

ADMINISTRATION MANUAL

HOME American Recuse Plan Program
(HOME-ARP)

NEBRASKA

Good Life. Great Opportunity.

DEPT. OF ECONOMIC DEVELOPMENT

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INTRODUCTION

The Nebraska Department of Economic Development (“NDED”) provides this manual as a resource for project developers, recipients and managers implementing HOME-ARP-assisted projects. The online version of this manual contains the latest information provided by NDED to assist HOME-ARP Recipients in complying with state and federal requirements. NDED will update the manual as necessary due to a variety of reasons, including changes in federal regulations, state requirements, and in the interpretation or clarification of a federal regulation.

For a list or resources with links, visit the Nebraska Department of Economic Developments HOME-ARP page, <https://opportunity.nebraska.gov/programs/housing/home-arp/>

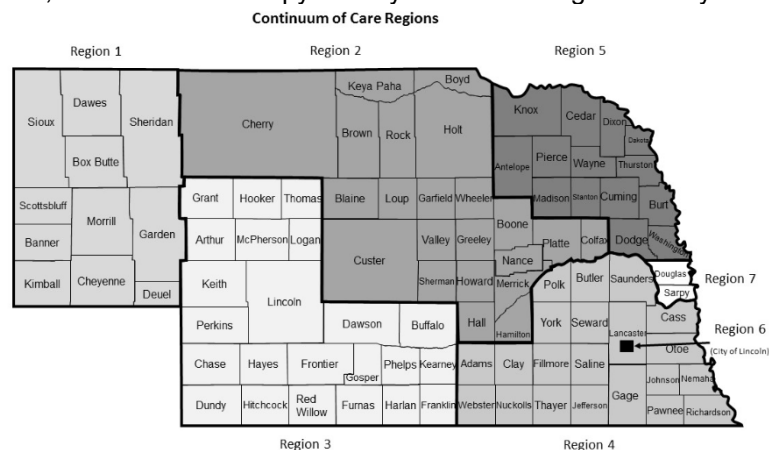
Recipients of HOME-ARP funds need to become familiar with and follow the Nebraska HOME-ARP Allocation Plan, HOME regulations (24 CFR 92) as the pertain to HOME-ARP, Notice: CPD-21-10 and all the cross cutting federal regulations.

All users of HOME-ARP funds are encouraged to subscribe to the Mailing List to receive emails with notice of updated Program materials at: <https://www.hudexchange.info/maillinglist/>

OVERVIEW

The American Rescue Plan (ARP) includes \$5 billion in funding to aid communities in developing long-term strategies to address homelessness. These funds will be administered through the U.S. Department of Housing and Urban Development’s (HUD) HOME Investment Partnerships Program (HOME) and are referred to as HOME-ARP funds. The State of Nebraska is the Participating Jurisdiction (PJ) for all areas within the State excluding Lincoln and Omaha city limits. The Nebraska Department of Economic Development (NDED) was allocated \$14,907,703 and is responsible for the administration and planning of the HOME-ARP Program. The budgeted amount for State administration and planning is \$2,236,155. Five percent of the allocation, \$745,385, may be funded towards nonprofit operating assistance while an additional five percent, \$745,385, may be funded towards nonprofit capacity building assistance leaving a balance of \$11,180,778 for the development of affordable rental housing.

The map below illustrates Nebraska’s seven (7) Continuum of Care (CoC) regions. NDED’s HOME-ARP service area is the Balance of State (BOS), which is the entirety of Regions 1-5 and the area of Region 7 outside Omaha city limits, which includes Sarpy County and rural Douglas County.



HOME-ARP funds may be utilized to provide affordable rental housing, supportive services, tenant based rental assistance and/or non-congregate shelters to reduce homelessness and increase housing stability within the Nebraska Balance of State. Prior to receiving funding, NDED had to submit an Allocation Plan to HUD for approval. The Allocation Plan describes the consultation process and data collection to evaluate the priority needs and gaps in services for NDED's HOME-ARP service area and the manner in which program funding will be used for the assistance of individuals or households who are homeless, at risk of homelessness, and other vulnerable populations. With the approval from HUD, it has been determined priority need in NDED's HOME-ARP service area is affordable rental housing. With this funding, nonprofits are also eligible to apply for nonprofit operating and/or capacity building assistance. All HOME-ARP project owners and/or managers must follow and be familiar with [Nebraska's Allocation Plan](#). The plan can be found on the [HOME-ARP webpage](#).

HOME-ARP QUALIFYING POPULATIONS

HOME-ARP funding must be used to primary benefit the qualifying populations (QP) described in Notice CPD-21-10. Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria. If a qualifying population requires an income determination as part of its criteria, the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1) must be used. There are four qualifying populations:

- **QP1- Homeless**, as defined in [24 CFR 91.5 Homeless](#) (1), (2), or (3), excluding (4):
- **QP2- At risk of Homelessness**, as defined in [24 CFR 91.5 At risk of homelessness](#):
- **QP3- fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking**, as defined by HUD.
- **QP4- Other populations** where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability

Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

Each qualifying population is defined below according to the HOME-ARP Notice CPD-21-10.

QP1: Homeless, as defined in 24 CFR 91.5 Homeless (1), (2), or (3), excluding (4):

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters,



transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(ii) No subsequent residence has been identified; and

(iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

(i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

(iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

Category four (4) of the [24 CFR 91.5](#) homeless definition was intentionally excluded from the definition of QP1. HUD has removed this category and broadened the definition under its own distinct qualifying population (QP3). The new definition includes the addition of any individual or family who are fleeing or attempting to flee human trafficking, including both sex and labor. It also eliminates the previous definition requirement that an individual or family has no other residence and lacks resources or support networks.



QP2: At risk of Homelessness, as defined in 24 CFR 91.5 At risk of homelessness:

(1) An individual or family who:

(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

(ii) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient’s approved consolidated plan;

(2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

(2) A child or youth who does not qualify as “homeless” under this section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.



QP3: Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.

For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:

- 1) A current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
- 2) A person with whom the victim shares a child in common;
- 3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- 4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
- 5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence which is defined in 24 CFR 5.2003 means violence committed by a person:

- 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship; and
 - c. The frequency of interaction between the persons involved in the relationship.

Sexual assault which is defined in [24 CFR 5.2003](#) means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) Fear for the person's individual safety or the safety of others; or
- 2) Suffer substantial emotional distress.

Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:



- 1) *Sex trafficking* means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- 2) *Labor trafficking means* the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

QP4: Other Populations

Other populations where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

(1) **Other Families Requiring Services or Housing Assistance to Prevent Homelessness** is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in [24 CFR 91.5](#), are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

(2) **At Greatest Risk of Housing Instability** is defined as household who meets either paragraph (i) or (ii) below:

- (i) has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);
- (ii) has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at [24 CFR 91.5](#):

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there



reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

HOME-ARP AFFORDABLE RENTAL HOUSING

Eligible Activities

HOME-ARP funds may be used for the acquisition, construction, and rehabilitation, including reconstruction as defined in [24 CFR 92.2](#), of affordable rental housing for qualifying and low-income households. HOME-ARP affordable rental housing must primarily benefit the HOME-ARP qualifying population. Acquisition of land or demolition are only allowed if the project intends to provide HOME-ARP rental housing. HOME-ARP rental projects must meet the definition of *project* as defined in 24 CFR 92.2.

Eligible Property Types

Eligible HOME-ARP rental housing includes “housing” as defined at 24 CFR 92.2, including but not limited to:

- Single-family units
- Multi-family units
- Manufactured housing
- Single room occupancy (SRO)
- Permanent supportive housing

Ineligible Property Types

Unless the following property types are acquired and rehabilitated into HOME-ARP affordable rental housing, they are ineligible:

- Emergency shelters
- Hotels and motels
- Nursing homes
- Residential treatment and correctional facilities
- Halfway houses
- Housing for students or dormitories

Minimum Amount of Assistance

At a minimum, \$1,000 must be invested into each HOME-ARP-assisted unit in the rental housing project as established in 24 CFR 92.205(c).



Maximum Amount of Assistance

There is no maximum amount of assistance for HOME-ARP affordable rental housing. The actual subsidy provided will depend on the following factors:

- *The proportion of the total project cost that is HOME-ARP eligible.* Budgets will be reviewed by NDED for expenses that are reasonable, allocable, and eligible.
- *The number of units in the project that are HOME-ARP-assisted.* Proper allocation of funding will be reviewed for projects that may have HOME-ARP-assisted and HOME-ARP-unassisted units.
- *The financial needs of the project.* NDED will review each HOME-ARP project to ensure projects do not receive more subsidy than is required to make them financially feasible.

Forms of Assistance

NDED provides assistance to affordable rental projects as hard or soft loans with specific terms and restrictions incorporated on a project-by-project basis. Loans will be non-interest bearing and forgivable once the project has met the minimum compliance period. Non-compliance to HOME-ARP requirements maybe be subject to the recapture of funding. HOME-ARP loans require execution and recordation of a loan agreement, deed of trust, and declaration of covenant running with land.

HOME-ARP-Assisted Units

Unlike other federal programs, such as CDBG, the HOME-ARP Program distinguishes between the units in a project that have been assisted with HOME-ARP funds and those that have not, hence the term **HOME-ARP-assisted** unit. This distinction between HOME-ARP-assisted and unassisted units allows HOME-ARP funds to be spent on mixed-income or mixed-use projects while using HOME-ARP funding for its targeted population.

- The HOME-ARP occupancy rules only apply to HOME-ARP-assisted units.
- The number and mix of HOME-ARP-assisted units in a project will be specified in the HOME-ARP contract based on the cost allocation described below.
- Some projects may consist of only HOME-ARP-assisted units. If a project will have HOME-ARP-assisted units consisting of qualifying population units and low-income, at least 70 percent of the HOME-ARP-assisted units must be designated to the qualifying populations.

Allocating Costs to HOME-ARP-Assisted Units

HOME-ARP funds can be invested in mixed-income and mixed-use projects, but HOME-ARP funds may only be provided for HOME-ARP-assisted units. Consequently, if less than 100% of the units and space are going to be HOME-ARP-assisted units, HUD requires Participating Jurisdictions (PJs) to conduct a cost allocation to determine the minimum number of HOME-ARP units or the maximum amount of HOME-ARP assistance that can be provided to the units that will be HOME-ARP-assisted.

Determining the cost allocation is required when a HOME-ARP project has units that are not going to be HOME-ARP-assisted and/or non-residential space that is not eligible to be funded with HOME-ARP funds. In other words, cost allocation must be determined for projects that are:

- mixed-income with units that are not HOME-ARP-eligible or HOME-ARP-assisted;
- mixed-use such as commercial or public use spaces;
- mixed tenure such as an owner-occupied 2-4-unit project; OR
- mixed financing where HOME-ARP cannot be used in units with certain financing sources, such as Public Housing.

Cost allocation must take into account three factors:



- Eligible costs of assisted units;
- The maximum amount of assistance as noted above; and
- The underwriting determination of the amount of assistance necessary to make the project financially viable for at least the period of affordability.

NDED will conduct this cost allocation analysis as part of underwriting. NDED may choose to specify a minimum number of units that must be designated as HOME-ARP-assisted, and then develop the needed subsidy amount based on the total HOME-ARP-eligible costs. NDED may also choose to require a higher number of HOME-ARP-assisted units in a project.

