



# Community HOME Investment Program

Administrative Manual

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## Introduction to Manual

This manual has been developed to assist Recipients administer the Community HOME Investment Program (CHIP).

This guide is divided into two sections:

- Housing rehabilitation activities
- New construction activities.

Each section begins with a flow chart outlining the steps necessary to complete the projects. All CHIP recipients must adhere to performance benchmarks to avoid cancellation of the grant agreement in all or in part.

## Changes to the CHIP Program

The State as a Participating Jurisdiction (PJ) for the US Department of Housing and Urban Development (HUD) is responsible for administering HOME funds. Starting with the 2019 awards, CHIP grant recipients are required to adhere to three new policies: Homebuyer Underwriting Policy, Program Income Policy, and Procurement Policy. All policies have been included in this manual.

### Procurement Policy

All local government CHIP recipients must adhere to the State of Georgia Procurement Requirements effective July 1, 2018, effective with the passage of H.B. 489, adding O.C.G.A. 36-80-26 and amending O.C.G.A 36-91-20(B)(1). Most bids or proposals, including professional services for CHIP application submission and administration and engineering/architectural services must be advertised in the Georgia Procurement Registry prior to grant submission. This change will minimize the appearance of a conflicts of interest.

### Homebuyer Underwriting Policy

In August 2018, HUD issued the CPD Notice 18-09, The Homebuyer Underwriting Policy which addresses underwriting expectations for homebuyer affordability to insure successful homeownership over time and to provide only the amount of assistance needed to each household. It is a starting point for local state recipients and subrecipients to develop or enhance their local underwriting policies.

### Program Income Policy

The HOME Regulation at 24 CFR § 92.2 defines program income as, “...*gross income received by the PJ, State recipient, or a subrecipient directly generated from the use of HOME funds or activities funded from matching contributions...*” The most common form of program income is principal and interest payments of HOME-funded loans. Other sources of program income include, but are not limited to, proceeds from the disposition of HOME-funded property and interest earned on program income pending its disposition.

The CHIP Program requires that Recipients deposit all PI they receive in a separate account and report it to CHIP annually. This includes all PI that CHIP permits its Recipients to retain for additional HOME projects, pursuant to the terms described in the written agreement.

## Background

The HOME Investment Partnerships (HOME) Program was authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended and was signed into law on November 28, 1990 (Pub. L. 101-625). The HOME Program provides funds to expand the supply of affordable housing for individuals and families earning less than 80% of the Area Median Income (AMI). Interim regulations for the HOME Program were first published on December 16, 1991 and are codified at 24 CFR Part 92. The HOME Final Rule was released September 16, 1996. HUD published a Final Rule in the Federal Register on July 24, 2013 to amend the HOME Investment Partnership (HOME) Program regulations. Click on the link below for additional information about the HOME Final Rule:

### [Overview of the 2013 HOME Final Rule](#)

The Georgia Housing and Finance Authority (GHFA) receive HOME funds from the U.S. Department of Housing and Urban Development (HUD) as the designated Participating Jurisdiction (State PJ) for the State of Georgia. The Georgia Department of Community Affairs (DCA) administers the program on behalf of GHFA. DCA allocates a portion of its HOME funds received each year from HUD to the Community HOME Investment Program (CHIP) for use by small cities, rural counties, non-profits, and local public housing authorities that serve communities that are not designated by HUD as a local Participating Jurisdictions (Local PJs). In order to receive CHIP funding, these entities must apply to DCA and, if awarded, will become State Recipients or Sub-recipients under CHIP.

Recipients under CHIP are responsible for carrying out all program activities and complying with all HOME regulations as well as many other federal requirements. DCA is responsible for providing technical assistance, developing program allocation and selection policies, managing the funding and distribution process, monitoring Recipient compliance with program requirements, and reporting to HUD on the use of the funds.

This Manual covers program administration requirements.

### **Disclaimer**

***This manual provides information required for State and Sub-Recipients to locally administer awarded CHIP funds. However, whenever a conflict exists between the manual, local policies, and the HUD HOME program regulations at 24 CFR Part 92, the HOME Rule must be complied with except where DCA has more narrowly defined any HOME activities or programmatic requirements.***

## **CHIP Administration Process for All CHIP Activities**

Under the CHIP program, a Recipient that has been awarded CHIP funds has already established the basic program design set forth in the CHIP application and approved by DCA through the issuance of an Agreement with General and Special Conditions. Implementation of the program must be in keeping with the approved CHIP award and all general and special conditions; the HOME program regulations and DCA CHIP policies.

After approval by DCA of the CHIP award, the steps to begin administering a CHIP program can be summarized as follows:

### **Review the Agreement, HUD HOME Regulations, and the Recipient Manual**

As a first step, the Recipient should review the Statement of Award including the General and Special Conditions and the basic HOME program rules as outlined in [HOME program regulations at 24 CFR Part 92](#).

The Recipient should also review all of the project and financial interface requirements with DCA as outlined in the **CHIP Administrative Manual** in order to be prepared to set up projects, draw down funds, meet the DCA reporting requirements and meet the project completion reporting requirements.

### **Activating Your New CHIP Award**

#### Written Agreement with DCA

Upon approval of an application for CHIP funds, GHFA must enter into a written agreement (Agreement) with each selected Recipient. This Agreement is required by HUD for all CHIP Recipients and covers both the funding level and planned activities of the Recipient and the applicable HOME Regulations, state laws, and program requirements that must be followed.

Two copies of the Agreement will be emailed to the Recipient's designated grant administrator for their execution. Two originals must be signed and mailed to DCA within 30 days of receipt. DCA will execute the Agreement by signing both copies and then mail one original of the signed executed agreement to the Recipient for their records.

#### Executing Instructions:

- The Recipient must have their Certifying Representative examine these documents closely before signing and dating all required originals and copies.
- The Certifying Representative (Mayor, Chairman of County Commission, Chairman of the Board of a Non-profit, or other authorized official) must execute the Agreement.

- The Certifying Representative must execute the Agreement and return both original versions to DCA. The documents must be mailed to DCA as follows:

DaTonya Lewis  
CHIP Program Manager  
Georgia Department of Community Affairs  
60 Executive Park South, N.E.  
Atlanta, Georgia 30329-2231

### Authorized Signature Cards

#### A. Signature Card for Draw Request (CA-1)

An Authorized Signature Card authorizes individuals of the Recipient to request payment of funds under the Agreement. The Authorized Signature Card must authorize at least one signatory but no more than four. At least one of the signatories must be an employee of the Recipient. Check the box designating whether one or two signatures will be required on an individual draw request. If the Certifying Representative designates him/herself for authorization of the draw request, then two authorized signatures are required. An employee of the Administrator may not be designated in lieu of an employee of the Recipient.

The Recipient's or Recipient's Certifying Representative must also sign the Authorized Signature Card to certify that the individuals named above are indeed authorized to request payment and that the signatures on the card are their own. No erasures or corrections may appear on the Authorized Signature Card.

The Authorized Signature Card must be received and on-file prior to processing draw request for all Recipients.

If signatories change during the grant period, a new Authorized Signature Card must be completed and re-submitted prior to the submission of any future draw requests. All draw requests must match the signatory authorizations on file at DCA.

Completion of this form is voluntary on behalf of the Authorized Official of the Recipient. If no individual(s) is designated in either Section 1 or Section 2, the Authorizing Official will be required to sign all documents submitted by the Recipient.

#### B. Signature Card for Program Policy and Activity Documents (CA-9)

DCA has put in place a signature card (CA-9) authorizing the Recipient to designate individual(s) to sign on behalf of the Recipient. This procedure will allow the Recipient to designate an appropriate person to sign documents. Completion of this form is voluntary on behalf of the Authorizing Official of the Recipient. If no individual(s) is designated in either Section 1 or Section 2, the Authorizing Official will be required to sign all documents submitted by the Recipient. This Authorized Signature Card may be utilized for any CHIP Grant regardless of the year that the grant was awarded.

## Clearing Your General Conditions

Appendix B in each Agreement outlines each of the General Conditions that must be cleared by DCA prior to initiating the program. **The Recipient may not initiate any work on its program until DCA has approved all of the General Conditions.** DCA staff will provide guidance and templates to assist Recipients with clearing contract conditions.

### Tiered Environmental Review Process

HUD's regulations at 24 CFR 58.22 prohibit grant recipients and their partners from committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has become "federal." This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions.

The restriction on undertaking or committing funds for choice-limiting actions does not apply to undertakings or commitments of non-federal funds before a project participant has applied for HUD (i.e CHIP) funding. A party may begin a project in good faith as a private project and is not precluded from later deciding to apply for federal assistance. However, when the party applies for federal assistance, it will generally need to cease further choice-limiting actions on the project until the environmental review process is complete.

### Level of Review

Once the scope of the project is known you can determine the appropriate level of environmental review. CHIP activities fall under one of two of levels of Environmental Review depending on the scope of the project:

Categorical exclusions subject to §58.5 paragraphs (3)(i), (4)(i), or (4)(ii):

- (3)(i) Rehabilitation of buildings and improvements of a building for residential use (with one to four units) when the density is not increased beyond four units, and the land use is not changed.
- (4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
- (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
- Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

### Environmental Assessment

Projects that exceed the threshold for categorially excluded categories above must complete the environmental assessment. An **environmental assessment (EA)** is completed to determine



whether or not an action is a "major federal action significantly affecting the quality of the human environment."

The public review timeframe must start one day after the notice is published. For example, if the notice is published on February 1<sup>st</sup>, then the comment period for a Tiered Review NOI published in the local newspaper must be listed as February 2<sup>nd</sup> through February 9<sup>th</sup>.

**PLEASE NOTE:** Federal environmental requirements do not allow for any individual other than the Chief Elected Official of the Recipient to certify compliance of the Tier One Environmental Review or the Site-Specific Environmental Screening Checklist required by Tier Two.

## **Environmental Review Process**

### **For City and County Government CHIP Recipients**

- The City and County Government CHIP Recipients serve as the Responsible Entity (RE)
- Prepare and sign the Tiered (Broad Level) Environmental Review (if addresses are not known) or Environmental Assessment if addresses are known
- Publish the public notice listing the Mayor or Chairperson as the RE
- Request the Release of Funds to DCA
- DCA will provide the Authority to Use Grant Funds Form
- Prepare and sign the site-specific Environmental Review Forms for each project address

### **For Nonprofit and Public Housing Authorities CHIP Recipients**

- DCA serves as the Responsible Entity (RE)
- DCA prepares and signs the Tiered (Broad Level) Environmental Review (if addresses are not known) or Environmental Assessment if addresses are known
- The Nonprofit or Public Housing Authorities publishes the public notice listing the DCA as the RE
- DCA staff will request the Release of Funds to HUD
- HUD will provide the Authority to Use Grant Funds (AUGF) form to DCA and DCA staff will send the Recipient the AUGF form to the Recipients for their records
- The Recipient will prepare and sign the site-specific Environmental Review Forms for each project address

## **Public Notice**

For Tiered Reviews, the Notice of Intent (NOI) to Request Release of Funds for Tiered Reviews must receive comments for seven days if published in the local newspaper or ten days if posted or mailed to interested parties.

For Environmental Assessments the Notice of Intent/Finding of No Significant Impact (NOI/FONSI) must receive comments for fourteen days if published in the local newspaper or eighteen days if posted or mailed to interested parties.

Using Tiering allows the Recipient to publish the required public notice and request the release of funds from DCA before identifying the addresses. Without this approach, the Recipient would

need to complete each step each time a new address was added to the grant. HUD requires a full environmental review record or ERR for each project. The Environmental Review Record is not completed until the site-specific reviews are completed.

## **Develop Local Program Policies and Procedures**

After approval of a CHIP award the Recipient must develop a set of written policies and procedures to govern the program. A written program policies and procedures document is a management tool that will protect the community from allegations of fraud and mismanagement. The purpose of the local policies and procedures is to ensure that the requirements of the approved CHIP award are set forth in a set of written policies and procedures outlining the basic eligibility and program implementation requirements.

The policies and procedures serve as a management tool to assist the Recipient and the citizens in understanding the program requirements. They also serve as a tool to assist the Recipient during disputes related to participant or contractor eligibility; scope of work undertaken; denial of CHIP loans; citizen complaints and other areas of dispute that may arise. The basic structure of the statement should be uniform and meet current DCA's standard. The resolution of the government, approving the Policies and Procedures as dictated by the terms and conditions of the award, must be kept on-site by the awarded recipient and made available to the public during normal business hours.

### **Affirmative Marketing Plan**

In compliance with 24 CFR 92.351 of the HOME Rule, the Recipient must make reasonable efforts to affirmatively further fair housing practices and must develop and adopt as part of their local CHIP policies and procedures an Affirmative Fair Housing Marketing Plan (AFHMP). DCA must approve the AFHMP. HUD guidance for the MBE/WBE Outreach Plan can be found at: <https://www.hudexchange.info/programs/affh/>

### **MBE/WBE Plan**

In compliance with 24 CFR 92.351 of the HOME Rule, the Recipient must make reasonable efforts to encourage the use of minority and women owned business enterprises (MBE/WBE) and must adopt as part of their local CHIP policies and procedures an MBE/WBE Outreach Plan. The MBE/WBE Outreach Plan must be approved by DCA. HUD guidance for the MBE/WBE Outreach Plan can be found at: [https://www.hudexchange.info/resources/documents/MBE-WBE\\_Outreach.pdf](https://www.hudexchange.info/resources/documents/MBE-WBE_Outreach.pdf)

### **Language Access Plan**

In compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, the Recipient must take timely and reasonable steps to provide Limited English Proficient (LEP) persons with meaningful access to programs and activities funded by the federal government and awarded by DCA. The Recipient must provide a Language Access Plan (LAP) and DCA must approve the LAP

### **Section 3**

The Recipient has adopted a plan for the recruitment of businesses and employees targeted under Section 3 of the Housing and Urban Development Act of 1968 and such plan has been approved by DCA. Section 3 guidance can be found at <http://www.hud.gov/offices/fheo/section3/Section3.pdf>

## **Procurement Requirements for Grant Administrator and Professional Services**

### **Applicability and State Government Procurement Requirements**

The CHIP Program is funded with Federal HOME Investment Partnership Program (HOME) funds therefore all Federal procurement requirements in 24 CFR Part 92 for the HOME program apply. In addition, state procurement requirement became effective July 2018 based on the passage of House Bill 489, adding O.C.G.A. 36-80-26 and amending O.C.G.A. 36-91-20(b)(1). These changes require most bid or proposal opportunities extended by local governments be advertised in the Georgia Procurement Registry. Each advertisement shall include such details and specifications as will enable the public to know the extent and character of the bid opportunity. The Georgia Procurement Registry can be found at the following web site: <http://doas.ga.gov/state-purchasing/georgia-procurementregistry-for-local-governments>.

### **Procurement of Application Development and Other Professional Services**

All professional procurements should be done prior to the preparation of the CHIP application and submission. For example, before submitting the CHIP application, both grant application services and grant administration services should be solicited using the same Request for Proposal (RFP). This avoids the appearance of a conflict of interest that can be created when a grant writer in a later procurement process submits and receives an award for grant administration services. This approach is also applicable for engineering and architectural services. In other words, preliminary reports and design and construction services should all be procured using the appropriate RFP or Request for Qualification (RFQ) process. Local governments often rely on grant writers and engineers/architects to assist them in navigating complex federal and state requirements; however, having a grant writer engineer or architect assist in the procurement process (e.g., developing an RFP or RFQ) can also create the appearance of a conflict of interest.

### **Competitive Negotiation for Professional Services**

CHIP payments for professional services are subject to the “competitive negotiation” requirements consistent with 2 CFR 200.319 for Competition. These provisions apply, typically, to contracts with private consultants, engineers and architects, and are not necessary when contracting with Regional Commissions (RCs). Note, however, that RCs that wish to subcontract directly with private consultants must use the procedures in this section and follow the procurement requirements before entering into subcontracts with private consultants. Alternately, the local government may contract with both an RC and private consultant provided the requirements herein are followed for the procurement of the private consultant.

To comply, the applicant government (not the individual or firm proposing to provide services) must:

- Develop a Request for Proposal (RFP) that includes a clear, accurate description of the services requested and the “evaluation factors” selected by the applicant with their level of importance. A Request for Qualifications (RFQ) is also acceptable for engineering or architectural services. Contact DCA for assistance, if needed. When contracting for architectural and engineering services, geographical location may be a selection criterion provided the application leaves an appropriate number of qualified firms to compete for the contract.
- Publicize the RFP or RFQ. This is most often accomplished by publishing it in the applicant's "legal organ” and/or on the local government’s website. RFPs or RFQs must also be posted on the Georgia Procurement Registry, when applicable. Allow 30 days for responses. The publication must state this is a Section 3 contract opportunity.
- Send a letter with copy of the RFP or RFQ to a number of "known providers". When soliciting firms to develop applications/administer projects, RFP’s should be sent to at least 7 known providers. When soliciting engineering/architectural services, the RFP or RFQ should be sent to at least 10 known providers. The Recipient should:
- Negotiate with (preferably with at least 2) respondents to the RFP or RFQ.
- Prepare documentation that evaluates proposals and establishes reasons (based on criteria in RFP or RFQ) for contract recommendations.
- Consult city or county attorney with above recommendations and proposed contract.
- Based upon established reasons and attorney's recommendation, obtain full council/commission approval and execute contract.

Letter(s) thanking unsuccessful respondents for making a proposal should then be sent. Based on evaluation criteria contained in the RFP/RFQ, this letter should state reasons why the respondent was not hired. Also, consult with the Procurement Instructions for Grant Writing/Administration [included in full below]

***Because HOME funds cannot be used to pay for any application development costs, applicants are cautioned only to obligate HOME funds for grant administration services and not for grant writing services.***

The applicant initial contract for application development should use local or other non-HOME sources. Communities are encouraged to include a contingent contract for administrative services that will become effective if the HOME application is funded. Note: Even if local sources of funds are planned for grant administration services and no HOME funds are budgeted for this activity, this procurement process described herein and in the most recent version of the HOME Recipients’ Manual must be followed for both grant writing and grant administration services based on the requirements of federal regulations. All professional procurement requires Section 3 compliance.

If an acceptable procurement process was followed for an application that is being resubmitted because it was denied in the previous program year, it is not necessary for the local government to re-advertise for professional services if they choose to retain the same firm for the same application for the same project. (Please note, however, that should the procurement process not have included the applicable Section 3 compliance requirements, then a new advertisement and RFP solicitation is required).

Any older procurements will not be valid, and a new advertisement and solicitation of RFP's is required.

### **Sole Source Procurement**

Procurement by noncompetitive proposals, referred to as sole source procurement, is procurement through solicitation of a proposal from only one source. Sole source procurements must adhere to the standards set forth in 2 C.F.R. § 200.320(f) in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. All sole source requests must be submitted prior to the CHIP application deadline.

For procurement processes that result in requests for sole source approval from DCA, the procurement process must be fully documented to DCA's satisfaction before DCA will grant approval, including but not limited to the following:

- a description of the procurement process;
- documentation of advertisement of the Request for Proposals;
- a list of the active, qualified consultants or engineers/architects that were emailed/mailed the Request for Proposals; and
- certified return receipt documentation that the Request for Proposals was mailed to the required number of active, qualified consultants or engineers/architects, or adequate email documentation that the Request for Proposals was delivered as required.

### **Procurement Standards for Contracts Entered into by CHIP Recipients**

The Recipient is the responsible authority with regard to all contracts entered into directly between the Recipient and the Grant Administrator, and without recourse, to DCA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in connection with a CHIP-funded activity. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction. However, Recipient are encouraged to contact DCA for assistance in any procurement matter.

The following procurement standards shall apply to all transactions entered into directly between the Recipient and the Administrator:

- A. **Recipient Procurement Regulations:** Recipients may use their own procurement regulations which reflect applicable Federal, State and local law, rules and regulations provided that all procurement made with CHIP funds meets the following standards:
1. The Recipient must maintain written codes or standards of conduct to govern the performance of its officers, employees or agents in contracting with and expending CHIP funds. A Recipient's or Recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. No employee, official or agent of the Recipient may participate in the selection, or in the award or administration of a contract supported by CHIP funds if a conflict of interest, real or apparent, is involved.
  2. Recipients may set minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value.

3. To the extent permissible by Federal, State or local law, rules or regulations, the Recipient's standards must provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the Recipient officers, employees, or agents, or by contractors or their agents.
4. It is national policy to award a fair share of contracts to small, minority, and women business enterprises. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized where possible as sources of supplies, equipment, construction and services. Each Recipient must develop a Minority and Women Business Enterprise Outreach Plan which conforms to the MBE/WBE Outreach Plan Guide form.
5. All procurement transactions entered into by the Recipient regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The recipient must maintain written Standards of Conduct that extends to organizational conflicts of interest or non-competitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade (2 CFR 200.318(c)(2).)

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

- a. Placing unreasonable requirements on firms in order for them to qualify to do business;
- b. Non-competitive practices between firms;
- c. Organizational conflicts of interest; and
- d. Unnecessary experience and bonding requirements.

#### **B. Procurement Selection Procedure**

Each Recipient must have written selection procedures which provide, at a minimum, the following procedural requirements:

A clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, set forth minimum essential characteristics and standards to which it must conform to be satisfactory. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other important requirements related to procurement. The specific features of the named brand which must be met by bidders must be clearly stated;

- a. All requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals;
- b. Awards shall be made only to responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration must be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources;
- c. Proposed procurement actions must be reviewed by Recipient officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis must be made of lease and purchase alternatives to determine which would be the most economical and practical

procurement. Consideration should be given to consolidating or breaking out purchases to obtain a more economical proposal.

- d. A Recipient must perform some type of cost or price analysis in connection with every procurement action including contract modifications and must only permit allowable costs to be included. *THE COST PLUS A PERCENTAGE OF COST METHOD OF CONTRACTING SHALL NOT BE USED. IN ADDITION, CONTRACTS WITH OTHER PUBLIC AGENCIES WILL ONLY ALLOW ACTUAL COST TO BE PAID. NO PROFIT IS ALLOWABLE WHEN CONTRACTING WITH OTHER PUBLIC AGENCIES.*
- e. Recipients must maintain well-organized records to detail the significant history of all procurements. These records must include, but are not necessarily limited to, information pertinent to rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

C. **Method of Procurement:** There are 5 methods of procurement (2 CFR 200.320) which can be used by Recipients if authorized by DCA's adopted standards.

- 1. **Micro-purchases** are used for acquisitions or purchases that do not exceed the micro-purchase threshold of \$3,000. Micro-purchases may be awarded without soliciting competitive quotes if the non-Federal entity determines the price is reasonable. The micro-purchase threshold is adjusted for inflation on a periodic basis.
- 2. **Small purchase procedures** which can be used for procurement under \$25,000 and which require that price or rate quotations be obtained from an adequate number of qualified sources. These quotations should be clearly documented in the Recipient's or Recipient's files. Refer to the "Small Purchase Procedures Manual" for assistance. **NOTE that this method is not appropriate for procurement of professional services.**
- 3. **Competitive sealed bids (formal advertising)** where sealed bids are publicly solicited and a firm-fixed-price contract (lump-sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lower in price.

