to local governments, public housing agencies and non-profits on a competitive basis. The Department notifies potential applicants when NAHP application guidelines are available for an upcoming application period. The application guidelines describe eligible applicants, eligible activities, the application process, and the deadline for acceptance of an application.

The Department also holds workshops on the NAHP applications each year. It is a good idea to contact the Department's regional housing specialist serving your area before starting an application. Look for information on Department staff contacts, application guidelines and workshops on the Department's website ([www.neded.org](http://www.neded.org)).

### Notice of Approval or Denial

Following the Department's application review period, letters will be sent to all applicants informing each of the decision to fund or not fund their application. Those applicants not funded are encouraged to meet with Department staff and work toward a fundable application in the future.

The Notice of Approval notifies the grantee of the amount and type of funds awarded and the activities that the grantee will undertake with the funds. **However, the grantee must not obligate or incur project costs prior to satisfying contract conditions and receiving a Notice of Release of Funds from the Department.** Prior to the Notice of Release of Funds and after Notice of Approval, costs necessary to complete general administrative requirements such as satisfying the Special Conditions contained in the HOME Contract can be obligated and incurred.

### Administrative Costs

Note that each HOME award is unique. The Department provides funds for administrative costs in a variety of ways depending upon the nature of the project and the type of grantee. Grantees should understand the budget in the HOME Contract, including the line item to be used for administrative costs.

Grantees should confirm with their program representative as to the budget line item authorized for general administration of the award. This often will vary from the budget submitted with the original application.

Administrative costs are the costs associated with implementation of the grant. These costs may include: salaries for personnel who devote full or part time to the grant, cost of equipment and supplies used for grant activities, and the cost of administrative services provided by other agencies. General administration and housing management are typically the administrative line items in the budget in the HOME Contract. Housing management (code 0580) funds are set-up and drawn on an address (activity) by address (activity) basis.

*Note: The terms housing management, housing administration and project soft costs are interchangeable.*

All administrative costs charged to the project must be documented, i.e., through timesheets, purchase orders, and invoices. OMB Circular A-87 (local governments) and OMB Circular A-122 (non-profits) provide guidelines for determining allowable costs.

### HOME Contract

The Department will send the recipient a HOME Contract shortly after the Notice of Approval. The contract contains a project description, time of performance, sources and uses of funds, conditions governing the use of HOME funds, and the special conditions for release of funds.

The contract must be signed by the recipient and returned to the Department within one month. In most cases, the special conditions of the contract must be satisfied within three months and the project completed within two years (See Chapter 6 – HOME Contract for more information).

The contract between the Department and the grantee provides for termination for cause and or for convenience. In the event the Department suffers a loss of funding or termination of the federal grant that permits it to fund in full or in part a HOME grant, the contract will terminate in full or in part.

#### Special Conditions for Release of Funds

Recipients of HOME funds are advised to carefully review their HOME Contract before implementing the funded project.

In the contract, the Special Conditions for Release of Funds section clearly states that funds will not be released by the Department until the special conditions are met. The Department also reserves the right to cancel the contract if the special conditions are not met within the specified time frame.

Please note: Project costs cannot be obligated or incurred prior to the Department issuing a written Notice of Release of Funds.

Typical Special Conditions for Release of Funds:

- HOME Program Grantee Information Sheet  
Grantee must complete and return this form.
- HOME Authorization to Request Funds.  
Grantee must complete and return this form.
- Environmental Review  
Grantee must receive environmental clearance from HUD. To do so, the grantee must complete the Environmental Review Record (ERR), publish with the proper public comment period, complete the proper Request for Release of Funds notice, complete the HUD 15 day objection period, and receive the HUD Authority to Use Grant Funds form.
- Procurement Standards  
Grantee must provide documentation evidencing the adoption of appropriate procurement standards applicable to the grantee.
- Excessive Force Certification  
If the grantee is a unit of general local government, it must provide documentation of an adopted policy to prohibit the use of excessive force by law enforcement agencies against any individual engaged in nonviolent civil rights demonstrations.
- Fair Housing  
Grantee must provide a description of at least one new action it will take to affirmatively further fair housing. This documentation must be on official letterhead. The new fair housing action(s) must be performed during the course of the current HOME Project to fulfill the requirements.

Additional Special Conditions, as applicable:

- Program Guidelines.
- Program Income Reuse Plan.
- Rehabilitation Procedures.
- Any other special conditions as specified in the contract.

*Disclaimer: The above list represents typical standard special conditions; however, all HOME Contracts are tailored to a specific project with unique standard conditions. The Special Conditions for Release of Funds in the HOME Contract must be satisfied before the Notice of Release of Funds will be issued for that project.*

Additional guidance on fulfilling contract conditions is available in Chapter 6 – HOME Contract. More information is also in this manual on environmental review, procurement and financial management. The Department’s website contains forms needed to complete Special Condition requirements.