Costs must be allocated across unit types, and the cost allocation will determine not only the number, but also the types of units that are required to be HOME-ARP-assisted, and whether the units are to be fixed or can float within comparable units and unit types. If the assisted and unassisted units are **not** comparable, the actual costs must be determined and allocated unit-by-unit. The specific units identified to "receive" HOME-ARP funds will likely be fixed.

Eligible HOME-ARP Program Costs

Development Hard Costs as defined in 24 CFR 92.206(a)

- Cost to construct or rehabilitate housing, costs include but not limited to;
 - Costs to meet new construction and rehabilitation property standards
 - Demolition costs
 - Site preparation or improvement
 - Construction or rehabilitation of laundry and community facilities located in a multi-family housing HOME-ARP project.

Acquisition Costs:

- Costs of acquiring improved or unimproved real property.

Related Soft Costs as defined in 24 CFR 92.206(d):

- Other reasonable and necessary costs associated with the financing or development of new construction, rehabilitation, or acquisition of HOME-ARP affordable rental housing.
- Costs include, but are not limited to:
 - Architectural/engineering fees, including specification and job progress inspections
 - Builders' and developers' fees
 - Environmental reviews
 - Credit reports
 - Financing, title, and recordation fees
 - Legal and accounting fees, including cost certification
 - Costs to provide information services to tenants (affirmative marketing and fair housing)
 - Operating deficit reserves (up to 12 months)

Rent-Up Reserve

- This reserve is meant to meet any shortfall in project income during the project rent-up period. The reserve cannot exceed 12 months and must be based on the anticipated absorption rate of the units. The reserve can be used only for project operating expenses, scheduled payments to replacement reserves and debt service. Reserves remaining at the end of 12 months may be retained for reserves in the project at NDED's discretion. The disposition of any remaining funds at the end of the 12-month period must be determined in the agreement between the



developer/owner and NDED. Rent-up reserves are funded by reimbursement upon documentation of unit completion and proof the reserve amounts have been placed into a separate bank account dedicated to Rent-up reserves.

Operating Cost Assistance:

If determined necessary during the underwriting process, NDED may capitalize an operating cost assistance reserve for HOME-ARP-assisted units restricted for occupancy by qualifying populations. The amount of reserve shall not exceed the amount determined by NDED to be necessary to provide operating costs assistance for HOME-ARP-assisted units restricted for occupancy by qualifying populations for the 15-year HOME-ARP minimum compliance period.

Operating Costs Assistance Reserve:

- Must be held by the project owner in a separate interest-bearing account and sized based on an analysis of projected deficits remain after the expected payments toward rent by qualifying households are applied to the units' share of operating costs.
- Funds may only be used to address operating deficits associated with HOME-ARP-assisted units restricted to the occupancy of qualifying populations.
- Before the use of these funds, the project owner must contact NDED for written approval of use.
- Any funds remaining at the end of the minimum compliance period must be returned to NDED if the project will not operate in accordance with HOME-ARP requirements.
- This account will be monitored annually.

Operating Costs

Operating costs must be reasonable and appropriate for the area, size, population(s) served, and type of project. These costs can only be associated with units restricted to the HOME-ARP qualifying population.

- Administrative expenses
 - Payroll costs
 - Gross salaries and wages paid to employees assigned to the property, including payroll taxes, employee compensation, and employee benefits
 - Employee education, training, and travel
 - Project advertising
 - General administrative costs for goods and services required for administration of the housing, including rental or purchase of equipment, supplies, legal charges, bank charges, utilities, telephone/internet services, and insurance
 - Other administrative costs that NDED determines are reasonable and customary for the general administration of a rental unit occupied by HOME-ARP qualifying populations
 - Pro-rated staffing costs of a Resident Services Coordinator that arranges HOME-ARP qualifying households to community services and links them to outside service agencies as needed.
- Property management fees includes the total fee paid to a management agent by the owner for the day-to-day management of a HOME-ARP rental unit restricted for occupancy by qualifying populations. This includes covering the costs the management agent has for supervising and overseeing operations of a HOME-ARP-assisted unit.
- Insurance
- Utilities
- Property taxes
- Maintenance of a unit restricted for occupancy by a qualifying population



A **replacement reserve** must be based on the useful life of each major system and expected replacement cost in a HOME-ARP project. Scheduled payments to a replacement reserve for major systems included in the operating costs allocated to a HOME-ARP unit restricted for a qualifying household may be made from the operating cost assistance reserve. A replacement reserve allocated to the HOME-ARP units may also be capitalized in the initial year of the minimum compliance period of the HOME-ARP units. HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve during the minimum compliance period.

Ineligible Cost

HOME-ARP funds may not be used for prohibited activities, costs or fees in [24 CFR 92.214](#), including but not limited to:

- Development, operations, or modernization of public housing,
- Acquisition of PJ-owned property,
- Operating assistance or project-based rental assistance,
- Delinquent taxes, fees, and charges,
- Match for other federal programs,
- Cost for luxury amenities,
- Costs for the construction of, or improvements to, a project, which are not for the exclusive use of the project residents, and
- Any cost not specified as eligible in the HOME-ARP regulations.

Minimum Compliance Period

Regardless of amount of HOME-ARP funds invested in the project or the activity, HOME-ARP-assisted units must comply with HOME-ARP requirements for a minimum of 15 years. If the project has a project-based rental assistance Housing Assistance Payment (HAP), the minimum compliance period may be extended to match the term of the HAP contract. HOME-ARP funds for operating cost assistance may be retained if the HOME-ARP rental project will continue to operate in accordance with the HOME-ARP requirements and serve the qualifying populations beyond the 15-year compliance period.

The provisions at 24 CFR 92.252(e)(1)-(4) apply, including the requirement that NDED must impose the HOME-ARP rental requirements through a deed restriction, covenant running with the land, legally binding agreement restricting the use of the property and recorded on the property in accordance with State recordation laws, or other mechanisms approved by HUD. The chart providing minimum affordability periods based on rental housing activity that is contained in 24 CFR 92.252(e) does not apply. The enforceable restriction must provide that units assisted with HOME-ARP comply with the requirements of the HOME-ARP Notice CPD-21-10 throughout the minimum 15-year compliance period, including:

- Units restricted for qualifying populations must be occupied by households that met the definition of a qualifying population at the time of initial occupancy. The household's contribution toward rent during this period must be affordable in accordance with Section VI.B.14 of the HOME-ARP Notice CPD-21-10. The rents for these units must comply with the rent limitations established in the HOME-ARP Notice CPD-21-10, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income and whose contribution to rent complies with the requirements in Section VI.B.15 of the HOME-ARP Notice CPD-21-10.
- Units available for low-income households must be continuously occupied by households who are income eligible. The rents for these units must comply with the rent limitations established in the



HOME-ARP Notice CPD-21-10, including the rent provisions specified in 24 CFR 92.252(i)(2) for households whose income increases above 80 percent of area median income.

- The units must comply with the ongoing property condition standards of 24 CFR 92.251(f) throughout the compliance period as demonstrated by an on-site inspection within 12 months of project completion and an on-site inspection at least once every three years thereafter as required by 24 CFR 92.504.
- Each household that occupies a HOME-ARP unit has an executed lease that complies with the tenant protections required in Section VI.B.19 of the HOME-ARP Notice CPD-21-10.

Property Standards

HOME-ARP-assisted properties must comply with all the property standards that pertain to rental project requirements in 24 CFR 92.251 that involve the following:

- New construction per §92.251(a)
- Rehabilitation per §92.251(b)
- Acquisition of standard housing per §92.251(c)(1) and (2)
- Manufactured housing per §92.251(e)

All HOME-ARP-assisted housing must meet all applicable State and local codes housing quality standards, as applicable.

- **New Construction.** Housing that is being constructed after the submittal of the project's application to NDED must meet all applicable local codes and zoning ordinances. If no local codes apply, the property must meet a national model code (Uniform Building Code, National Building Code, Standard Building Code) or the Council of American Building Officials one- or two-family code or minimum property standards at 24 CFR 200.925 or 200.926. New construction must also meet the most recent version of the International Energy Conservation Code.

Site and Neighborhood Standards

New construction of rental housing must also meet site and neighborhood standards at 24 CFR 983.57(e)(2) and (3), in accordance with 24 CFR 92.202.

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.
- The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and implementing HUD regulations.
- The site must not be located in an area of minority concentration and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

In addition, NDED will not approve new construction of rental housing proposed in an area of low-income concentration. **A NDED site review must be requested by the applicant of a proposed HOME-ARP project prior to application.**

- **Acquisition and Rehabilitation.** Housing that is being purchased or rehabilitated must meet the NDED's Occupancy Standards and all applicable local codes and zoning ordinances. If no local codes apply, the property must meet a national model code



(Uniform Building Code, National Building Code, Standard Building Code) or the Council of American Building Officials one- or two-family code or minimum property standards at 24 CFR 200.925 or 200.926.

Existing rental housing must have major systems with a remaining useful life at least as long as the period of affordability and/or replacement reserves sufficient to replace systems as needed. The major systems of rental projects of 26 or more units must be determined through a capital needs assessment.

HUD requires written rehabilitation standards. The NDED's Rehabilitation Standards can be found at: <https://opportunity.nebraska.gov/programs/housing/home-arp/>

- **Acquisition Only.** Existing rental housing acquired with HOME-ARP funds must meet any applicable State and local housing quality standards.
 - Rental housing that was newly constructed or rehabilitated less than 12 months before the date of commitment of HOME-ARP funds, must meet the new construction standards of §92.251(a).
 - All other existing rental housing that is acquired with HOME assistance must meet the rehabilitation property standards of §92.251(b).
- **Manufactured Housing.** Newly constructed manufactured housing for rental must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280, which preempt state and local codes covering the same aspects of performance for such housing. Recipients providing HOME-ARP assistance to install manufactured housing units must comply with applicable state and local laws or codes. In the absence of such laws or codes, the agency must comply with the manufacturer's written instructions for installation of the manufactured housing units. Installation of replacement manufactured homes must meet the foundation requirements of 24 CFR 203.43f(c)(i).

Manufactured housing that is rehabilitated with HOME-ARP funds must meet the written rehabilitation standards of NDED and the foundation and anchoring requirements of 24 CFR Part 3285.

In addition, other federal requirements may apply, including accessibility standards, lead-based paint standards of 24 CFR part 35 for pre 1978 properties, and broadband infrastructure for new or rehabilitated properties.

All HOME-ARP-assisted housing must meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.

Ongoing Property Standards

HOME-ARP-assisted projects must be maintained in decent, safe, and habitable condition. Owners must maintain properties in accordance with property standards throughout the affordability period. NDED conducts periodic property inspections to ensure continued compliance.



Housing Visitability

All ground floor units must be visitable to the maximum extent feasible, unless doing so would impose an undue financial burden on the project. A visitable design provides that new single-family homes, duplexes, and triplexes* are more accessible and usable to person with disabilities.

Housing units built to visitable standards have features that allow a person using a wheelchair or other mobility device to visit without any special assistance and are more easily modified should a resident need adaptation in the future.

NDED uses the Nebraska Assistive Technology Partnership definition of visitability:

- No-step/zero grade entrance with a 36" door into the unit's main floor (at least one)
- Minimum 32" clear space opening in interior doorways
- Minimum 36" wide hallways
- First floor bathroom which allows for wheelchair access (while maintaining privacy)
- Reinforcement in bathroom walls to permit future installation of grab bars
- Modification in location of light switches, electrical outlets, and environmental controls

Structures built with four or more housing units, see the Fair Housing Act Design manual.