In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum the following:

- a. A complete, adequate and realistic specification or purchase description;
- b. Two or more responsible suppliers are willing and able to compete effectively for the Recipient's business;
- c. The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price;
- d. A sufficient time prior to the date set for opening of bids, bids must be solicited from an adequate number of known suppliers. In addition, the invitation must be publicly advertised;
- e. The invitation for bids, including specifications and pertinent attachments, must clearly define the items or services needed in order for bidders to properly respond to the invitation;
- f. All bids must be opened publicly at the time and place stated in the invitation for bids;
- g. A firm-fixed-price contract award must be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in

- the bidding documents, factors such as discounts, transportation cost and life cycle cost must be considered in determining which bid is lowest; and,
- h. Any or all bids may be rejected when there are sound documented business reasons that to do so would be in the best interest of the program.
4. **Competitive negotiation** is a method of procurement where proposals are requested from a number of sources and the Request for Proposal (RFP) is publicized. Negotiations should be conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. A Recipient should perform a systematic analysis of each contract item or task to assure adequate service and to offer reasonable opportunities for cost reductions. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a grant, the following requirements apply:
- a. Proposals must be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Recipient should send a letter with a copy of the RFP to a number of “known providers”. When soliciting firms to develop application/administer projects, RFPs should be sent to at least 7 known providers. When soliciting engineering/architectural services, RFP’s should be sent to at least 10 known providers. As a service to applicants, recipients and others, DCA maintains a list of professionals who have expressed an interest in proposing on CHIP projects. This is not an “approved” list. DCA does not approve or disapprove professionals. This is the applicant or recipient’s responsibility. The Request for Proposals must be publicized and reasonable requests by other sources to compete must be honored to the maximum extent practicable. A “Solicitation” request by the Recipient for contracts other than application development/project administration and architectural/engineering services must be specifically addressed to a list of several potential bidders identified by the Recipient. To “publicize” the RFP, the Recipient must offer the RFP through publication in a newspaper with adequate circulation or publication by other means such that reasonable exposure to potential bidders can be expected.
  - b. The Request for Proposals must identify all significant evaluation factors, including price or cost where required and their relative importance.
  - c. The Recipient must have mechanisms for technical evaluation of the proposals received; for determining responsible bidders; and for engaging in written or oral communication with the providers in the selection process.
  - d. Award may be made to the responsible bidders whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful bidders should be notified promptly.
  - e. State Recipients and Sub-recipients may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors’ qualifications are evaluated, and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation.
  - f. If “competitive negotiation” is not successful, then the Recipient must receive “sole source” approval from DCA prior to contracting.
5. **Non-competitive** or “sole source” procurement requires prior DCA approval for professional services regardless of the contract amount and for all other contracts if over \$25,000 and may be used when:



- a. The item or service is available from only one source;
- b. Urgent public need will not allow for the delay caused by advertising;
- c. Although a number of bids were solicited, only one response was received; and,
- d. Such contracts shall be made with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and other technical resources, or accessibility to other necessary resources.

**Contract Requirements:** The Recipient must include, in addition to the provisions needed to define a sound and complete agreement, the following provisions in all contracts and sub grants:

1. Contracts other than small purchases must contain such contractual provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for appropriate sanctions and penalties.
2. All contracts in excess of \$10,000 must contain provisions for terminations “for convenience” by the Recipient, including when and how terminations may occur and the basis for settlement. In addition, all contracts must describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
3. All contracts awarded by the Recipient and their contractors or sub-grantees having a value of more than \$10,000 must contain a provision requiring compliance with Executive Order 11246, entitled “Equal Employment Opportunity”, as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR, Part 60).
4. All contracts and subcontracts over \$2,000 for construction or repair must include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (23 CFR, Part 3. This act provides that each contractor or sub-grantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he is otherwise entitled. The Recipient must report all suspected or reported violations to DCA.
5. All negotiated contracts (except those of \$10,000 or less) must include a provision that DCA, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purposes of making audit, examination, excerpts, and transcriptions for 3 years after final payment to the Recipient or all pending matters are closed, whichever is longer.
6. Contracts must recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
7. Contracts cannot be entered into with Contractors that listed on the governmentwide Excluded Parties List System in the System for Award Management, in accordance with OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp. p 189) and 12689 (# CFR Part 1989 Comp. p. 235).

8. Contracts must certify that the Contractors that apply or bid for awards over \$100,000 have not and will not use Federally appropriated funds to pay any person or organization for influencing or attempting to influence any member of Congress, officer or employee of Congress or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any notification that would allow the Contractor an unfair advantage to decide to not to apply or take needed actions before receiving an award.

### **DCA Guidance: Procurement for Application Development and Administrative Services**

HOME payments for Grant Administration services are subject to the “competitive negotiation” requirements of 2 CFR 200.319. These provisions apply, typically, to contracts with private consultants, and are not necessary when contracting with Regional Commissions (RCs). Note, however, that RCs that wish to subcontract directly with private consultants must use the procedures in this section and follow the requirements of procurement, before entering into subcontracts with private consultants. Alternately, the local government may contract with both an RC and private consultant provided the requirements herein are followed for the procurement of the private consultant.

To comply, the applicant government (not the individual or firm proposing to provide services) must:

#### **Step 1. Establish or appoint a local Selection Review Committee**

The city or county must establish a Selection Review Committee to determine the evaluation criteria and to rate proposals for services. This committee may consist of the entire local governing body (council/board of commissioners), a subset of this council/ board, as appointed by the Mayor/Chairman, or a combination of elected officials and city/county staff. Cities/counties should have a minimum of three members on the committee.

Committee members may not have any potential conflicts of interest with any of the individuals, firms, or agencies under review (e.g., family relationships, close friendships, business dealings) and no person who might potentially receive benefits from HOME-assisted activities may participate in the selection, award, or administration of a contract supported by HOME funding if he or she has a real or apparent conflict of interest. For further guidance regarding potential conflicts of interest, please see the most recent version of the HOME Recipients’ Manual.

#### **Step 2. Determine the Selection Criteria to Evaluate Respondents**

Determine what evaluation criteria will be used to rate the proposals submitted to the city/county. Prepare a Ratings Criterion Score sheet to evaluate and score each proposal received.

#### **Step 3. Develop the Request for Proposals (RFP) Package**

Develop a Request for Proposal (RFP) package that includes “evaluation factors” selected by the Review Committee and their level of importance. The RFP package should include the submission deadline and instructions for submission, a local point of contact for any questions regarding the RFP, and a format for a Statement of Qualifications.

#### **Step 4. Advertise the RFP**

If the contract will be for more than \$10,000 it must be advertised on the Georgia Procurement Registry: [doas.ga.gov/state-purchasing/georgia-procurement-registry-for-local-governments](https://doas.ga.gov/state-purchasing/georgia-procurement-registry-for-local-governments) Communities are urged to also advertise the RFP on their web site and/or by publishing it in the applicant's "legal organ." Allow 30 days for responses. The publication must state this is a Section 3 contract opportunity.

Send an email or letter with a copy of the RFP to a minimum of 7 "known providers". If sending letters by mail, DCA requires that letters be sent certified return receipt to provide the required documentation. Sole source approval is required from DCA when only one response is received. Emails must be sent with a Request Delivery Receipt and Request Read Receipt to provide equivalent documentation when using this method. See the sample in Appendix B.

When soliciting firms to develop applications/administer projects, RFP's should be sent to at least 7 "known providers." As a service to applicants, recipients and others, DCA maintains a list of consultants who have expressed an interest in making proposals on HOME projects. This is not an "approved" list. DCA does not approve or disapprove consultants. This is the applicant's or recipient's responsibility. The list can be found on the DCA web site.

#### **Step 5. Review and rate proposals**

After the submittal deadline, the committee should review and rate each of the proposals received. Committee members should use the evaluation criteria established in step 2 above. Each committee member should score the proposals; all scores can then be averaged to determine the highest scoring proposal. The firm with the highest average points should be selected.

If a Section 3 business submits a bid and requests a preference, the city/county must give priority to the greatest extent possible to the business. In this instance, the city/county should contact Kathleen Vaughn at (404) 679-0594 or [kathleen.vaughn@dca.ga.gov](mailto:kathleen.vaughn@dca.ga.gov) for further guidance to ensure compliance with the federal Section 3 requirements.

#### **Step 6. Approve the selected contractor and award contract**

The City Council/Board of Commissioners has final authority to award the contract to the selected contractor. The review committee should present a recommendation to the city/county attorney and to the governing board for final approval. A contract for services should be prepared between the city/county and the selected consultant.

Letter(s) or emails thanking unsuccessful respondents for making a proposal should then be sent. Based on evaluation criteria contained in the RFP, this letter should briefly state the reasons why the respondent was not hired.

#### **Step 7: Record keeping**

The city/county must maintain and make available all documentation utilized during the RFP process, including but not limited to:

- Copy of the full RFP
- Proof of publication of the RFP on the Georgia Procurement Registry (GPR) (by screen shot of GPR posting; if posting links to another web site for full RFP, documentation must also include screen shots of RFP on the other site)

- List of firms/individuals that were sent RFPs
- Copies of proposals received
- Scoring sheet that shows the rankings for each of the submitted proposals
- Meeting minutes indicating the council/board approved the selection of the selected firm for service
- Executed contract for services with applicable federal language
- Documentation of any correspondence with a Section 3 business

Because HOME funds cannot be used to pay for any application development costs, applicants are cautioned only to obligate HOME funds for grant administration services and not for grant writing services. Contracts should initially only obligate the applicant to pay for costs of application development using local or other non-HOME sources. Communities are encouraged to include a contingent contract for administrative services that will become effective if the HOME application is funded. ***Note: Even if local sources of funds are planned for grant administration services and no HOME funds are budgeted for this activity, this procurement process described herein and in the most recent version of the HOME Recipients' Manual must be followed for both grant writing and grant administration services based on the requirements of federal regulations.***

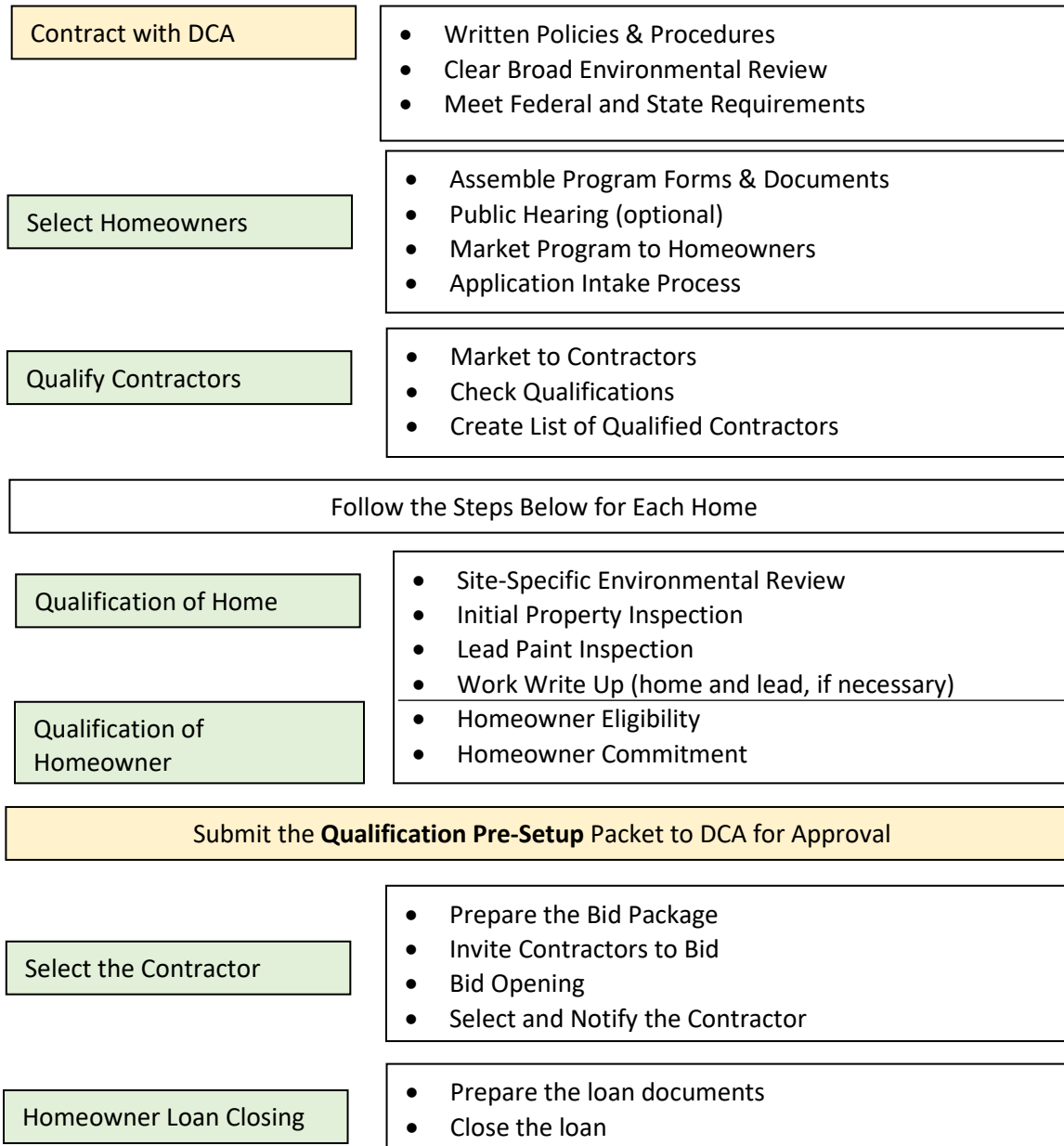
All professional procurement requires Section 3 compliance.

If an acceptable procurement process was followed for an application that is being resubmitted because it was denied in the previous program year, it is not necessary for the local government to re-advertise for professional services if they choose to retain the same firm for the same application. (Please note, however, that should the procurement process not have included the applicable Section 3 compliance requirements, then a new advertisement and RFP solicitation is required). Any older procurements will not be valid, and a new advertisement and solicitation of RFP's is required.

For procurement processes that result in requests for sole source approval from DCA, the procurement process must be fully documented to DCA's satisfaction before DCA will grant approval, including but not limited to the following: 1) a description of the procurement process; 2) documentation of advertisement of the Request for Proposals; 3) a list of the active, qualified consultants or engineers/architects that were emailed/mailed the Request for Proposals; and 4) certified return receipt documentation that the Request for Proposals was mailed to the required number of active, qualified consultants or engineers/architects, or adequate email documentation that the Request for Proposals was delivered as required. Contact CHIP for further guidance regarding procurement for professional services; policy and samples of the following documents; sample notice for RFP, sample email request for proposals, sample request for proposals, sample certification for businesses seeking Section 3 preference, sample statement of qualifications, and sample grant administration ratings criterion.

# CHIP HOUSING REHABILITATION ACTIVITIES

## CHIP Housing Rehabilitation Flow Chart



Construction Contract

- Hold preconstruction conference
- Execute Construction Contract
- Issue the Notice of Commencement

Submit the **Setup** Packet to DCA for Approval

Construction

- Inspections
- Change Orders

Submit **Revised** Setup Packet to DCA for Approval **if Necessary**

Submit **Draw Requests** with **Inspection** Reports to DCA for Payment

Project Close Out

- Final Inspection
- Release of Liens

Submit **Final Draw and Completion Packet** to DCA for Payment

After all Homes are Completed and all Grant Funds are expended

Monitoring and File Close Out

## **Introduction- Owner-Occupied Rehabilitation**

The following section of this manual is intended to assist Recipients with the step-by-step administering the CHIP Housing Rehabilitation Program.

### **Select Key Participants**

#### **Staffing**

There are several manners in which Recipients undertake the administration of CHIP homeowner rehabilitation programs including:

- Self-administered by the City or County Community Development or Housing Staff
- Administered by a for-profit consultant
- Administered by a non-profit sub-recipient

Key personnel required to administer and manage the day to day operations of a homeowner rehabilitation program typically include:

- Program Director or Administrator
- Housing inspector or Specialist
- Clerical/Technical Support

Additionally, in order to implement the homeowner rehabilitation program, the Recipient will need to identify and develop the following professional relationships:

- Appraiser
- Attorney
- Title Company
- Loan Review Committee (if used by the Recipient's as set forth in their CHIP Program Policies and Procedures)

The responsibilities, functions, and tasks vary from Recipient to Recipient based upon their overall administrative plan. Because of these variations, all references in the Manual to the individual steps and tasks in the homeowner rehabilitation process are made to the "Recipient." While some functions may be the responsibility of the Program Director or Administrator, some responsibilities or tasks are undertaken by the Housing inspector or Specialist, and some responsibilities and tasks are undertaken by the clerical/technical support person based on local program design.

## **Assemble/Develop Program Forms and Documents**

The Recipient should assemble all required CHIP program forms and documents. DCA will provide most of the forms necessary to carry out this program. Form templates are available on the website and CHIP staff.

## **Market the Rehab Program to Prospective Applicants and to Contractors**

This section of the manual will address both marketing to the CHIP applicant and marketing to potential rehabilitation contractors.

### **Marketing to the CHIP Applicant**

In accordance with the approved CHIP award, the Recipient should implement the marketing plan as described in the application. Each Recipient should set forth a marketing strategy for outreach to potential low income homeowners in their approved award. For some Recipients the marketing strategy includes assisting qualified applicants from an existing waiting list followed by a first come, first served application intake process. For other approved CHIP awards, where an existing waiting list is non-existent, Recipients can design a first come, first served application intake process.

In order to reach potential low income homeowners and to encourage them to participate in the CHIP homeowner rehabilitation program, the Recipient is required to follow the marketing strategy set forth in the approved award. Some of the marketing strategies include distribution of brochures and flyers, public and non-public radio and television advertising, newspaper advertising, outreach to community organizations, and holding housing fairs.

The HUD HOME regulations and DCA policy regarding fair housing and equal opportunity must be followed to ensure that those least likely to apply will have the opportunity to become aware of the program and to apply and participate. In keeping with these requirements, all printed material and flyers/brochures must include the equal housing opportunity logo. DCA also requires that the fair housing poster and the equal employment opportunity posters be posted at locations where both applicants and contractors are likely to go for information on the program. The Recipient is required to follow the affirmative marketing plan and local Language Access Plan as required by the approved conditions of the award. The local Language Access Plan will outline how the Recipient will accommodate citizens who are not English proficient speakers.

The following methods of outreach and marketing have been deemed successful in targeting the low income homeowner:

- flyers and brochures listing the key facts and information about the program;
- social media; posters;
- utility mailing inserts;
- public service announcements;



- new releases;
- feature articles;
- direct mail.

The HUD Fair Housing Poster must be displayed in the office locations where applicants are likely to go to apply for assistance.

HUD Fair Housing resources can be found on this site:

[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/aboutfheo/aboutfheo](https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/aboutfheo/aboutfheo)

### **Marketing and Outreach to Contractors**

The Recipient will also need to market and outreach to potential rehabilitation construction contractors. In keeping with the HUD regulations and DCA policy, the Recipient must follow the outreach requirements as set forth in the approved special conditions of the CHIP award to outreach to minority and women owned contractors.

Some methods to ensure a pool of eligible rehabilitation contractors include:

- Newspaper advertisements
- Flyers at construction supply companies and hardware stores
- Flyers at lumber yards
- Social media
- Mailings to existing pool of local contractors and to chapters of construction related associations
- Notices to minority and women owned newspapers and radio stations
- Flyers in local building permit office

The Equal Employment Opportunity Poster must be displayed in locations where contractors are likely to go for information about the program.

Download the poster here: <https://www1.eeoc.gov/employers/poster.cfm>

## **Develop a Pool of Eligible Contractors**

NOTE: ALL GENERAL and RESIDENTIAL CONTRACTORS NOW ARE LICENSED BY THE STATE OF GEORGIA. The License Number MUST be documented and noted in the client (Homeowner) case file.

The first step toward creating and maintaining a quality rehabilitation program is to establish a list of competent and reputable General Contractors. It is suggested that the community inquire with the following sources:

1. The City and/or County Building Inspector's Office

2. Local Building Supply Dealers
3. Lumber Yards
4. Local Insurance Agencies (Property Insurance Claims)
6. Neighboring Communities presently administering rehabilitation programs
7. Local Newspaper - place an ad addressed to experienced general contractors.
8. Local agencies administering other housing programs.

The Recipient should take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms in their area are solicited to participate in the program. Based on the contractor qualifications included in the Recipients' CHIP program policies and procedures, the Recipient must solicit potentially qualified contractors through its marketing efforts as outlined under "Marketing the Program."

In order to qualify contractors from the pool of eligible contractors, Recipients should review the contractor applications against their contractor requirements. These qualifications typically include but are not limited to:

- Property damage and liability insurance
- Credit standing
- Length of time in business
- References (Jobs Completed, Jobs in Progress, Suppliers, Financial, Warranty)
- Licenses/Certifications
- Areas of Expertise/Experience
- Lead based paint certification
- Check for state and federal debarment

In some of the smaller rural areas of Georgia, Recipients may have difficulty in obtaining a large enough pool of eligible contractors for CHIP rehabilitation work. Recruiting from a larger geographic area may be required.

It is important to note that while a Recipient can limit the pool of contractors from which an owner can choose and the Recipient can set limits regarding acceptable bids, the responsibility of selecting a contractor from the eligible pool and checking out the contractor to their own satisfaction falls upon the owner.

Some Recipients administering homeowner rehabilitation program conduct an orientation with eligible contractors prior to putting out the projects to bid. The purpose of this orientation is to:

- provide information on the CHIP program and process that will be beneficial to the contractors
- familiarize the contractors with the program requirements
- familiarize the contractors with the CHIP program client eligibility
- provide information on the bidding process
- provide information on the inspection process
- provide information on the pay request process

- familiarize the contractors with the contract documents and forms that will be used
- familiarize the contractors with the HOME property standards that have been selected by the Recipient for use in the CHIP homeowner rehabilitation program
- provide the contractors with the Recipients' Written Rehabilitation Standards that describe the methods and materials that will be used to meet the selected property standards

### **Licensing and Certification Requirements for Construction and Trades in the State of Georgia**

Recipients administering homeowner rehabilitation programs should be well informed of the construction and trade industry licensing and certification requirements required by the State of Georgia.

All contractors or subcontractors engaged in the practice of electrical contracting or plumbing contracting or low-voltage contracting and conditioned air contracting (heating and cooling) or the installation, alteration and/or repair of plumbing, air conditioning, heating, electrical or low-voltage wiring systems are required to be licensed by the State of Georgia Construction Industry Licensing Board.

Contractors undertaking CHIP homeowner rehabilitation projects also must agree that anyone engaged in the practice of Lead Hazard Reduction or Abatement must be certified by the State of Georgia Department of Natural Resources, Environmental Protection Division.

### **Set up Fair and Equitable Application In-take Process**

Following the fair and equitable process outlined in the approved CHIP award, the Recipient should develop an application in-take log to record each preliminary application received. The most popular method of handling eligible applications is the "first come, first served" basis. However, the priority system for the processing and funding of cases addressing all the units identified in the CHIP application as being feasible for rehabilitation should be defined in the Program Policy Statement. Also, a telephone log should be set up to record information from interested applicants in order to provide callers deemed eligible with a preliminary application.

Some Recipients develop a telephone pre-screening form to record more information up front to avoid the expense of mailing and processing applications from unqualified applications. If an applicant is ineligible due to over income, does not hold fee simple title or a 99 year leasehold interest, non-occupancy as a principal residence, renter occupied, investor owned, or other clear and discernable ineligibility criteria, a record should be made of the resolution of the call.

Most Recipients develop a transmittal letter to potential applicants that includes:

- Preliminary application
- Releases for verification of income, benefits and assets
- Release form for credit report
- General program guidelines and policies and procedures

- [Fair Housing Brochure \(in other languages besides English\)](#)
- Protect Your Family from Lead in Your Home  
[https://www.dca.ga.gov/sites/default/files/handbook\\_with\\_statutes.pdf](https://www.dca.ga.gov/sites/default/files/handbook_with_statutes.pdf)
- Certification of Income and Principal Residence form
- Conflict of Interest Certification form
- Declaration of citizenship status

The transmittal letter usually gives the potential applicant a deadline date within which to return the completed application form and all required notices and releases. The transmittal letter makes clear that if the preliminary application and all required enclosures are not received by the deadline date that their application will fall to the bottom of the application log or not receive service.

Once the first applicant has been selected and it has been confirmed that the unit was targeted in the grant application, the applicant should be asked to bring the following documents:

1. Form of Identification (i.e., Driver's License)
2. Warranty Deed for the property to be rehabilitated, including the year the home was constructed
3. Current Homeowner's Insurance Policy,
4. Most recent real estate tax receipts for property to be rehabilitated,
5. Recent pay stubs benefit(s) award letters and/or documentation of income from all sources for all adult members of the households,
6. If self-employed, last two year's tax returns and current financial statement,
7. Copy of court award for child support or alimony
8. Proof of ownership and principal residency
10. Lawful Presence Certification – OCGA 50-36-1(e)(2). See “Exhibit L”

Some forms of proof of principal residency could include copy of a driver’s license with physical property address shown; social security or pension award letter showing the address; a property tax bill showing the address; and copies of utility bills showing the address.

