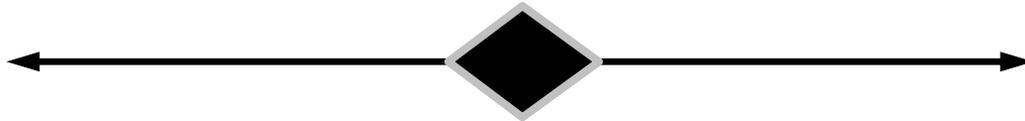


# **HOME Homeowner Rehabilitation Program POLICY & PROCEDURE MANUAL**



Funded through the Housing and Urban Development:  
HOME Investment Partnerships Program

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## INTRODUCTION

The HOME Investment Partnerships Program (HOME) was created under Title II of the National Affordable Housing Act of 1990. Under the HOME program, the Department of Housing and Urban Development (HUD) allocates funds to the State of South Dakota which may be used in accordance with Federal HOME regulations, including rehabilitation of housing owned and occupied by income-eligible families.

South Dakota Housing Development Authority (SDHDA) has been designated by the State of South Dakota as the “participating jurisdiction” or (administrator) of the State’s HOME funds received from HUD.

The National Affordable Housing Act requires that each state develop a Consolidated Housing & Community Development Plan (Consolidated Plan) to identify housing needs. The State of South Dakota’s Consolidated Plan recognizes the need for housing rehabilitation to improve existing housing stock. In order to address that need, SDHDA has created and offers the HOME Homeowner Rehabilitation Program. The primary goal of the HOME Homeowner Rehabilitation Program is to assist qualifying families in their efforts to rehabilitate their home to a decent, safe and sanitary standard. However, HOME Homeowner Rehabilitation funds can also be used to increase energy efficiency and make accessibility modifications to a property. Specific programmatic property standards must be satisfied.

SDHDA provides HOME Homeowner Rehabilitation funding to Community Action Program (CAP) Agencies and qualified non-profit organizations (“Subrecipients” as defined by Federal HOME regulations). The Subrecipients administer the HOME Homeowner Rehabilitation program in specified service areas, in accordance with Federal HOME regulations and SDHDA guidelines.

Subject to funding availability and program guidelines, HOME Homeowner Rehabilitation funds are provided by the Subrecipient to qualifying Homeowners through zero percent (0%) interest rate loans for the primary purpose of rehabilitating the Homeowner’s residence.

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## **SECTION I: PROGRAM OVERVIEW**

The primary purpose of the HOME Homeowner Rehabilitation program is to provide decent, safe, and sanitary housing throughout the State of South Dakota. To be eligible for HOME Homeowner Rehabilitation funding from the administering Subrecipient, a person must be a Homeowner whose "annual income" may not exceed eighty percent (80%) of the area median income, as determined by HUD, adjusted for family size. Additionally, because of the limited amount of HOME Homeowner Rehabilitation funds available in each service area, preferences are given to HOME Homeowner Rehabilitation applicants whose families exhibit certain characteristics. Priorities, determined by the Subrecipient, can also be given to applicants. These preferences and priorities are further defined in this Policies and Procedure Manual.

To receive HOME Homeowner Rehabilitation funds for rehabilitation, a person must own and occupy a home, as their principle residence. Subsequent to the completion of HOME Homeowner Rehabilitation funded rehabilitation activities, continued ownership is required and is subject to recapture provisions outlined within this Policies and Procedure Manual.

HOME Homeowner Rehabilitation assistance, in an amount up to \$10,000, is provided to qualifying Homeowners in the form of a zero percent (0%) interest rate, conditionally-forgivable loan. Twenty percent (20%) of the loan is forgiven each year the person owns and maintains the property as their primary residence.

Homeowners receiving HOME Homeowner Rehabilitation assistance must execute a Promissory Note and Mortgage and Security Agreement securing the property as collateral for the loan. Homeowners must also sign an agreement with the Subrecipients which details applicable HOME Homeowner Rehabilitation processing procedures and requirements, and other documents specified by SDHDA or the Subrecipient pertaining to the processing of the rehabilitation activity.

In the event that the owner sells the assisted property during the forgivable ownership period, the portion of assistance that was not forgiven at the time of sale or transfer of the property will be repaid to SDHDA.

Rehabilitation work to be completed must primarily focus on work needed to bring the home into compliance with property standards specified further in this Policy and Procedure Manual. Although the total cost of the rehabilitation work to a dwelling is not limited by SDHDA, the amount of HOME Homeowner Rehabilitation funding assistance provided to each Homeowner may not exceed \$10,000 without approval from the HOME Development Officer. The minimum amount of HOME Homeowner Rehabilitation assistance for a qualifying Homeowner must equal at least \$1,000. In special circumstances, determined on a case by case basis by SDHDA, these funding restrictions can be waived to cover unanticipated costs. Other funding sources must be utilized to pay for all rehabilitation costs that exceed the amount of the projects approved HOME Homeowner Rehabilitation funding.

The Subrecipient must conduct an assessment of the proposed property to be rehabilitated and coordinate appropriate work to be completed. The property assessment must include a review of the Residential Rehabilitation Standards and accessibility related improvements. A determination must be made, by the Subrecipient, that all necessary work can be completed within the funds committed to the project (HOME Homeowner Rehabilitation and other funds), and ensure that the applicant is qualified, based on eligibility criteria established in this Policy and Procedure Manual. The Subrecipient must coordinate the rehabilitation activity, facilitate

the execution of all required documents, ensure that work is performed in accordance with all required property standards, and submit required project documentation to SDHDA. Subrecipients may use contractors, their own work crews (force account labor), or self-help program to perform the rehabilitation work. Rehabilitation work may not begin without SDHDA's review and approval of the project, based on the submission of required project set-up data to SDHDA.