Rental Occupancy

Targeting and Occupancy Requirements:

HOME-ARP activities are required to primarily benefit the qualifying populations. To improve the feasibility and maintain the long-term viability of projects with HOME-ARP rental units for qualifying households, NDED may invest HOME-ARP funds in units that are not restricted for occupancy solely for QPs as described in this section. Specifically, HOME ARP-funded must comply with the following requirements:

- **Targeting:** HOME-ARP funds can only be invested in units restricted for qualifying households or low-income households as follows:
 - No less than 70 percent of the total number of rental units assisted with HOME-ARP funds must be restricted for occupancy by households that are qualifying households at the time of the household's initial occupancy; and,
 - No more than 30 percent of the total number of rental units assisted with HOME-ARP funds may be restricted to low-income households. These rental units do not have to be restricted for occupancy by qualifying households, however rental units restricted to low-income households are only permitted in projects that include HOME-ARP units for qualifying households.
- **Occupancy Requirements:**
 - **Qualifying Households.** Units restricted for occupancy by qualifying households must be occupied by households that meet the definition of a QP at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for QPs, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a QP. As such, a unit restricted for a qualifying household remains in compliance with the HOME-ARP unit restriction as long as the unit is occupied by a qualifying household that met the definition of a QP at the time of admission.



- **Low-Income Households.** At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2, household income that does not exceed 80% of area median income (AMI). If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the project owner to take action in accordance with the rent and unit mix requirements in Sections VI.B.15 and VI.B.17 of HUD Notice CPD 21.10, respectively.

When calculating the 70/30 ratio for the HOME-ARP-assisted units, always round in favor of the number of units designated for the qualifying households. For example, if you have five (5) HOME-ARP-assisted units in the project the calculation would be $5 \cdot .70 = 3.5$. The total of units that need to be restricted for qualifying households is four (4). HOME-ARP projects with three (3) or less HOME-ARP-assisted units, will not be able to designate units to low-income households.

Rent Requirements

Rent Limitations:

The following are the rent limits requirements for HOME-ARP-assisted units restricted for qualifying populations and for HOME-ARP-assisted units that may be restricted for low-income households. NDED must specifically approve the project's rent schedule annually.

- **Units Restricted for Occupancy by Qualifying Households:** In no case can the HOME-ARP rents exceed 30 percent of the adjusted income of a household whose annual income is equal to or less than 50 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. HUD publishes the HOME-ARP rent limits on an annual basis.

Notwithstanding the foregoing, a unit that receives a Federal or state project-based rental subsidy and is occupied by a qualifying household that pays as a contribution to rent no more than 30 percent of the household's adjusted income, may charge the rent allowable under the Federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program).

The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance.

- **Rent limitations – low-income households:** HOME-ARP rental units occupied by low-income households must comply with the rent limitations in [24 CFR 92.252\(a\)](#) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or a rent equal to 30 percent of the income of a family at 65 percent of median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit). Notwithstanding the foregoing, when a household receives a form of Federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program). The rent limits for low-income households apply to the rent plus the utility allowance.
- **Rent limitations – Single Room Occupancy (SRO) Units:** A HOME-ARP rental project may consist of SRO units. For the purposes of HOME-ARP rental, an SRO unit is defined as a unit that is the primary residence of the occupant(s) and must at least contain sanitary facilities but may also contain food preparation facilities. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification.



If the SRO units have both sanitary *and* food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO unit has only sanitary facilities, the maximum HOME-ARP rent is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established.

- **Initial Rent Schedule and Utility Allowance:** HOME-ARP projects will use the utility allowance schedule of the public housing authority whose service area includes the county in which the project is located.

NDED must review and approve the HOME-ARP rents proposed by the owner, subject to the HOME-ARP rent limitations. For HOME-ARP units where the tenant is paying for utilities and services (e.g., trash collection), NDED will confirm that the rent for the unit does not exceed the maximum rent minus the monthly allowance for utilities and services.

- **Rent Adjustments:** HUD provides HOME-ARP income and rent limits on an annual basis. Current income and rent limits are available on NDED website. Utility allowances will also be reviewed and approved annually. Owners must obtain approval before implementing HOME ARP unit rent increases. Owners shall also provide no less than 30 days' written notice to tenants upon receiving NDED approval for HOME-ARP unit rent increases.

Prohibited Tenant Fees

Pursuant to [24 CFR 92.214](#) for HOME-ARP, project owners may not charge fees to program beneficiaries to cover administrative costs related to the cost of administering the HOME-ARP program. Specifically, rental project owners may not charge tenants fees that are not customarily charged to tenants of rental housing (e.g., laundry room access fees). However, project owners may charge fees approved by NDED for the following:

- Reasonable application fees to prospective tenants;
- Fees or penalties related to the late payment of rent, non-sufficient funds or returned checks, or the like provided such fees are determined by NDED to be customary for rental housing projects in the area and not excessive;
- Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and
- Fees for optional services such as supportive services for special needs tenants or general services such as bus transportation or meals, as long as the services are voluntary, and fees are charged only for services provided.

NDED will review and approve fee schedules annually to ensure that any fees charged in addition to rent are permissible under the applicable HOME-ARP requirements and whether proposed fees are reasonable and customary based on market comparisons.

Determining Household Income

All HOME-ARP-assisted units must be restricted for eligible households (i.e., either qualifying or low-income households) throughout the minimum compliance period. Qualifying households are eligible for admission to HOME-ARP rental units solely by meeting the definition of one of the qualifying population's (i.e., HOME-ARP does not impose income restrictions on units restricted for QPs). If there is no income requirement in the qualifying population's definition, an initial determination of household income is not



required, except as necessary to determine an affordable rental contribution by the qualifying household or to establish eligibility for another funding source in the unit that imposes income restriction, if applicable. Each subsequent year during the compliance period, starting one year after initial occupancy, the definition of annual income, as defined in 24 CFR 5.609, must be used to examine the income of qualifying households to determine the household's contribution to rent. For low-income households, the definition of annual income, as defined in 24 CFR 5.609, must be used to examine the household's income at initial occupancy and each subsequent year during the compliance period to determine the household's ongoing income eligibility and applicable rental contribution.

- **Qualifying populations:** For purposes of establishing the qualifying household's rental contribution after initial occupancy, the HOME-ARP qualifying household's income using 24 CFR 92.203(a)(1)(i) or (iii), starting one year after initial occupancy. Each year during the minimum compliance period, the owner must examine the household's annual income in accordance with any one of the options in 24 CFR 92.203(a)(1) as specified by NDED, if applicable. A project owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the compliance period. Otherwise, the project owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.
- **Low-income Households:** In accordance with 24 CFR 92.252(h), the income of each low-income household must be determined initially in accordance with 24 CFR 92.203(a)(1)(i), and each year following the initial determination during the minimum compliance period in accordance with any one of the options in 24 CFR 92.203(a)(1) as specified by NDED, if applicable. An owner who re-examines household income through a statement and certification in accordance with 24 CFR 92.203(a)(1)(ii), must examine the income of each household, in accordance with 24 CFR 92.203(a)(1)(i), every sixth year of the minimum compliance period. Otherwise, an owner who accepts the household's statement and certification in accordance with 24 CFR 92.203(a)(1)(ii) is not required to examine the household's income unless there is evidence that the household's written statement failed to completely and accurately state information about the household's size or income.
- **Households Assisted by Other Programs:** Notwithstanding paragraphs (a) and (b), if a family is applying for or living in a HOME-ARP-assisted rental unit, and the unit is assisted by a Federal or State project based rental subsidy then the project owner and NDED must accept a public housing agency, section 8 project owner, or Continuum of Care (CoC) recipient or subrecipient's determination of the family's annual income and adjusted income under that program's rules and does not need to obtain source documentation in accordance with 24 CFR 92.203(a)(1) or calculate the annual income of the family. If a family is applying for or living in a HOME-ARP rental unit, and the family is assisted by a federal tenant-based rental assistance program (e.g. housing choice vouchers) then the project owner and NDED may choose to accept the rental assistance provider's determination of the family's annual and adjusted income under that program's rules without need for review under 24 CFR 92.203(a)(1).

Changes in Income of Eligible HOME-ARP Households:

A household that met the definition of one of the HOME-ARP qualifying populations at initial occupancy and whose annual income at the time of income re-certification is above 50 percent of median income for the area but at or below 80 percent of the median income for the area must pay the rent specified in 24 [CFR 92.252\(a\)](#).



HOME-ARP-assisted units restricted for low-income households continue to qualify as HOME-ARP rental housing despite a temporary noncompliance caused by increases in the incomes of existing households if actions satisfactory to HUD are taken so that all vacancies are filled in accordance with HOME-ARP requirements until the noncompliance is corrected.

A qualifying or low-income household that is not low-income at the time of income re-certification (i.e., whose income is above 80 percent of the median income for the area) must pay rent that complies with the over income regulatory requirements at [24 CFR 92.252\(i\)\(2\)](#), which includes requirements applicable to HOME units that also have LIHTC restrictions.

HOME-ARP Unit Designation

Unit Designation:

NDED must determine the number of HOME-ARP units in the project restricted for qualifying households and low-income households, respectively, and whether the units are fixed or floating units at the time of project commitment. If the project has both qualifying households and low-income, no less than 70 percent of the units are required to be designated to the qualifying households. The total number of HOME-ARP rental units restricted for occupancy by qualifying households and the total number of HOME-ARP rental units restricted for low-income households must be identified as separate totals in the written agreement. In a project containing HOME-ARP and other units, the project owner must designate fixed or floating HOME-ARP units in accordance with 24 CFR 92.252(j). The project owner must maintain this unit mix throughout the compliance period.

Fixed and Floating Units:

For properties with both assisted and unassisted units, NDED specifies in the HOME-ARP contract whether the units are "fixed" or "floating". This designation cannot be changed after the initial contract has been executed.

If applicable and in general, HOME-ARP units will be "floating units" and evenly distributed among the unit types in the development. If the project's units are not comparable, "fixed units" must be designated. In the case of projects with comparable units, the NDED will designate units as HOME-ARP-assisted in proportion to the percentage of HOME-ARP investment in the transaction. For example, if HOME-ARP represents 10 percent of the project's total HOME-ARP eligible cost, at least 10 percent of each unit type will be designated as HOME-ARP-assisted units.

- **Fixed.** If the units are not comparable, the units will be designated as "fixed." Fixed HOME-ARP-assisted units remain the same units throughout the entire affordability period. The unit numbers of the HOME-ARP units are identified prior to initial occupancy.
- **Floating.** If the units are comparable, the units may be designated as "floating." When HOME-ARP-assisted units are floating, the units designated as HOME-ARP-assisted may change over time as long as the total number and mix of HOME-ARP-assisted units in the project remains constant. HOME-ARP-assisted floating units can be replaced over the period of affordability by comparable units as specified in the HOME-ARP contract.

The floating designation gives the owner some flexibility in assigning units and can help avoid stigmatizing the HOME-ARP-assisted units. If the floating designation is used, the owner must ensure that the HOME-ARP-assisted units remain comparable to the unassisted units over the affordability period in terms of size, features and number of bedrooms.



Maintaining the Unit Mix:

At the time of admission to a HOME-ARP rental unit, a household must meet the definition for at least one qualifying population or be determined to be a low-income household, depending on the applicable HOME-ARP restriction on the rental unit to which it is being admitted and in accordance with the written agreement.