Some forms of proof that the applicant is current in their property taxes could include a property tax statement receipt from the City and/or County; a cancelled check for property taxes; or a mortgage statement from the lender indicating property taxes were paid.

Proof of ownership can be shown through a copy of a Deed or Deed of Trust or a copy of a 99 year leasehold interest in the property.

The Recipient should date and time stamp the receipt of each preliminary application.

## **Pre-Qualify the Applicant**

Once the Recipient receives a completed preliminary application, it can be reviewed for completeness and preliminary eligibility or ineligibility. A letter of transmittal should be

developed to inform the applicant of their preliminary approval or denial. If denied, the process for appeals should be explained in the transmittal letter. Recipients can refer all denied applicants to the [USDA home repair loan program](#) for assistance.

The preliminary application form will provide the Recipient information on the number of persons in the household, the form of ownership or title held to the property, whether or not the property is used as the household's principal residence and the income, benefits and debts of the members of the household 18 years of age and older. In other words, enough information should be gathered to determine that you do or do not have a potential eligible applicant. HUD's guidance on determining eligibility can be found at:

<https://files.hudexchange.info/resources/documents/HOMEGuideForIncomeAndAllowances.pdf>

The Recipient should verify income, benefits and assets for each member of the household who is 18 years of age or older. HUD has available an Income Calculator for use by HOME programs. It is available at the following website:

<http://www.hud.gov/offices/cpd/affordablehousing/training/calculator/calculator.cfm>

The Income Calculator allows Recipients to efficiently determine income eligibility of applicants for rehabilitation loans, homeownership assistance, etc.

All sources of "gross household income" and earnings of all adult members anticipated to be received in the 12-month period following the effective date of income certification(s) which will be used to determine whether the applicant is eligible for assistance, must be verified and documented. After all the "gross household income" of the occupants has been verified, the Recipient should compute the annual income to determine if it is within the current "Low and Moderate" Income Tables. If the annual income exceeds the income limit, the applicant is not eligible for financial assistance. Copies of these documents must be maintained in the applicant file. Communities must use one or more of the following means of documenting the applicant's recent income.

1. Completing and printing calculations using the HUD Income Calculator described above.
2. Completed Verification of Employment Form. A completed "Request for Verification of Employment Form," (available at DCA), or another acceptable verification of employment form designed by the community which includes all the information on the DCA form, is the best means of verifying income. However, the verification of employment form must be mailed by the community to the employer and by the employer back to the community; these forms should not be hand-carried by applicants.
3. Previous Year's Income Tax Return (1040). The Federal Income Tax Form (such as the IRS 1040 Form), signed by the applicant and filed with the IRS, generally is acceptable as a sole source of income documentation if the borrower is applying for assistance funds in the early part of the year. The IRS tax forms are the most accurate source of income verification for applicants with irregular incomes or with updated information for the current year. These forms are required for all self-employed borrowers. During the last six months of the calendar year, the Federal tax forms should be supplemented with recent income documentation, such as one or more pay stubs or a documented telephone call to the employer. This will help ensure

that the applicant's income has not changed significantly since the Federal tax form was prepared.

4. **Salary Pay Stubs.** When the income is solely from salary, salary pay stubs may be used as the sole or primary source of income verification. These salary stubs must be for a recent, continuous one-month period. When the salary paystub documentation supplements a different verification source, such as the previous year's W-2 form(s), one typical pay stub may suffice to verify the current salary.
5. **Previous Year's W-2 Form(s).** Like the Federal tax form, the previous year's W-2 form(s) for all employment income is generally an acceptable sole source of income verification, but only if the applicant is applying for assistance in the early part of the year.
6. **Pension, Disability, Social Security or Social Services Benefits.** Acceptable methods of verifying such income include any one or more of the following, which are listed in order of preference:
  - a. Requesting information from the Social Security Administration Office which services the community. In order to receive prompt service, it is best to send the request to the attention of a particular individual;
  - b. A current copy of the award letter;
7. A photocopy of a regular benefit check, if the prospective borrower can bring the check to the office for photocopying.
8. Bank statement which clearly indicates a direct deposit for fixed income benefits (such as social Security, SSI, etc.).
9. **Currently Dated Balance Sheet and Statement of Operations.** Where the principal source of income is from the applicant's business, whether owned individually or by a corporation or partnership, or where the applicant itself is a corporation, partnership or other legal entity, the community must obtain audited financial statements for the entity prepared by an accountant, including a currently dated balance sheet and statement of operations, or a signed copy of the legal entity's most recent tax return filed with the IRS. For partnerships, the community must also obtain this same information from all general partners. For limited partnerships, the community must also obtain this same information from as many limited partners as necessary to determine whether the partnership is an acceptable risk. (This may or may not include all limited partners.)
10. **Separation or Divorce Settlement Statement.** A separation or divorce settlement statement for alimony or child support payments is necessary. This statement must be supplemented by some evidence of regular payment of the alimony or child support payments.

**Verifying Other Income.** The community must either use the previous year's Federal income tax return or the sources listed below to verify the following types of other income:

1. **Income and Expenses from Investment Properties** -- verifiable with signed leases for income, cancelled checks or copies of receipts marked paid for expenses, audited profit/loss statements or other statements from leasing agents or; a completed Pro-Forma (available at DCA).
2. **Interest or Dividends from Stocks, Bonds, or other Financial Institutions** -- verifiable with statements from the broker or financial institution. A "Verification of Deposit" form is available at DCA;

3. Payments of Principal or Interest on Notes or Mortgages -- verifiable with copies of the legal instrument and some evidence of regular payment. A "Verification of Mortgage" form is available at DCA;
4. Overtime, Bonuses or Commissions -- verifiable with statements from the employer;
5. Regular Contributions or Payments from Others, including funds contributed by other family members regardless of whether they live in the same dwelling as the prospective borrower -- verifiable with cancelled checks written by the payer, bank statements showing deposits in the prospective borrower's account, or a written statement concerning the contribution or payment.
6. Various "Odd Jobs" -- verifiable with an executed notarized legal "affidavit."

NOTE: Telephone verification may be used in lieu of forms and statements only when the services are not responding to your written requests. The information gathered over the telephone should include:

1. ALL the information required on the appropriate verification form
2. Name and position of person providing information
3. Date and time of telephone call

This information should then be documented in the applicant's file.

The Recipient can also order a preliminary title opinion to determine that the applicant does in fact own the property in fee simple title or hold a 99 year leasehold interest in the property.

At the end of the preliminary application stage, the applicant must meet the following tests:

General Eligibility – The application should be reviewed to determine that the applicant meets the general eligibility criteria including low income eligibility and ownership eligibility including residing in an eligible single family property as their principal residence.

Type of Ownership Interest – A homeowner applicant must own the property and occupy the property as his or her principal residence. An applicant is considered to have met the requirement to own a dwelling if the person holds any of the following interest in the real property:

1. Fee title, a life estate, a 99-year lease, or a lease, including any options for extension; or
2. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
3. A contract to purchase any of the interests or estates described above (i.e., Land sales contract); or
4. Any other interest, including a partial interest, which, in the judgment of the local attorney, warrants consideration as ownership of the dwelling.

A note about title searches: DCA recommends that the Recipient becomes a member of the Georgia Superior Court Clerks' Cooperative Authority ([www.gsccca.org](http://www.gsccca.org)) to search for titles. The

cost is about \$12.00 a month. The Recipient may also consider using an online title search site to receive titles more quickly and less expensively than through an attorney.

Please be aware that there may be some cost involved in obtaining a preliminary title opinion and that the cost cannot be reimbursed by the CHIP program if the project is not completed. If the project is completed as a CHIP project, the cost can be included as a project soft cost. For this reason, the Recipient may want to review the County records to ascertain the preliminary condition of title. Some Recipients charge a nominal application fee that covers the cost of the credit report. However, any Recipient that charges an application fee must first obtain DCA approval.

Note: The term "dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multifamily, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

Housing that is rehabilitated may include inherited property with multiple owners, life estates, living trusts and beneficiary deeds under the following conditions:

1. Inherited property. Inherited property with multiple owners: Housing for which title has been passed to several individuals by inheritance, but not all heirs reside in the housing, sharing ownership with other nonresident heirs. (The occupant of the housing has a divided ownership interest.) The Recipient may assist the owner-occupant if the occupant is low-income, occupies the housing as his or her principal residence, and pays all the costs associated with ownership and maintenance of the housing (e.g., mortgage, taxes, insurance, utilities).
2. Life estate. The person who has the life estate has the right to live in the housing for the remainder of his or her life and does not pay rent. The Recipient may assist the person holding the life estate if the person is low-income and occupies the housing as his or her principal residence.
3. Inter vivos trust, also known as a living trust. A living trust is created during the lifetime of a person. A living trust is created when the owner of property conveys his or her property to a trust for his or her own benefit or for that of a third party (the beneficiaries). The trust holds legal title and the beneficiary holds equitable title. The person may name him or herself as the beneficiary. The trustee is under a fiduciary responsibility to hold and manage the trust assets for the beneficiary. The Recipient may assist if all beneficiaries of the trust qualify as a low-income family and occupy the property as their principal residence (except that contingent beneficiaries, who receive no benefit from the trust nor have any control over the trust assets until the beneficiary is deceased, need not be low-income). The trust must be valid and enforceable and ensure that each beneficiary has the legal right to occupy the property for the remainder of his or her life.
4. Beneficiary deed. A beneficiary deed conveys an interest in real property, including any debt secured by a lien on real property, to a Recipient beneficiary designated by the owner and that expressly states that the deed is effective on the death of the owner. Upon the death of the owner, the Recipient beneficiary receives ownership in the property, subject to all



conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, and other encumbrances made by the owner or to which the owner was subject during the owner's lifetime. The Recipient may assist if the owner qualifies as low-income and the owner occupies the property as his or her principal residence.

In reviewing the title, the ownership interest must be subject only to the mortgages, deeds of trust or other liens or instruments securing debt on the property. No restriction or encumbrance that impairs the good and marketable nature of the title to the ownership interest in the property is allowed.

The most important aspect of reviewing the title is for the Recipient to be assured that the applicant owns the property and is legally able to make modifications to it and to encumber the property with debt.

It is important to note that Recipients take on all aspects of being a lender and the fair and equal credit laws must be followed. Whenever the Recipient, administrative agent, or Sub-recipient operates a loan program on behalf of homeowners, all federal Fair Housing and Equal Credit Opportunity laws are in effect.

## **Environmental Review- Site Specific**

A site-specific review must be completed before any funds, regardless of source, are committed to a project. Recipients cannot engage in any choice-limiting activities prior to environmental clearance per 24 CFR §58.22. Choice-limiting activities include but are not limited to these examples:

- Acquisition of land;
- Closing on loans including loans for interim financing;
- Signing a contract;
- Commencing construction

All HUD Part 58 Environmental Reviews must follow the format suggested by HUD found on the HUD Exchange website under the right toolbar titled “Suggested Formats and Sample Notices,” see <https://www.hudexchange.info/programs/environmental-review/>. The Recipient chooses the appropriate forms based on the level of review. The worksheets for the related laws can be found [here](#) to help navigate you through completing the environmental review. The site -specific review should concentrate on the issues that were not resolved in the broad-level review (see 40 CFR 1508.28). In addition, NEPAassist is a useful tool that can help facilitate the environmental review process using environmental data from the Environmental Protection Agency (EPA) Geographic Information System databases and web services. The mapping tool is located at:

<https://nepassisttool.epa.gov/nepassist/nepamap.aspx>

Other useful mapping tools include:

US Fish and Wildlife Service Wetlands Mapper- <https://www.fws.gov/wetlands/data/mapper.html>

FEMA Flood Map Service Center- <https://msc.fema.gov/portal/home>

Coastal Barrier- <https://www.fws.gov/cbra/maps/index.html>

Coastal Zone- <http://geospatial.gatech.edu/G-WRAP/>

Sole Source Aquifers- <https://www.epa.gov/dwssa/map-sole-source-aquifer-locations>

The site-specific review must determine and document the project's adherence to all established statutes and remaining requirements as defined in the broad-level review.. The Environmental Submission should follow the document order as listed below:

- Location Map, close up with overview of area to be reviewed
- Pictures of the property that include the front, side, and rear views.
- All pictures and maps should be in color
- DCA Part 58 Form (which incorporates the project description, level of review and all required checklists into one document);
- All Supporting Documentation in the order of the HUD checklist with attachment letters or numbers for identifiers for each support section;
- Supporting documents should include all data utilized for the review including maps submitted with correspondence to State or Federal Agencies (SHPO, Fish and Wildlife, etc.)

## Initial Property Inspection

Once the Recipient has deemed an applicant as preliminarily approved and notified the applicant of pre-approval by letter, an appointment should be made with the property owner to conduct a preliminary property inspection. During this time the Recipient can send out verification forms to document the information provided in the preliminary application, if this process has not already begun.

The purpose of the preliminary inspection of the property is to determine if the property is feasible for rehabilitation or if re-construction would be required, and to estimate the total cost of regular (non-lead) rehabilitation or the cost of reconstruction.

In inspecting the property, the Recipient should develop a Property Inspection Form or use a copy of the Work write up form in order to record the work required to meet the Recipient's selected property standards (codes) for the CHIP rehabilitation program.

It is an appropriate time during the preliminary inspection to have the owner sign a permission statement to allow pictures to be taken of the property. Exterior pictures of the property are needed for the environmental and interior pictures may also be needed for historic preservation review.

Before and after pictures are also helpful to both the Recipient and DCA in reviewing requests for reconstruction. The Recipient and DCA also need permission to use before and after pictures of the property for use in program outreach, publicity and training. A permission statement should be included on both the initial and full application forms.

### **Reconstruction**

CHIP funds may be used to reconstruct housing that is owned and occupied by low and very low-income households and that will be located on the same property as the original structure. Reconstruction means the rebuilding, on the same lot, of a housing unit eligible for CHIP assistance that is not economically or structurally feasible to rehabilitate. The reconstructed housing must be substantially similar to the original housing.

## **Final Qualification of Applicant**

Once a preliminary inspection has been completed and an estimate of total cost of the rehabilitation has been determined, the Recipient can proceed with full application processing.

The steps in the full qualification process include taking a completed full application from the homeowner; verifying the income and assets using third party verification; and verifying property ownership. **Income determinations must be completed before assistance is provided. Income need not be reexamined at the time assistance is actually provided unless more than six months has elapsed since the initial determination.**

These steps in the final qualification of the application can be summarized as:

- Take a full application on the applicant
- Consolidate and track all verifications ordered on income, benefits and assets
- Review preliminary title opinion to determine if the applicant owns the property in fee simple title or holds a 99-year leasehold interest on the property
- Review any liens or other encumbrances to the title that would prohibit the city or county from being able to secure their CHIP interest in the property
- Confirm proof of ownership by reviewing the deed or other ownership documents
- Obtain proof that the applicant has current paid property taxes
- Obtain proof that the applicant has up to date and current paid homeowner's insurance
- Confirm any other requirements of your local CHIP program. Some recipient's require additional qualification criteria.

Once the Recipient reviews all of the verifications, a thorough analysis of the information against the local program's eligibility and underwriting standards should be conducted. This review will enable the Recipient to determine the maximum amount of CHIP funds and the required owner or "other" or "leveraged" funds that will need to contribute.

After determining that an applicant is eligible for CHIP assistance, the Recipient should send the applicant a letter notifying them of their approval for the CHIP loan, subject to their obtaining a

commitment for the owner's required other funds. The letter should notify the applicant of the time and place for the "owner orientation" meeting. The letter should also notify the owner of their responsibility to make an appointment with the Recipient to conduct the final inspection.

## **Conduct Final Property Inspection, Develop Work Write-Up and Cost Estimate**

During the preliminary inspection, the Recipient conducted a general site inspection of the work required to bring the property up to the property standards selected by the Recipient in accordance with the HOME program requirements. Whenever HOME funds are used for rehabilitation, the work must be performed according to written rehabilitation standard and the unit must be brought up to the applicable state or local code. The property standards are the standards against which the actual physical condition of a property is judged in the inspection process.

Now it is time to develop a detailed work write-up in a format that will be used later for the bid package specifications. HUD policy requires the Recipient to use a Property Inspection Form designed to capture the work necessary to meet the Recipient's selected property standards. Therefore, the Recipient's property standards (codes) should be reviewed and used in developing the final work write-up. Using the property standards (codes) as a baseline, a housing inspector determines the scope of the rehabilitation necessary to address the physical deficiencies of the property.

Working from the Property Inspection Form, the Recipient will develop a detailed work write-up to determine the estimated cost of each item on the work write up and the corresponding total estimated cost.

Some Recipients utilize housing inspectors who are experienced estimators and are very current on material and labor prices and who are therefore capable of estimating costs from personal knowledge. Due to the volatility of prices, Recipients should utilize cost estimating software and up-to-date construction mean cost manuals.

In the final analysis, the Recipient should ensure that the cost estimate was a professionally derived estimate of reasonable bid.

The work write-up and cost estimate need to be reviewed with the homeowner. Owners need to understand the relationship between deficiencies that have been identified and deficiencies that the program can correct with CHIP funding.

The owner should be reminded of the local program's rules and policies on allowable work at the outset of the development of the work write up and cost estimate.

Once the Recipient and the owner have agreed on the final work write-up, the Recipient should make a copy of the work write-up which does not include cost estimates. The work write-up

should be signed by the owner and the Recipient. This new version (without the line item cost estimates) will be used as the work specifications when the project goes out to bid.

### **Incorporating Written Rehabilitation Standards into Work Write-Ups**

There are two methods for incorporating the written rehabilitation standards or specifications into work write-ups.

The first method incorporates the specifications directly into the work write-up. This method also serves as the Property Inspection Report. A sample of this type of work write-up would include the following:

- Property standards
- Inspection report
- Work write-up and cost estimate for each item
- Technical specifications

The second method has a number of good features and is included in Appendix A as “Work Write-Up for Bidding Contractors.” This type of work write-up:

- Identifies each page number clearly
- Separates the cost of labor and materials
- Has a place for the owner and contractor to sign on each page

Under this method, the Recipient has entered the Written Rehabilitation Standards for individual work items on a form or online application; the Recipient maintains an index of each work item identified by the property standard (code) number; the property standard or code number is entered directly onto the work write-up; and, bidding contractors are provided a booklet listing the Written Rehabilitation Standards or specifications identified by number so the work write-up references the specification number. This method proves to be less lengthy than the first method listed above.

Once the owner has signed off on the work write up, the project processing can proceed.

### **Incorporating Historic Preservation in Work Write Up**

Section 106 requires federal agencies (and their applicants) to take into account the effects of their undertakings on historic properties (both structural and archaeological). The Section 106 review process must be completed prior to approval of the expenditure of federal funds for the project, or prior to the issuance of any federal license or permit. As part of this process, federal agencies, or their applicants, are required to consult with the State Historic Preservation Office (SHPO), which in Georgia is the Historic Preservation Division (HPD) of the Department of Natural Resources. Recipients must seek Historic Preservation review for all properties that will receive federal funding for rehabilitation. All Recipients are required to follow Section 106 and consult with a Preservation Professional or SHPO whenever planned rehabilitation activities include federal funding.

### **Incorporating Lead Based Paint Requirements in Separate Work Write Up**

If the dwelling was constructed prior to January 1, 1978, a lead-based paint inspection is required for all CHIP rehabilitation projects under all CHIP awards made to communities unless the property is otherwise exempt (see Types of Housing Not Covered Below). If applicable, the inspection for lead-based paint should occur at this time and a separate lead-based paint work write-up prepared. If lead-based paint is detected, a risk assessment should be performed at the time of the inspection (if mandated by the level of federal assistance). Please reference the chart on the next page. The Recipient should use the risk assessment report as a guide in determining how to best reduce the hazards found in the dwelling. If the federal assistance for the unit falls between \$5,000 and \$25,000 interim controls are a design option for lead hazard control. **Above \$25,000, abatement is mandatory.** It is imperative that the Recipient has a thorough understanding of the issues and procedures involved in this process to achieve maximum effectiveness in the goal of creating lead-safe housing. In all cases where lead-based paint is detected, clearance requirements must be met. Technical assistance is available through DCA on this subject.

### **Types of Housing Not Covered by Lead Based Paint Requirements**

- Property that has been found to be free of lead-based paint by a certified lead-based paint inspector
- Property where all lead-based paint has been removed
- Unoccupied housing that will remain vacant until it is demolished
- Any rehabilitation of housing improvement that does not disturb a painted surface

The approach to lead hazard reduction evaluation is based on the amount of federal assistance as shown in this chart:

	<\$5,000	\$5,000-\$25,000	>\$25,000
<b>Approach to Lead Hazard Evaluation and Reduction</b>	Do no Harm	Identify and control lead hazards	Identify and abate lead hazards
<b>Notification</b>	Yes	Yes	Yes
<b>Lead Hazard Evaluation</b>	Paint Testing	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment
	Safe work practices Clearance of work site	Safe work practices Clearance of unit	Safe work practices Clearance of unit
<b>Ongoing Maintenance</b>	No	No	No
<b>Options</b>	Presume lead based paint Use safe work practices on all surfaces	Presume lead-based paint and/or hazards Use standard treatments	Presume lead-based paint and/or hazards Abate all applicable surfaces

For more information on lead based paint requirements go to:

[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/healthy\\_homes/lbp/hudguidelines](https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines)

The lead based paint work write-up and cost estimate should be included with the regular work write up and cost estimate as a separate part of the overall work write-up in preparation for bidding.

The Recipient should be careful to avoid including duplicative work items on both the regular rehabilitation work write up and the lead based paint work write up such as replacing deteriorated windows found to contain lead based paint.

### **Understanding the HUD HOME Requirements for Property Standards**

Property Standards are the housing quality standards used to determine whether a housing unit is decent, safe and sanitary. They are the standards against which the actual physical conditions of a property are judged in the inspection process. Property Standards are the housing quality standards used to determine whether a housing unit is decent, safe and sanitary. They are the standards against which the actual physical conditions of a property are judged in the inspection process. Using the property standard as a baseline, a housing inspector determines the scope of the rehabilitation necessary to address the physical deficiencies of the property. Using the property standard as a baseline, a housing inspector determines the scope of the rehabilitation necessary to address the physical deficiencies of the property. In order to truly "localize" a housing rehabilitation program, DCA has refrained from imposing a uniform code of property standards. It is recognized that local officials are more aware of the community's housing conditions and needs than anyone else. Consequently, they can realistically establish property standards that will be practical to administer and tailored to their specific needs. Minimum Property Standards are not to be confused with Standard Building Codes adopted by the State of Georgia (addressed below).

While it is important that the community rehabilitate the number of units stated in the application, quality in the construction is essential for the program to impact favorably in the target area. Quality rehabilitation, initially achieved, will cause a "snowball" effect in the neighborhood and quantity will eventually become evident.

If the program cannot qualify a property to meet the standards because of excessive costs, the property should not be rehabilitated. Reconstruction should be considered as a possible alternative. In these instances, Communities are now required to use the **Rehabilitation Feasibility Test Form** for this reason. In no case should the housing inspector compromise the program's minimum property standards by omission of required work items or applying a double standard. Consequently, a thorough and accurate survey should be conducted in the target area with particular attention to the existing condition of housing prior to the community selecting the appropriate housing activity(s) in the program application.

The importance of the housing inspector being thoroughly familiar with the program's minimum property standards and the state's adopted Standard Building Codes cannot be overstated. One cannot prepare a work write-up without knowing what work is eligible in the program, or determine if a property is going to be feasible for rehabilitation according to program policies. The best way for housing inspector to become familiar with the standards is to participate in the selection of the appropriate standards for the project area with the assistance of the local building inspector and the local historic preservation planner.

Specifically, in the absence of local code for rehabilitation, CHIP homeowner rehabilitation projects must meet the **articles on property or sanitary standards** in one of three model codes (Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.926.