Upon project approval, SDHDA will commit HOME Homeowner Rehabilitation funds. Upon completion of the rehabilitation work and submission of all required project completion documentation to SDHDA, the Subrecipient may submit a final request for payment.

## **SECTION II: PROGRAM POLICIES**

### **A. INCOME ELIGIBILITY**

To qualify for the HOME Homeowner Rehabilitation Program, the assisted family's annual gross income may not exceed eighty percent (80%) of the area median income, as established by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size, at the time funds are committed.

Acceptable methods for determining income are described in the HUD publication "Technical Guide for Determining Income and Allowances for the HOME Program" Third Addition Edition, January 2005, which can be ordered from HUD or downloaded online.

Income calculation and verification rules are summarized below:

- i. To determine whether an owner-occupant is income eligible, the Subrecipient must use the adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual tax income purposes. The Subrecipient may utilize the calculator found on the HUD HOME Program website at <http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/calculator.cfm> to calculate income.
- ii. All sources of income used in the calculation, as describe above in Section A (i), must be verified. Therefore, it is not expected to just use the IRS 1040 Tax Form as verification.
  - a. The preferred verification method is through third-party documentation. This method requires that a third-party be contacted to provide proof of the applicant's assets. Written requests mailed directly to the third-party are ideal, however, conversations with a third-party to verify income is acceptable, if accompanied by a memorandum in the file.
  - b. Second-party verification such as documents provided by the applicant (e.g. pay stubs, tax returns, bank account statements, etc.) may be appropriate for verifying certain types of income and can be used as an alternative to third party verifications. Although easier to obtain than third-party verifications, a review of documents often does not provide the needed information. For instance, an employed applicant's pay stubs may not contain sufficient information about the average number of hours worked, overtime, tips and bonuses. A conversation with the third-party may be necessary to accurately project annual income.

Annual income must be calculated by projecting the prevailing rate of income of the owner-occupant at the time the owner-occupant is determined to be income eligible and include any anticipated or known changes, such as raises or promotions. Annual income must include income from all household members over the age of 18.

Depending on individual circumstances of each household, additional documentation and verification may be required, e.g. full-time student, etc. Guidance is provided in the “Technical Guide for Determining Income and Allowances for the HOME Program”. It is available on the HUD website:

<http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/1780.cfm>

- iii. The Subrecipient must re-verify an owner-occupant’s income eligibility, if more than 180 days has passed since the Subrecipient initially determined the income eligibility of the owner-occupant family.

## **B. PREFERENCES AND PRIORITIES**

The Subrecipient must establish an administrative plan outlining any targeting policy that may exist and notify all applicants if any of the following preferences exist:

- a. Families in which at least one of the occupants has a disability, as defined in 24 CFR Part 92.2 (See B(iv) for additional guidance).
- b. Persons over the age of 62 (Elderly).
- c. Families with children who are six (6) years of age or younger.

The Subrecipient may choose to utilize two program priorities. These priorities are determined at the Subrecipient’s discretion. If a Subrecipient uses these priorities, they must determine applicant’s need for these priorities on a case by case basis, establish a targeting policy, and notify all applicants. The following priorities are permitted under the HOME Homeowner Rehabilitation program:

- a. Homeowners whose property exhibits conditions which are considered to be of an emergency in nature. For example, a property in which the roof has collapsed, the heating system has failed during the winter months, etc.
- b. A property where other funding sources in conjunction with HOME Homeowner Rehabilitation funds will be used to rehabilitate, repair, weatherize, or to provide accessibility modifications to a home. Other funding sources include, but are not limited to Rural Development, tribal, CDBG, and the Department of Social Services Weatherization Programs.

As aforementioned in B (i) and (ii), if the Subrecipient has Targeting Policy, it must be written in their Administrative Plan. Project waiting lists, set-ups, and subsequent rehabilitation activities, should reflect, as closely as possible this Targeting Policy. The Subrecipient must retain records regarding the prioritization and preferences of applicants, and their approval or denial of all applications received. Furthermore, the HOME Homeowner Rehabilitation application form must inform the Homeowner of the priorities and preferences of the program.

In accordance with Fair Housing Law, when a person chooses to claim a disability preference the disability must only be verified, if it is not obvious to the Subrecipient. The disability does not

have to be verified by a medical professional, but can be confirmed by another reputable entity such as a social service agency, educational institution, or employer. The information regarding the disability also does not have to be disclosed to the Subrecipient.

### **C. AFFIRMATIVE MARKETING REQUIREMENTS**

Subrecipients are responsible for maintaining an Affirmative Marketing Plan and performing outreach efforts consistent with such a plan in the community and/or areas where they operate. Minimally, the Affirmative Marketing Plan must be consistent with 24 CFR Part 92.351 and consistent with the Administrative Plan submitted as part of the Subrecipient's application for funding.

Methods of reaching out to the public and Homeowners should include those actions that are likely to inform and solicit applications from persons in the housing market (service area) who are not likely to apply for the housing assistance without special outreach. Some examples include use of senior centers, community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies. For Subrecipients with large, rural service areas, outreach may be targeted to specific communities within the service area to try to group projects for greater cost efficiency.

Minimum SDHDA outreach requirements include the following:

a. Notification of Program Availability. If necessary, a notice will be published in a newspaper of general circulation in the area in which HOME Homeowner Rehabilitation activities are proposed, advising potential eligible Homeowners of the opportunity to apply for the rehabilitation assistance and solicit applications for rehabilitation activities.