#### Release of Funds

Upon receiving the “Notice of Release of Funds” letter, the grantee may obligate non-administrative costs and draw down funds for eligible costs incurred. A Release of Funds will not be approved if there are any unresolved audit findings relating to a past grant and remains unresolved beyond the normal period or is deemed to be extreme misconduct.

#### Setting Up Funds

After the Department issues a Notice of Release of Funds and prior to requesting HOME funds for non-general administrative uses, a grantee must complete a HOME Activity Set-Up Report to “set-up” HOME funds per address (activity). Upon approval by the Department of a Set-Up Report a number will be provided to the grantee for that activity (address). More information on set-ups is available in Chapter 13 - Financial.

#### Requesting HOME Funds

The grantee must complete and send to the Department a Request for HOME Funds only as funds are needed for the project. Funds can only be requested for those activities that are set-up (except for general administration). HOME funds will be disbursed electronically to the grantee’s bank. The grantee has only 15 working days to spend HOME funds following receipt. More information on requesting funds is available in Chapter 13 - Financial.

#### Matching Requirements/Other Funds

Matching funds committed to the project as a part of the approved HOME Contract should be accounted for in grant records. The receipt and expenditure of the matching funds should be carefully documented. If matching funds are derived from a source outside the local government or non-profit, project records should identify the source and amount.

Note that HOME does not require proportional drawdowns (showing matching funds in the same proportion as in the budget in the HOME Contract), however, matching funds must be shown on Request for HOME Funds forms, Activity Completion Reports and the Final Financial Report for the project. Grantees failing to meet the match required in the HOME Contract budget by the end of the project are subject to penalties that include repayment of HOME funds to the Department.

#### Contract Amendments/Extensions

Grantees must request approval from the Department for any of the following changes:

- Changes to the budget.
- Extensions of the contract end date.
- Decreases in proposed accomplishments.
- Amendments to housing program guidelines, tenant selection process and/or lease agreements.

The Department will review amendment requests using the following factors:

- How the amendment will affect the application selection process.
- Grantee's performance and capacity. An on-site visit may be required before a determination can be made.

More information on amendments is available in Chapter 6 – HOME Contract and a HOME Contract Amendment Request Form is available at the Department's website.

#### Conflict of Interest

The HOME Program regulations require grantees (including Community Housing Development Organizations "CHDOs" undertaking non-CHDO set-aside projects) to comply with two different sets of conflict-of-interest provisions. The first set of provisions comes from 24 CFR Parts 84 and 85. The second, which applies only in cases **not** covered by 24 CFR Parts 84 and 85, is set forth in the HOME regulations. Both sets of requirements are discussed below.

#### Activities covered by CFR provisions

In the procurement of property and services grantees, including non-profits and CHDOs undertaking non-CHDO set-aside projects, the conflict-of-interest provisions at 24 CFR 85.36 and 24 CFR 84.42 apply. These regulations require written standards governing the performance of their employees engaged in awarding and administering contracts.

At a minimum, these standards must:

- Require that no employee, officer, agent of grantee shall participate in the selection, award or administration of a contract supported by HOME if a conflict-of-interest, either real or apparent, would be involved.
- Require that employees, officers and agents not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements.

- Stipulate provisions for penalties, sanctions or other disciplinary actions for violations of standards.

A conflict would arise when any of the following has a **financial or other interest** in a firm selected for award:

- An employee, agent or officer of the grantee.
- Any member of an employee's, agent's or officer's immediate family.
- An employee's, agent's or officer's partner.
- An organization that employs or is about to employ an employee, agent or officer of the grantee.

#### Activities covered by HOME regulations

In cases not covered by 24 CFR 85.36 and 24 CFR 84.42, the HOME regulations at 24 CFR 92.356 governing conflict-of-interest apply. These provisions cover employees, agents, consultants, officers and elected or appointed officials of the grantee, including grantees that are non-profits and CHDOs undertaking non-CHDO set-aside projects.

The HOME regulations state that anyone covered who exercises or has exercised any functions or responsibilities with respect to HOME activities or who is in a position to participate in decisions or gain inside information cannot do either of the following:

- Obtain a financial interest or benefit from a HOME activity.
- Have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.

This requirement applies to covered persons during their tenure and for one year after leaving the grantee organization.

#### Exceptions

Upon written request, exceptions to both sets of provisions may be granted by the Department and HUD on a case-by-case only after the grantee has done both of the following:

- Disclosed the full nature of the conflict and submitted proof that the disclosure has been made public, and
- Provided a legal opinion stating that there would be no violation of state or local law if the exception were granted.