Since the first four codes listed above, i.e. the ICBO, BOCA, SBCCI and the CABO have all now been merged into the International Residential Code, Recipients have a choice to either rehabilitate a single family CHIP-assisted home up to:

- the International Residential Code (Appendix J, Existing Buildings);
- or
- the FHA Minimum Property Standards at 24 CFR 200.926 (See note below);
- or

State of Georgia **locally adopted** “permissive codes,” which include the International Property Maintenance Code or International Existing Building Code.

**Note:** Not only have the four model codes referenced above merged into the International Residential Codes, the FHA Minimum Property Standards (MPS) in 24 CFR 200.926 are no longer maintained by HUD as separate Minimum Property Standards. Instead HUD has accepted the model building codes, including over 250 referenced standards and local building codes in lieu of separate and prescriptive HUD standards, with additional durability requirements.

In order to assist communities in the selection of appropriate minimum property standards for their rehabilitation program, DCA recommends use of model codes and standards being used in Georgia.

The following codes and standards are mandatory\* by Georgia law and are applicable to all construction.

- International Building Code (Standard Building Code)
- CABO One and Two Family Dwelling Code
- National Electric Code
- Standard Gas Code
- Standard Mechanical Code
- Georgia State Energy Code
- Standard Fire Prevention Code
- Standard Plumbing Code

HUD lead-based paint requirements (24 CFR Part 35) compliance mandatory for all programs using CHIP, HOME USDA or other Federal funding.



\*These mandatory codes are applicable in units undergoing rehabilitation only to the extent that the proposed rehabilitation work shall replace or modify existing components covered by the code. For example if electrical work is required in a unit, that work must meet all provisions of the electric code. However if the electrical system in the unit is safe and no electrical work is proposed, the program is not required to bring the unit electrical system “up to code”.

The following codes and standards are permissive and may be adopted by the local government:

- HUD Uniform Physical Condition Standards (UPCS)
- United States Secretary of Interior's Standards for Housing Rehabilitation.
- Standard Housing Code
- Standard Existing Buildings Code
- Standard Unsafe Building Abatement Code

The property standards are intended for use in the inspection and evaluation of conditions for residential properties being considered for rehabilitation. The property standard is used to determine whether rehabilitation is feasible for individual properties and they serve as a minimum standard for improvement when rehabilitation will take place.

The Recipient must comply with the property standard requirements in [24 CFR Part 92.251](#) with regard to homeowner rehabilitation and the HUD guidance provided in the [January 2001 HOMEfires Volume 3, No. 1](#).

The Recipient must identify which of the allowable property standards that CHIP assisted homeowner rehabilitation projects will meet upon completion of the rehabilitation work. The property standards selected must be identified in the Recipient’s Local CHIP Program Policies and Procedures. If the Recipient administering the CHIP award has adopted either one of the Georgia permissive codes (International Property Maintenance Code or International Existing Building Code) then the Recipient’s CHIP Program Policies and Procedures can set forth the **locally adopted** permissive code.

The Section 8 Housing Quality Standards or HQS at 24CFR 982.401 are not a HUD HOME allowed property standard or code for CHIP assisted homeowner rehabilitation projects

### **Understanding the HUD HOME Requirements for Written Rehabilitation Standards**

Additionally, the HOME final rule at 24 CFR 92.251 requires each Recipient to adopt Written Rehabilitation Standards for rehabilitation work assisted with HOME funds.

Written Rehabilitation Standards establish the specifications for the actual rehabilitation work that will bring substandard housing into compliance with the property standard or code(s). The Written Rehabilitation Standards prescribe the method and materials to be used in the rehabilitation of the property. The Written Rehabilitation Standards are sometimes referred to as “specs” or specifications, and include details such as the grade of lumber to be used, the number of nails per square foot, the type of material that can or cannot be used for doors serving as fire exits, the distribution pattern and material of roofing tiles, etc.

The Written Rehabilitation Standards provide a common basis for contractor bids. The Recipient wants to ensure that all contractors are bidding work using identical methods and materials. This enables the Recipient to make an accurate determination of the cost of reasonableness of bids. By holding all contractors to a single rehabilitation standard, consistent, high quality rehabilitation is assured. The Written Rehabilitation Standards or specifications represent an accepted standard of workmanship and materials. These are the specifications and details most important to contractors and will ultimately ensure that the rehabilitation is properly completed. The Written Rehabilitation Standards provide a means for the Recipient to determine whether the bids are reasonable and give all bidders an equitable list of work items to be bid.

### **Meeting the Georgia Construction Codes**

The State of Georgia has adopted fourteen “state minimum standard codes.” Of the fourteen codes, there are eight (8) that are mandatory. Of the eight (8) mandatory codes, four (4) apply to all residential construction. These four codes are:

- National Electric Code
- CABO One-and-Two Family Dwelling Code (International Residential Code)
- Georgia State Energy Code for Buildings
- International Plumbing Code

In addition to the HUD HOME requirement that CHIP homeowner rehabilitation projects must meet the **articles on property or sanitary standards** in one of three model codes (Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.926, all CHIP rehabilitation activity must meet the provisions of the four mandatory codes, as applicable.

## **Owner Commitment and Owner Orientation**

After the final work write-up has been agreed to and signed by the homeowner and Recipient and the final amount of other or leveraged funds has been determined the Recipient needs to obtain proof of the owner’s funding commitment for the “other” required leveraged funds if any.

HOME regulations at 24 CFR 92.203(d)(2) require that if more than six (6) months have elapsed since the Recipient determined that the family was income eligible then the Recipient must re-examine the family’s income at the time the HOME assistance is provided.

After determining the total cost of the regular rehabilitation and being provided a commitment for the owner’s required other funds, it is time for the Recipient to review again with the homeowner all of the information they need to know about the program. This review will allow the owner to make a final decision if they want to go forward with the project.

If the owner does want to proceed with the rehabilitation of their home under the CHIP program requirements, an owner orientation will provide information on what the owner can expect and what is expected of them going forward.

Owners need to understand:

- the overall construction process and timing; the CHIP loan documents; the CHIP owner occupied rehabilitation grant agreement for the project delivery cost; the construction process and the legal documents related to construction; temporary relocation; and, what happens after the construction is completed
- the possibility of the lead based paint reduction process that may take place on their property. The attached link to the pamphlet “Protect Your Family From Lead in Your Home” should be distributed to the household. See link: <https://www.epa.gov/sites/production/files/2020-04/documents/lead-in-your-home-portrait-color-2020-508.pdf>
- the DCA policy regarding the Owner’s Selection of Bidding Method
- the DCA policies in regard to manufactured homes
- the HOME and DCA requirements regarding any refinancing being considered in conjunction with the CHIP assisted homeowner rehabilitation
- Their responsibility to maintain homeowner’s insurance in an amount sufficient to cover the after-rehabilitated value of the property for the full affordability period. The policy must include the Recipient as an additional insured holder of the policy.
- Owners are responsible for moving their belongings and finding somewhere else to stay during construction if necessary. CHIP funds will not pay for relocation costs. If it is safe for the homeowner to stay in their home during construction then the electric, gas, and water utilities must be turned on each evening while construction is underway.

## **Submit the Pre Setup Packet to DCA for approval**

### Setting-Up Activities for Homeowner Rehabilitation Assistance

DCA will be monitoring each activity to ensure its compliance with key programmatic requirements during the set-up phase of project implementation. The processes used to ensure programmatic compliance will be based on the activity being implemented – homeowner rehabilitation assistance.

Homeowner Rehabilitation Assistance activities are required to follow a three-step Activity Setup process: (1) Environmental Review and (2) Homeowner Qualification and Housing Qualification setup.

### Environmental Review

For activities that were partially cleared with the Tier One review, a Site Specific review is required to clear the related laws and authorities listed in 24 CFR 58.5 and 58.6. This review should concentrate on the issues that were not resolved in the broad-level review (see 40 CFR 1508.28). This should be done before any "choice-limiting actions" are begun.

### Homeowner Qualification Pre-Setup:

The Housing Rehabilitation Pre-Setup process is designed to ensure that the Household and housing meets certain HOME requirements prior to the Recipient entering into a contract for assistance with the homeowner or the homeowner entering into any construction contract. The Recipient must submit to DCA a Housing Rehabilitation Activity Pre-Setup Information Form (CA-3) with required accompanying documentation for any unit proposed for funding. The setup is divided into two phases to avoid the Recipient from incurring any unnecessary expenditures prior to the household and environmental review's approval. It is suggested that items listed on the Pre-Setup Information Form (CA-3) be submitted in the order of the form for clarity and uniformity.

For any Recipient that proposes reconstruction as part of their program design and where reconstruction is proposed on an individual unit, a Reconstruction Feasibility Test Form (CR-8) must be provided during the activity Pre Set-up phase that provides the following information:

- a. Narrative describing the needs for a unit to be reconstructed instead of rehabilitated. The narrative must identify the costs of reconstruction versus the cost of rehabilitation. The narrative must also describe the Recipient's or Recipient's plans to relocate the unit residents during reconstruction, including the source of funds, the estimated length of time that relocation will be necessary, and a commitment from Recipient that sufficient resources are available to the Recipient to cover the entire length of time that the relocation will be necessary.
- b. An appraisal or third party documentation of the After Development Value of the Property.

DCA will review the pre setup packet and respond to the grant administrator within five business days. If there are no deficiencies then DCA will issue a notice to proceed to the setup phase of the project. At that time the Recipient is free to enter into a contract with the homeowner and allow the homeowner to secure a contractor.

## **Owner's Selection of Bidding Method and Contractor**

While DCA prefers open and competitive bidding, under the CHIP program owners have a right to select one of two methods to secure the rehabilitation contractor for their property. The two methods are either open, free competitive bidding or negotiation.

## **DCA Policies in Regard to Manufactured Homes**

Manufactured homes can be rehabilitated with CHIP funds if the Recipient has been approved to include this activity in their CHIP contract. The total cost of the rehabilitation cannot exceed \$15,000 including both the CHIP funds and the owner's funds. It is generally advised that manufactured housing requiring more than \$15,000 in order to bring the unit into compliance with the Recipient's Property Standards (codes) should be considered for replacement. DCA approval is required to exceed this amount on a per project basis.

Replacement manufactured housing must be new or standard housing in conformance with the National Manufactured HOME Construction and Safety Standards Act of 1974 as amended. Manufactured housing must be permanently affixed in accordance with HUD's Handbook 4930.3, Permanent Foundations Guide for Manufactured Housing.

DCA has established that "used" manufactured housing can be no more than ten (10) years old to receive CHIP reconstruction assistance.

## **Prepare Bid Document Packages and Send Invitation to Bid**

After the Recipient has qualified applicants, selected one of the HUD approved property standards (codes), inspected the property, determined the scope of work and the specifications for the work have been developed based on the Recipient's Written Rehabilitation Standards, and conducted the owner orientation, it is time to prepare the bid documents. The Recipient has already developed a list of eligible, qualified contractors.

The bid documents package consists of a cover letter of general instructions. The cover letter is often called an Invitation to Bid. It gives staff contact names for questions; instructions on how to obtain access to the property; identifies the date, time and place the bid is due; and includes the following enclosures:

- General conditions of bid
- Special conditions of bid
- DCA CHIP Addendum to Construction Contract
- Lead Based Paint Addendum
- Bid and proposal form (Make sure that the bid form makes it clear that all bids are to include permit fees and sales taxes. Additionally, some Recipients combine the bid form with the actual final construction contract. This allows the contractor to see exactly the terms and conditions of the contract if he or she is awarded the contract. This method is a legally enforceable bid when signed by the contractor. It only becomes a binding contract obligating the contractor to perform the work and the owner to pay for the work when the owner signs the document.)
- Work write up without the cost estimates
- Written rehabilitation standards/specifications
- Library of model specifications for lead hazard evaluation and reduction
- Lead work write-up without the cost estimates
- Arbitration agreement (if used by your local program as the mechanism to settle disputes). (If a Recipient utilizes this mechanism to settle disputes, a copy of the agreement should be a part of the bid package. The instructions should tell the contractor to sign the agreement, as by doing so he indicates his willingness to follow this required procedure. The document does not become binding until it is signed by the owner at the time the construction contract is signed.) .

Once the bid package is developed, copies should be made for every eligible contractor on the Recipient's list of eligible contractors. A bid package should then be emailed to each eligible contractor.

## **Bid Opening**

All bids received should be sealed and due by a specific time to assure fairness. The bid opening should be conducted in a public manner and the results recorded on a bid control sheet. Usually only contactors who bid choose to attend. Every person in attendance should sign a Bid Opening Attendance Sheet.

The Recipient should open and check each bid package to be sure all information is properly entered and complete. This review should include that all sales taxes, fees and permits are included and any required addendums are clearly included; specifications and related documents are correctly referenced; dates are correctly entered and that the bidder's signature is completed in ink. The review should make certain that any licensing requirements, tax numbers and supporting documents (such as the arbitration agreement, if used) are included.

The bids are reviewed for responsiveness, accuracy and reasonableness; recorded on the Bid Control Sheet; and, summarized on the Bid Summary. The Bid Summary should include a computation of the Recipient's cost estimate plus or minus ten (10) percent in order to compare each bid to the Recipient's cost estimate. This will allow the Recipient to determine what percentage the low bid is to the Recipient's cost estimate. The Recipient's CHIP program Policies and Procedures should define the required threshold for a bid to be considered "reasonable." Most programs use a ten percent spread as a threshold.

The Recipient should develop a set of minutes of the bid opening meeting.

### **Guidance on Determining Reasonableness of Bid**

The reasonableness threshold, usually a ten percent spread (plus or minus of the Recipient's cost estimate) is a generally accepted threshold to ascertain the "reasonableness" of the low bid. If the low bid is below the "reasonableness" margin, as indicated in the Recipient's CHIP Program Policies and Procedures, the Recipient should meet with the contractor immediately to determine how he/she arrived at the bid price. This meeting should determine if a miscalculation occurred on the part of the Recipient or the contractor. The Recipient should be assured that the acceptance of the bid will not cause the contractor to fail in completing the work for lack of funds. If the Recipient gains this assurance, the Recipient can make a recommendation for the owner's acceptance of the bid. If, however, the low bid is above the "reasonableness" margin, a close analysis should be taken of the Recipient's cost estimate. In either case, both the owner and the program's interest should always be protected. While the owner reserves the right to reject any and all bids, the owner will oftentimes rely on the Recipient for an opinion as to whether the bid is "reasonable." In the final analysis, the bid will be awarded to a responsible contractor whose proposal is most advantageous to the program with price and other factors considered, regardless of the method of bidding selected (competitive bidding or negotiated bid).

## **Negotiated Bids**

While open, competitive bidding is the preferred method of selecting a contractor, it is permissible to use the negotiated method in instances where a community cannot attract multiple contractors to form a contractor pool or when a property owner has requested using a contractor of their choosing.

In all cases, the contractor must meet the program's contractor eligibility criteria as described in the Recipient's CHIP Program Policies and Procedures. The bid submitted by the contractor must meet the criteria established for the program in determining the "reasonableness" of bids. If the bid does not meet the criteria, the Recipient may negotiate the price in order to get the bid within a qualifying range. If the negotiation is not successful, the project should be re-bid or the owner may pay the difference between the contractor's price and the cost estimate.

Similarly, should the owner choose to use a contractor not deemed "most advantageous to the program," by the Recipient because of a high bid, the owner may pay the difference to the contractor of their choosing, providing the contractor has met the Recipient's contractor qualification requirements.

## **Selecting and Notifying the Contractor**

After the bids have been opened and recorded on the Bid Control Sheet and reviewed for accuracy and reasonableness, and the Bid Summary prepared, the contractor for the proposed work will be selected by the owner. The bid selected should reflect the lowest responsible bid complying with all program requirements provided such bid is reasonable and in the best interest of the owner. The program requirements have been predetermined and set forth in the Recipient's CHIP Program Policies and Procedures.

The Recipient will review all bids for compliance with program requirements. The owner and the Recipient may reserve the right to reject any and all bids or any portion thereof and waive any and all irregularities per the Recipient's CHIP Program Policies and Procedures.

Following this review, the owner selects the contractor and authorizes the Recipient to send a Bid Award Notice to the selected contractor. The owner authorizes the selection by signing the Bid Award Notice. The Bid Award Notice advises the contractor that the owner has accepted his/her bid on the described property.

The Bid Award Notice to the successful bidder should notify the contractor of the date, time and location of the pre-construction conference; advise the contractor that he or she may only begin the project after attending the pre-construction conference with the Recipient and the owner; and further notifies the contractor that work cannot begin until a Notice to Proceed has been issued.

## **The Bid Award Notice**

- requires that the contractor return an enclosed form listing all sub-contractors that will be used on the project
- advises the contractor that before any payments can be made, a program lien waiver must be signed and submitted by the general contractor and all sub-contractors and material suppliers
- advises the contractor that the construction contract is contingent upon the owner obtaining a firm commitment for the other (non-CHIP) funds
- advises the contractor that before a Notice to Proceed can be issued, an Arbitration Agreement must be signed, if required by the Recipient's CHIP Program Policies and Procedures
- advises the contractor that prior to issuing a Notice to Proceed the contractor must furnish evidence of the required contractor liability insurance and all required permits and any documentation in support of any other Recipient's requirements

All bidders should be notified of the results of the bid by letter indicating whether the bid was accepted or not accepted. If a contractor's bid was not accepted, the letter should indicate which bidder received the award. This letter should include a contact person for all questions regarding the bidding and contact award procedures.

Based on local program policy as set forth in the Recipient's CHIP Program Policies and Procedures, contractors may have their bids rejected or may be declared ineligible to bid on future projects if past performance does not meet the standards of performance identified in the Recipient's CHIP Program Policies and Procedures. Failure to comply with the instructions of bidding may be a basis for bid rejections per the Recipient's CHIP Program Policies and Procedures. The Recipient's CHIP Program Policies and Procedures should include a contact person for all questions regarding the bid award process.

As noted above, no work will begin until the contractor receives a "Notice to Proceed" order executed by the owner and provided by the Recipient to the contractor.

## **Prepare for Closing the CHIP Loan**

It is now time to prepare for closing the CHIP loan.

The Recipient should take sufficient time to review the project file using the Checklist for Homeowner Rehabilitation to determine completeness of the project file.

During the file completeness check, the Recipient wants to make certain that all of the required paperwork is included and completed accurately. The file needs to clearly document that:

- the eligibility of the applicant given the CHIP program and local program guidelines



- the property is an eligible single family property
- the form of ownership is eligible
- the prescribed property standards and written rehabilitation standards are clearly defined and will be met and followed
- the verification of household income is current within six months of the estimated closing date. (If re-verifications are not current then the Recipient must re-verify the household income with documentation supporting the income eligibility requirements)
- the file contains the Recipient’s “after-rehabilitation” value as determined by one of the three methods allowed under the HOME program. **The value of the HOME assisted property after rehabilitation must not exceed 95 percent of the median purchase price for the area, as published by HUD, or, in accordance with the Final Rule.** Such method must be used unilaterally for the Recipient’s CHIP homeowner rehabilitation program and such method must be described in the Recipient’s CHIP Program Policies and Procedures. The three methods from which the Recipient can choose to adopt for their homeowner rehabilitation program include:
  - i. Estimates of value by the Recipient or Sub-recipient may be used. However, project files must contain the estimate of value and document the basis for the value estimates.
  - ii. Appraisals, whether prepared by a licensed fee appraiser or by a staff appraiser of the Recipient, may be used.
  - iii. Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value if the assessment is current and accurately reflects market value after rehabilitation.
- the file needs to contain documentation to support the DCA required policy that State Recipient’s cannot approve CHIP funding where the combined debt (CHIP funding and other public/private funding) exceeds the loan to value limits as set forth by the underwriting, closing and funding criteria of the DCA Georgia Dream first mortgage revenue bond program, Fannie Mae, Freddie Mac, USDA, FHA or VA. Any exceptions must be submitted to DCA prior to project set-up for review and approval.

The Recipient needs to confirm the evidence of commitment(s) that the required other funds are available.

In preparing for the closing the Recipient will prepare the CHIP loan documents using local counsel and the Recipient will prepare the construction contract and all addenda; the Truth in Lending Statement; and, the Right of Rescission Notice. The Recipient will also order the final title commitment.

In summary, the file review and preparation for closing and final approval of the CHIP loan should include a review of the information collected from the borrower against the program eligibility and underwriting criteria. The title policy should be reviewed. A calculation of the CHIP funding and the other funding should be made to ensure there are adequate funds in place to cover construction, closing and any allowable contingency costs. Additionally, the file needs to include the HOME required subsidy layering review if more than one source of federal funds is being used

on the project to ensure that no more subsidy is being used than is necessary to provide affordable housing.

## **Closing the CHIP Loan**

The Recipient should make a final review of the application and verifications, using updated information as required and prepare and issue the Truth in Lending Statement.

### **1. Issue Truth in Lending Notice**

The Recipient should prepare and issue the Truth in Lending Statement as part of the closing process.

**Disclosure Statement.** The federal Truth in Lending Act requires that a lender disclose certain information about the loan to a borrower in a uniform and readable manner. The Federal Reserve Board publishes a model with guidelines for format which must be followed. This must be presented to the borrower before the documents are signed. If disclosure is not done properly, there can be serious consequences. Be sure to obtain up to date information on proper disclosure format and content, and file documentation requirements from a professional lender, a closing attorney or other reliable source. .

### **2. Confirming the Recipient as Additional Insured**

The Recipient should obtain a copy of the homeowner’s insurance policy to verify that the Recipient has been added as an “additional insured” on the policy. The policy should be in amount to cover the after-rehabilitated value of the property.

### **3. Execute and Record the CHIP Loan Documents/Other Funds Loan Document Execution**

The owner and Recipient will execute three documents in connection with the CHIP loan: a loan agreement, a promissory note, and a security deed. Only the security deed is recorded after it is signed. The owner will also execute the grant agreement for project delivery fees.

Typically, the closing on the owner’s other funding is held simultaneously with the CHIP loan closing.

The Recipient should record the CHIP Deed to Secure Debt in the Superior Court of the County in which the property is located as soon as possible after the closing. The CHIP Deed to Secure Debt should be recorded after any security deed of another lender that is supposed to be prior in position of superiority to the CHIP security deed. If the CHIP loan closes simultaneously with the other loan on the property, the closing attorney for the other loan will probably be accommodating and record both the other loan documents and the CHIP Deed to Secure Debt at the same time.

### **4. Provide Three Day Right of Rescission Notice to Owner**

Owners have a right under federal Truth in Lending Act, Regulation Z, to cancel a transaction, without cost, that will result in a lien on their home.

### **Right of Rescission Notice**

In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest has the right to rescind the transaction. Lenders are required to deliver two copies of the notice of the right to rescind and one copy of the disclosure statement to each consumer entitled to rescind.

The notice must be on a separate document that identifies the rescission period on the transaction and must clearly and conspicuously disclose the retention or acquisition of a security interest in the consumer's principal dwelling; the consumer's right to rescind the transaction; and how the consumer may exercise the right to rescind with a form for that purpose, designating the address of the lender's place of business.

In order to exercise the right to rescind, the consumer must notify the creditor of the rescission by mail, telegram or other means of communication. Notice is considered given when mailed, filed for telegraphic transmission or sent by other means, when delivered to the Lender's designated place of business. The consumer may exercise the right to rescind until midnight of the third business day following consummation of the transaction; delivery of the notice of right to rescind; or delivery of all material disclosures, whichever occurs last. When more than one consumer in a transaction has the right to rescind, the exercise of the right by one consumer shall be effective for all consumers.

When the consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void and the consumer will no longer be liable for any amount, including any finance charge. Within twenty (20) calendar days after receipt of a notice of rescission, the lender is required to return any money or property that was given to anyone in connection with the transaction and must take any action necessary to reflect the termination of the security interest. If the lender has delivered any money or property, the consumer may retain possession until the lender has complied with the above.

Recipients must become familiar with the requirements of this Act and implement these requirements with each CHIP loan closing.

Please note that the Recipient is responsible for issuing its own Three Day Right of Rescission Notice which is in addition to and separate from the notice required to be issued by any third party lender.