The notice should, at a minimum include the following:

- Instructions as to where and with whom the applicant must apply.
- Basic eligibility criteria, i.e., income restriction, owner- occupancy etc.
- Establish a fixed period of time (for example, 45 days) in which potential eligible applicants should apply for assistance.
- SDHDA HOME Program recognition as the source of program funding.
- The statement, "We provide home rehabilitation loans without regards to race, color, religion, sex, national origin, handicap or familial status."
- Equal Opportunity Logo

b. Insufficient Applicants. In the event that there are insufficient eligible Homeowners identified via the existing waiting list, the Subrecipient may elect to advertise the public notice, or utilize remaining available funds on a first-come, first-served basis, subject to other non-targeting eligibility criteria.

c. Equal Opportunity. The Affirmative Marketing Plan must include the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for program participation, and display of fair housing posters in common space(s) of the Subrecipient's offices. The Affirmative Marketing Plan may further include Public Service Announcements, press releases and informational mailings, and other forms of advertisements. In addition, Subrecipient should also post the Equal Opportunity Logo, Affirmative Marketing Plan and other materials on their website, if available.

d. Annual Assessments. The Subrecipient must annually assess the success of the Affirmative Marketing Plan, and take corrective actions where it is determined that affirmative marketing requirements have not been met.

The Subrecipient's Affirmative Marketing Plan and annual assessment conclusions must be retained at the Subrecipient's administrative offices, and made available to SDHDA staff upon request.

#### **D. PROPERTY ELIGIBILITY**

Properties eligible for HOME Homeowner Rehabilitation assistance must comply with the following criteria:

- i. They must be the principal residence of an income-eligible Homeowner occupant. Residences that are rented out and not occupied by the owner throughout the rehabilitation activity do not qualify. Mobile homes and or Manufactured homes are not eligible.
- ii. The estimated value of the property, after rehabilitation does not exceed the Single Family Mortgage Limits under Section 203(b). The limits can be found on the HUD HOME Program website:  
<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm>.

If there are business activities being run from the residence, the space utilized for business purposes may not exceed 25% of the gross square footage of the home. The percentage of the home used for business purposes must be determined by measuring the spatial composition of the residence and by a review of the Homeowner's tax returns. Additionally, rehabilitation work that only impacts the portion of the home used for business purposes may not be conducted. Requests for waivers to this property eligibility criterion may be made to the HOME Development Officer.

- iii. The property can not have any remaining loan due under the HOME Investment Partnerships Program (HOME Program) funds. In other words, it cannot be during the "affordability period" of a prior HOME Program loan. Properties assisted under the HOME Program, but which no longer have an outstanding period of affordability, are no longer considered HOME Program properties and may be assisted through the HOME Homeowner Rehabilitation Program. To assure all HOME Homeowner Rehabilitation properties fulfill this requirement, Subrecipients may rely on the title search, or verify if a property has been assisted through the HOME Program by providing the property owner(s) name and address to the HOME Development Officer. The HOME Development Officer will search the current HOME Program database for any matches.
- iv. A Homeowner and property may only receive HOME Homeowner Rehabilitation assistance once unless a waiver has been given by the HOME Development Officer.
- v. The property cannot result in an increase the building footprint in a floodplain or wetland. See Section V (D) for additional guidance.
- vi. The property cannot have an outstanding Notice of Default or Notice of Sale filed against it. This must be certified by conducting a search with the county in which the property is located via the Register of Deed's Office. If this information cannot be verified at the Register of Deed's Office then a title search must be ordered from a title company. Additionally, after the title search or Register of Deed's Office search is conducted if the

Homeowner has significant liens outside of a first or second mortgage, such as outstanding tax, home repair, medical, and auto liens this must be documented and submitted to SDHDA for approval, prior to execution of the Promissory Note and Mortgage and Security Agreement.

vii. The property cannot be in conflict with environmental regulations established in the National Environmental Policy Act (NEPA) of 1969. To ensure compliance with this Act, the Subrecipient must make the following determinations:

a. Historic Properties: A determination whether or not the property is an historic property or located in an historic district, in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593, Protection and Enhancement of the Cultural Environment (Historic Properties).

For each property proposed to be rehabilitated with HOME Homeowner Rehabilitation funds, the Subrecipient must obtain a written determination from the following agency known as State Historic Preservation Office (SHPO):

State Historic Preservation Office  
South Dakota State Historical Society  
900 Governors Drive  
Pierre, SD 57501-2200

The SHPO will make a determination regarding the property and notify the Subrecipient within 30 days. If SHPO finds that the proposed property rehab may negatively impact a property of historic value, the Subrecipient must work with the SHPO office to mitigate the factors, as necessary, to the proposed rehabilitation project. All suggested actions by SHPO must be included in the rehabilitation activity. A copy of SHPO and Subrecipients responses must be retained in the applicable project file.

b. Floodplain Management: A determination that the activity will not adversely affect the floodplain. This determination must be made in one of the two following ways:

Not Located in Special Flood Hazard Area. Subrecipient is required to document whether or not the property is located in a Special Flood Hazard Area (100-year flood plain).

Activity is Limited to "Minor Improvements." Any activity limited to "minor improvements" as defined under 24 CFR Part 55.2(b)(8) does not trigger Floodplain Management compliance requirements. To qualify as a "minor improvement," rehabilitation costs must be no greater than 50 percent (50%) of the estimated before-rehabilitation value of the property.