#### Provisions for Nonprofit and For-Profit Owners, Developers and Sponsors

The HOME Final Rule includes conflict-of-interest provision applicable to for-profit and nonprofit owners, developers and sponsors of HOME-assisted housing. This provision states that no owner, developer or sponsor of HOME-assisted housing, including their officers, employees, agents, consultants, or elected or appointed officials, may occupy a HOME-assisted unit in a development.

This provision does not apply to:

- An individual receiving HOME funds to acquire or rehabilitate his/her principal residence, or
- An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

Exceptions to this conflict-of-interest provision (governing owners, developer and sponsors of HOME-assisted housing) may be granted by the Department on a case-by-case basis based on the following factors as set forth in the regulations:

- Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him or her to receive generally the same interests or benefits as are being made available or provided to the group as a whole.
- Whether the person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted housing in question.
- Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy and tenant selection) are being observed.
- Whether the affirmative marketing requirements are being observed and followed.
- Any other factor relevant to the Department's determination, including the timing of the requested exception.

#### Recordkeeping Requirements

Rental Records:

- General records must be kept for five years after project completion.
- Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period ends.

Homebuyer and Homeowner Rehabilitation Records:

- General records must be kept for five years after project completion.
- Resale/Recapture records must be kept five years after the affordability period ends.

See Chapter 15 – Monitoring for more information on recordkeeping.

#### Reporting Requirements

The Department requires grantees to submit reports at various stages during the course of a project. This chapter describes the reports and due dates for receipt by the Department. Note that not all of the reports are applicable to every project.

Grantees should use the most current form for a particular report they are submitting. Current forms are available at the Department's website near the on-line version of this manual in an area called "Forms." The grant's program representative will provide assistance, if needed, with locating and/or sending to the grantee a copy of the current on-line form.

See Chapter 14 – Reporting Requirements for more information on reporting requirements.

## Monitoring

All HOME projects are monitored for compliance with HOME rules.

See Chapter 15 – Monitoring for more information on monitoring.

## Closeout

The following items/steps are required to be satisfactorily completed before the Department will issue a Certificate of Completion for a HOME project:

- The Final Financial Report (grantee must submit within 3 months of the project's last drawdown).
- The Final Performance Report (grantee must submit within 3 months of the project's last drawdown).
- The Final Wage Compliance Report, if applicable (grantee must submit within 3 months of the project's last drawdown projects requiring adherence to labor standards, see Chapter 10 – Construction & Labor Standards).
- The Department has completed the initial compliance review of the project and monitoring clearance is achieved (note that the Department is required to monitor rental projects throughout the affordability period).
- The grantee has fulfilled all audit requirements satisfactorily.

See Chapter 16 – Audit & Closeout for more information on closeout.

## **Lead-Based Paint**

All units in a project assisted with HOME funds must comply with the regulation implementation Title X of the 1992 Housing and Community Development Act (24 CFR Part 35). This regulation has been in effect since September 15, 2000.

### Overview

The lead-based paint regulation at 24 CFR Part 35 consolidates all lead-based paint requirements for HUD-assisted housing. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead.

The regulation is divided into subparts. Subparts that apply to the HOME program include:

Subpart A: Disclosure.

Subpart B: General Requirements and Definitions.

Subpart J: Rehabilitation.

Subpart K: Acquisition, Leasing, Support Services, and Operations.

Subpart M: Tenant-Based Rental Assistance.

Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction.

Summary of the Requirements

HUD has defined four approaches to addressing lead-based paint in HOME-funded projects. See the following exhibit for more information about each approach.

Approach 1: Do No Harm

Approach 2: Identify and Stabilize Deteriorated Paint

Approach 3: Identify and Control Lead-Based Paint Hazards

Approach 4: Identify and Abate Lead-Based Paint Hazards

<b>Approach</b>	<b>Lead Hazard Evaluation</b>	<b>Lead Hazard Reduction</b>	<b>Options</b>
1) Do no harm	Paint testing performed on surfaces to be disturbed.	Repair surfaces disturbed during work. Safe work practices used when working on areas identified as lead-based paint. Clearance performed.	Presume lead-based paint is present and use safe work practices of all surfaces being disturbed.
2) Identify and stabilize deteriorated paint	Visual assessment performed to identify deteriorated paint.	Paint stabilization of identified deteriorated paint. Safe work practices used. Clearance performed.	Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.
3) Identify and control lead hazards	Paint testing performed on surfaces to be disturbed. Risk analysis performed on entire dwelling.	Interim controls performed on identified hazards. Safe work practices used. Clearance performed.	Presume lead-based paint and/or lead-based paint hazards are present and perform standard treatments.
4) Identify and abate lead hazards	Paint testing performed on surfaces to be disturbed. Risk analysis performed on entire dwelling.	Abatement performed on identified hazards. Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. Safe work practices used. Clearance performed.	Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces – deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.