Again, most Recipients conduct the CHIP loan closing in conjunction with the closing of the leveraged loan.

## **Pre-Construction Conference, Construction Contract and Notice to Proceed**

The pre-construction conference provides an opportunity to review program rules and procedures for the construction phase; to reinforce quality and performance standards; to review the inspection and payment responsibilities and process; to discuss any special circumstances about the project; to discuss the change order process; and, to discuss special needs the owner may have regarding the contractor's access to and presence on the property. Holding this meeting at the property provides an opportunity for all of those involved to go over the work write-up item by item and to make sure all parties understand what work can and cannot be done with CHIP funds and the total funds per the construction contract. The conference should:

- Review the construction contract and all addenda
- Review the HOME (CHIP) program code standards that have been selected by the Recipient for use in the CHIP homeowner rehabilitation program
- Review the Georgia Construction Codes
- Review the Recipient's Written Rehabilitation Standards
- Review the Notice to Proceed process
- Review the inspection process including interim and final inspections
- Review the pay request process
- Review the owner's responsibility in monitoring of construction
- Review the contractor's responsibility to advise the Recipient regarding percentages of completion and to request the prescribed inspections
- Provide a supply of forms for the contractor to request payments
- Provide the required lien release forms
- Provide the required owner's satisfaction of work completed forms
- Review occupant protection and relocation issues with owners and contractors
- Review the lead hazard reduction work and occupancy protections
- Review the change order process
- Review the dispute resolution procedures
- Review the work schedule so all parties understand when the work will begin; how it will proceed; and when it is expected to be completed
- Review the close-out procedures and all of the required documentation/warranty

It is recommend that prior to executing the construction contract that a final review be conducted of the availability and access to the property and completion timeliness and a review of any penalties that would be imposed if the project is not completed on time.

### **Executing the Construction Contract**

If both parties are in agreement to the construction contract, it is now time to execute the contract. Again, the construction contract is executed between the owner and the contractor. The Recipient is not a party to the construction contract.

## **Request for Clearance of Prime Contractor**

The Recipient must check that the contractor is not on the [state](#) or [federal](#) debarment list.

## **Notice to Proceed**

After all loan and construction documents have been properly executed; the Deed to Secure Debt has been recorded; the contractor has been cleared through the HUD debarment process; and, the Three Day Right of Rescission period has expired, an authorization or Notice to Proceed can be issued.

Since the Notice to Proceed triggers the contract completion time frame, it is important to coordinate this fully with the owner and contractor to ensure that the work can begin on time and that the contractor is available to do the work. The Recipient should make certain that the owner and contractor understand that no work can be incurred prior to the issuance of the Notice to Proceed.

The Notice to Proceed should be signed by the homeowner first as the owner is providing the authorization to the contractor to proceed with commencement of construction. The Notice is then signed by the contractor. A fully executed copy must be maintained in the project file.

## **Owner Choices**

As the owner has choices to make in selecting colors and finishes, some Recipients use a formal tracking method that identifies all colors of paint (both exterior and interior), floor finishes, wood stains and cabinet stain or paint colors.

Some Recipients have experienced disputes between the contractor and owner in regard to the colors or finishes in the rehabilitation work.

## **Set-Up Project with DCA**

The Recipient should now set up the project with DCA using the HUD HOME Project Set-Up form (Homeowner Rehab Set Up and Completion Form) by following the project set-up process outlined in the CHIP Manual.

### **Homeowner Rehabilitation Assistance Activity Setup:**

In order to receive a drawdown of funds from the CHIP grant, DCA must first commit funds for the specific activity (i.e. household and unit address) in the HUD Integrated Disbursement and Information System (IDIS). It is required that the following information for homeowner rehabilitation activities be submitted to DCA to ensure that the proposed activity meets specific CHIP requirements:

#### **List of forms:**

Homeownership Qualifications

- Income Verification Form (CC-8)
- Certification to Use Unit as Principal Residence (CC-7)

- Declaration of Citizenship Status (CC-3 and, if applicable, CC-4):
- Certification as to Conflict of Interest (CC-6)
- Copy of Existing Warranty Deed
- Current market value of the property
- Proof of Year of Construction of Housing Unit (tax record)

#### Housing Qualifications

- Lead- Based Paint Visual Assessment (if unit was built prior to 1978)
- Initial Scope of Work Write-Up for Non-Lead Costs
- Work Scope of Work Write-Up for Lead Costs (if unit was built prior to 1978)
- Reconstruction Feasibility Test Form (CR-8)
- Pictures of housing unit demonstrating need for work to be performed

DCA will review the set up packet within five (5) business days of receipt at DCA. If there are no deficiencies, DCA will issue a Notice to Proceed.

#### **Homeowner Rehabilitation Revised Set-up Submission**

All revised Set up requests must be prepared on the Homeowner Rehabilitation Assistance Activity Set up Form (CA-4) by the Recipient and returned to DCA. Make sure you check the “Revision” box” on the upper left-hand corner and provide the name and phone number of the person completing the form.

DCA will review the Revised Homeowner Rehabilitation Assistance Activity Set up Form (CA-4) and accompanying documentation, identify any deficiencies, and, if necessary, communicate those deficiencies via email within five (5) business days of receipt at DCA.

#### **Requests to Exceed Maximum CHIP Assistance**

Any project requiring more than \$60,000 must be approved by DCA.

- For Amounts up to 20% of the original set up amount: A Recipient may exceed the original set up amount for an individual housing unit by up to 20% without seeking DCA approval. In these instances, the Recipient and, if applicable, their Administrator must submit a revised Homeowner Rehabilitation Assistance Activity Set up Form (CA-4) with the following information:
  - Revised HOME Cost
  - Change order or other documentation explaining the change
  - Homeowner Affidavit to Execute Amended Promissory Note (CL-A13)
  - Contract between Homeowner and Contractor
  - Must include the Contractor Work Write-Up and Pictures
- For Amounts over 20% of the original set up amount: A Recipient may not exceed the original set up amount for an individual housing unit by over 20% without seeking DCA approval. In these instances, the Recipient must submit a Request to Exceed Maximum letter clearly describing the reason for the increased request along with a revised Homeowner Rehabilitation Activity Set up Form (CA-4) with the following information:
  - Revised HOME Cost

- Accompanying Documentation
- Narrative describing the reasoning behind the need for the increased assistance request
- Homeowner Affidavit to Execute Amended Promissory Note (CL-A13)
- Signed Change Order Amending the Contract between Homeowner and Contractor
- Contractor's Work Write-Up
- Pictures documenting the need for the revised scope of work

DCA will review the request and if approved send the grant administrator an approval notice.

## **Construction Process**

After holding the pre-construction conference, allowing the three day right of rescission period to expire, executing the construction contract, obtaining clearance of the contractor through the HUD debarment process, and issuing the Notice to Proceed, it is now time for the start of construction.

### **Georgia Lien Law**

One of the most important requirements at the onset of construction is for the Recipient to ensure that the requirements of the Georgia Lien law are followed.

Georgia lien law provides contractors and subcontractors with certain rights to place a lien on a property if they have not been paid. Recipients should follow a rigid lien release procedure which protects both the owner's interest and the program's investment. This procedure requires the contractor to sign a lien release including information on the sub-contractors and suppliers when any partial or full payment is made. DCA also requires lien releases from sub-contractors and material suppliers.

Georgia lien statute amendment, O.C.G.A. §44-14-361.5, provides that not later than 15 days after the Contractor physically commences work on the Owner's property, Notice of Commencement shall be filed either by the Owner or the Contractor in the Superior Court in the county where the property is located. It is suggested that the Recipient assume this responsibility. The notice must include (1) legal description of the property; (2) the name and location of the project, and the name and address of the following: a) the contractor, b) the true owner of the property, the person at whose instance their work is being furnished if not the true owner (e.g., a tenant), c) the surety (if any) and d) the construction lender (if any).

Once a Notice of Commencement is filed, any potential lien claimant that the community was not informed of (e.g., everyone but first tier subcontractors and suppliers) must provide a "Notice to Contractor" to the Owner and the contractor within 30 days from the day it first furnishes labor or materials, or from the day the Notice of Commencement was filed, whichever is later. The Notice to contractor must include the name, address and telephone number of the person providing the labor or materials, the name and address and telephone number of the person providing the labor or materials were furnished, and a description of the labor or materials being provided. The Notice must also include the contract price or anticipated value of the labor or materials. Any potential

lien claimant not in privity of contract with the contractor, and not providing a Notice to Contractor within the time required, will not be entitled to file a lien. The statute makes filing a Notice of Commencement mandatory. If a Notice of Commencement is not filed, the only consequence is that lower tier subcontractors and suppliers are relieved from having to serve a Notice to Contractor and the requirements of Section 44-14-361.5 do not apply.

The statute also allows a subcontractor or supplier to request a copy of the Notice of Commencement from the Owner or Contractor. If the Notice is not provided within 10 days of the request, the section's requirements do not apply to the subcontractor or supplier making the request.

The purpose of the Notice of Commencement is twofold. First, it enhances the ability of lien claimants to file lien and bond claims, since the information necessary for filing such claims is provided in the Notice of Commencement. Second, the Notice provides the Recipient with a mechanism for keeping track of lower-tier subcontractors and material suppliers. Armed with this knowledge, owners and contractors should be better able to make sure that everyone performing in the rehabilitation is paid in a timely manner, and to eliminate the filing of last-minute liens by previously unidentified subcontractors and suppliers.

## **Reconstruction**

Sometimes, after a housing rehabilitation Construction Contract has been awarded and work has commenced, the Contractor and/or the Recipient may discover additional work necessary to bring the property in compliance with the CHIP program Property Standards (Codes). If an existing structure is converted to affordable housing, or if a structure is moved to a new foundation which is constructed with CHIP funds, these projects are considered reconstruction. For CHIP contracts allowing manufactured housing, reconstruction also includes replacing an existing dilapidated unit of manufactured housing with a new or standard unit of manufactured housing.

After conducting the initial property inspection, the Recipient may determine that the house is not structurally or economically feasible to rehabilitate. With DCA approval, the project may be approved for set-up as a reconstruction if all of the following conditions are met:

- Unit is unsuitable for rehabilitation both structurally and economically.
- The estimated cost of reconstruction (constructing a comparable replacement house on the same property) will be substantially less than the estimated cost to purchase a comparable house (including land) that would be newly constructed in a comparable neighborhood within the community's jurisdiction.
- The estimated cost of reconstruction will be less than the fair market value of the property (dwelling and land) after reconstruction. This is determined by obtaining an appraisal prior to reconstruction on the projected value of the property including the reconstructed house and land. The Rehabilitation Feasibility Test Form must be submitted to DCA for prior approval



of each unit.

If the Recipient determines that reconstruction would be appropriate based on the above criteria, DCA approval is required on a project by project basis in advance of project set-up.

Requirements such as replacing hidden rotten joists and sills or structural termite damage may require a rehabilitation feasibility test to be performed. If the estimated costs for the change order (when added to the current contract amount) will exceed the economic feasibility for (approved) replacement housing in accordance with the Rehabilitation Feasibility Test Form and the condition of the house does not meet the "structural" feasibility test the Recipient may decide "reconstruction" would be the most cost effective action to undertake. At this point, issue a stop order to the contractor and contact DCA for approval. If approved, it is important to note that the current Construction Contract should stay in effect with the same contractor. Non-applicable items should be deleted from the existing Work Write-up and a new Work Write-up for reconstruction should be incorporated into a change order. A cost estimate should be prepared and each item negotiated to determine reasonable costs.

## **Monitoring the Contractors**

During the course of the project, difficulties may arise between a contractor and the staff. Some of the danger signals to watch for are:

- Failure of the contractor to respond to messages
- Lack of supervision at the job site
- Failure of the contractor to respond to "call backs" during the warranty period
- Financial problems (comments from creditors and suppliers)
- "Shortcutting" and using alternatives from the specifications
- Conflict with the Owner

All of these problems require prompt attention by the Recipient. Contractors should be kept under close monitoring, but by the same token, every contractor deserves to be treated fairly and with respect at all times.

## **Complaint Resolution**

During the course of the project a circumstance may arise where all parties in the project cannot come to terms. Most common are conflicts between the owner and the contractor. However, on occasion either the homeowner or the contractor may disagree with some aspect of the program.

Some Recipients establish a Board of Arbitration to conduct hearings with the contractor, Recipient and/or homeowner on any disputes that cannot be resolved. The Arbitration Board should be composed of neutral parties who make a binding decision. This board could consist of:

- Homeowners from the community or target area
- Building material suppliers
- Social workers
- Outside construction contractors
- Attorney
- Recipient official(s)
- Non-profit housing official

Prior to resolving a conflict through the Arbitration Board, the Recipient should arrange a meeting at the site with all concerned parties. Hopefully a decision can be reached and agreed upon on the spot. However, if there are any doubts, no commitments should be made until the Recipient has time to further investigate the matter. Above all, the Recipient should be sure that all disputes arising from the work are resolved before the case is ready for the final inspection. If the dispute cannot be resolved, the matter should be referred to the Arbitration Board.

The terms of arbitration should be set forth in the construction contract and these terms should be fully disclosed and understood by all parties to the contract before execution.

When disputes arise, the Recipient should go out to the property and meet with the Homeowner and the Contractor on the site where all concerned parties can see the problem. Hopefully, a workable solution can be agreed upon on the spot, but should there be any doubts, no commitments should be made until the Recipient has investigated the matter. Above all, the Recipient should be sure that all disputes arising from the work are resolved before the case is ready for final inspection. If the dispute cannot be resolved, the matter should be referred to the Arbitration Committee if that is the method of dispute resolution used by the Recipient as required in the CHIP Program Policies and Procedures.

## **Construction File**

The Recipient should set up a construction file to track and monitor the construction process and disbursement of funds. These records should be readily available for the appropriate staff of the Recipient as they monitor progress, complete interim inspections, authorize progress payments, process change orders and make final inspections and payments. These records should also be readily available for DCA review during site monitoring visits.

The file should include:

- Executed construction contract and all addenda
- Specifications
- Change Orders
- Arbitration Agreement, if applicable
- List of Contacts:  
Name and address of phone number of owner; contractor; sub-contractors; State Recipient staff and building official regularly involved in the construction process

- Project Set Up Form
- Disbursement ledger
- Invoices
- Draw Requests
- Copies of checks issued for payment(s)
- Inspection forms
- Building Inspector reports
- Owner satisfaction statements at each disbursement to contractor
- Lien Releases: general, sub-contractor, material suppliers
- Initial property inspection form
- Interim property inspection forms
- Final property inspection forms
- Project log: a log should be maintained to record any significant conversations or actions in order to have a record in the event the Recipient needs to reconstruct events or reconcile disputes.

## Interim Inspections and Progress Payments

After the Notice of Commencement has been delivered and receipt by the Contractor is documented, it is the responsibility of the Recipient to inspect the work when it starts, and as it progresses. Inspections should be frequent enough so that the Owner and the community will be assured that the workmanship and materials meet all specifications. It is also suggested that the community appoint a responsible official, possibly the Program Director, to monitor the work in progress on a "spot" basis. It should be clear to all involved, however, that these visits are not inspections. Only the Recipient will conduct inspections as outlined in the construction contract. Depending upon the Recipient's CHIP Program Policies and Procedures, a Recipient may have required a payment schedule at certain percentages of completion. **Regardless of the number of payments scheduled, the Recipient must inspect the job prior to issuing any payment whether it is a partial or a final payment. Inspection reports must be included with the draw request, with pictures, whenever possible.** The Recipient is charged with the responsibility to ensure that the funds are used for eligible purposes and the work has been completed in accordance with the required standards. A Recipient should not pay for work that is not done properly and should not pay for materials that are not present on the site and preferably installed. If work is not properly completed as billed, a Recipient should reject the invoice or reduce the amount to pay only the acceptable portion.

### Owner's Acceptance of Work Completed

DCA policy requires that the owner of the property sign a satisfaction statement certifying that they are satisfied with the rehabilitation work on their house and property. This signed statement must be obtained prior to each Recipient's request to DCA for disbursement to a contractor including all interim disbursements and at final disbursement. By signing the satisfaction statement, the owner is requesting that the disbursement be made to the contractor. The statements are required to be witnessed and notarized.

It is recommended that inspections take place in the presence of the owner and contractor so that any problems can be identified, discussed and resolutions developed.

All progress payments should be contingent not only on the percentage of work completed, but also upon the Contractor maintaining satisfactory progress. A retainage (usually 10%) of the completed work should be withheld by the administrator for each progress payment.

All electrical, mechanical, plumbing, framing and roofing work should be inspected by the community's Building Inspection Department. An Inspection Card should be posted at the job site accessible to the Housing inspector for follow-up. In addition to the signed satisfaction statement by the owner requesting a partial or full payment to the contractor, the releases of liens must be obtained from the general contractor and all sub-contractors and material suppliers prior to releasing any payments.

The DCA General Conditions Invoice, Release of Liens and Warranty/Affidavit is prepared by the contractor, signed by the contractor in the presence of a notary and notarized. If the Recipient has also received the subcontractor and material supplier releases of lien, DCA Release and Waiver of Claim for Subcontractor or Material Supplier/Affidavit and the DCA Owner's Satisfaction statement, then a draw request can be submitted to DCA.

### **Other Inspections**

If the job is complicated or problems arise with any of the parties involved, or if unforeseen conditions arise, the Recipient may need to do additional inspections between formal inspections in order to resolve issues or prevent serious problems.

As previously stated inspection of the work in progress is essential to assure that all the work is performed and completed in accordance with the Specifications and Codes and properly monitored to prevent serious disputes before they happen. The question is: how many and how often? There is only one way to determine the frequency of inspecting work in progress, and that is by experience. Some Contractors require closer attention than others. The Contractors who have become accustomed to your frequent inspection routine will not feel harassed. In fact, they should welcome your presence.

Frequent inspections will: (1) prevent many disputes from arising; (2) assure the homeowner that the community is protecting his or her interest; (3) prevent the Contractor from extra expenses borne of needless work that could have been prevented had the Housing inspector been on the site to advise the Contractor before the work was performed; (4) remind the Contractor of the remaining amount of contract time.

### **Retention**

All progress payments should be contingent not only on the percentage of work completed but also upon the contractor making satisfactory progress. The practice of reserving a portion of the payment provides an incentive for the contractor to complete the work in a timely manner and correct problems promptly. This practice also provides a protective cushion to the program if a contractor fails to complete the work and the Recipient has to engage another contractor to complete the work.

DCA recommends that the Recipient retain at least ten (10) percent of every progress billing including the final billing until the entire project has passed the final inspection.

### **Change Orders**

Each Recipient has included in their CHIP Program Policies and Procedures their policy on changes in the scope of work. While every effort was made to include all required work in the original work write up, unforeseen conditions may arise that will require a change order. Some unforeseen conditions might include a collapsed wall, wood that appeared to be sound but was found to be rotten, materials became unavailable due to events beyond any reasonable person's control, or unforeseen termite damage. While it is sometimes impossible to detect every hidden code or property standard violation at the initial and final inspection completed prior to construction, simply failing to include an otherwise noticeable work item on the original scope of work is not generally allowed to be addressed after construction commences. Additionally, contractor error in estimating the project or doing the work is not typically allowed in a change order if the result is an increase in the cost of the job.

If additional unforeseen problems arise during the performance of the work, the solution is to prepare an Amendment to Contract describing the item(s) of work and the additional costs and the additional number of days that would be needed to complete the work. All of these items need to be added by amending to the contract. This document is more commonly referred to as a "change order." The procedure for obtaining a reasonable amount to do the additional work is basically the same principle in securing a negotiated bid.

The change order process includes:

- The Recipient prepares a list of the additional work on the Amendment to Contract/Change Order form describing it in detail as in the work write-up.
- The Contractor will price each item listed and submit the Amendment to Contract/Change Order Form to the Recipient for review.
- The Recipient will determine whether or not the cost and the additional time are reasonable and document justification by comparing the Contractor's proposal to local cost estimates.
- The Recipient discloses the Amendment to Contract/Change Order Form with the figures to the homeowner for final approval.
- With the Homeowner's concurrence, the Amendment to Contract/Change Order Form is prepared and executed. The Amendment must be signed by the Contractor, Recipient AND Owner, and becomes part of the contract.

**NOTE:** Change orders should also be executed to extend the contract expiration date when necessary to allow for excusable delays. If the extension of time is overlooked, the Liquidated Damages clause could be triggered inappropriately.

Excusable delays and liquidated damages should be addressed in the general conditions of the construction contract

The process for change orders in the Recipient's CHIP Program Policies and Procedures should include a review process so they are not perceived as routine by the contractors.

Other records may be affected by change orders such as the contract and the CHIP loan documents which may need to be revised to reflect any increase in the amount of CHIP or terms of the CHIP loan, including either an increase or decrease in the required affordability period.

### **Conflict Resolution**

During the course of the project a circumstance may arise where all parties in the project cannot come to terms. Most common are conflicts between the owner and the contractor. However, on occasion either the homeowner or the contractor may disagree with some aspect of the program.

Some Recipients establish a Board or Committee of Arbitration to conduct hearings with the contractor, Recipient and/or homeowner on any disputes that cannot be resolved. The Arbitration Board should be composed of neutral parties who make a binding decision. This board could consist of:

- Homeowners from the community or target area
- Building material suppliers
- Social workers
- Outside construction contractors
- Attorney
- Recipient official(s)
- Non-profit housing official(s)

Prior to resolving a conflict through the Arbitration Board, the Recipient should arrange a meeting at the site with all concerned parties. Hopefully a decision can be reached and agreed upon on the spot. However, if there are any doubts, no commitments should be made until the Recipient has time to further investigate the matter. Above all, the Recipient should be sure that all disputes arriving from the work are resolved before the case is ready for the final inspection. If the dispute cannot be resolved, the matter should be referred to the Arbitration Board. The terms of arbitration should be set forth in the construction contract and these terms should be fully disclosed and understood by all parties to the contract before execution, if this is the method of dispute resolution as required by the Recipient's CHIP program Policies and Procedures.

### **Final Inspection and Final Payment**

Once the project is totally completed, the contractor can then request that the Recipient arrange for a final inspection.

**It is critical that all inspections as set forth in the Recipient's approved award application and CHIP Program Policies and Procedures are conducted.** Some Recipients set forth that the interim and final or at a minimum the final inspection would be conducted by an official of the Recipient's building or code department in addition to the program's housing inspector or administrator. Some Recipients set forth special arrangements with outside building officials from

neighboring communities to conduct inspections, both interim and final, or at least at final, in the absence of a building or codes official for the Recipient. Regardless of who was set forth in the approved award application, the designated inspector(s) must complete and sign off on the final inspection.

Final inspections should always be conducted at the request of the contractor and never conducted on the assumption that the work has been completed. Before the final inspection, the Recipient must be assured that all of the required inspections, including required code inspections, have been completed and signed off by the appropriate authorities.

When the Recipient makes the final inspection, the work write-up and all of the change orders should be used as a checklist to ensure compliance. Any work items that do not meet the Recipient's Written Rehabilitation Standards should be listed and defined as to the nature of the discrepancy. This "punch" list should be given to the contractor with instruction to contact the Recipient when the items have been completed.

Upon the satisfactory completion of the punch list items, the Recipient should prepare the Certificate of Final Inspection. The Recipient can process the final construction draw provided the contractor has remitted the final invoice and all required releases of liens, copies of warranties, and insulation certification, if applicable. The DCA Contracts and Sub-Contracts Completed Form must be included with the final project draw in order for DCA to meet its HUD reporting requirements.

As with the progress inspections, the general contractor and all sub-contractors and material suppliers must provide the releases of liens. As with the interim or progress payments, the general contractor signs the General Contractor's Invoice, Release of Liens and Warranty, serving as a final invoice, release of liens, and a guarantee or warranty of the work for a period of one year.

The Recipient signs the Certificate of Final Completion certifying that the work has been completed in accordance with the contract; that the property conforms to the requirements of the Recipient's CHIP Program Policies and Procedures; to the Recipient's required property standards (codes); and the property conforms to the HUD Lead Based Paint regulations at 24 CFR Part 35.