\*\*\* If a property is in a floodplain and rehabilitation activity cannot be limited to 50 percent (50%) of the before-rehabilitation value of the property, the property will not be eligible for HOME Homeowner Rehabilitation Funds.

c. Wild and Scenic Rivers: A property cannot be located within one mile of a Wild and Scenic River Area, in accordance with the Wild and Scenic Rivers Act of 1968. If the property is located within one mile of such a river, contact SDHDA for information on how to obtain written approval before committing any funds to the project.

- d. Coastal Zone Management: Not applicable for South Dakota.
- e. Noise Abatement and Control. A determination that either (1) or (2) are true:  
The project is limited to “non-substantial rehabilitation.” To qualify as non-substantial rehabilitation the cost of the project (including all sources of funds) may not exceed 75% of the after-rehab value.

The project will not be subject to excessive noise. To qualify for this, each of the following must be true: The property is not 1) located within 15 miles of a military airport or 5 miles from a civilian airport, or 2) is not located within the 65 DNL or greater contour of an official airport map. If airport has been contacted and no such map exists, simply document this fact. A copy of the written confirmation from the airport or the map showing location of the property and location of the 65 DNL contour must be attached as documentation. Is not within line of site or 1,000 feet of an arterial roadway with 20,000 or more vehicles a day. Is not within line of site or 3,000 feet of a railroad.

- f. Airport Clear Zones and Accident Potential Zones. A determination that either (1) or (2) are true:  
The project is limited to “non-substantial rehabilitation.” To qualify as non-substantial rehabilitation, the cost of the project (including all sources of funds) may not exceed 75% of the after-rehab value.

The project is not located within a civilian Airport Clear Zone or military Accident Potential Zone. Evidence from the airport including a map showing the property site and the Airport Clear Zone/Accident Potential Zone, or a letter from the airport referencing the site and stating it is not within these areas must be attached as documentation.

- viii. Conform to Lead-Based Paint Poisoning Prevention Act. All housing assisted with Homeowner Rehabilitation funds must comply with the Lead-Based Paint Poisoning Prevention Act (42 USC 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856), and implementing regulations, as applicable, at 24 CFR part 35, subparts A, B, J, K, M and R. See Section G for additional guidance regarding Lead-Based Paint.

#### **E. OWNERSHIP ELIGIBILITY**

The following is defined as an owner-occupied property:

- i. Title to the property and home is in the form of fee simple ownership, except for homes on trust or tribal lands. Housing located on trust or restricted Native lands must have a leasehold interest of 30 years. A life-estate does not satisfy the Homeownership requirement.
- ii. The unit must be a one-unit dwelling, or if more than one-unit dwelling the property must be approved by SDHDA in advance.

#### **F. LEAD-BASED PAINT REGULATIONS**

As referenced in Section D all housing assisted with HOME Homeowner Rehabilitation funds must conform to 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 the

implementing regulations, as applicable, at 24 CFR Part 35, Subparts A, B, J, K, M and R of this title. The steps below summarize requirements set forth in the regulations. They do not substitute for them, nor do they include all the detail necessary to fully comply with all the requirements. The complete regulation, 24 CFR Part 35, "Lead Safe Housing Regulation: Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, Final Rule" is available on the internet at: <http://www.hud.gov/offices/lead/index.cfm>.

- i. Age of House. Identify and document the age of the housing to be assisted. For all homes built before January 1, 1978, the following steps must be taken. See 24 CFR Part 35 for more detail. For all homes built on or after January 1, 1978, the following steps are not required.
- ii. Lead Hazard Information Notice. In accordance with 24 CFR 35.125, provide all occupants of occupied dwelling units to be assisted with the lead hazard information pamphlet developed by EPA, HUD and the Consumer Product Safety Commission pursuant to section 406 of the Toxic Substances Control Act (15 USC 2686). The pamphlet is entitled "Protect Your Family from Lead in your Home" (EPA747-K-99-001 June 2003). The packet may be ordered through 1-800-424-LEAD or accessed at <http://www.epa.gov/lead/pubs/brochure.htm>. The pamphlet is also provided in Spanish and other languages.
- iii. The Subrecipient must obtain written certification by the Homeowner that he or she has received this pamphlet, including the date the pamphlet was received and reviewed. An easy way to obtain this certification is to use the space on the back page of the pamphlet to type: "I acknowledge that I have received the brochure on Protecting Your Family from Lead in Your Home." Have the Homeowner sign and date below. Simply copy this back page for the file after it has been signed.
- iv. Lead-Based Paint Testing. Conduct paint testing or presume the presence of lead-based paint in accordance with 24 CFR Part 35. 930(a). It is recommended that the lead based paint inspector or risk assessor provide a summary of the results suitable for posting or distribution to occupants in compliance with 35.125.
- v. Lead-Based Paint Assessment. If lead-based paint is found or presumed, perform a risk assessment in the dwelling units, common areas, and exterior painted surfaces, in accordance with 35.1320(b), before rehabilitation begins. (This must be done by a certified risk assessor). It is strongly recommended that the lead-based paint risk assessor provide a summary of the results suitable for posting or distribution to occupants in compliance with 35.125.
- vi. Notice of Evaluation or Presumption. Within 15 days of the evaluation or presumption, if lead-based paint or lead-based paint hazards are determined or presumed to be present, the Subrecipient shall provide a Notice of Inspection, Presumption and/or Risk Assessment (as apply) to occupants, in accordance with 24 CFR 35.125(a). This notice must be posted and maintained in centrally located common area(s) and, if necessary because the head of household is a person with a known disability, distributed to the dwelling unit OR the Notice must be distributed to each occupied dwelling unit affected by the hazard reduction activity or serviced by common areas in which hazard reduction activities will take place.