For HOME-ARP rental units restricted for occupancy by qualifying populations, a household that meets the definition of a qualifying population at the time of admission retains its eligibility to occupy a HOME-ARP rental unit restricted for occupancy by qualifying populations, irrespective of changes in income or whether the household continues to meet the definition of a qualifying population after initial occupancy. As an example, a household that qualifies as “Homeless” at admission does not meet the Homeless definition once the household occupies a HOME-ARP unit but remains a qualifying household and is eligible to remain in a HOME-ARP rental unit restricted for qualifying populations. Income determinations for qualifying households are therefore only for purposes of establishing a qualifying household’s rental contribution as described in Section VI.B.15 the HOME-ARP Notice CPD-21-10 and not for maintaining continued eligibility in the HOME-ARP program. In a project with floating units, project owners are encouraged but not required to shift the HOME-ARP qualifying population designation to another unit to serve another qualifying household if the household’s income subsequently is certified to be at or above 80 percent AMI and the household no longer meets the definition of any qualifying population.

For HOME-ARP rental units restricted for occupancy by low-income households, units will be considered temporarily out of compliance if the household’s income increases above 80 percent of area median income. The requirements for correcting any noncompliance using vacancies or redesignation of units depends on whether the HOME-ARP rental units are fixed or floating and whether other funding sources (e.g., LIHTC) impose income or other restrictions on the units. Please note, in accordance with the requirements in 24 CFR 92.253 and in Section VI.B.19.c of the HOME-ARP Notice CPD-21-10, an increase in a tenant’s income does not constitute good cause to evict or refuse to renew a tenant’s lease, regardless of program requirements associated with other funding sources such as LIHTC. In addition, compliance with unit restrictions for low-income households requires adjustment of rents as described in Section VI.B.15 of the HOME-ARP Notice CPD-21-10.

Tenant Selection and Protections

Tenant Selection and Waitlist

Qualifying Population Tenants:

HOME-ARP projects must follow the preferences, methods of prioritization and referral methods described in the Nebraska HOME-ARP Allocation Plan. HOME-ARP-assisted units designated to HOME-ARP qualifying populations are required to use the All Doors Lead to Home (ADLH) Coordinated Entry System for the project waiting list and referrals. A Coordinated Entry (CE) System is a structured process that the Continuum of Care (CoC) uses to identify persons experiencing homelessness, assess needs and housing solutions in a standard manner, and prioritize housing based on the acuity of need. The All Doors Lead Home Coordinated Entry (ADLH CE) System is the Nebraska Balance of State (BOS) CoC approach to organizing and providing housing services for people experiencing homelessness. All HOME-ARP qualifying populations, regardless of preference status will be assessed, entered into the CE System and will remain in the system until selected for referral to an available unit.



HOME-ARP-assisted units that are designated to low-income households are not required to use the ALDH CE. Projects must establish a project-specific waitlist.

Preferences

There are established preferences for the HOME-ARP-assisted units that will have HOME-ARP qualifying population tenants. Preferences are used to prioritize a qualifying population but does not make a qualifying population ineligible. The established are:

- 1) QP1: Homeless as defined in 24 CFR 91.5 (1), (2), or (3), excluding (4)
- 2) QP2: At-risk of Homelessness as defined in 24 CFR 91.5, and
- 3) QP3: Fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking as defined in 24 CFR 5.2003.

Methods of Prioritization:

All potential tenants who are one of the HOME-ARP qualifying populations will be assessed by a CE public access point using the All Doors Lead to Home (ADLH) Common Assessment Tool. This tool is the standardized assessment agreed upon by the Nebraska Balance of State (BOS) for the purpose of housing prioritization and placement within the ADLH CE System.

Preferences will be scored and prioritized with the All Doors Lead Home (ADLH) Common Assessment Tool. The ADLH Common Assessment Tool is the standardized assessment tool agreed upon by the Nebraska BoS for the purposes of housing prioritization and placement within the ADLH Coordinated Entry System. There are three (3) different ADLH Common Assessment Tools: one each for Transition Aged Youth, Families and Singles.

Housing Plan & Placement Priority Order

The ADLH Priority Ranking Formula scoring is as follows:

1. Chronic Status – 10 points
2. ADLH CE Assessment Tool (0 to 30 points) or Prevention Triage Tool (0 to 5 points)
3. Fleeing domestic violence – 1 point
4. Veteran – 1 point (will not be used for HOME-ARP prioritization) *
5. Transition Aged Youth – 1 point (will not be used for HOME-ARP prioritization) *
6. 0-3 months homeless – 0 points
7. 4-6 months homeless – 2 points
8. 7-9 months homeless – 4 points
9. 10-12 months homeless – 6 points

* For HOME-ARP housing opportunities and prioritization, the ADLH CE will modify scoring to remove the 1 point for transition-age youth and veterans.

- All individuals and families shall be updated by the ADLH CE on a weekly basis.
- All individuals and families who score a 12 or greater or meet the definition of Chronic Homelessness shall be prioritized for permanent supportive housing, if available.
- All individuals and families who score a 5-11 on the ADLH CE Assessment Tool shall be prioritized for permanent housing.

When more than one (1) individual or family have identical priority scores, prioritization will be organized by date of referral.



Projects cannot impose their own preferences, prioritizations, limitations that are not described in the HUD-approved Allocation Plan. If NDED approves an exception for a HOME-ARP project, a substantial amendment to the Allocation Plan would have to be made.

Resources: A list of Coordinated Entry Public Access Points: <https://ccfl.unl.edu/community-services-management/docs/bos-hours-public-door.pdf>

HOME-ARP Qualifying Population Referral Method

The ADLH CE System will make direct referrals to HOME-ARP funded projects. When an available HOME-ARP project housing unit is available, the HOME-ARP project and/or the Coordinated Entry manager will identify, based on preferences and priority order, the next eligible household for the unit. The project connects directly with the household. The priority listing is maintained in the Nebraska BOS HMIS. This process occurs in real-time as a unit becomes available and open without a waiting period. If no preferred populations exist or if they decline the unit then HOME-ARP qualifying population households other than those in the preference population are offered the unit by the HOME-ARP project in order of their application.

Low-income Tenants Waitlist

A project-specific waitlist for HOME-ARP-assisted units designated to low-income households must follow the tenant selection requirements of 24 CFR 92.253(d).

Tenant Selection Policy

HOME-ARP rental projects must establish a written tenant selection policy consistent with requirements in Section VI.B.20 of the HOME-ARP Notice: CPD-21-10. The plan must specify objective selection criteria related solely to program qualifications and the tenant's ability to pay the rent and abide by the terms of the lease (e.g., household income, housing history, credit history, criminal record). Recipients and property managers must apply criteria consistently to all applicants in accordance with fair housing laws and must expressly prohibit bias such as discrimination and favoritism.

The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:

- Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the preferences and the policies and procedures for applying those preferences as laid out in the Nebraska HOME-ARP Allocation Plan.
- Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program ([24 CFR 982](#)), or an applicant participating in HOME, HOME-ARP or other Federal, state or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document.
- Limits eligibility to a particular qualifying population as permitted in its written agreement with the NDED.
- If applicable, eligible low-income households must be selected for the occupancy of HOME-ARP units from a written waiting list in the chronological order their application.
- Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,
- Complies with the VAWA requirements as described in [24 CFR 92.359](#).
- Criteria must not violate nondiscrimination requirements in [24 CFR 92.350](#).



Tenant Protections

Tenants who occupy a HOME-ARP-assisted unit must have an executed lease that complies with the tenant protections outlined in the HOME-ARP CPD Notice 21-10.

- There must be a lease between the eligible HOME-ARP household and the owner that is no less than 12 months, unless agreed upon by both parties for a less short time.
 - The lease must comply with VAWA requirements.
- Prohibited lease terms per 24 CFR 92.253(b)
 - **Agreement to be sued.** Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
 - **Treatment of property.** Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
 - **Excusing owner from responsibility.** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
 - **Waiver of notice.** Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
 - **Waiver of legal proceedings.** Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
 - **Waiver of a jury trial.** Agreement by the tenant to waive any right to a trial by jury;
 - **Waiver of right to appeal court decision.** Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
 - **Tenant chargeable with cost of legal actions regardless of outcome.** Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
 - **Mandatory supportive services.** Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

Violence Against Women's Act (VAWA) Occupancy Protections

Projects must comply with the requirements of the Violence Against Women's Act (VAWA) as required by [24 CFR 92.359](#) for HOME ARP. VAWA provides certain additional tenant protections to applicants and tenants who are victims of domestic violence, sexual assault, and/or stalking. In general, among other requirements owners must provide notices to all tenants of the VAWA provisions, may not deny an application or terminate or refuse to renew a lease as a result of a person's status as a victim or on the basis of criminal activity related to such status, and must allow for the bifurcation of a lease in order to evict the perpetrator of such criminal activity while allowing the victim to maintain occupancy.

In general, NDED will provide a standard form lease-addendum for use by owners of HOME-ARP-assisted rental housing that will provide required tenant protections and eliminate any prohibited provisions from uses otherwise used by owners.



Affirmative Marketing Requirements

Recipients must adopt affirmative marketing procedures and requirements for projects containing five or more HOME-ARP-assisted units. Affirmative marketing consists of actions to provide information and attract eligible persons to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. Affirmative marketing differs from general marketing activities because it specifically targets potential tenants who are least likely to apply for the housing. NDED requires each recipient to develop and submit a project-specific affirmative fair housing marketing plan since the HOME-ARP program serves many local markets throughout the State and affirmative marketing requirements will vary according to the local market being served.

Required elements of the plan include:

- Identification of those persons across the protected classes that are expected to be “least likely to apply” for the housing;
- Description of how the recipient generally will inform potential participants about fair housing and the project’s affirmative marketing policy;
- Specific procedures or activities that will be used to inform and solicit applications “who are not likely to apply” without special outreach;
- A description of how efforts will be assessed and what corrective actions will be taken where requirements are not met, and maintenance of records that document an assessment of the effectiveness of the marketing effort; and
- Delineation of the records that will be maintained to document the affirmative efforts.

<https://www.hud.gov/sites/documents/935-2A.PDF>

Termination of a Tenant

An owner may not terminate a lease or refuse to renew the lease of a tenant of a HOME-ARP-assisted unit except for:

- Serious or repeated violation of the terms and conditions of the lease;
- Violation of applicable Federal, State or local laws;
- Other good cause (this does not include increase in income); or

Project with a capitalized operating cost reserve (COCAR) cannot terminate a tenant because of the household’s inability to pay rent during the minimum compliance period. A qualifying household’s inability to pay rent shall mean the qualifying household cannot pay more than 30 percent of the qualifying household’s income toward rent based on the income determination in the last 30 days.

Terminations or refuse to renew lease for any household occupying a HOME-ARP-assisted unit must be notified by the owner in writing, 30 days before the termination of tenancy describing the grounds for the action.

Project Completion and Occupancy

HOME-ARP rental projects must meet the definition of project completion per 24 CFR 92.2. If the project is not completed within four years, the project must comply with the terminated project requirements at 24 CFR 92.05(e)(2).

Once the project is complete, HOME-ARP-assisted units should be occupied with qualified households and/or low-income households within six months. If HOME-ARP-assisted units are not occupied, the rental project will be required to submit information on its efforts to fill the units to NDED. If HOME-ARP-assisted units are not occupied within 12 months, the project owner must repay HOME-ARP funds invested in the units that are not occupied by HOME-ARP qualifying and low-income households.