Typically, Recipients withhold a portion of the final payment until the Certificate of Final Inspection is signed; the Recipient is satisfied all of the work is complete and up to program standards; and, all disputes are resolved.

After the final inspection has occurred and the releases of liens have been obtained and the Certificate of Final Inspection is executed, it is now time for the owner to authorize final disbursement of funds based on his/her satisfaction of the work completed.

The owner signs the satisfaction statement which is witnessed by a notary and notarized and the Recipient can request the final project draw from DCA.

## **Drawing Down Project Funds from DCA**

Once a project has received a set-up confirmation with a HUD project number, a Recipient may begin to draw down funds for project construction costs, project delivery fees, and other project based soft costs. **All draws must be supported by detailed, itemized invoices, progress inspections with pictures (if available) that are maintained in the Recipient's project file.**

## **Project Completion and Closing the File**

### **Warranty**

The construction has been completed and the Recipient obtained the notarized releases of liens; the notarized owner satisfaction statement and made the final disbursement for the construction. As part of the project completion process, the Recipient should send a letter to the owner reminding them of the warranty. Contractors are required to warrant their work for a period of one year. The contract as well as the General Contractor's Invoice Release of Liens and Warranty clearly recite this requirement.

The letter to the owner should explicitly explain the beginning and ending period of the warranty and instructions on how to go about resolving a warranty issue. The letter should make it clear that warranty issues are to be resolved directly with the contractor. Both owners and contractors should be made aware of the Recipient's limited capacity to intervene, although the Recipient may be required to assist the low income homeowner in this regard.

All appliance and termite and systems warranties should be provided directly by the contractor to the owner with copies obtained for the project file.

### **Send Project Completion Report to DCA**

As soon as possible after project completion but no later than sixty (60) days, the Recipient is required to send the project completion report (Homeowner Rehab Set Up and Completion Form) to DCA.

### **Re-review Project File**

The Recipient should re-review the Homeowner Rehabilitation Checklist and make sure that all required documents are in the project file.

## **Monitoring and Change of Ownership**

In accordance with the requirements set forth in the General Conditions of the CHIP award, the Recipient has agreed to manage the day to day operations of the CHIP program and to monitor all activities to assure compliance with the HOME regulations, all requirements of the CHIP Manual and all other applicable federal, state and local laws and regulations.



Under the CHIP program two major requirements apply to the compliance period including the recapture provisions and the principal residency provisions. In regard to the recapture provisions, these provisions should be self-enforcing due to DCA's requirement that the Deed of Trust is recorded. However, monitoring for continued occupancy in the event the CHIP assisted household moved away or rented the property is not so easily monitored.

CHIP assisted households certify that they will occupy the property as their principal residence for the entire affordability period, typically 5 or 10 years. While DCA understands that Recipients cannot always conduct annual site visits to each household assisted under their CHIP program, DCA requires the Recipient to keep a log of each CHIP assisted household with the beginning and ending dates of the required affordability period. **The Recipient is required to send on an annual basis a "DO NOT FORWARD" letter to each household on the anniversary date of the recorded loan documents to ensure that the original assisted CHIP household remains in the property as its principal residence. For any returned letters, the Recipient will implement procedures to follow-up with the CHIP assisted household and take measures to recapture the CHIP assistance due the Recipient.**

#### **Reimbursement to DCA if Default Under the Terms of the Loan Agreement**

Recaptured funds are HOME funds which are recouped by the Recipient when HOME (CHIP) assisted housing does not continue to be the principal residence of the assisted homebuyer for the full affordability period required by 24 CFR 92.254 (a) (4) for homebuyer projects and by DCA for rehabilitation projects. Recaptured funds are not considered "program income" but rather represent a return of the original HOME investment. Therefore, when the Recipient receives recaptured funds, the funds must be remitted to DCA, (to the attention of the CHIP Manager) for placement in the DCA HOME Investment Trust Fund local account. The remittance must be accompanied by a letter of explanation of the recaptured funds identifying the HUD project number, owner name and address.

#### **Subordination Agreements**

During the course of the CHIP loan, a Recipient may be asked to subordinate the CHIP loan to another loan which is being requested by the homeowner against the property. Most subordination requests are due to the owner attempting to improve their interest rate or payment schedule for an existing superior position loan; to obtain a new loan to consolidate existing debt; or remove equity from the property for some other purpose. For technical assistance with these requests, please contact the CHIP staff for further clarification or instruction to complete.

## **Record Retention**

This section provides a summary of the HOME program regulations at 24 CFR 92.508 regarding record retention.

The regulations require that homeownership rehabilitation project records must be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.

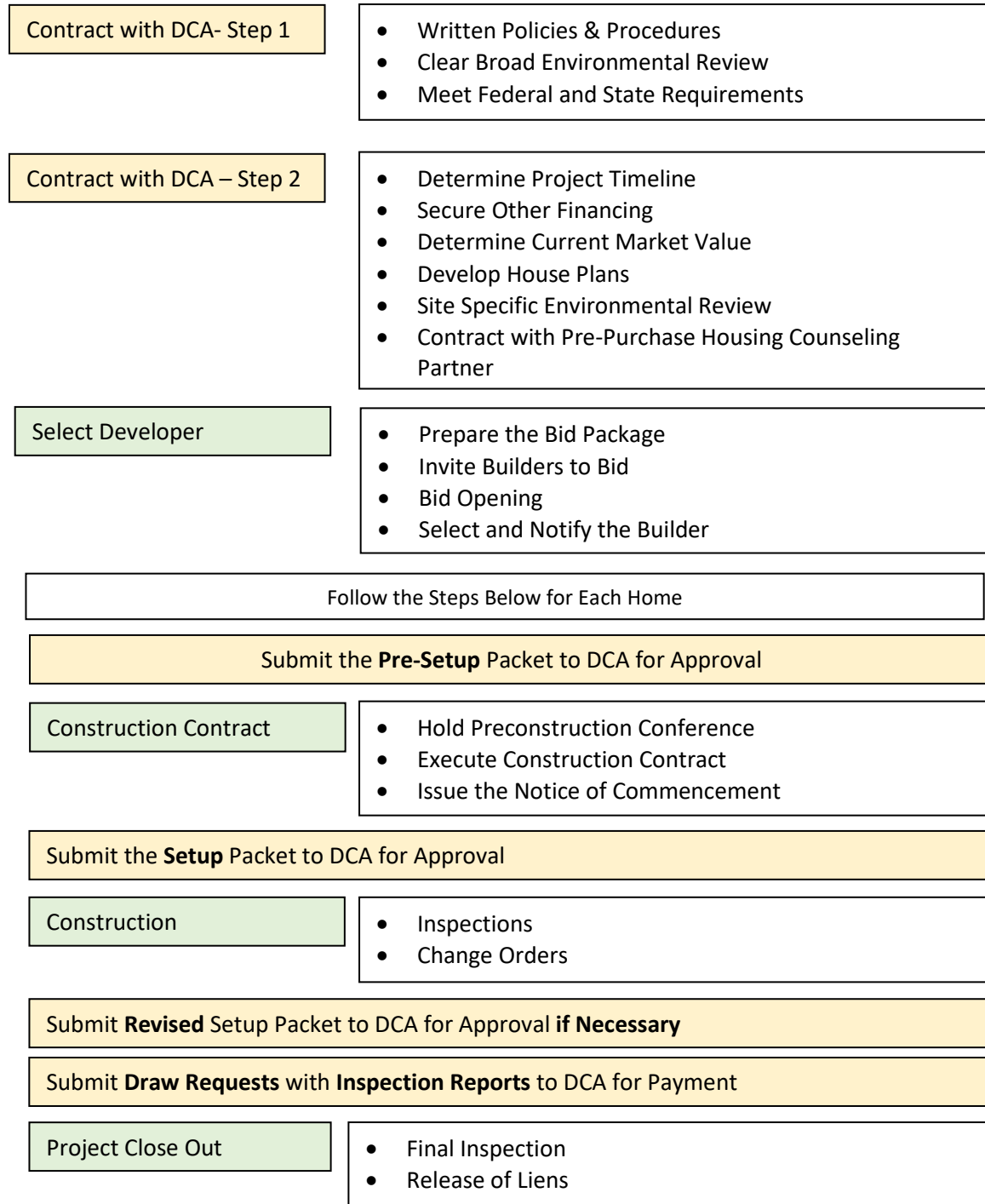
Written agreement must be retained for five years after the agreement terminates.

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

In the event there were any litigation, claim, negotiation, audit, monitoring, inspection or other action that had been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

# NEW CONSTRUCTION AND REHABILITATION OF VACANT HOMES ACTIVITIES

## Flow Chart



## Introduction- New Construction

The following section of this manual is intended to assist Recipients with the step-by-step administering of the CHIP New Construction and Rehabilitation of Vacant Homes for Sale to Eligible Homebuyers.

Recipients administering CHIP new construction activities are required to comply with the HOME regulations at 24 CFR Part 92. The Policies and Procedures/Written Construction Standards and Specifications do not negate the need for securing your attorney's opinion and approval when necessary. The HOME program regulations can be accessed at:

<https://www.hudexchange.info/programs/home/home-final-rule/>

CHIP funds may be used to develop homeownership through new construction, rehabilitation, or reconstruction. Funds will be provided to acquire, rehabilitate, or newly construct single-family units to be sold to low and moderate income home buyers. Single-family units are defined as structures with 1-4 units. CHIP Recipients can contract with a Developer for new construction, rehabilitation, and/or reconstruction of single family units. The Developer shall be responsible for the day to day management of the development (either new construction or rehabilitation).

Developers who are contracted by the Recipient shall be paid a 15% developer fee of the total development cost. The total development cost does not include the value of the land if funds are provided to acquire the land. This amount may be reduced if there is an identity of interest between the developer and the contractor working on the development.

In instances where the sales price less a 15% developer fee may be less than the total development cost, the developer fee will be limited to 15% of the sales price and the remaining balance after applying the sales proceeds will be provided as a grant to the developer. The maximum development subsidy amount is \$20,000.

Recipients are eligible to receive project delivery costs of up to 5% of the HOME-funded total development cost. All eligible project delivery costs must be identified by the Recipient.

If the application proposes the development (either new construction or rehabilitation) of housing units that will be sold to low and moderate income home buyers, a formal agreement between the Recipient or Developer and a HUD-approved housing counseling agency to provide pre-purchase housing counseling services to all new home buyers will be required. Each homebuyer is required to attend housing counseling before the purchase of a CHIP funded home. Partnerships that consider post-purchase education services for each new home buyer are encouraged.

Whenever CHIP funds are used for either of these types of developments, the work must be performed according to DCA's Written Rehabilitation Standards and Specifications which describe the methods and materials (which address health and safety, habitability and functionality, useful life of major systems, lead-based paint, accessibility, disaster mitigation, and other improvements), construction plans, work write-ups and cost estimates, property inspections

procedures, frequency of inspections; and payment schedule. At a minimum, the unit must be constructed or rehabilitated to all state and local code requirements and must pass an inspection that addresses all of the inspectable items under HUD's Uniform Physical Condition Standards (UPCS). Recipients will be required to adopt and submit as an addendum to DCA's Written Rehabilitation Standards the local codes applicable to their locality.

A Recipient that has been awarded CHIP funds has already established the basic program design. The basic program design was set forth in the CHIP application and approved by DCA through the issuance of a CHIP Recipient Grant Agreement that includes the Program Plan and General and Special Conditions. Implementation of the program must be in keeping with the approved CHIP award and General and Special Conditions, the HOME Program Regulations, and all DCA CHIP policy memorandums and clarifications.

DCA may modify or update the Policy and Procedures periodically at its sole and absolute discretion or as required by changes to federal regulations. Recipients are responsible for maintaining knowledge of these changes and implementing the most up-to-date requirements established for the program.

## **Eligible Activities and Costs**

The CHIP Program is regulated by DCA and HUD in conformance with 24 CFR Part 92, the HOME Final Rule. The following are the major activities and costs permitted under the program.

In general, the following activities are eligible under the CHIP Development Program:

1. Acquisition: Funds used for property acquisition necessary for the construction of homeownership units are allowable.
2. Construction Financing: Funds may be used for the hard or soft costs of development of the housing units.
3. Development Subsidy: This is available to developers of homeownership units when the appraised value/sales price of the completed home minus the approved developer's fee maximum of 15% is less than the total development costs. In these circumstances, the developer fee will be limited to 15% of the sales price and the remaining balance after applying the sales proceeds will be provided out of CHIP funds as a grant to the developer. The maximum development subsidy amount is \$20,000.
4. Home Buyer Subsidy: A Home Buyer Subsidy is the amount of funds needed to fill the gap between the sales price of the home and the mortgage amount for which the purchasing household qualifies. The maximum amount of homebuyer subsidy per unit is \$14,999 and the minimum amount is \$1,000. The Home Buyer Subsidy should be made available to the purchaser of the unit as a 0% interest, deferred payment loan and must be secured with a HOME written agreement that is separate from the other loan documents.

## A. Eligible Development Costs

### 1. Infill Construction vs. Subdivision Development

Development may occur on both scattered site lots or on a single site which will be divided into separate lots where one unit will occupy one lot.

For the purposes of this Program, DCA will consider a “Subdivision” as any project that is one contiguous piece of property that will be split into multiple lots for the development of single family units and which will include the installation of utilities on the property for service to each lot.

DCA will consider as “scattered site” any project that includes scattered lots where each lot is surrounded on two sides by established residential units and each lot does not require the installation of utilities to the lot. To be considered “surrounded on two sides by established residential units,” a Recipient may consider lots immediately adjacent to the lot in question or immediately across the street from the lot in question. Further, if several adjacent vacant lots exist, all lots may be considered as one parcel for the sole purpose of determining if the lots qualify as “scattered site.”

### 2. Eligible Forms of Development

- a. New Construction - Units developed through the CHIP Program may be new construction.

Adjacent vacant, scattered site lots may be combined into one parcel and one unit built on the parcel if each lot individually does not meet local zoning codes for the construction of new single family housing.

Similarly, if the separate cost of rehabilitating two existing units exceeds 75% of the after-rehabilitation appraised value of each unit and, if local zoning codes prohibit the construction of a new unit on each existing lot, the lots may be combined and one unit constructed as a “new construction” activity under the CHIP Program.

- b. Rehabilitation - Rehabilitating a vacant, dilapidated single family dwelling unit where the estimated cost of rehabilitation of the existing unit is less than 75% of the total estimated after-rehabilitation value of the existing unit is an eligible activity. Upon completion of construction, the unit must meet all applicable local codes and property standards as defined by the CHIP Program. If the unit was built prior to 1978, the unit must be rehabilitated following all Lead-Based Paint guidelines.

## B. Total Development Budget - Eligible Costs

The following costs are eligible under the CHIP Program and may be included as part of the Total Development Budget for each site:

1. Eligible Acquisition Costs: Eligible acquisition costs are those costs related to the acquisition of a site(s) for the project. These costs include land, existing structures on the land, and costs associated with obtaining legal title and closing on the site.
2. Eligible Development Hard Costs: Eligible development hard costs are those costs required to construct, reconstruct or rehabilitate properties to meet applicable state and local building codes (including the Model Energy Code), accessibility requirements, and Single Family Development Minimum Construction Standards to ensure that the Georgia Dream Single Family Development Program-assisted housing is decent, safe and sanitary, and to make other essential improvements, including, but not limited to:
  - a. Energy-related repairs and improvements;
  - b. Accessibility improvements for individuals with disabilities (whether to comply with ADA requirements or otherwise);
  - c. Abatement of lead based paint hazards;
  - d. Repairs and/or replacement of major housing systems in danger of failure;
  - e. General property improvements (in accordance with DCA policy) which are non-luxury in nature; and
  - f. Demolition of existing structures on a site where reconstructed or newly constructed housing will be developed.

Eligible hard costs include the following line items: site preparation, landscaping, road construction, utilities and storm sewer, residential construction, and construction contingency.

3. Soft Costs: Related soft costs (costs incurred by the owner, paid to a third-party provider other than the Recipient or Developer and associated with the financing or development of reconstruction, new construction, rehabilitation or acquisition) are eligible costs. The following are eligible, related soft costs:
  - a. Architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups (including the reasonable cost associated with compliance under the State Programmatic Agreement on Historic Preservation);
  - b. Costs to process and settle the financing for a project such as private lender origination fees, credit report, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorney fees, private appraisal fees and fees for an independent cost estimate, and builder's or developer's fees that are reasonable and customary;

- c. Impact fees, hook-up fees and property taxes;
  - d. Insurance costs, including an initial flood insurance premium;
  - e. Costs for security at the construction site;
  - f. Costs to inspect the project for compliance with Program and local/state building codes; and
  - g. Costs to market the completed units to prospective home buyers or tenants.
4. Project Delivery Costs: Recipients are eligible to receive a project delivery fee of up to 5% of the HOME-funded total development cost. All eligible project delivery costs must be identified by the Recipient and may include items such as project design and implementation, environmental reviews, underwriting, document preparation, the cost of inspections, and oversight of the Developers.
  5. Program Income: Proceeds generated from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds is considered Program Income. All program income generated by the development throughout the loan term may be retained by the Recipient and used for additional HOME-eligible housing development activities.
  6. Developer's Fees: Fees to developers that complete developments funded under this NOFA shall be up to 15% of DCA's HOME investment cost not including the value of the land if acquisition funds are provided. This amount may be reduced if there is an identity of interest between the developer and the contractor working on the development. The developer fee should be pro-rated among all funding sources.
  7. Other costs: Other miscellaneous costs which are also approved by DCA at its sole and absolute discretion. These costs may include interim construction financing. Please contact DCA for consideration of Other Costs which may be allowable.

C. Total Development Costs - Ineligible Activities and Costs

The following costs are ineligible under the CHIP New Construction and Acquisition and Rehabilitation Program and may not be included as part of the Total Development Budget for each site:

1. Acquiring property which is not part of a CHIP-eligible housing unit.
2. Installing off-site improvements (development on any property not owned or under the control of the Developer.
3. Paying for any cost that is not eligible under §92.206 through §92.209 of 24 CFR Part 92, HOME Investments Partnerships Program.



4. Rehabilitating or constructing any property occupied by an existing owner.

#### Maximum HOME Investment

The minimum subsidy amount for any unit is \$1,000 as required by HOME Program regulations. The maximum amount shall be the 221(d)(3) limits as determined by HUD. These limits can be found at the following link:

<https://www.hudexchange.info/resource/2315/home-per-unit-subsidy/>

#### Maximum Home Sales Price

The maximum sales price of a newly constructed housing or acquisition with rehabilitation should not exceed 95 percent of the median purchase price for the area. If there is no ratified sales contract with an eligible homebuyer for the housing within 9 months of the date of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with §92.252.

#### Affordability Period Requirements-Recapture Provisions

Recapture provisions must ensure that CHIP recoups all or a portion of the HOME assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The table below provides the required affordability periods:

CHIP Investment per Unit	Length of Affordability	Amount considered satisfied for each year of the period of affordability completed in its entirety
Less than \$15,000	5 years	1/5 <sup>th</sup>
\$15,000 - \$40,000	10 years	1/10 <sup>th</sup>
More than \$40,000	15 years	1/15 <sup>th</sup>

CHIP funds that are invested in projects that do not meet the established Period of Affordability requirements will be subject to recapture based on policies outlined in Administration Manual. The development subsidy is not subject to recapture under this provision.

## **Homebuyer Qualifications**

#### Income Eligibility Requirements

The program will serve homeowners and tenants with incomes at or below 80% of the area median, adjusted for household size. The current income limits published by HUD can be found by visiting the HUD website located here: <https://www.huduser.gov/portal/datasets/il.html>

Methods for determination of annual income will be consistent with HUD requirements under 24CFR 92.203. All income and assets must be documented by either a review of documents or third party verification. The requirement for third party verification of income and assets should be clearly set forth as well as the requirement that income is projected for the coming twelve month period from time of verification. All income and asset verification documentation must be current to within six (6) months of the loan closing or lease execution. This allows Recipients to efficiently determine income eligibility of applicants for rehabilitation loans, homeownership assistance, etc.

All sources of "gross household income" and earnings of all adult members anticipated to be received in the 12-month period following the effective date of income certification(s) which will be used to determine whether the applicant is eligible for assistance, must be verified and documented. Copies of these documents must be maintained in the applicant file. Communities must use one or more of the following means of documenting the applicant's recent income.

***Please see Pre-Qualifying Applicants in the Owner Occupied section of this Manual .***

#### U.S. Citizenship Qualification

Each member of a household that receives assistance must be lawfully within the United States. Each household member over the age of 18 years must complete a "Declaration of Citizenship Status" form. The parent/guardian must complete a "Declaration of Citizenship Status" form for each minor child under the age of 18 years. Evidence of citizenship status for all household members must be in the file.

#### Conflict of Interest Qualification

The proposed residents of all units must sign a document stating that they have no relationship to anyone who has a decision-making role or inside knowledge of the HOME process, financial or contractual interests in a HOME activity, or anyone who can obtain benefits of any kind from a HOME activity. This extends to anyone with whom a person has familial or business ties during the funding process and up to one year thereafter. If an individual knowingly has any of the aforementioned connections to a HOME activity, and has not made these ties public, then she/he has violated Federal Conflict-of-Interest statutes.

#### Primary Residence:

The homebuyers must use these homes as their primary residence.

#### Homebuyer Counseling

Homebuyers must receive pre-purchase housing counseling before purchasing a HOME-assisted unit as per 24CFR §92.254(a)(3). Recipients may not charge a fee to the homebuyer for the receipt of housing counseling assistance but may include a fee of up to \$100 as part of the Project Delivery Costs associated with the activity. If a third-party provides such services to the homebuyer, the fees charged must not exceed \$100 and the fees charged to and paid by the homebuyer. The amount paid by the homebuyer may be counted toward the \$1,000 minimum household contribution required of all borrowers.

Recipients are responsible for ensuring that the CHIP-assisted homebuyer completes the homebuyer counseling. A Certificate of Completion of the required counseling or evidence of completion from a housing counseling provider must be maintained in each individual project file.

#### Loan Terms and Conditions and Minimum/Maximum Subsidy

Each home buyer of completed units will be required to secure their own mortgage financing following the determination that they meet HOME income eligibility requirements. All CHIP funds provided to the homeowners are subject to a promissory note and a deed to secure debt between the Owner Occupant as mortgagor and the Recipient as the mortgagee.

Home buyer subsidy loans will be made available to the homeowner at a 0% deferred payment second mortgage loan payable only when the home is sold, refinanced, or no longer used for their principal residence during the affordability period. ***The minimum subsidy amount for any unit \$1,000 as required by HOME Program regulations. The maximum per unit subsidy amount shall be \$14,999. A percentage of the loan will be forgiven annually in equal installments over the applicable minimum five (5) year period of affordability.***

#### Required Homeownership Documents

All loans made to home buyers using CHIP funds will be secured by a lien attached to the property occupied by the borrower. The following documents must be provided by the lender at closing:

- Deed to Secure Debt
- Loan Agreement
- Promissory Note
- Homeowner Notice Right to Rescind
- Real Estate Note
- Affidavit to Execute Amended Promissory Note

#### Transfer of Home Buyer Loans

In the event of the death or incapacity of a homeowner(s) during the stated period of affordability, transfer of property to an eligible low or moderate income household that is an immediate family member of the original homeowner will be permitted.

An “immediate family member” is defined as a spouse, parent, brother, sister, or child of that person, or an individual to who that person stands loco parentis.

Any immediate family member that wishes to assume responsibility of the loan must contact the Recipient for an assessment. The family member must meet all qualification criteria for CHIP funds, including:

#### Borrower Eligibility Requirements

- Income
- Age
- Occupancy
- Mortgage Status

### Property Eligibility Requirements

- Property ownership and type
- Property tax
- Property insurance

The Recipient will conduct third party verification and obtain all required documentation to determine if the household meets all the eligibility requirements.