- vii. Level of Lead Hazard Reduction Activity. Calculate the rehabilitation cost to identify the level of hazard reduction activity in accordance with 24 CFR Part 35.915. The remaining steps assume the project falls under 35.915(b)(ii). (Assistance of more than \$5,000 per unit up to and including \$25,000 per unit regardless of funding source, excluding lead-based paint hazard reduction activities, or, no more than \$25,000 of federal funds in the project, regardless of use.) If this is not the case, other steps identified in 24 CFR Part 35 are required.
- viii. Interim Controls and Safe Occupant/Safe Work Practices. Perform interim controls in accordance with 35.1330 of all lead-based paint hazards identified and any lead-based paint hazards created as a result of the rehabilitation work. Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with 35.1345. Persons performing interim controls must be trained in accordance with 29 CFR 1926.59 and either supervised by an individual certified as a lead-based paint supervisor or have successfully completed one of the courses listed in 24 CFR 35.1330(4).
- ix. Notice of Hazard Reduction Activity. No more than 15 calendar days after the hazard reduction activities have been completed, the Subrecipient shall provide a Notice of Hazard Reduction Activity to occupants, in accordance with 24 CFR 35.125(b). This notice must be posted and maintained in centrally located common area(s), and, if necessary because the head of household is a person with a known disability, distributed to the dwelling unit. Or the Notice must be distributed to each occupied dwelling unit affected by the hazard reduction activity or serviced by common areas in which hazard reduction activities have taken place.
- x. Clearance. Clearance testing shall be performed at the conclusion of interim control activities in accordance with 35.1340. Clearance must be performed by a certified risk assessor, a certified lead-based paint inspector, or certified lead-based paint clearance technician. Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities, unless the Subrecipient uses qualified in-house employees to conduct clearance. An in-house employee shall not conduct both a hazard reduction or maintenance activity and its clearance examination. Clearance is not required if maintenance or hazard reduction activities in the worksite do not disturb painted surfaces of a total area more than set forth in 35.1350(d) (“de minimis levels”).
- xi. Failed Clearance. All surfaces represented by a failed clearance sample shall be re-cleaned or treated by hazard reduction, and retested, until the applicable clearance level in 24CFR35.1320(b)(2) is met.
- xii. Notice Update. Update the notice in (v) above, based on re-evaluation of the residential property and as any additional hazard reduction work is conducted. This notice must be posted and maintained in centrally located common area(s) and, if necessary because the head of household is a person with a known disability, distributed to the dwelling unit. Or the Notice must be distributed to each occupied dwelling unit affected by the hazard reduction activity or serviced by common areas in which hazard reduction activities have taken place.

## **G. PROPERTY STANDARDS COMPLETION REQUIREMENTS**

Property standards ensure that a set of housing quality standards are being used to determine if a unit is decent, safe, and sanitary. In addition, property standards provide a level of inspection for judging the actual physical condition of a property and assist in determining a rehabilitated property's scope of work. Subrecipients must be able to ensure that the Residential Rehabilitation Standards and Residential Rehabilitation Inspection Form is completed and that local codes or the IRC 2006, as applicable, have been met. These standards prescribe methods and materials for the rehabilitation work, also known as rehabilitation specifications or "specs." They are designed so that they provide a common basis for contractor bids, assist in determining cost reasonableness, and help ensure that high quality of work is being performed on the subject property.

Upon completion of rehabilitation activity, the property must:

- i. Be decent, safe, and sanitary.
- ii. The property must comply with applicable State and local code(s) and ordinances.
  - a. In the absence of a local code, HOME-assisted rehabilitation on units must meet the current state code. In the absence of local code, the unit must meet the International Residential Code 2006.
  - b. Compliance may be evidenced by passing a building inspection by a local code official or in absence of local code, an inspector that is certified in accordance to the current state standards.

NOTE: The Subrecipient may utilize, if applicable, the results of a blower door test, and/or combustion efficiency and carbon monoxide testing performed during the twelve months prior to SDHDA project approval, for properties which received such testing as a result of previous Weatherization Program participation.

#### **H. PROPERTY STANDARDS INSPECTIONS**

Subrecipients must possess sufficient knowledge and experience to enable the Subrecipient to assess and certify that required property standards identified in the Residential Rehabilitation Standards and Residential Rehabilitation Inspection Form have been satisfied. For projects which involve rehabilitation activities that require local or state code compliance, the Subrecipient shall ensure that all such inspections are obtained. Inspectors must be directly hired by the Subrecipient or be a part of the Subrecipient's staff.

SDHDA staff, as part of its Subrecipient monitoring requirement, will perform periodic property standards re-inspections, based on a random sample of the projects undertaken by the Subrecipient. It is anticipated that a minimum of 5 percent, or a higher percentage if determined to be necessary and/or appropriate by SDHDA, of the projects will be re-inspected by SDHDA for property standards compliance review. The Subrecipient must retain evidence of such required inspections in the applicable project file.

Insulation/Vapor Barrier Inspection. Anytime HOME program funds are utilized to insulate and/or vapor barrier a wall, ceiling or floor section of 40 square feet or more, the work will be inspected for proper installation by the Subrecipient's Construction Manager or another individual in the agency qualified to complete the inspection. The inspection will occur while the work is exposed and uncovered by sheetrock or other finish material that would prevent visual inspection. ICBO inspector (or equivalent) may be used in lieu of an individual from the agency. Contractor or Crew members (including foreman) that are working on the job are NOT authorized to complete the inspection.