Project Closeout:

Owners are required to report on the HOME-ARP-assisted units, including tenant demographics, during the closeout process. Data includes, but may not be limited to, unit number, number of bedrooms, unit occupancy status, total monthly rent, how the tenant is qualified for the unit, percentage of area median income, race, ethnicity, gender, household size, type of households, veteran status, elderly status, and assistance type, if applicable. The compliance period does not begin for HOME-ARP-assisted units until all project costs are processed and all project required data is entered into HUD's Integrated Disbursement and Information System (IDIS).

Repayment for Noncompliance:

Project Owners must repay HOME-ARP funds if:

- The project is terminated before completion or does not comply with initial or ongoing HOME-ARP requirements.
 - If the noncompliance or termination occurs within the first 10 years of the 15-year compliance period, the project owner must repay the entire amount of HOME-ARP funds invested into the project.
 - If the noncompliance or termination occurs in years 11 through 15, the repayment amount will be reduced by 20 percent for each year beyond the initial 10-years during the time the project complied with HOME-ARP requirements.

During the compliance period, repayment of the HOME-ARP funds is not required if the project owner sells or transfers (voluntarily or involuntarily) the HOME-ARP project if:

- The HOME-ARP restriction remain
- The project and new owner continue to comply with all HOME-ARP requirements
- Upon sale or transfer it is conveyed that any operating cost assistance reserve or replacement reserve will remain restricted to HOME-ARP requirements

NONPROFIT OPERATING AND CAPACITY BUILDING ASSISTANCE

A nonprofit organization may request nonprofit operating and/or capacity building assistance if the nonprofit organization is also receiving funds for a HOME-ARP affordable rental project that will be implemented within 24 months of award. HOME-ARP project delivery costs or project soft costs and are not eligible costs under Nonprofit Operating and Capacity Building Assistance.

Nonprofit Operating Assistance

Up to five percent of the HOME-ARP allocation can pay for operating expenses of a nonprofit organizations that will carry out HOME-ARP activities. Operating costs must be used for "general operating costs" and cannot have a particular final cost objective, such as a project or activity, or must not be directly assignable to a HOME-ARP activity or project. For further details on operating expense, see the HOME-ARP Notice: CPD-21-10, Section IV.F.1.a.

Operating expenses are reasonable and necessary costs of operating the nonprofit organization. Eligible costs include:

- Employee salaries, wages and other employee compensation and benefits



- Employee education, training, and travel
- Rent and utilities
- Communication costs
- Taxes and insurance
- Equipment, materials, and supplies

Nonprofit Capacity Building Assistance

Up to five percent of the HOME-ARP allocation can pay for capacity building expenses of a nonprofit organizations that will carry out HOME-ARP activities.

Capacity building expenses are reasonable and necessary general operating costs that will result in the expansion or improvement of an organization's ability to successfully carry out eligible HOME-ARP activities. Eligible costs include:

- Employee salaries, wages and other employee compensation and benefits for new hires
- Employee training or other staff development that enhances an employee's skills set and expertise
- Equipment, such as computer software or programs that improve organizational processes
- Upgrades to materials and equipment
- Supplies
- Contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations

Nonprofit Operating Cost and Capacity Building Assistance Limitations

Operating Assistance – In any fiscal year, may not exceed the greater of 50 percent of the general operating expenses of the nonprofit organization for the fiscal year or \$50,000.

Capacity Building Assistance – In any fiscal year, may not exceed the greater of 50 percent of general operating expenses of the organization or \$50,000.

Operating and Capacity Building Assistance

If an organization receives both assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for the fiscal year or \$75,000.

OTHER FEDERAL REQUIREMENTS

Environmental Review Requirements per 24 CFR 92.352:

Federally assisted projects are subject to a variety of environmental requirements. Recipients should be familiar with these requirements and are strongly encouraged to discuss any questions they have with NDED staff prior to entering into a purchase agreement or submitting an application.

- All HOME-ARP- assisted projects shall be implemented in accordance with environmental review regulations as defined in 24 CFR Part 58.



- NDED shall be responsible for conducting the environmental review and completing all necessary public notifications, and the request for release of funds (RROF), as applicable, from HUD. The applicant is responsible for cooperating with NDED in the environmental review process and providing information necessary for NDED to fulfill its responsibilities under Part 58 and other applicable regulations.
- Submitting an application for HOME-ARP funds triggers environmental review requirements under 24 CFR Part 58, including the National Environmental Policy Act (NEPA). Once an application for federal funds is submitted, a project proposal is now subject to the environmental review requirements and requires an environmental clearance and issuance of a Release of Funds (ROF), as applicable, by the U. S. Department of Housing and Urban Development.
- Recipients are prohibited from undertaking or committing or expending any funds (including non-federal funds) to any physical or choice-limiting actions on the site prior to an environmental clearance as required by Part 58. Physical and choice-limiting actions include, but are not limited to, property acquisition, demolition, movement, rehabilitation, conversion, repair or construction. This prohibition applies regardless of whether federal or non-federal funds are used and taking a choice limiting action prior to completion of the required environmental clearance process will result in the denial of any HOME-ARP funds from NDED.

HOME-ARP Rental Housing:

Acquisition of a structure to be used as HOME-ARP rental housing is categorically excluded, subject to the Federal laws and authorities referenced at 24 CFR 58.5 (CEST) under 24 CFR 58.35(a)(5) (with the possibility of converting to exempt under 24 CFR 58.34(a)(12)) if the structure acquired will be retained for the same use (e.g., residential). Rehabilitation of buildings for residential use with one to four units for HOME-ARP rental housing is CEST under 24 CFR 58.35(a)(3)(i), if the density is not increased beyond four units, and the land use is not changed. Rehabilitation of buildings for use as HOME-ARP multifamily rental housing is CEST under 24 CFR 58.35(a)(3)(ii) only if:

- the unit density is not changed more than 20 percent;
- the project does not involve changes in land use from residential to non-residential; and
- the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Rehabilitation for HOME-ARP rental housing that does not meet the thresholds for multifamily residential buildings listed above requires completion of an Environmental Assessment in accordance with 24 CFR Part 58, Subpart E. An Environmental Assessment is also required for new construction, demolition, acquisition of vacant land for new construction, and acquisition of non-residential structures for demolition and new construction.

A HOME-ARP Part 58 Environmental Review Checklist can be found on the [HOME-ARP webpage](#), under Resources.

Flood Insurance

Must obtain flood insurance if located in a FEMA designated 100-year flood plain. Community must be participating in FEMA's flood insurance program.

Regulatory Citations & References:

Section 202 of the Flood Disaster Protection Act of 1973 (42 U. S. C. 4106)



Nondiscrimination and Equal Opportunity

The requirements in 24 CFR 92.350 apply to the HOME-ARP program. Project owners must comply with the Federal requirements set forth in 24 CFR part 5, subpart A, including:

- Non-discrimination and equal opportunity;
- Disclosure requirements;
- Debarred, suspended or ineligible contractors;
- Drug-free work; and
- Housing counseling and the non-discrimination requirements at section 282 of NAHA.

The requirements in section 282 of NAHA are waived in connection with the use of HOME-ARP funds on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

HOME-ARP projects must also comply with the Violence Against Women Act (VAWA) requirements set forth in 24 CFR 92.359. The Violence Against Women Act (VAWA) provides expanded protections to victims of domestic violence, dating violence, sexual assault, and stalking across HUD housing and homelessness programs. Generally, applicants, occupants, service participants, and tenants may not be denied assistance or have assistance terminated on the basis of or as a direct result of their status as a victim.

Affirmative Marketing and Minority Outreach, 24 CFR 92.351

- HOME-ARP rental project with 5 or more units must comply with the requirements for affirmative marketing under §92.351(a).
- Project owners must maintain Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) plan that demonstrates marketing and solicitation of MBE/WBE businesses and contractors for the construction of the project. When advertising for bids, Recipients must include a statement that says, “minority and women owned businesses are encouraged to apply.” Recipients are required to document and submit evidence of outreach efforts regarding MBE/WBE at completion of project.

Labor Standards, per 24 CFR 92.54

Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME-ARP funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act ([40 U.S.C. 3141](#)), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701](#)).

Section 3 Economic Opportunities for Low and Very-Low Income Persons

Section 3 requirements established at 24 CFR Part 75 apply to HOME-ARP rental projects. Project owners must maintain a Section 3 plan that demonstrates a marketing plan to include Section 3 contractors and all tiers of subcontractors in the construction of the project.

Lead Hazard Control Requirements:

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, J, K, M, and R apply to HOME-ARP-assisted activities.



Conflicts of Interest:

Owners and developers of HOME-ARP rental housing shall be subject to 24 CFR 92.356(f). HOME-ARP rental projects must maintain written standards of conduct covering the conflicts of interest and organizational conflicts of interest requirements under the HOME-ARP Notice CPD-21-10 and 24 CFR 200.318.

A HOME-ARP Recipient (or officer, employee, agent, elected or appointed official, or consultant of recipient or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of a recipient), whether private, for-profit or nonprofit, may not occupy a HOME-ARP-assisted unit in a project during the affordability period.

Requesting Exceptions to Organizational Conflict of Interest:

Any request for an exception to the organizational conflicts of interest provisions needs to be submitted to NDED and include a written disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.

Uniform Relocation Assistance and Real Property Acquisition Policies Act, Section 104(d), and HOME-ARP Displacement, Relocation and Acquisition Program Requirements

HOME-ARP funding is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and section 104(d) of the Housing and Community Development Act of 1974, in addition to the Displacement, Relocation and Acquisition regulatory requirements of 24 CFR 92.353.

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970:

Costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. § 4601 et seq.) (URA) are eligible HOME-ARP project costs pursuant to the HOME-ARP Notice CPD-21-10 and 24 CFR 92.206(f). The URA establishes minimum requirements for the acquisition of real property and the displacement of persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for federally assisted programs and projects. The URA implementing regulations at 49 CFR part 24 establish:

- Requirements for the provision of replacement housing assistance, advisory services, and moving costs to persons displaced as a result of a program or project that receives federal financial assistance;
- Requirements for acquisitions, including the payment of just compensation pursuant to 49 CFR part 24, subpart B, and provisions for voluntary acquisitions set forth in 49 CFR 24.101.
- Minimum requirements for temporary relocation of persons, businesses, or farms as a result of a project or program that receives federal financial assistance. These requirements are found in Appendix A, Section 24.2(a)(9)(ii)(D).

Additional HUD URA policy and guidance is available in HUD Handbook 1378.

Section 104(d) of the Housing and Community Development Act of 1974:

HOME-ARP is HOME funding and subject to the requirements in section 104(d) of the Housing and Community Development Act of 1974, as amended, (42 USC § 5304(d)), ("section 104(d)") unless waived, as described in this section and Appendix. Costs incurred to comply with section 104(d)



requirements are eligible HOME-ARP project costs under 24 CFR 92.206(f). section 104(d) applies to the demolition or conversion, as defined in 24 CFR 42.305, of a lower-income dwelling unit in connection with a HOME or Community Development Block Grant Program (CDBG) assisted activity. section 104(d) includes the following requirements:

- A project owner must have a residential anti-displacement and relocation assistance plan (RARAP);
- A project owner must provide relocation assistance to displaced lower-income persons; and
- A project owner must perform one-for-one replacement of lower-income dwellings demolished or converted to a use other than a lower-income dwelling unit. A lower-income dwelling unit is defined in 24 CFR 42.305 as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing, as defined by HUD.