The immediate family member that is to assume responsibility of the loan is responsible for transferring title of the property into his/her name. The immediate family member is also responsible for preparation and processing of all documents related to loan assumption. All costs associated with transferring the title of the property and loan assumption will be the sole responsibility of the immediate family member, including any legal fees, filing fees, taxes, and any other costs incurred with such process. The immediate family member will have 180 days after the death of the original homeowner to complete the title transfer and loan assumption. If an immediate family member has not completed the process of title transfer and loan assumption within the specified timeframe, the original loan is considered “*in default.*”

All assumed loans will continue with the original loan terms outlined in the Loan Agreement, Deed to Secure Debt, and Promissory Note.

## **DCA CHIP Homebuyer Underwriting Policy**

### **Background**

At 92.254(f), the HOME Rule requires that Participating Jurisdictions (DCA) establish and implement homebuyer program policies that address underwriting standards for buyers of HOME-assisted units, responsible lending standards, and subordination requirements. In August 2018, HUD issued CPD Notice 18-09: Requirements for HOME Homebuyer Program Policies and Procedures detailing these requirements.

This Policy has been developed as a resource for CHIP Recipients as they develop, update, and refine their local policies. It is intended to incorporate both minimum HOME expectations and best practices that DCA has considered. CHIP Recipients can use this as a starting point for the development of their own policies but it is important to note that it should be adapted to reflect local circumstances.

HUD has not established specific metrics in terms of debt-to-income ratios, interest rates, or the like but does require HOME recipients to establish requirements that are reasonable and make sense in the local market.

Finally, this Policy primarily addresses underwriting expectations that influence how much assistance needs to be provided to a given buyer; it is not intended to address all local policies and procedures or all HUD requirements that may apply to homebuyer transactions. For example, recipients still need to ensure that their local policies designate which definition of income will be

used, how recapture policies may be applied, and that the homes purchased meet HOME requirements, among other things, related to their physical condition and value. Additionally, recipients should incorporate their local procedures identifying roles and responsibilities of various program participants, documentation standards, approval processes, and the like.

As part of the local HOME Program, DCA provides assistance to low income homebuyers and this assistance can be used toward an eligible buyer's down-payment or closing costs or can be used as direct financing that reduces the size of a buyer's primary loan (i.e. first mortgage) to a level that is affordable.

By providing assistance to homebuyers, CHIP Recipients have to balance potentially competing perspectives. First, CHIP Recipients should ensure that participating buyers will be successful homeowners. The program should target households who are ready for homeownership and provide enough assistance to make the home affordable. At the same time, buyers should only be provided with the assistance they "need" so the homebuyer is not over subsidized with assistance. Finally, CHIP Recipients should ensure that assisted buyers are informed consumers and avoid the use of risky lending products.

To balance these priorities, DCA has developed these underwriting guidelines, which are based on the following key principles.

- Assisted buyers should have established credit to qualify for competitive lending products on par with those offered to credit-worthy unassisted buyers in the local market. Buyers should be chosen based on their creditworthiness to sustain homeownership without requiring a larger subsidies which reduces the impact of the CHIP program.
- Assisted buyers should make reasonable and meaningful contributions to their home purchase in terms of both up-front investments and monthly payment without being overburdened by their monthly payment or left without cash reserves after closing.

### **Applicability and Exceptions**

This policy applies to the sale of any homes built or acquired and rehabilitated by a participant in the DCA CHIP program. While there may be individual cases where these requirements may be waived, CHIP Recipients should request specific exceptions in writing prior to making any commitments to prospective buyers who cannot qualify within these criteria. CHIP Recipients are reminded that they will be responsible for representations and/or commitments made to prospective buyers without prior approval by DCA.

### **Maximum Homebuyer Assistance**

The maximum CHIP assistance available for a buyer is \$14,999. Not all buyers will qualify for the maximum assistance. The assistance available to any given buyer is based on the CHIP Recipient's assessment of the buyer's need taking into account the additional criteria outlined below.

## **Income Determination**

The housing must be acquired by a homebuyer whose family qualifies as a low-income family, and the housing must be the principal residence of the family throughout the period described in paragraph (a)(4) of this section. All eligible household members income must be calculated to determine the household income. Please refer to Owner Occupied Rehabilitation of this Manual for a more comprehensive sources of determining Income sources when Pre-Qualifying Applicants

CHIP limits eligibility to buyers with incomes are between 40% and 80% of the Area Median Income (AMI) as adjusted for household size. HOME regulations limit assistance to households with incomes at or below 80% AMI. While CHIP is concerned about the housing needs of lower income households, it also recognizes that homeownership requires buyers to have sufficient discretionary income to maintain their homes over time, absorb increases in taxes and insurance, and otherwise address unexpected expenses. As a result, the CHIP Program focuses its homebuyer assistance on buyers with incomes in excess of 40% AMI.

In all cases, income eligibility will be determined using the Part 5 (Section 8) definition of income. For guidance on this definition go to:

<https://www.hudexchange.info/resource/2701/sample-format-for-calculating-part-5-annual-income/>

In addition, Recipients are encouraged to use the HUD Income calculator to determine the households income. The income Calculator can be found at <https://www.hudexchange.info/incomecalculator/> The total household income will be used for eligibility purposes and must be documented with at least two-months of source documentation (e.g. paystubs, benefit records, bank statements). Income attributable to all household members, whether or not related to one another by blood or marriage, will be included for eligibility purposes.

However, for underwriting purposes to determine the appropriate level of assistance, the following adjustments will be made:

- The income of adults who will not have an ownership interest in the property will be excluded. For example, in a circumstance where an elderly parent is part of the household but is neither being listed on title to the property nor included on the loan documents, that individual's income will not be included in calculations of the income available to make the mortgage payment.

However, this exclusion for “non-purchasing” adults is not intended to artificially exclude the income of a household member with marginal credit. In the case of married couples, the income of both spouses will always be included for underwriting purposes.

- Significant sources of income such as social security benefits, child support payments, or the like that will not continue for three (3) years will be excluded. For example, while child support received for a 16 ½ year old is included in the Part 5 definition of income because

it will continue over the upcoming 12 months, the source of income will cease in about a year and a half when the child turns 18 and should not be counted on in sizing the buyer's mortgage.

- Any imputed income from assets will be excluded for underwriting purposes.

### **Buyer Expectations**

To ensure that buyers are likely to sustain homeownership, assisted buyers must:

- Purchase the home for a reasonable price that does not exceed the fair market value as determined by an independent appraisal. CHIP Recipients should coordinate with the buyer's senior lender to obtain a copy of the lender's appraisal. Additionally, the home must have a sales price less than or equal to the applicable HOME Homeownership Value limit for the type (new or existing) and location of the home. These limits are updated annually by HUD and can be obtained from DCA.
- While documenting the market value via appraisal is a best practice, DCA does allow Recipients other means of determining value including an evaluation using comparable properties completed by a qualified Recipient representative or an estimate of value by the local tax assessor based on comparable properties in the same neighborhood.
- Contribute at least \$1,000 toward down payment and closing costs. Additionally, buyers are encouraged to have sufficient cash resources (including savings, checking, money market, or other similar non-retirement accounts) such that after closing they have savings of at least three (3) times their total monthly payment, including principal, interest, taxes, insurance, and any association fees.
- ***Buyers with liquid assets in excess of \$25,000 will be required to invest assets above \$25,000 toward the purchase of the home before receiving CHIP assistance.*** For purposes of this requirement, liquid assets are those readily convertible to cash (including but not limited to savings or checking accounts, certificates of deposit, stocks and bonds, etc.). Liquid assets, however, exclude life insurance policies and any savings held in a tax-preferred retirement account (e.g. pension, 401(k), IRA, etc.), college savings plan (e.g. 529 account), or health savings account recognized by the Internal Revenue Service.
- Obtain a loan whose monthly payment (i.e. front end ratio) does not exceed 33% of monthly income and that does not result in a total debt burden (i.e. back end ratio) in excess of 43%. While the recent foreclosure crisis has reduced the availability of lending products that allow buyers to take on excessive monthly payments, some such products are still available. Even when assisted buyers are willing to take on larger monthly payments, the Recipient has determined that buyers with excessive payments are less likely to sustain homeownership.
- Be qualified by their lender to spend at least 20% of their monthly gross income on housing. Lenders often qualify borrowers to spend between 28-33% of monthly gross

income, so buyers qualifying only at payment levels below 20% of income usually have high consumer debt which increases both subsidy costs and the likelihood of foreclosure later.

Note, this criterion is not intended to eliminate buyers whose loan is limited by the lender's loan-to-value ratio resulting in a monthly payment less than 20% of income. For example, if a buyer could qualify to purchase a \$100,000 home at a 28% ratio, but because the household is purchasing a \$50,000 home, the actual payment will be less than 20% of monthly income.

- To ensure that other non-housing, non-debt costs do not unduly threaten an assisted buyer's ability to afford their first mortgage, the Recipient will consider the following non-discretionary fixed costs:
  - Dependent care expenses, including child or elder care necessary to allow adult members of the household to work, in excess of 15% of gross income;
  - Court ordered child support or alimony payments in excess of 20% of gross income;
  - Out of pocket health insurance premiums in excess of 10% of gross income.

In the event any such expense exceeds the limit or the combination of such expenses exceeds a combined total of 25%, the maximum back end ratio allowed will be reduced by the overage. For example, if a household has no dependent care or court ordered payments but has health insurance premiums equal to 15% of gross income. The back end ratio will be limited to 38% (43% minus the 5% by which the health care premium exceeds 10% of income).

To qualify, the buyer must still be qualified to spend at least 20% of their income toward housing without requiring assistance in excess of the maximum assistance limit.

In cases where fixed costs are in excess of these limits, the proposed monthly housing payment – inclusive of principal, interest, taxes, insurance, and any mortgage insurance or association fees – cannot exceed the household's existing housing payment (e.g. rent or payment on a prior home) by more than 10%.

- Complete Pre-Purchase Homeownership Counseling as required below.
- Obtain a mortgage or senior loan that meets the requirements outlined below.

### **Pre-Purchase Counseling Requirement**

In December 2016, HUD published the Final Rule for Housing Counseling Certification which applies to homeownership counseling required by the HOME program. That rule, the final effective date of which is August 1, 2021, requires that CHIP assisted buyers receive counseling from HUD certified counselors employed by HUD- approved Housing Counseling Agencies. The rule also standardizes the content requirements for counseling. Until then, CHIP Recipients



continue to have the flexibility to determine in their local policies and procedures. DCA is working on policies and developing partnership to ensure that there are an adequate number of HUD-certified housing counseling agencies in Georgia by the 2020 compliance deadline.

To ensure that buyers are informed consumers, the following are required:

- Attendance within the past 12-months at a DCA-approved pre-purchase homeownership counseling course by all adult household members who will hold title and be party to the senior loan; and
- That such counseling consists of all applicable topics under the HUD Housing Counseling Rule delivered by a HUD-certified counselor working for a HUD-approved Housing Counseling Agency.

CHIP Recipients should provide the following language in their homebuyer policies:

**[CHIP Recipient Name] has arranged for [Homebuyer Counseling Provider] to provide pre-purchase counseling to participating buyers. There is a fee of [\$\$\$] to attend. Potential buyers should contact [Homebuyer Counseling Provider] at [PHONE] or via [EMAILADDRESS] to register for an upcoming class.**

### **Primary Loan Expectations**

To ensure that buyers receive high quality loans that are sustainable over time, DCA requires that any buyer receiving CHIP assistance towards closing costs, down payment, or a portion of the purchase price receive a senior loan (i.e first mortgage) meeting the following criteria:

- The loan must be a “Qualified Mortgage (QM)” under the requirements of the Consumer Protection Financial Bureau (CFPB) outlined at 12 CFR 1026.43(e). Qualified Mortgages, among other features, limit total points and lender fees to reasonable levels. Qualified Mortgages also strictly limit pre-payment penalties and contain many other features intended to protect consumers.

There are exemptions from the QM standards for certain nonprofits (typically including Habitat for Humanity) and CDFIs depending on which products are actually present in the local market. In rural areas, USDA Section 502 Direct Loans are made directly from the federal government to the consumer and are not technically subject to the QM requirements but are otherwise perfectly appropriate loans for low-income buyers.

- Interest rates must be competitive and must NOT be a “Higher Priced” loan as defined by CFPB. Higher priced loans are those that exceed the Average Prime Offer Rate by more than 1.5% as of the date of the loan’s rate lock. Loans can be checked against the Average Prime Offer Rate by visiting the following website: <https://www.ffiec.gov/ratespread/newcalc.aspx>
- Lending products should be fully amortizing 30-year fixed rate loans. While some buyers

may prefer shorter (e.g. 15 year) loans, the Recipient will only consider such loans on an exception basis if it determines that the buyer's payment is sustainable and that the use of a shorter-term product does not require additional CHIP assistance compared to a 30-year loan.

A mortgage with a term in excess of 30 years does not qualify as a "Qualified Mortgage" under the CFPB standards, so Recipients that wish to allow extended amortization periods may need to more carefully reconcile that with the first criteria in this section of this Policy.

- Loan products used must generally allow loan-to-value (LTV) ratios of at least 95%. While assisted buyers are not required to be approved for loan amounts equal to 95% of the purchase price, buyers who use more restrictive lending products (such as those limiting the LTV to 80%) will not receive CHIP assistance toward their purchase if they could otherwise afford the monthly payment on a larger loan. In short, buyers should obtain the largest loan they can reasonably afford, and DCA will not subsidize purchases more deeply to avoid mortgage insurance on higher LTV lending products.

### **Subordination of CHIP-Funded Liens**

After providing assistance to eligible homebuyers, DCA has ongoing interests in the success of those buyers from the standpoint of both the CHIP program and as a local government concerned about the impact of foreclosures on its residents and neighborhoods. To help prevent future foreclosures and to protect the State's financial investment in assisted-units, subordination of CHIP funded liens to future refinancing by assisted buyers will only be considered under the following circumstances. (This policy will also apply to CHIP funded liens resulting from the homeowner rehabilitation programs.)

The new loan must be for one of the following purposes:

- To improve the rate and or term of the existing loan.

For purposes of this requirement, the new loan may allow the assisted homeowner to finance their closing costs without being considered cash out. Additionally, nominal cash back at closing of less than \$500 resulting from last-minute adjustments to payoff figures, closing costs, tax/insurance escrows and the like will not be considered "cash out."

- To take "cash out" through a refinancing transaction in order to complete needed repairs to the home.

Any cash out refinancing for rehabilitation to the property must result in a total loan-to-value ratio (including the CHIP loan) of 90% or less. The cash proceeds of the refinancing must be escrowed with the lender and disbursed directly to a contractor.

The proposed new loan must meet all requirements in the Primary Loan Expectations section above.

- The proposed new loan must be affordable to the assisted owner within the lending ratios contained in the Buyer Expectations section above. The assisted owner's income must be re-verified prior to the refinancing, and the current income must be used to determine debt to income ratios. In no case may the monthly payment on the new loan exceed the original monthly payment by more than 10%.

Note, while the assisted owner's income must be re-verified to evaluate the loan's affordability, if the owner's income has risen above 80% AMI there is no violation of HOME. After the project is complete, there is no ongoing expectation that buyers will necessarily always remain low income.

A Homebuyer Feasibility Analysis spreadsheet (CHIP Form CN-4), should be used at Pre-Set Up when there is a specific house but unknown buyer (Project Affordability Analysis Tool) and at Final Draw and Completion when there is both a known buyer and a known home (Final Buyer Underwriting).

## **Property Eligibility Requirements**

### **Purchase Price Limits**

HUD has issued new HOME Property Value Limits. In 24 CFR § 92.254(a)(2)(iii) of the HOME Final Rule published on July 24, 2013, HUD established new property value limits for homeownership activities. These new limits apply to all homeownership housing to which HOME funds are committed on or after August 23, 2013, and will remain in effect until HUD issues new limits.

§ 92.254(a)(2)(iii) is revised so that PJs are no longer permitted to use the FHA Single Family Mortgage Limit [known as the 203(b) limit] as a surrogate for 95% of area median purchase price, as was permitted in the pre-2013 Rule.

This change was necessitated by statutory changes to the 203(b) statute, which, over time, increased the FHA Section 203(b) floor. With these increases, the 203(b) limits became a less reliable surrogate for 95% of area median purchase price. The HOME program statute requires that no housing have a purchase price or after-rehabilitation value that exceeds 95% of area median purchase price, in order to ensure that HOME-assisted housing is modest and non-luxury.

In the 2013 Rule, § 92.254(a)(2)(iii) is amended to eliminate the use of 203(b) limit and to change the methods for determining 95% of area median purchase price. HUD will determine and issue limits that represent 95% of the area median purchase price separately for newly constructed and existing single family housing units.

The new HOME Rule requires the State to evaluate the property value of a unit assisted based on whether the unit is considered "existing" or "new construction". HUD has determined the values of each for all counties in Georgia based upon prior years' sales data for each type of housing.

The most current HOME Property Value Limits can be found on HUD's website at:

<https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

### **Property Standards**

CHIP-funded properties must meet certain property standards. At minimum, all units must meet HUD's Uniform Physical Condition Standards (UPCS). However, the HOME regulation also requires that all housing that is rehabilitated or financed with HOME funds must meet all applicable local codes (including state codes), rehabilitation standards, ordinances, and zoning ordinances at the time of project completion.

### Mandatory Residential Construction Codes

The State of Georgia has mandatory residential construction codes that are applicable to CHIP and that must be adhered to regardless of whether or not the Recipient enforces the codes. There are no exceptions to meeting these requirements for construction of CHIP-assisted homes.

These mandatory codes are as follows (the latest edition as adopted and amended by DCA):

- Georgia State Minimum Standard Building Code (International Building Code)
- Georgia State Minimum Standard One- and Two Family Dwelling Code (International Residential Code for One- and Two-Family Dwellings)
- Georgia State Minimum Standard Fire Code (International Fire Code)
- Georgia State Minimum Standard Plumbing Code (International Plumbing Code)
- Georgia State Minimum Standard Mechanical Code (International Mechanical Code)
- Georgia State Minimum Standard Gas Code (International Fuel Gas Code)
- Georgia State Minimum Standard Electrical Code (National Electrical Code)
- Georgia State Minimum Standard Energy Code (International Energy Conservation Code)

The permissive codes are as follows (the latest edition as adopted and amended by DCA):

- International Property Maintenance Code
- International Existing Building Code
- Residential Green Building Standard
- International Swimming Pool and Spa Code

As noted above, the building, one and two family dwelling, fire, plumbing, mechanical, gas, electrical and energy codes are mandatory codes, meaning that under Georgia law, any structure built in Georgia must comply with these codes whether or not the Recipient chooses to locally enforce these codes.

### Administration and Enforcement of the State Minimum Standard Codes

In order to properly administer and enforce the state minimum standard codes, Recipients must adopt reasonable administrative provisions. The power to adopt these administrative procedures is set forth in O.C.G.A. Section 8-2-26(a)(1). These provisions should include procedural requirements for the enforcement of the codes, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other procedures necessary for the proper local administration and enforcement of the state minimum standard codes.

These powers include:

- Inspecting buildings and other structures to ensure compliance with the code;
- Employing inspectors and other personnel necessary for the proper enforcement of codes;
- Requiring permits and the establishment of charges for said permits; and
- Contracting with other Recipients for code enforcement.

DCA periodically reviews, amends and/or updates the state minimum standard codes. If a Recipient chooses to locally enforce any of these codes, it must enforce the latest editions and the amendments adopted by DCA.

DCA has developed a sample resolution/ordinance that may be used as a guide for Recipients in the development of their administrative procedures. Please contact DCA for a copy of this sample resolution/ordinance and for any technical assistance needed in the development of a local code enforcement program.

#### Appendices

It should be noted that The Uniform Codes Act states that the appendices of the codes are not enforceable unless referenced in the body of the code, adopted by DCA, or specifically adopted by a municipality or county. If any appendices have been adopted by DCA, they will be noted in the Georgia amendments to the base code. Georgia Amendments to all of the codes listed can be found at <https://www.dca.ga.gov/local-government-assistance/construction-codes-industrialized-buildings/construction-codes>

Please contact the Office of Construction Codes and Industrialized Buildings of Georgia for more information concerning these amendments.

#### Architectural Standards

In accordance with requirements established by the federal government at 24 CFR 92.251 for the proper operation of the CHIP Program, DCA has established these Architectural Standards. All projects receiving CHIP funds from DCA for the purpose of building new property and rehabilitating existing property must meet or exceed these Architectural Standards. Incorporation of these minimum standards into all work scopes which control the level of construction to be performed on all properties is required. These standards have incorporated all State and local building codes, State energy codes and the HUD housing quality standards, and, in many cases, DCA requirements exceed the referenced State and Federal Requirements.

The CHIP Program requires that all units funded under the program meet the applicable Federal and State Accessibility standards as well as all DCA accessibility requirements. This includes the requirements of Section 504 of the Rehabilitation Act of 1973 as well as those visitability improvements identified in O.C.G.A. 8-3-172 within all units receiving CHIP assistance to the extent compatible with the rehabilitation work. (i.e. if code related improvements affect an entrance to the property, bathroom door or other applicable item, the improvement will incorporate work necessary to meet visitability requirements). Recipients must document why any visitability improvements required by this law were not incorporated into the assisted improvements for each home.

All units that will be reconstructed must be re-built to conform to the requirements of O.C.G.A. 8-3-172.

These Architectural Standards do not have the effects of replacing local codes or minimum property standards. All properties must meet or exceed applicable local codes and property standards. With the exception of off-site development costs, measures required to address local codes and property standards are eligible construction costs for properties receiving CHIP funds.

These Architectural Standards are applicable to new construction, reconstruction and rehabilitation construction. New construction, reconstruction and rehabilitation construction are governed by all local and state building codes and requirements.

Building Permits are required for all units to be funded under the CHIP Program, if building permits are issued in the community. Proof of inspections and approvals by local officials will be required prior to the loan closing for the purchase of a unit by an eligible home buyer.

Final determination as to a recipient's compliance with the Architectural Standards rests solely with DCA.

#### General Standards for all Properties

1. Drawings and Specifications-The architectural drawings and specifications must be in compliance with the Livability Standards found in HUD's Minimum Property Standards 4910.1 (1984). These are the minimum standards. Where DCA or local standards are higher, the higher standards will prevail. All Federal, State, and Local codes must be met, including all applicable Building and Fire Codes, applicable Federal and State Accessibility laws and requirements, Georgia Energy Code, and any other applicable requirements. In every case, the most restrictive requirement will prevail.
2. Contract Drawings-The contract drawings should be complete clear and consistent in order to minimize construction problems, schedule delays, discrepancies in documentation and cost overruns, all of which affect the overall construction process.
3. Exterior Construction Materials-All construction materials must be appropriate for lifecycle cost and ease of maintenance. All materials are to be installed according to manufacturer specifications using acceptable methods and materials that will result in the issuance of a manufacturer's guarantee. All materials must bear the label of an industry accepted testing or certification agency. Preference must be given to materials that represent low maintenance and longevity over the life of the property. Any major component of a rehabilitation project with less than five (5) years expected useful life remaining shall be replaced. Specific exterior construction material requirements are listed below:
  - a. Roofing: DCA requires a minimum warranty of twenty (20) years for all pitched roofs that must be verified by the manufacturer. Note: flat roofs are not permitted in any construction. Gutters and downspouts are mandatory for all construction on all buildings.

- b. Vinyl Siding: DCA requires commercial grade siding with a minimum thickness of .044 and with a 15-year warranty to be verified by the manufacturer.
- c. Manufactured Siding: Siding must be 7/16" nominal thickness or equivalent with a 20-year warranty. The warranty must be verified by the manufacturer.
- d. Wood Siding: Cedar or redwood in random lengths of 4'-0" or greater is acceptable. Any other wood siding product must be approved by DCA prior to order and installation. The warranty must be verified by the manufacturer.
- e. Dryvit: The installation of dryvit, or similar products, must include protection of finish in high traffic areas and must be approved by DCA.
- f. Stucco: Hard stucco may be used in some instances, but must be approved in advance of by DCA.
- g. Soffits & Fascias: Consideration should be given to prefinished or low maintenance finishes to all fascias and soffits. Gutters and downspouts are mandatory for all construction and on all buildings.
- h. Exterior Doors and Windows: Exterior doors must be 1¾" metal insulated or solid core wood, 20 minute rated door. Windows must have insulated glass and meet Georgia Energy Standards.