If site visit is not feasible, then crew will document work with sufficient photos to detail quality of work, which will then be reviewed by a qualified person (as described above) and the photos will be placed in the project file.

Required Paperwork. The individual completing the inspection should document the file with:

- Day inspection was completed
- If work passed or needs to be re-worked
- Any pictures as applicable

## **I. FUNDING LIMITATIONS - HOMEOWNER REHAB**

- i. With the exception of the waivers identified below, the amount of HOME Homeowner Rehabilitation funding assistance provided to each Homeowner may not exceed \$10,000.
- ii. HOME Homeowner Rehabilitation Funding Limitation Waivers
  - a. Up-Front Waiver Option # 1. If accessibility modifications required by any member of the household cannot be completed under the limits in (i) above SDHDA will consider waiver requests up to \$5,000 above the limit for such needed accessibility modifications. Before projects may be initiated, however, the Subrecipient must secure a waiver from the HOME Development Officer in writing. A waiver request must explain why the needed modifications cannot be completed under the standard funding limit, and why the modifications cannot be funded through another source. Other sources may include, but are not limited to Medicaid Waiver, the household's personal assets, and other funding sources.
  - b. Up-Front Waiver Option # 2. The limits in (i) above may be exceeded on a case by case basis if the additional costs are due solely to costs associated with compliance with the lead-based paint regulations. Documentation of these costs is required. Subrecipients must receive written approval from the SDHDA HOME Development Officer before proceeding with a lead-based paint project that is likely to exceed project funding limitations.
  - c. Up Front Waiver Option # 3: The limits in (i) above may be exceeded on a case by case basis if the additional costs are due solely to costs associated with conditions that threaten the life, health and/or safety of the occupants, in addition to bringing the home up to required property standards. Increases up to \$5,000 above the amount specified in (i) above, may be approved by the HOME Development Officer in writing upon receipt of a reasonable written explanation. Describe the existing situation, the proposed mitigation activity, and estimated costs accompanied by cost documentation. In exceptional cases, increases above these amounts may be considered, but must be approved by the HOME Development Officer, upon receipt of a reasonable written explanation for the increase accompanied by cost documentation.
  - d. Unanticipated Project Cost Waiver. If approved by SDHDA in writing, in advance and as specified below, the limits in (i), and any approved waiver amount, maybe increased to cover unanticipated costs associated with the original scope of work proposed, or additional work determined necessary to meet HOME Homeowner Rehabilitation property standards during the course of the rehabilitation activity. Increases up to \$5,000 above the specified amount may be approved by the HOME Development Officer in writing upon receipt of a reasonable written explanation and

submission of a copy of the change order. In exceptional cases, increases above these amounts may be considered, but must be approved by the HOME Development Officer, upon receipt of a reasonable written explanation for the increase accompanied by a copy of the change order.

- iii. The minimum amount of HOME Homeowner Rehabilitation assistance provided to a qualifying Homeowner must equal at least \$1,000.
- iv. Before committing HOME Homeowner Rehabilitation funds to a project, the Subrecipient must evaluate the rehabilitation needs and sources of funds for the project. Please see Section K for additional information regarding this requirement.
- v. Total rehabilitation cost caps listed below apply to the total amount of all rehabilitation funding sources combined:
  - a. The estimated value of the property, after rehabilitation, cannot exceed the median purchase price for the area as defined by the Single Family Mortgage Limits under Section 203 (b) of the National Housing Act, which can be found on the HUD website: <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm>.
  - b. The cost of rehabilitation and all additional financing liens cannot exceed the after-rehabilitation value of the home (assessed value plus the cost of the rehabilitation).
  - c. If the property is in a floodplain, the total cost of rehabilitation may not exceed 50 percent of the estimated value of the property before rehabilitation. Contact SDHDA before committing HOME funds in this case.
  - d. The project cannot exceed the maximum per-unit HOME subsidy limit based on Section 221(d)(3), which can be found on the HUD website: <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/subsidylimits.cfm>.

## **J. SUBSIDY LAYERING**

The Subrecipient must limit the investment of HOME Homeowner Rehabilitation funds, in combination with other sources of public and private funds, to only that amount necessary to meet the property standards identified within this Policies and Procedures Manual and in accordance with SDHDA's Subsidy Layering Policy; including any accessibility modifications required by a member of the household. If other sources of public and private funds are being used to rehabilitate or modify the residence, it must be documented in the project file through the use of the Project Set-Up Report.

## **K. APPLICATION FORMS**

In order to best serve each specific community and population, the Subrecipient has the responsibility of creating their own application form. However, it must collect the following information: the name of the applicant, the home's physical address, the name of the head of household, the annual family income, a contact phone number, ethnicity and racial data as defined by HUD, household type, dwelling type, residential status, priority and preference information, and a reasonable request accommodation statement. The application will be reviewed for compliance when SDHDA monitors the Subrecipient.

## **SECTION III: ADDITIONAL FEDERAL REGULATIONS**

## **A. EQUAL OPPORTUNITY AND FAIR HOUSING**

All Subrecipients must adhere to the following Federal Equal Opportunity and Fair Housing laws under the HOME Homeowner Rehabilitation program. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied benefits of, or be subjected to, discrimination under any program or activity funded in whole or in part with HOME funds.

- i. Fair Housing Act. Requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., p.652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1.
- ii. Age Discrimination. Prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146, and prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.
- iii. Equal Employment Opportunity. Requirements of Executive Order 11246 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR chapter 60.