Section 104(d) implementing federal regulations can be found at 24 CFR part 42 Subpart C. HOME-ARP Section 104(d) Waiver / One-for-One Replacement Housing. For purposes of , the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and 24 CFR 42.375, lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law. All other section 104(d) requirements, including but not limited to the requirement that the PJ have and follow a RARAP, remain in effect. (See 24 CFR 92.353(e) and 24 CFR part 42, subpart C).

HOME Program Displacement, Relocation and Acquisition Regulations:

The HOME program's Displacement, Relocation and Acquisition regulations at 24 CFR 92.353 also apply to projects funded with HOME-ARP funds. Some of these requirements differ from those of the URA and section 104(d), including but not limited to the expanded temporary relocation protections at 24 CFR 92.353(b) and (c); optional relocation assistance policies in 24 CFR 92.353(d); and the right to return to a building or complex, if feasible, upon completion of a HOME project, in accordance with 24 CFR 92.353(a). Project owners must follow these program-specific requirements in HOME-ARP assisted projects.

Project owners are encouraged to develop optional relocation policies to address individuals that may not be eligible for URA or section 104(d) assistance due to their length of occupancy in a unit, ineligibility of their dwelling unit, or other factors beyond their control. Such policies must be in writing, applied consistently, and must not violate any other federal law or regulation. Costs incurred to comply with 24 CFR 92.353, including optional relocation policies, are eligible HOME-ARP project costs under 24 CFR 92.206(f).

Additional HOME-ARP Program Relocation Related Requirements:

Acquisition and/or rehabilitation of hotels, motels and other non-residential property: In states where hotels and motels are not considered dwelling units or residential property, the acquisition of non-residential property such as hotels and motels for the production of HOME-ARP rental housing will not make a person occupying those properties eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353. Project owners may provide individuals or families the ability to rent a HOME-ARP rental unit if they can demonstrate that—

- they have been in continuous residence at the property for 30 or more calendar days; and
- they meet the definition of a HOME-ARP qualifying household.



Any assistance provided pursuant to this section may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization that has been established pursuant to the HOME-ARP Notice CPD-21-10. For purposes of HOME-ARP, costs associated with activities may be charged as either project delivery costs or relocation costs eligible under 24 CFR 92.206(f).

UNIFORM ADMINISTRATIVE REQUIREMENTS

The Uniform Administrative requirements at 24 CFR Part 200 apply to the State as the Grantee, but do not apply to HOME-ARP Recipients, unless extended to developers by the policies of the State. HOME-ARP developers as Recipients must adhere to the requirements as indicated in their contract. The following uniform federal requirements apply to HOME-ARP Recipients and projects.

Civil Rights and Equal Opportunity Provisions Fair Housing Standards

[Title VIII of the Civil Rights Act of 1968, As Amended by the Fair Housing Amendments Act of 1988](#) – This law, seeking fair housing practices throughout the United States, prohibits any person from discriminating in activities associated with housing, because of race, color, national origin, religion, sex, handicap, or familial status. The Recipient must also administer programs and activities relating to housing and urban development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII. Fair Housing Act implementing regulations may be found in 24 CFR Part 100-115.

[Executive Order 11063, As amended by Executive Order 12259](#) - This order directs the Recipient to take all action necessary and appropriate to prevent discrimination because of race, color, religion, sex, or national origin; in the sale, leasing, rental, and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use or occupancy thereof, if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions from the federal government. Equal Opportunity in Housing regulations may be found in 24 CFR Part 146.

[Affirmatively Furthering Fair Housing](#) –Recipients must certify that they will take affirmative action to further fair housing (Title VIII of the Civil Rights Act of 1968). This requirement dictates some form of new action be undertaken by the Recipient, not just passive compliance with existing laws and ordinances. Fair housing is generally thought of as the ability of persons of similar income levels to have available to them a like range of housing choices regardless of race, color, creed, sex, or national origin. Recipients, as a Special Conditions requirement, must inform DED of actions they will undertake to further fair housing. Some suggested actions are:

- Adopt a fair housing ordinance with means of enforcement.
- Undertake a review of existing fair housing ordinances, zoning and land use practices for discriminatory policies or practices.
- Support and participate in educational programs coordinated with local realtors, home builders, and mortgage lenders designed to provide information on fair housing rights.
- Provide housing referral and counseling services, which assist minorities, women, and the handicapped seeking housing within the HOME-ARP Recipient's jurisdiction. Encourage local employers to cooperate in efforts to find housing for their employees and to promote equal housing choices within the community.



- Request assistance from the Nebraska Equal Opportunity Commission or other advocacy groups in undertaking fair housing informational or technical assistance seminars in your community or region.
- Use the Equal Housing Opportunity logo on official letterhead and prominently display posters, logo and informational material on fair housing and periodically print a notice in local newspaper that the Recipient is an active supporter of fair housing laws
- Host a Fair Housing Month (April) event.

PROJECT UNDERWRITING

Applications are reviewed for completeness and eligibility first and then underwritten using the guidelines described below.

- Written underwriting and subsidy layering guidelines for all HOME-ARP activities are required by NDED in order to determine the appropriate HOME-ARP investment, including market need/demand, developer experience and capacity, cost/fee/profit reasonableness and source commitments;
- Cost allocation is required in multi-unit projects to determine the maximum HOME-ARP investment or required number HOME-ARP assisted units; and
- The maximum per-unit HOME-ARP subsidy limits are set by the NDED.

HOME-ARP Notice: CPD-21-10 requires that NDED has written policies and procedures that include:

- An examination of the sources and uses of funds for the proposed project and a determination that all project costs are reasonable;
- Assessment of current market demand in the neighborhood where the project will be located;
- Assessment of the experience and financial capacity of the developer and/or Recipient;
- An assessment of the firm written financial commitments for the project
- A careful review of the project's budget to include assumed projections of the project's net operating income and to determine if operating cost assistance is necessary; and
- An assessment of of the project's overall viability through the 15-year compliance period.

Underwriting Assessment

The underwriting assessment will include:

- **Sources and Uses**
 - Sources are sufficient to cover uses (development costs);
 - All sources are firmly committed in writing;
 - The uses (development costs) are complete and sufficient to complete the project, and all project costs are reasonable; and
 - The uses of HOME-ARP funds are eligible costs.
- **Market Assessment** – Current market demand in the neighborhood will be examined to determine the need for the proposed project. The market assessment must:
 - Must have been prepared within the last 12 months;
 - Should include recent data for the area, this can include known waitlist in the area,
 - Demonstrate the need for the proposed project type;
 - Document the demand for the project in the proposed location;



- Must demonstrate the units will be absorbed within the HOME-ARP deadline and the tenant's ability to pay the proposed rent.
- **Developer** – The experience and financial capacity of the developer and/or Recipient will be reviewed, including:
 - Review of organizational and team skills and performance relevant to the proposed project, including:
 - Firm and staff resumes and organizational history;
 - Development team member/professional experience and prior collaboration as a team;
 - Prior performance of developer/Recipient on NDED or other affordable housing projects; and
 - Professional management of the project.
 - Review recent audited annual financial statements (if unavailable, then the most recent tax returns) of the of the developer/Recipient to determine:
 - Identification of the source of any developer/Recipient equity committed to the project;
 - Positive net assets of the entity;
 - Adequate liquidity to cover project cash flow needs during project development;
 - No contingent liabilities that might threaten the ability of the developer and/or Recipient to complete the project and manage it throughout the affordability period.
- **Operating analysis** – Review of proposed operating budgets for:
 - Rents that are in compliance and competitive in the market;
 - A vacancy factor of at least 7% for rental projects, unless the market study indicates another, more conservative, vacancy factor is needed;
 - NDED will use a maximum 2% inflation factor for all sources of income;
 - Operating expenses that are complete, reasonable and adequate to sustain project operations. All operating expenses will be underwritten with an inflation factor of at least 3%;
 - Net operating income sufficient to amortize all mandatory debt with sufficient debt coverage to meet lender requirements;
 - Net positive cash flow during the period of affordability (including any deficit reserves if funded.)
 - All projects must maintain a DCR of at least 1.15 for the affordability period.
 - Unless otherwise approved by NDED, the operating budget of new construction must include a minimum deposit of \$350 per unit per year to the Replacement Reserve. The Replacement Reserve must be funded and maintained for the full compliance period and reflected in the operating expenses for the full projection of expenses, as applicable. Replacement Reserve deposits must be inflated at 3% annually. In the case of rehabilitation, the capital needs assessment obtained from a qualified third-party professional acceptable to NDED will be used to establish the minimum annual Replacement Reserve deposits, which shall be inflated at 3% annually;
 - For rehabilitations, a capitalized Replacement Reserve may be required if an assessment of the useful life of major systems indicates an initial need for the project.
 - Operating cost assistance reserves (OCAR) will be assessed based on individual project need. The operating cost assistance reserve should be sized to reflect the projected deficits remaining after the expected payments toward rent by qualifying households are applied to the units' share of operating costs. If NDED's underwriting determines an operating deficit, an operating cost assistance reserve may be funded and appropriately size to address the deficit for the 15-year compliance period subject to the availability of funding. An operating cost assistance reserve can only be sized and utilized based on



- the units designated to the qualifying households. This reserve must be capitalized and put into an interest-bearing account. If funding is not available to adequately size the OCAR, an operating reserve may be required to cover the remaining projected deficit.
- Projects with units that are ineligible for the OCAR, must include a capitalized operating reserve equal to six (6) months of underwritten operating expenses, amortizing debt service (if any), and required reserve deposits. The operating reserve is intended to protect against unplanned operating deficits. If the NDED's underwriting projections operating deficits within the applicable compliance period, an operating deficit reserve must be capitalized.
- **Limitations** – Review of the proposed development cost schedule:
 - Developer Fees (including overhead, profit and consultant fees) shall not exceed 15% of Site Work, Construction and Soft Costs on the development cost schedule.

The underwriting analysis will conclude with a determination of the amount of HOME-ARP subsidy that is necessary and sufficient to ensure project completion and sustainability for at least the period of affordability. The amount should be no more than is necessary to fill the gap determined by underwriting, taking into account both the cost allocation and subsidy layering analysis.

REPORTS AND RECORDKEEPING

Reports

NDED requires Recipients to submit reports at various stages throughout the course of a project and continuing through the duration of the affordability period. Recipients should use the most current form for a particular report they are submitting. Current forms are available on NDED's website under Forms & Templates: <https://opportunity.nebraska.gov/programs/housing/home-arp/>.

While this section outlines HOME-ARP reporting requirements, NDED reserves the right to require additional reporting, alter the reporting format and/or reporting frequency based on any future HOME-ARP requirements or NDED policy changes. Additionally, NDED reserves the right to require additional or more frequent reporting for projects with compliance deficiencies.

Development and Lease-up Quarterly Report

Owners are required to report quarterly during the development phase and lease-up phase. Quarterly reports will be due on the 15th of the month following the end of the prior quarter (e.g., by April 15th reports on the first quarter are due).

- During the construction phase, owners must provide monthly reports detailing construction progress and barriers to progress, copies of invoices being paid, and evidence of appropriate lien waivers.
- During the initial phase of lease-up, NDED may request owners to provide monthly or quarterly reports detailing the number of additional leases, total project leases, marketing activity, and monthly income and expenses. Once the owner has leased 100 percent of the units, leasing and marketing reporting will be required annually.



HOME-ARP Semi-Annual Performance Report

Recipients are required to submit this report twice a year throughout the contract period. Recipients must report on all contracts executed during the reporting period for contractors and subcontractors.