#### Visitability Requirements

All construction activities must meet all of the following visitability requirements of OCGA 8-3-172:

- a. One No Step Entry through 36 inch door;
- b. On first floor:
  - 1. Each interior door is at least a standard 32 inch door, unless the door provides access only to a closet of less than 15 square feet in area;
  - 2. Each hallway has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold;
  - 3. Each bathroom wall is reinforced for potential installation of grab bars;
  - 4. Each electrical panel or breaker box (located inside on first floor), light switch, or thermostat is not higher than 48 inches above the floor; and
  - 5. Each electrical plug or other receptacle is at least 15 inches above the floor.

#### Single Family Development Architectural Submittal Instructions

These instructions are established as an aid to the Recipient, detailing the necessary submissions, cost controls, scheduling, approvals and procedures to be used during the development of the proposed housing units. Disciplined adherence to these requirements, together with periodic consultation with DCA staff, is essential to ensure that scheduling deadlines are met and that a

high quality project will result. All submittals are required to be on the most current standard forms issued by the American Institute of Architects (AIA).

Summary of Submittal Requirements:

- a. Location/vicinity map of each unit site within the community.
- b. Conceptual Site Development Plan of each site should include:
  - Easements existing on the property must be indicated on the plan. (Information should be compiled from public records and other appropriate sources).
  - Wetlands and Floodplains. Applicant must submit maps and/or documentation from a qualified third party certifying that the eligible site is not located within a floodplain/wetland. Sites located within a floodplain/wetland area are not eligible for CHIP assistance.
  - Existing single family housing unit(s) located within a flood plain is/are eligible. Flood insurance must be obtained and a certification from an Environmental Consultant that the unit is located within a flood hazard zone is due at the time of Application. (This information must be supported by the wetlands map, wetlands delineation report, and floodplain map submitted in the Environmental Screening Checklist).
  - Utilities (water, sanitary and storm sewers, electricity, gas and telephone) must be located on the plan and contact information included in the notes.
  - Use of all adjacent properties indicated both graphically and in written form.
  - All zoning setbacks and any other zoning restrictions for the subject property must be graphically indicated.
  - An indication of all structures, slabs, tanks and any other improvements existing on the property.
  - An indication of any other features physical or otherwise that would affect the development of the subject property.
  - The location of the proposed entrance access to the property and a layout of the unit, driveways, etc. must be indicated, and;
  - An indication of all areas of tree and vegetation to be preserved and those to be installed.
- c. Environmental Screening Checklist. (see **Environmental Review -Site Specific Environmental Review in Housing Rehabilitation Activities**)
- d. Phase I and II Reports (if applicable).
- e. Physical Needs Assessment for all existing improvements on the property.
- f. Color photographs of the property and adjacent surrounding properties and structures, with location map. Aerial photographs are desirable and should be submitted whenever they are available. (Black and white photographs are not acceptable).
- g. Any other documentation needed at DCA's sole discretion as requested.



## Reconstruction Procedures

The initial property inspection will be completed once a property has been identified for possible assistance in the program. The purpose of the inspection is to determine if the property is feasible for rehabilitation, determine code required improvements and estimate the total cost of the regular (non-lead) rehabilitation work. Refer to the Owner-occupied housing rehabilitation section of this manual concerning reconstruction for additional guidance.

A standard Housing Rehabilitation Inspection Form can be used in conducting inspections to ensure completeness and consistency in the inspection process. This form will record the work required to meet the minimum property standards.

A work write-up is a set of specifications which sets forth the work to be done and materials to be used plus a cost estimate. A Rehabilitation Feasibility Test Form will be completed and a separate work write-up will be done for the lead interim control requirements for the home after the testing is completed by the lead risk assessor. The scope of repairs will be clearly stated and specifications will be sufficiently detailed to form a basis for obtaining bids from contractors. Generally, if it is determined that the hard cost of rehabilitation of a property is greater than \$25,000 and the expenditure of funds is not justified, a determination of economic unfeasibility will be made. Although this determination must be based on a strong element of subjective judgment, certain relative objectives threshold criteria must also be applied. In the event that it is determined the property is not economically feasible for rehabilitation, another property must be identified for the program. If any HRSHD acquisition funds were used to acquire the property, these must be supplanted with other non-HOME funds by the Recipient or Developer as the site is not feasible for a HOME project to be completed.

### Bidding Procedures

All contractor bids will be obtained through an “open, free competitive bidding” that is in compliance with 24 CFR 85.36(b) (8), which states contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. No sole source procurement will be allowed for any CHIP funded activities.

The Recipient must require that the Developer make efforts to notify the contractor community of the potential to bid. Solicitations from a minimum of three qualified contractors must be sought and no contract may be awarded for a project in which less than two bidders submitted proposals. A Bid Control Sheet will be used to document bids submitted and will include signatures documenting all who attended the bid opening. This sheet will be placed in the project file.

The Developer, under the auspices of the Recipient, will review all bids for responsiveness, accuracy, and reasonableness, record findings on Bid Control Sheet, and prepare a Bid Summary. The Bid Summary will compare each bid to the cost estimate. Bids will be considered reasonable if they are within 10% of the cost estimate. If the bids are not within 10% of the estimate, the Recipient will determine if the discrepancy is justified based on a careful review of the cost of individual work items.

The bid selected should reflect the lowest responsible bid complying with all program requirements, provided such bid is reasonable and in the best interest of the project.

## **Contractor Qualifications**

Only those contractors who have submitted a complete application to the Recipient or Developer and have received approval from the Recipient or Developer shall be eligible to perform work under this program. Prior to issuing a notice to proceed to any contractor, the Recipient will search the Excluded Parties List System (EPLS) to confirm that the contractor has not been debarred from performing work in the State of Georgia. This list can be found at: <https://www.epls.gov/>

Upon clearance, a bid award will be provided to the selected contractor.

### Eligible Contractor Requirements

All Contractors will have to provide:

- State Certified License
- Certificate of Insurance
- Model Accredited Renovator Certification
- Pass the State Clearance Process

In addition to the aforementioned, Lead Contractors have to Provide:

- Lead Certification
- Lead Abatement Certification

Criteria for selecting a contractor can include, but is not limited to:

- Quality of workmanship and response time on warranty work based on three references;
- Paying of material dealers and suppliers in a timely fashion based on references;
- Paying of sub-contractors in a timely fashion based on references;
- Adequate and valid insurance; etc.

### Ineligible Contractor Requirements

The Recipient or Developer shall remove any contractor from the approved contractors list for one or more of the following reasons:

1. Continuous performance of unsatisfactory (poor quality) work, as deemed by the Recipient or Developer.
2. Failure to maintain REQUIRED insurance.
3. Failure to pay sub-contractors and/or material dealers.
4. Failure to respond to grievances from past customers.
5. Failure to respond to warranty work in a timely fashion.
6. Failure to maintain current license and/or registration.
7. Insolvency, bankruptcy, or other conduct or condition which has resulted in a monetary loss to a homeowner in connection with any contract funded through a state or federal program.
8. Failure to complete contract work or abandonment of a job.

9. Withdrawal of bid without justification.
10. Conviction of a crime in connection with any contract work, or connection with payment, or receipt of funds from ANY state or federally funded program.

All applicable state and federal regulations, equal opportunity provisions (including Section 3), conflicts of interest, etc. are incorporated into all construction contracts for housing rehabilitation to ensure that all housing goals and objectives are met.

## **Recipient and Contractors Terms and Conditions**

### Dates

The Recipient and Developer will agree on the commencement date and the contractor will be given an appropriate time period to complete the project. In the event of inclement weather or other conditions beyond the contractor's control, he/she will be given extra days equal to the actual time lost. If there are change orders or amendments to the original contract, the contractor will be given additional time to accomplish the changes. This additional time and cost will be agreed upon by the contractor, Developer, and the Recipient. If the contractor fails to complete the project within the allotted time, he will be penalized for the agreed upon amount as per the contract for each calendar day he exceeds the agreed upon completion date.

### Draws

There is no limit to the number of draws allowed for each project. However, the minimum draw amount request that DCA will process is \$10,000. All final payments will be contingent on the approval of the final inspection made by the Recipient and the Developer. DCA will withhold a 10% retainage from each payment until 30 days following satisfactory completion of the project.

### Owner Satisfaction

The Developer must sign an Owner's Satisfaction Statement certifying that they are satisfied with the rehabilitation work each time a request for payment is submitted by the contractor and prior to any payment being issued to the contractor. In addition to the signed satisfaction statement by the Developer for a partial or full payment to the contractor, the releases of liens must be obtained from the general contractor and all sub-contractors prior to releasing any payments.

No payment made under the contract shall act as a waiver for the right of the owner to require the fulfillment of all terms of the contract.

## **Inspections**

### Interim Property Inspection:

The Recipient will perform interim inspections during the course of the construction work. At a minimum, the Recipient will perform two (2) interim inspections to ensure that the funds are used for eligible purposes and the work is being completed in accordance with the New Construction or Rehabilitation Standards. Inspections will be conducted in the presence of the Developer and

contractor, whenever possible, so that any problems can be identified, discussed and resolutions developed.

The Recipient will inspect the job each time a request for payment is submitted to ensure all work for which payment is being requested is complete. The number of allowable draws for each job will be identified in the construction contract. If only one final payment is allowed by the contract, the Recipient will perform two progress inspections during the course of the job.

If the job is complicated or problems arise with any of the parties involved, or if unforeseen conditions arise, the Recipient will make additional inspections as necessary to resolve issues or prevent serious problems.

#### Final Inspection:

Final inspections will be conducted by qualified staff of the Recipient at the request of the contractor. Prior to the final inspection, the contractor must submit documentation that all required inspections per permit, have been completed and signed off by the appropriate building official.

The work write-up and all of the change orders will be used as a checklist to ensure completion of all work items and compliance with Written Rehabilitation Specifications. A “punch” list will be given to the contractor identifying any remaining work items. Upon satisfactory completion of the “punch” list items, the Recipient will prepare the Certificate of Final Inspection.

After the final inspection has occurred and the releases of liens have been obtained, the Certificate of Final Inspection is executed, and applicable warranties and contacts are given to the homeowner, the owner can authorize final disbursement funds, by signing the statement of satisfaction. The Recipient may then request the final payment for the contractor.

## **Change Orders**

Should unforeseen conditions arise that could not be detected in the original scope of work, a change order must be completed per the process below. Unforeseen conditions might include a collapsed wall, rotted wood that was undetected, unavailability of materials due to matters beyond reasonable control, or unforeseen termite damage. While it is sometimes impossible to detect every hidden code or property standard violation at the inspection completed prior to construction, simply failing to include an otherwise noticeable work item on the original bid is not generally allowed to be addressed after construction begins. Additionally, contractor error in estimating the project or doing the work is not typically allowed in a change order if the result is an increase in the cost of the job. If a need for a change order should arise and additional time is needed, the contractor will be given additional time to accomplish the changes. This additional time and cost will be agreed and approved by the signatures of the contractor, Developer, and the Recipient.

The staff of the Recipient shall inspect the property upon request and, if warranted, prepare an itemized list of work to be performed or modification on a Change Order form describing in detail, as in the work write-up. Justification for added or deleted items will need to be described in detail. The contractor will price each item as requested on the Change Order form and return it to the

Recipient for review. The Recipient will then determine if the figures are justified by comparison to the Local Cost Index and if so, send the request in to DCA for approval. When approved by DCA, the Change Order form will be executed by the Developer, contractor and Recipient, and will become a part of the contract.

## **Appeals and Disputes**

The Recipient will administrate the following appeal procedure to settle any disputes that may arise between the Developer and the contractor. If an Arbitration board/committee has been appointed by the county/city, a mandatory arbitration using the Construction Industry Rules of the America Arbitration Association must be held.

If an Arbitration board/committee does not exist, grievances between the property owners and the contractor must be filed in writing to the Local Official/Authorized Official within five (5) business days of the incident. The Local Official/Authorized Official will have ten (10) business days to inform both parties of his/her decision. The decision of the Local Official/Authorized Official shall be final and conclusive.

Per this policy, all persons submitting an application for assistance and receiving CHIP assistance within the project activity location has the right to appeal any and all decisions for assistance and any types of assistance for which they may be eligible.

## **Compliance Monitoring and Recapture Provisions**

In its capacity as a Recipient of DCA that has been chosen to administer a portion of the State's HOME program, the Recipient has primary responsibility for monitoring activities to ensure compliance with all HOME requirements throughout the period of affordability.

For homeownership activities, this requires the Recipient to document that the homebuyer has continued to maintain the HOME unit as their principal place of residence throughout the period of affordability as spelled out in their loan documents. In addition to monitoring ownership through property tax records, the Recipient must send out DO NOT FORWARD letters to all homebuyers annually through the U.S. mail and maintain these in the project files. If any are returned, the Recipient must investigate to see if the homeowner is continuing to satisfy this requirement and document its findings in the project file. The Recipient should also be listed as a mortgagee on homeowner's insurance documents so that it is notified if this insurance lapses. If the homeowner or another immediate family member no longer occupies the home, a portion of the total HOME subsidy must be recaptured or returned to GHFA.

All recaptured CHIP funds will be returned to DCA for return to the U.S. Treasury. This provision will also be in the Loan Agreement, Promissory Note, and Deed to Secure Debt.

## Project Closeout

The Recipient will submit a Project Completion Report to DCA along with the final request for project reimbursement. DCA will provide a notice of project completion. The date of this notice is the beginning date of the affordability period of the loan.

Within thirty (30) days of payment of all CHIP-funded costs (with the exception of audit costs and any unsettled third-party claims), the Recipient will inform DCA that the CHIP Program is ready for close-out and the date of the next scheduled annual audit review.

The following will be performed by DCA:

1. DCA will conduct a review to ensure that any monitoring findings are resolved, and that any excess grant funds have been refunded. DCA will also verify that the accomplishments projected in the application have been satisfactorily met.
2. After review and final resolution of any findings, DCA will notify the Recipient or Recipient of the grant's conditional close-out pending receipt of an acceptable final audit.
- 3.

## Record Retention

CHIP program records will be kept for a minimum of five (5) years after the program close-out or five (5) years after the termination of all applicable periods of affordability, written agreements, and loan terms, whichever is longer. All program records will be stored in an acceptable record storage facility during the required retention period.

Records pertaining to any litigation, claim negotiation, or audit, monitoring, inspection, or other action, which may have started before the expiration of the required record retention period, will be retained until completion of the action and resolution of all issues that arise from it, or until the end of the required period, whichever is later.

## Program Income Policies and Procedures

Recipients using CHIP to develop homes may retain the net proceeds, or Program Income, from the sale of the properties, to fund additional HOME-eligible activities to assist income eligible homebuyers and homeowners. These activities may include developing affordable homes to sell to income-eligible homebuyers, down payment assistance, and owner-occupied housing rehabilitation. This policy explains the requirements for the use of Program Income

### **Program Income Definition:**

HOME Program Income is defined in the Definitions section of the HOME Final Rule at 24 CFR 92.2. Program Income means gross income received by the participating jurisdiction, sub-recipient

or State recipient which is directly generated from the use of HOME funds (including HOME Program Income) and matching contributions. When Program Income is generated by housing that is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds or match used. Following is a list of examples. Please note that this is not an exclusive list.

1. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
2. Gross income from the use or rental of real property, owned by the participating jurisdiction, State recipient, or a sub-recipient, that was acquired, rehabilitated, or constructed with HOME funds or matching contributions, less costs incidental to generation of the income (Note: rental income from property owned by entities other than the participating jurisdiction, a State recipient or a sub-recipient does not constitute Program Income);
3. Payments of principal and interest on loans made using HOME funds or matching contributions;
4. Proceeds from the sale of loans made with HOME funds or matching contributions;
5. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
6. Interest earned on Program Income pending its disposition; and
7. Any other interest or return on the investment permitted under §92.205(b) of HOME funds or matching contributions. (Note: this does not include recaptured funds, repayments or CHDO proceeds).

### **DCA CHIP State Recipient and Sub-Recipient Program Income Requirements**

Recipients are required to complete a Program Income Plan for the use of CHIP proceeds. This plan must be approved by DCA staff. Recipients will submit a Program Income Report quarterly to report on the use of Program Income until the Program Income is expended. Additionally, program income should be deposited into a separate account. This account may be interest-bearing and the interest is also considered Program Income. **If the Recipient does not use the Program Income within two (2) years from the receipt of the CHIP proceeds, DCA may request the funds to be returned.**

Recipients must follow the same HOME rules when spending Program Income as were required with the original CHIP grant including income eligibility, affordability periods, environmental reviews, lead paint, and all other laws and statues required by the HUD HOME Program. When a Recipient combines Program Income and CHIP grant funds into a project, the Program Income must be spent first.

The submission approvals (i.e. the CHIP pre-setup, setup, and completion approvals) are not required. Recipients will be responsible for maintaining records required by the HUD HOME Program and to make these records available to DCA and HUD for review if necessary. DCA may request the Program Income to be paid back if the Recipient is not in compliance with these regulations. DCA staff will provide technical assistance and review documents to ensure that Recipients are in compliance with the regulations.

# CHIP Forms Checklists

## For All Projects:

<input type="checkbox"/>	Authorized Signature Card (CA-1)
<input type="checkbox"/>	Project Drawdown Form (CA-2) Must attach invoices, approval of work completed
<input type="checkbox"/>	Signature Card for Program Policy and Activity Documents (CA-9)

## Housing Rehabilitation Activity Checklists:

### Pre Set Up

<input type="checkbox"/>	Site Specific Environmental Review
<input type="checkbox"/>	Lead-Based Paint Visual Assessment (if unit was built prior to 1978)
<input type="checkbox"/>	Pre Set Up form (CA-3)
<input type="checkbox"/>	Income Verification Form (CC-8)
<input type="checkbox"/>	Certification to Use Unit as Principal Residence (CC-7)
<input type="checkbox"/>	Declaration of Citizenship Status (CC-3 and, if applicable, CC-4)
<input type="checkbox"/>	Certification as to Conflict of Interest (CC-6)
<input type="checkbox"/>	Copy of Existing Warranty Deed
<input type="checkbox"/>	Current market value of the property
<input type="checkbox"/>	Proof of Year of Construction of Housing Unit: (tax record, appraisal, builder's deed, historic survey, Sanborn fire insurance map, other legal documentation)
<input type="checkbox"/>	Initial Scope of Work Write-Up for Non-Lead Costs
<input type="checkbox"/>	Work Scope of Work Write-Up for Lead Costs (if unit was built prior to 1978)
<input type="checkbox"/>	Pictures of housing unit demonstrating need for work to be performed

### Set Up

<input type="checkbox"/>	Homeowner Rehabilitation Assistance Activity Set-Up Form (CA-4)
<input type="checkbox"/>	Loan Agreement (CL-3)
<input type="checkbox"/>	Promissory Note (CL-4R)
<input type="checkbox"/>	Homeowner Rehabilitation Assistance Deed to Secure Debt (CL-1)
<input type="checkbox"/>	Notice of Commencement
<input type="checkbox"/>	Notice of Right of Rescission
<input type="checkbox"/>	Contract between Homeowner and Contractor
<input type="checkbox"/>	Addendum to Construction Contract (CRA-10)
<input type="checkbox"/>	Contractor's Work Write Up
<input type="checkbox"/>	Proof of Contractor Clearance (no debarments)
<input type="checkbox"/>	Proof of Lead Renovator Certification (if applicable)
<input type="checkbox"/>	Georgia Security and Immigration Compliance Act of 2006 (CC-2)



## Final Draw and Completion

<input type="checkbox"/>	Project Drawdown Request Form (CA-2) with invoices
<input type="checkbox"/>	Homeowner Rehabilitation Completion Form (CA-5)
<input type="checkbox"/>	Contractor & Sub-Contractor Information Form (CR-2)
<input type="checkbox"/>	Contractor & Sub-Contractor Activity (CR-3)
<input type="checkbox"/>	Section 3 Report (CC1)
<input type="checkbox"/>	Match Contribution Form (CC-9) if applicable
<input type="checkbox"/>	Final Schedule of Work Completed
<input type="checkbox"/>	State Sub-Recipient and Homeowner Agreement
<input type="checkbox"/>	Final Lien Wavers
<input type="checkbox"/>	Certification of Final Inspection (CR-9)
<input type="checkbox"/>	Final Rehab Photos
<input type="checkbox"/>	Final Owner's Satisfaction Statement
<input type="checkbox"/>	Contractor's Certification of Completed Work
<input type="checkbox"/>	Homeowner's Insurance

## Housing New Construction and Rehabilitation of Vacant Homes for Sale to Eligible Homebuyers Checklists:

### Pre Set Up

<input type="checkbox"/>	New Construction Activity Pre Set-up form
<input type="checkbox"/>	Proposed project timeline from present through unit occupancy
<input type="checkbox"/>	Total project budget including a breakout of developer fees and project delivery costs
<input type="checkbox"/>	Copy of Existing Warranty Deed
<input type="checkbox"/>	Current market value of the property
<input type="checkbox"/>	Homebuyer Underwriting Feasibility Tool, Part C: Project Affordability Analysis Known House (CN-4)
<input type="checkbox"/>	Tier 2 Site Specific Environmental Screening Checklist with required documentation
<input type="checkbox"/>	Copies of floor plans, elevations, and site plans

### Set Up

<input type="checkbox"/>	New Construction Activity Set-Up and Completion Form (CN-2)
<input type="checkbox"/>	Agreement between State Recipient and Developer
<input type="checkbox"/>	Documentation of the Procurement Process Including Copies of the Following:
	Notice to Potential Bidders about the Project
	Bid Summary Sheet that Compares each Bid to the Cost Estimate
	Bid Control Sheet that Documents Summaries of each Bid Received and Includes Signatures of Those that Attended the Bid Opening
<input type="checkbox"/>	Contract Between the Develop and Contractor
<input type="checkbox"/>	Contractor's Write-Up
<input type="checkbox"/>	Notice of Commencement

<input type="checkbox"/>	Addendum to Construction Contract (CR-A10)
<input type="checkbox"/>	Proof of Contractor Clearance
<input type="checkbox"/>	Proof of Lead Renovator Certification, if Applicable
<input type="checkbox"/>	Georgia Security and Immigration Compliance Act of 2006 (CC-2)
<input type="checkbox"/>	Davis-Bacon Wage Rates, if Applicable

Final Draw and Completion:

<input type="checkbox"/>	Project Drawdown Request Form (CA-2) with invoices
<input type="checkbox"/>	Activity Set-Up and Completion Form (CN-2)
<input type="checkbox"/>	Contractor and Subcontractor Information Form (CR-2)
<input type="checkbox"/>	Contract and Subcontract Activity Report (CR-3)
<input type="checkbox"/>	Section 3 Report (CC-1)
<input type="checkbox"/>	Davis Bacon certified payrolls
<input type="checkbox"/>	Documentation of HOME Match Contribution (CC-9)
<input type="checkbox"/>	Contractor Certification of Work (CR-5)
<input type="checkbox"/>	Certificate of Occupancy from Local Code Official
<input type="checkbox"/>	Final Schedule of Work Completed Compared to the Construction Contract
<input type="checkbox"/>	Final Lien Waivers
<input type="checkbox"/>	Pictures Documenting Completed Work Activity
<input type="checkbox"/>	Homeowner Income Eligibility Form (CC-8)
<input type="checkbox"/>	Citizenship Form (CC-3 and CC-4)
<input type="checkbox"/>	Conflict of Interest (CC-6)
<input type="checkbox"/>	Use as Primary Residence (CC-7)
<input type="checkbox"/>	Homebuyer Underwriting Feasibility Tool, Part B: Final Buyer Underwriting (CN-4)
<input type="checkbox"/>	Deed to Secure Debt Executed Between the Recipient and Home Buyer (CL-A11)
<input type="checkbox"/>	Loan Agreement (CL-A12)
<input type="checkbox"/>	Promissory Note (CL-AD)
<input type="checkbox"/>	HOME Grant Agreement (CL-2)