## Types of Requirements

The lead-based paint requirements established by the regulation fall into the five major categories listed below:

### Notification

Grantees must meet four notification requirements.

- **Lead Hazard Information Pamphlet**  
Occupants, owners, and purchasers must receive the EPA/ HUD/ Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
- **Disclosure**  
Check that property owners have provided purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.
- **Notice of Lead Hazard Evaluation or Presumption**  
Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.
- **Notice of Lead Hazard Reduction Activity**  
Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.

### Lead Hazard Evaluation

The evaluation activity required depends on the nature of the activity funded and the amount of Federal funding. Evaluation methods include visual assessments, paint testing, and risk assessments.

### Lead Hazard Reduction

The reduction activity required depends on the nature of the activity funded and the amount of Federal funding. Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.

### Ongoing Maintenance

Ongoing maintenance is required if the grantee has an ongoing relationship with the Federal government (e.g. rental activities). Ongoing maintenance includes periodic visual assessments to determine if lead-based paint hazards have reappeared.

## Compliance

### Penalties [24 CFR 35.170]

Failure to comply with the lead-based paint requirements under the new regulation will be subject to sanctions authorized under the Federal funding programs providing assistance to the property, and violations may be subject to other penalties available under state or local law. Notifying owners, purchasers, or occupants of possible lead-based paint hazards **does not** relieve grantees of the responsibilities under the new regulation.

### Addressing Other Regulations and Laws [24 CFR 35.145]

Grantees must comply with other regulations – Federal, State, tribal, and local – that apply to lead-based paint hazard evaluation and reduction. When multiple regulations cover a program activity, grantees must comply with the most stringent requirement.

All lead-based paint activities must be performed in accordance with other applicable Federal laws and authorities. For example, the National Environmental Policy Act of 1969 (42 U. S. C. 4321 et seq.), OSHA worker safety regulations (29 CFR 1910.1200 and 29 CFR 1926.62), and other environmental laws and authorities cover activities related to lead-based paint evaluation and hazard reduction.

HUD may modify or waive its lead-based paint requirements if it determines that the requirement duplicates a Federal, State, or local requirement and provides a comparable level of protection from lead-based paint hazards.

### Recordkeeping [24 CFR 35.175]

There are numerous records that grantees must keep to verify that they conducted the required lead hazard response activities. These documents must be located in program and project files.

### Lead Hazard Information Pamphlet

A record of the distribution of the lead hazard information pamphlet is recommended, but not required.

### Notification, Evaluation, and Reduction Reports

The grantee must keep a copy of each notification, lead hazard evaluation report, lead hazard reduction documentation (such as job specifications), and clearance or abatement report for at least five years, or for such other period as specified in the program regulations.

### Ongoing Maintenance Records

Grantees must keep ongoing maintenance records and records of relevant building operations for use during reevaluations.

## **Lead Paint: Recommended and Prohibited Practices**

### Safe Treatment Methods

Safe treatment methods control the spread of dust and debris. They should be preceded by proper containment practices and followed-up with proper clean-up procedures.

Examples of safe treatment methods include:

- Wet scraping or wet sanding.
- Chemical stripping on- or off-site (except methylene chloride).
- Replacing painted components.
- Scraping with an infra-red or coil type heat gun with temperatures below 1,100 degrees Fahrenheit.
- Vacuum-sanding using a sander equipped with a High Efficiency Particle Air (HEPA) filter.

- Using a HEPA vacuum needle gun.
- Contained hydroblasting or high pressure wash with a HEPA vacuum.
- Abrasive sanding with a HEPA vacuum.
- Covering the painted surface with durable materials (such as wallboard) with joints sealed and caulked.

#### Prohibited Methods

Prohibited methods can spread lead dust or lead fumes.

Prohibited Methods include:

- Open flame burning or torching
- Machine sanding or grinding without HEPA exhaust.
- Uncontained hydroblasting or high pressure wash.
- Abrasive blasting or sandblasting without a HEPA vacuum exhaust.
- Heat guns operating above 1,100 degrees Fahrenheit.
- Chemical paint strippers containing methylene chloride.
- Dry scraping (except around electrical outlets or in conjunction with heat guns).

For more information about safe and prohibited methods, see the 1995 HUD Guidelines for the Evaluation and Control of Lead-Based Paint in Housing.