Reporting Period Due Dates

January 1 – June 30 due by **July 31**

July 1 – December 31 due by **January 31**

Final Financial Report

Recipients must submit this report to NDED within 90 days final disbursement of HOME-ARP funds.

Rental Housing Activity Completion Report

Recipients must submit this report to NDED within 90 days of the final disbursement of HOME-ARP funds.

Annual Rental Housing Project Compliance Report

Recipients must submit this report for each rental project to NDED by January 31st each year throughout the affordability period. This report documents household size, income, rent, certification date, utility allowance and unit classification for the HOME-ARP-assisted units.

Retention

All records pertaining to HOME-ARP funds must be retained for five years, except as provided below:

- Records for HOME-ARP rental housing projects may be retained for five years after the project completion date; except the records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five (5) years after the affordability period terminates.
- Written agreements must be retained for five (5) years after the agreement terminates.
- Records covering displacements and acquisition must be retained for five (5) 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 of which they are entitled in accordance with 24 CFR 92.353.
- If a litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period 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.

PROJECT CONTRACT & ADMINISTRATION

The requirements in this manual provide Recipients with standards for administering the HOME-ARP Program in a consistent manner. NDED fully expects Recipients of HOME-ARP funds to comply with all administrative requirements. Recipients must become educated on all administrative components, elements, and requirements for HOME-ARP. A project management plan should include a list of responsibilities for each project team member, a timeline of implementation steps, and a detailed outline of a filing system.



Contract Execution

Notice of Approval

A letter announcing the award is sent to each successful HOME-ARP program applicant. The letter specifies the amount of the award and the activity funded. The amount of the award may be less than the requested amount. An approved applicant is required to designate an employee to have principal day-to-day responsibility for the administration of the HOME-ARP funds.

The award letter cautions applicant's not to incur costs other than planning costs prior to commitment. Only costs associated with planning, design and financing can be incurred prior to receiving a *Notice of Release of Funds* from NDED. Contracts for general administration services must be executed after the *Notice of Approval* date. All expenses incurred prior to the *Notice of Approval* cannot be reimbursed by HOME-ARP funds.

Contract Terms & Special Conditions

Recipients will meet with NDED for a project review meeting after receiving the *Notice of Approval* in preparation for executing the contract. Once ready to execute a contract, NDED will electronically transmit the contract to the Recipient's authorized representative for signature. The Recipient should review the terms and conditions of the contract with their attorney. The contract must be signed by the Recipient within 30 days. A copy of the fully executed contract will be available electronically once all signatures have been obtained.

The Authorized Official of a nonprofit, public housing agency or owner/developer are the only individuals recognized by NDED as authorized to sign and execute HOME-ARP Contracts. This also applies to any contract extensions and amendments involving changes in terms, conditions, and amounts.

The executed contract between the recipient and NDED is the legal document that governs the administration of the HOME-ARP funds and will identify the following:

- The total amount of HOME-ARP funds to be provided;
- Time of performance;
- The scope of work, including the number and bedroom size of assisted units;
- The initial rent structure;
- The project budget for the use of HOME-ARP funds and any other funds involved in the project;
- Special conditions for release of funds;
- The general terms and conditions associated with the grant, including the affordability period.

Recipients are responsible for adhering to all the terms of the contract. A substantial number of regulations, acts and statutes apply to the funds. Regulatory contract requirements are outlined the HOME-ARP Notice: CPD-21-10. NDED will hold the Recipient responsible for any conditions of the contract not fulfilled and seek repayment if necessary.

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

Recipients of HOME-ARP funds are advised to carefully review their HOME-ARP Contract before implementing the funded project. **Project costs cannot be obligated or incurred prior to NDED issuing a written *Notice of Release of Funds* to the Recipient.**



Special Conditions for Release of Funds

The contract contains a section entitled Special Conditions for Release of Funds which must be satisfied within 120 days. NDED reserves the right to cancel the contract if the special conditions are not met within the specified time frame. HOME-ARP funding will not be released to the Recipient until all Special Conditions items have been met. Project costs cannot be obligated or incurred prior to NDED issuing a written *Notice of Release of Funds* to the HOME-ARP Recipient

These Special Conditions must be satisfactorily completed by the identified date, or NDED reserves the right to cancel the contract if these special conditions are not met within the specified time frame.

Special Conditions that must be addressed before *Release of Funds* is issued:

- HOME-ARP Recipient [Information](#)
- HOME-ARP [Authorization to Request Funds](#)
- [Environmental Review](#) – Documentation is required by NDED evidencing the HOME-ARP Recipient’s completion of environmental provisions as required by 24 CFR 92.352 per the HOME-ARP Notice: CPD-21-10.
- [Procurement Standards](#) – Documentation is required evidencing adoption of appropriate procurement standards applicable to the Recipient.
- [Rental Project Pro Forma](#) – Recipient must submit a rental project pro forma for the project. The Pro Forma must include unit information, a development cost schedule, annual operating expense information, sources and uses/equity gap information.
- [Limited English Proficiency](#) - Recipient must submit documentation evidencing completion of its responsibilities to ensuring meaningful access to the Project activities and services for persons with Limited English Proficiency (“LEP”) as required by Title VI of the Civil Rights Act of 1964; Executive Order 13166; and HUD's final “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons”, which was published in the Federal Register on January 22, 2007 and which became effective on March 7, 2007 (“HUD LEP Guidance”).
- [Fair Housing](#) – HOME-ARP Recipient must provide a description of at least one new action it will take to affirmatively further fair housing. This documentation must be on official letterhead. The new fair housing action(s) must be performed during the course of the current HOME-ARP Project in order to fulfill the requirements. The recipient must maintain and provide documentation of the Fair Housing Activity undertaken, recording number of people affected or served and the outcome, if any, of the action, at project completion.
- [Documentation from the Nebraska Department of Environment and Energy \(New Construction only\)](#) - Recipient must submit documentation from the Nebraska Energy Department of Environment and Energy that shows the plans and specifications for the Project are in compliance with the most recent version of the International Energy Conservation Code.
- [Other Special Conditions](#), as applicable
 - Project Completion Schedule
 - Project Budget documenting all necessary financing has been secured
 - Proposed Cash Flow Distribution Plan
 - Proposed Agreement for Governing Reserves
 - Tenant Selection Process
 - Sample Lease Agreement with VAWA provisions
 - Rehabilitation Procedures (if applicable)



The above list represents a list of typical standard special conditions; however, all HOME-ARP Contracts are tailored to a specific project with unique standard conditions. The Special Conditions for *Release of Funds* in the HOME-ARP Contract must be satisfied before the *Notice of Release of Funds* will be issued for that project. Forms and templates to assist in completing special condition requirements may be available on NDED's website.

Release of Funds

Upon receiving the *Notice of Release of Funds* letter, the Recipient may obligate non-administrative costs and draw down funds for eligible costs incurred. Release of Funds will not be approved if there are any unresolved audit findings relating to a past award and remains unresolved beyond the normal period or is deemed to be extreme misconduct. Refer to the following section, Financial Management, for information regarding requesting HOME-ARP funds.

Requesting HOME-ARP Funds

The Recipient must submit a payment request via NDED's award management system, AmpliFund, and provide source documentation along with request. HOME-ARP funds will be disbursed electronically to the Recipient's bank account. The Recipient has 15 working days to spend HOME-ARP funds following receipt. More information on requesting funds is available in the following section, Financial Management.

FINANCIAL MANAGEMENT

Federal Financial Management System Requirements

The financial management system required for the State's use and accounting for HOME-ARP funds is governed by 2 CFR 200. While Recipients are not subject to 2 CFR Part 200, program accounting must meet these standards, and Recipient accounting systems must be able to provide the information and documentation described in this section.

The financial management system requirements previously identified in 24 CFR Part 85.20 and 84.21 have been superseded by 2 CFR Part 200.300 - 200.309. The key Part 200 financial management requirements are:

- 1) **Financial reporting.** Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.
- 2) **Accounting records.** Recipients must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
- 3) **Internal control.** Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Recipients must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
- 4) **Budget control.** Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically



required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

- 5) **Allowable cost.** Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.
- 6) **Source documentation.** Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.
- 7) **Cash management.** Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by Recipients must be followed whenever advance payment procedures are used. Recipients must establish reasonable procedures to ensure the receipt of reports on cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the Recipient must make drawdowns as close as possible to the time of making disbursements. Recipients must monitor cash drawdowns to assure that they conform substantially to the same standards of timing and amount as apply to advances to the HOME-ARP Recipients.

Overview of Recipient Financial Management Requirements

The HOME-ARP Recipient must gain understanding of all the requirements that they are agreeing to comply with. The following is meant as a summary of some of the requirements and not a complete coverage of the responsibilities of HOME-ARP Recipients.

- **Financial management:** The Recipient is responsible for the efficient and effective administration of the HOME-ARP funds provided to Recipient under this contract. The Recipient agrees to administer the HOME-ARP funds in a manner consistent with this contract, HUD's administrative requirements for the HOME-ARP Program, and with the provisions of NDED's HOME-ARP Program Administration Manual, and with all federal (and state) laws, regulations, and executive orders applicable to the HOME-ARP-assisted project.
- **Accounts:** The HOME-ARP funds will be accounted for separately upon the books and records of the Recipient, in such manner as to allow funds tracing and a current status review of the HOME-ARP funds at all times. A separate bank account for the HOME-ARP funds is not required.
- **Records:** The Recipient will keep all records concerning the HOME-ARP funds in a manner which is consistent with generally accepted accounting principles. Payments from such HOME-ARP funds will be obligations incurred in the performance of this contract; and will be supported by contracts, invoices, brochures, and other data, as appropriate, evidencing the necessity for such expenditures.
- **Insurance:** Recipient agrees to, at a minimum, provide insurance coverage for real property acquired or improved with HOME-ARP funds that is equivalent to the insurance Recipient provides for Recipient's other property (or ensure that such insurance coverage is provided by the Recipient of the real property).
- **Closeout:** The closeout of a Project does not affect the right of NDED or duly authorized officials of the state and federal government to disallow costs and recover funds from the Recipient on the



basis of a later audit or other review. In other words, the obligation of the Recipient to return any funds due as a result of an audit is not affected by closeout of this Project.

Actions to Prepare for Financial Management

Recipients should take the following steps to prepare a financial management system for implementation of a HOME-ARP award:

- Appoint person to be responsible for Financial Management.
- Establish accounting records.
- Set up bank accounts and establish receipting procedures.
- Establish payment schedules and approval procedures.

NDED may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to award.

NDED's Requirements

NDED identifies three basic functions that must be served by the financial management system:

- The financial management system must have an identified procedure for recording all financial transactions.
- All expenditures should be related to activities proposed in the application approved by NDED.
- All expenditures of HOME-ARP funds should be in accordance with applicable laws, rules, and regulations.

Accounting Records

Recipients should determine the accounting records that will assist in providing accurate and complete financial information. The HOME-ARP accounting records may be fully integrated into the Recipient's existing accounting system or may be partially integrated into the existing system with subsidiary ledgers developed as needed to provide the required grant accounting.

At a minimum, the grant accounting system must:

- Clearly identify all receipt and expenditure transactions of the award.
- Provide for budgetary control by tracking expenditures and accrued obligations by approved HOME-ARP activities.
- Accounting methods should be in accordance with Generally Accepted Accounting Principles.

NDED staff or the Recipient's auditors should be able to readily trace HOME-ARP transactions through the accounting system. Also, all amounts shown on HOME-ARP reports should reconcile to the Recipient's accounting records.