## **B. SECTION 3**

Subrecipients of HOME Funds exceeding \$200,000 are subject to Section 3 Act requirements in their own hiring practices. Additionally, each construction or professional service contract exceeding \$100,000 which the Subrecipient enters into for any purpose associated with the HOME Program is also subject to Section 3 Act requirements. The Subrecipient's Section 3 plan should demonstrate how it will contribute to SDHDA's Section 3 goals.

Requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u).

- a. To the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of any project assisted with HOME funds be given to low- and very-low income persons residing within the general local government area or metropolitan area (or non-metropolitan county) as determined by HUD, in which the project is located; and
- b. To the greatest extent feasible, contracts for work to be performed in connection with any such project be awarded to business concerns, including, but not limited to individuals or firms doing business in the field of planning, consulting, design architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project.

## **C. MINORITY AND WOMEN'S BUSINESS ENTERPRISE ACT**

Minority and Women's Business Enterprise Act requirements apply to all contracts over \$25,000 which the Subrecipient may enter into associated with a HOME project. Requirements of Executive Orders 11625 and 12432 (Minority Business Enterprise) and 12138 (Women's

Business Enterprise), consistent with HUD responsibilities under these Orders, Subrecipients must make efforts to encourage the use of minority and women's business enterprises in connection with HOME-funded activities (See Section B for more information).

#### **D. PROCUREMENT STANDARDS**

If Subrecipients are required to follow procurement procedures then they must develop their own written Uniform Procurement Standards. These Standards must be in accordance with Sec. 84 of HUD Title 24, and Federal OMB Circular No. A-100.

It is recommended that the Subrecipient's Procurement Standards include the following:

- i. Policies for documenting the types of services solicited.
- ii. Procedures for documenting that at least three bids were attempted to be obtain, to ensure adequate competition. If necessary, procedures for documenting that there were a limited numbers of suppliers and three bids could not be obtained.
- iii. Documentation of the most responsive bidder and the rational for why the bidder was chosen to receive the contract.

MBE/WBE Plan. All Subrecipients should establish MBE/WBE guidelines in their procurement plan. Minority and Women's Business Enterprise Act requirements apply to all contracts over \$25,000 which the Subrecipient may enter into associated with a HOME project.

At a minimum, the Subrecipient's Procurement Plan should include the following MBE/WBE information:

- Guidelines to create an in-house list of minority and women-owned business enterprises interested in providing services and/or supplies.
- Procedures to ensure that bids are received from qualified enterprises that are documented on the in-house list.
- Implementation of an outreach program designed to inform minority and women-owned business enterprises of present and future contract opportunities.
- Establish minority and women-owned business utilization goals covering contracts for services/supplies that have an estimated value above \$25,000 and contain items that can be subcontracted.
- Assist subcontractors in identifying qualified minority and women-owned business enterprises to participate as subcontractors.

#### **E. FEDERAL DEBARMENT AND SUSPENSION POLICIES**

A Subrecipient, including its principals, may not be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any Federal programs. The Subrecipient is responsible to ensure that each contractor and subcontractor performing work on the assisted housing is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any Federal programs. The Subrecipient should include debarment and suspension procedures in their written Procurement Standards. It is recommended that these Procurement Standards include a search on <http://epls.arnet.gov> to ensure that the contractor/subcontractor(s) are not debarred. Documentation indicating that the search was made should be kept in the project file to be reviewed at SDHDA's request.

## **F. DRUG FREE WORKPLACE**

The Subrecipient must administer the HOME Homeowner Rehabilitation program in accordance with the Drug Free Workplace Act of 1988 (41 U.S.C. 701). This Act requires that the Subrecipient:

- i. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- ii. Establish an ongoing drug-free awareness program to inform employees about -
  - a. The dangers of drug abuse in the workplace.
  - b. The applicant's policy of maintaining a drug-free workplace.
  - c. Any available drug counseling, rehabilitation, and employee assistance programs.
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- iii. Require that each employee to be engaged in the performance of the HOME-funded activity be given a copy of the statement required by paragraph (i), and that evidence of such notification be retained in the employee's personnel file.
- iv. Notify the employee in the statement required by paragraph (i) that, as a condition of employment under the HOME funded activity, the employee will
  - a. Abide by the terms of the statement, and
  - b. Notify the employer in writing of his or her conviction for a violation of the criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- v. Notify the agency in writing, within ten calendar days after receiving notice under subparagraph (iv)(b) from an employee, or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title to every program officer or other designee whose program activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of the affected HOME funds.
- vi. Take one of the following actions, within 30 calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted:
  - a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.
- vii. Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v), and (vi).

- viii. Provide the street address, city, county, state, and zip code for the site(s) where performance of work in connection with HOME funds will take place. For some applicants who have functions carried out by employees in several departments or offices, more than one location may need to be specified. It is further recognized that some applicants who become HOME fund recipients may add or change sites as a result of changes to program activities during the course of the HOME-funded activities. Applicants, in such cases, are required to advise SDHDA by submitting a revised "Place of Performance" form. The period covered by the certification extends until all funds under the specific HOME funding has been expended.

## **G. TEMPORARY RELOCATION**

Temporary Relocation. All residents in place prior to the submission of HOME application must be provided with the opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building or development upon completion of the project per 24 CFR Part 92.353. If the rehabilitation is such that it will require the residents to be temporarily relocated, such residents must be provided:

- i. Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
- ii. Appropriate advisory services, including reasonable advance written notice of: (a) The date and approximate duration of the temporary relocation; (b) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; (c) The terms and conditions under which the residents may lease and occupy a suitable, decent, safe, and sanitary dwelling unit in the building/complex upon completion of the project; and (d) The provisions of reimbursement of reasonable out-of-pocket expenses.