Recipients must be able to report HOME-ARP expenditures by approved activity and budgeted line item. Budget balances must be maintained for each approved activity that account for HOME-ARP expenses accrued or obligations incurred (e.g., contracted amounts) which have not yet been paid.

Source Documents

Source documents provide information to be transferred to the accounting records. A source document may be a check, invoice, purchase order, time sheet, or contract. All source documents that pertain to the HOME-ARP project should be identified through a code or by using the HOME-ARP grant number, activity number and budget line-item code. This will assure that the charges against the project are properly recorded in the HOME-ARP accounting records.



Purchase orders should be used when requesting supplies and materials for the project. The purchase order is prepared in the same manner as all other purchase orders for the Recipient and should include a reference to HOME-ARP.

Contracts should be kept in a separate file. The signed contract represents an obligation of HOME-ARP funds. When payments are made on the contract, these should be recorded in the contract file on a contract control card. If there are several contracts, a contract register should be used as a management tool.

An invoice or statement for services rendered is typically submitted by a contract seeking payment. The accuracy of the invoice should be verified against purchase orders or contracts.

Time sheets are another important source document. If staff time is charged to the project, time sheets must support the number of hours worked.

Cancelled checks, bank deposit slips, receipts, and other miscellaneous documents represent important source documents which are used in accounting for program expenditures or program income.

Receipt Procedures

In addition to HOME-ARP payments from NDED, cash receipts may also include program income and project funds received from other outside sources.

The Recipient must be certain that project receipts are adequately safeguarded. This includes providing for proper bonding in accordance with state law of those individuals that handle program funds, if required.

All HOME-ARP project receipts should be promptly deposited to the proper bank account and recorded as a receipt in the accounting system. HOME-ARP funds are to be drawn down only as required to pay immediate obligations or preferably to reimburse the HOME-ARP Recipient for payments already made for HOME-ARP eligible expenses.

NDED will consider the Recipient in violation of the requirement to minimize the elapse of time between receipt and expenditure of HOME-ARP funds, if more than fifteen working days elapses between receipt and expenditure.

Electronic Funds Transfer

All payments of HOME-ARP funds to Recipients are by Electronic Funds Transfer (EFT) to a designated local bank account. These payments are made through the Nebraska Information System (NIS); the state accounting system for all federal and state grant payments to local governments and other organizations.

This electronic address and corresponding bank account will be used for HOME-ARP payments with no additional action required by the Recipient except to transfer HOME-ARP funds when received to a non-interest-bearing account in accordance with HOME-ARP program requirements.

If a nonprofit HOME-ARP Recipient needs to establish a bank account for receipt of state funds, the HOME-ARP Recipient should complete and submit the State Treasurer ACH Enrollment Form.

This form may be downloaded from the State Treasurer website at http://das.nebraska.gov/accounting/forms/ACH_W9_Fillable.pdf and uploaded to AmpliFund under the Custom Form tab. NDED will review the completed form and forward to State Accounting for action and



State Treasurer for information. The State Treasurer is the designated “automated clearinghouse” or ACH for the State of Nebraska.

It is not required that the ACH enrollment form be submitted to receive HOME-ARP funds, unless the HOME-ARP Recipient has not ever established an account with the State Treasurer. If no action is taken by the HOME-ARP Recipient, the electronic address previously established will apply for the receipt of HOME-ARP funds.

If an HOME-ARP-designated account (or Department-designated account) has been previously established through submission and processing of an ACH enrollment form, it is not necessary to submit this form for each new HOME-ARP grant; however, it is necessary to submit this form as a change action whenever a bank account in which HOME-ARP funds are currently being deposited has been changed (financial institution or account number).

If a nonprofit HOME-ARP Recipient wishes to direct HOME-ARP funds to a designated account, a completed State Treasurer ACH Enrollment Form must be sent to NDED. The form must be checked NEW (no bank account designated for HOME-ARP, or Department funds currently exists) or CHANGE (making change to financial institution or account number).

In the VENDOR INFORMATION section, “Name” refers to the local government or non-profit organization, i.e., City of Seward, Village of Otoe, Gage County, Wayne Housing Development Corporation, etc. “Address” is the Mailing Address (normally a PO Box Number). “Federal Tax ID #” is the local governments or non-profits federal identification number.

In the area below “FAX #” enter: NDED PAYMENTS ONLY (if this account may be used for CDBG, HOME/NAHTF grant payments, or other NDED payments of any type) or HOME-ARP PAYMENTS ONLY (if to be used for HOME-ARP grant payments only). NDED will not forward an ACH Enrollment Form to State Accounting for a specific HOME-ARP award, as these accounts tend to be transitory, subject to closure when account activity ceases, and frequently create confusion when multiple accounts are established.

The local bank completes the FINANCIAL INSTITUTION INFORMATION section. The service agreement portion of the form should be completed by both parties as to notification procedures on receipt of funds via EFT. Make sure both parties sign the form and that all other entries are completed and accurate. Mail the completed form to:

Nebraska Department of Economic Development HOME-ARP Financial Administrator
245 Fallbrook Blvd, Ste. 002
Lincoln, NE 68521

It may be up to 4 weeks or longer before the locally designated HOME-ARP or Department account has been assigned an electronic address by state government or an account number for an existing electronic address has been revised. HOME-ARP Recipients should confirm with NDED that action has been completed before submitting an applicable request for HOME-ARP funds.

Bank Accounts

Recipients are not required to maintain separate bank accounts for the deposit of HOME-ARP funds. However, Recipients must be able to reconcile HOME-ARP balances in the depository account.

Since interest may not be earned on the deposit of HOME-ARP funds, Recipients must draw down HOME-ARP funds on a reimbursement basis. Under this system, the Recipient pays all project costs (both the HOME-ARP share and the local share) and reimburses the account for the HOME-ARP share. In this way there are never unexpended HOME-ARP funds on deposit that would accrue interest earnings.



Bank accounts must be secured by F.D.I.C. insurance or bank pledged collateral for the full amount of HOME-ARP funds held in the account. Reconciliation of bank statements should be performed promptly.

Payment Procedures

A Recipient must establish a system to review and approve all billings presented for payment under the grant. All invoices should be reviewed to determine that the costs are accurate, reasonable and allowable under HOME-ARP regulations. The governing body of the Recipient should review and approve all payments.

The Recipient should determine when HOME-ARP disbursements will be made--weekly, bi-weekly, monthly, quarterly. Identifying a cut-off time when all invoices and vouchers must be submitted will assist in the planning for the request for funds. This timeline should be communicated to contractors and vendors.

NDED's payment process is not designed to be used as the initial payment for an activity, such as a loan closing, contractor payment, or administration payment. If Recipients choose to use HOME-ARP funds in that manner, they do so at their own risk. There is no guaranteed HOME-ARP payment process timeline. It is considered a good idea to have access to other funds to make payment of HOME-ARP -eligible costs and use HOME-ARP funds to reimburse.

Contractors' invoices should be paid after verification has been made of work completed. A list of disbursements to be made should be prepared and the total federal cash requirements submitted to NDED on the appropriate forms.

All payments for expenditures must be supported by source documentation and kept on file. Source documentation must be included with payment requests submitted for HOME-ARP funds before NDED will issue payment of HOME-ARP funds for rental projects.

Other Funds

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

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

Requesting HOME-ARP Funds

Recipients must submit payment requests for HOME-ARP funds using NDED's Grant Management Portal, AmpliFund. A Request for HOME-ARP Funds form, located on NDED's website, is required to be uploaded with payment requests submitted via AmpliFund. Payment request instructions can be located at: <https://opportunity.nebraska.gov/amplifund/>.

Please note, that Recipients must have received a Notice of Release of Funds from NDED and incurred HOME-ARP -eligible costs prior to requesting HOME-ARP funds. NDED's policy is that Recipients may only request HOME-ARP funds as a reimbursement and only as funds are needed for HOME-ARP eligible costs.



Drawdown Requests

Please take special note of the following concerning the request, receipt and expenditure of HOME-ARP funds:

- A request for funds may not be submitted until the HOME-ARP Recipient has received a *Notice of Release of Funds*.
- Request only the amount of funds needed to pay immediate obligations.
- Funds may be requested at any time and in any frequency; however, the minimum request is \$1500 except for the final request.
- Program income must be disbursed prior to requesting additional funds.
- Federal funds on hand must be disbursed prior to requesting additional funds.
- Recipients may not earn interest on the deposit of federal funds pending disbursement.
- If excessive amounts of cash (over \$5,000) are on hand for an extended period of time (over fifteen working days), the Recipient must return the excess to NDED.
- The request for payment must be in accordance with the approved budget for the grant contained in the Sources & Uses of Funds section of the HOME-ARP Contract.
- The request for funds should show the status of all approved activities even if no funds are requested for one or more activities in a specific request.
- Amounts must be requested in whole dollar amounts only.
- For rental projects, source documentation (i.e., invoices, etc.) must accompany the request for funds.

The signatures on the *Request for Funds* form must be original, in blue ink and correspond to those signatures on the current *Authorization to Request HOME-ARP Funds* form NDED has on file. Recipients must upload a new *Authorization to Request HOME-ARP Funds* form to AmpliFund whenever the individuals authorized to sign *Requests for HOME-ARP Funds* change.

Payment Request Documentation

Recipients requesting HOME-ARP funds are required to submit source documentation demonstrating eligible expenses incurred with drawdown requests. If the source documentation provided is not sufficient, processing of the payment request will be delayed until the requested source documentation is received and accepted. Recipients will be contacted regarding any follow up questions or for additional information is needed to process payment requests.

All payments to Recipients are by Electronic Funds Transfer (EFT) to a designated local bank account. These payments are made through the Nebraska Information System (NIS) based on the “electronic address” established by the Nebraska State Treasurer.

Contract Records

Recipients will enter into contracts that will require record keeping and reporting consistent with the HOME-ARP financial management requirements.

A proper system of management should include:

- A contract file for each signed contract.
- Enter the contract in contracts register.
- Establish a control card for each contract that tracks invoices and payments.

The file for each contract must contain the following:

- A signed contract and amendments.
- A schedule of payments supported by copies of time sheets; copies of checks or transfer notifications; copies of approved authorization/payment forms; and copies of invoices.



- All related correspondence.
- Property records (where appropriate).
- Any notice of cancellation, termination or suspension of the contract.
- Final inspection reports.

A contracts register should be used to record all contracts signed. This register will be the summary record for all contracts. The register also indicates which contracts require compliance with other federal requirements.

In conjunction with the contract register a contract card should be established for each contract. This card is used to record all payments on the contract and the percent of the work that has been completed.

Repayment Funds

Repayment funds are HOME-ARP funds recovered by NDED when HOME-ARP-assisted housing does not meet the affordability requirements for the full affordability period. All repayment funds must be returned to NDED, and in turn deposited into the local or Treasury account as instructed by HUD.

MONITORING

Following project closeout, NDED will monitor rental projects for ongoing compliance as required by HOME ARP regulations at 24 CFR 92.504(d)(1). Recipients must maintain records to document compliance of all requirements including, but not limited to:

- The project is marketed to qualified applicants;
- Tenants are screened for eligibility;
- Rent and occupancy targets are observed; and
- Adequate property maintenance is conducted.
- Income and rent restrictions
- Tenant protections
- Property standards
- Fair housing requirements

NDED reserves the right to conduct on-site visits more or less frequently based on changes to HOME-ARP regulations, NDED policy, or based on evidence of compliance deficiencies in a prior monitoring visit.