## **H. CONFLICT OF INTEREST**

In the procurement of property and services, Subrecipients must adhere to the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively. In all cases not covered by 24 CFR 85.36 and 24 CFR 84.42, the provisions of 24 CFR part 92.356 apply.

## **I. UNIFORM ADMINISTRATIVE REQUIREMENTS**

- i. Non-Profit Subrecipients must comply with the following uniform administrative requirements:
  - a. OMB Circular No. A-122;
  - b. 24 CFR part 84.2, 84.5, 84.13 - 84.16, 84.21, 84.22, 84.26 - 84.29, 84.30, 84.31, 84.34 - 84.37, 84.40 - 84.48, 84.51, 84.60 - 84.62, 84.72, and 84.73.
- ii. Governmental Subrecipients (public agencies) must comply with the following uniform administrative requirements:
  - a. OMB Circular No. A-87;
  - b. 24 CFR Part 85.6, 85.12, 85.20, 85.22, 85.26, 85.32 - 85.34, 85.36, 85.44, 85.51, and 85.52.

## **J. SUBRECIPIENT AUDITS**

Subrecipient audits must be conducted in accordance with 24 CFR Parts 44 and 45, as applicable. Not less than annually, SDHDA will monitor the performance of each Subrecipient, in accordance with the requirements of this Policy and Procedure Manual, and the terms and conditions of the Subrecipient Written Agreement executed between the Subrecipient and

SDHDA for the purposes of funding activities under the HOME Homeowner Rehabilitation program.

## **SECTION IV: ASSISTANCE TERMS**

### **A. FORMS OF ASSISTANCE**

HOME Homeowner Rehabilitation assistance must be provided to qualifying Homeowners in the form of a zero percent (0.0%) interest rate, conditionally-forgivable loan up to \$10,000. Homeowners receiving HOME Homeowner Rehabilitation assistance must execute an HOME Homeowner Rehabilitation Program Promissory Note and Mortgage and Security Agreement securing the property as collateral for the loan. Homeowners must also complete an agreement with the Subrecipients which details applicable HOME Homeowner Rehabilitation processing procedures and requirements, as well as other pertinent documents specified within this Policy and Procedure Manual or by the Subrecipient.

### **B. PROMISSORY NOTE & MORTGAGE AND SECURITY AGREEMENT**

Before HOME Homeowner Rehabilitation funds are invested in a property, a Promissory Note and Mortgage and Security Agreement must be executed and recorded on the property.

### **C. TERMS OF PROMISSORY NOTE & MORTGAGE AND SECURITY AGREEMENT**

- i. Terms. HOME Homeowner Rehabilitation assistance up to the amount of \$10,000 will be provided to the Borrower(s) as a loan with zero percent (0%), repayable per the terms of the Promissory Note.

HOME Homeowner Rehabilitation assistance up to \$10,000 will be forgiven based on the following conditions:

- The assisted Homeowner cooperates with the Subrecipient to ensure that all HOME Homeowner Rehabilitation Policies and Procedures are satisfied during the rehabilitation activity phase.
- Title to, and ownership of, the rehabilitated property continues to be in the name(s) of the owner-occupant(s).
- An annual credit of 20% will only be forgiven on a pro-rata portion, beginning one year from the date of Promissory Note. In the event that the owner sells the assisted property during the required ownership period, the portion of assistance that was not forgiven at the time of sale or transfer of the property will be repaid to SDHDA. The repayable portion of the loan will be determined by calculating a pro-rata portion that is rounded down to the nearest month. If the transfer of title is the result of divorce where one of the original Homeowners retains title to the assisted property, funds will continue to be forgiven annually in the same fashion as above. Title transfer in this case will not trigger repayment.
- If there are no breaches in the Promissory Note, Mortgage and Security Agreement, or the agreement with the Subrecipient, and following the mandatory forgiveness period, SDHDA will satisfy the Mortgage and Security Agreement.

Should the Homeowner wish to reconvey the Mortgage and Security Agreement at an earlier date, he or she may contact SDHDA at any time to request a pay-off amount. Please note that the remaining amount due on a HOME Homeowner Rehabilitation loan

will not be subordinated to a refinanced loan or an additional loan on the property unless prior approval is received from SDHDA.

The amount repayable at time of sale or transfer of title may be reduced if the Homeowner can show that the appraised value of the home is not sufficient to pay off the HOME Homeowner Rehabilitation loan in addition to any other lien(s) in superior position, and standard and customary seller's closing costs.

- ii. Repayment. Repayment is required under the following circumstances:
  1. The date the Mortgaged Property is sold or transferred by the Mortgagor, whether voluntarily or involuntarily or by operation of law;
  2. The date a default occurs under the terms of any loan secured by a lien to which the Mortgage and Security Agreement is subordinate (the "First Loan");
  3. The date the Mortgaged Property ceases to be the principal residence of the Mortgagor.
    - a. Transfer of Title. If, during the required ownership period, the owner sells or otherwise transfers title to the assisted property under circumstances other than those identified as exceptions in (ii) above, will become due and payable upon the sale or transfer of title of the rehabilitated property. The amount due will be calculated by SDHDA, based on the period of time that the assisted Homeowner did not continue to own the rehabilitated property during the forgivable time period.
    - b. Refinance. Under limited circumstances during the period of affordability, SDHDA will subordinate to a new mortgage in superior position to that of the HOME Homeowner Rehabilitation loan. These circumstances are described in the section that follows. Unless a refinance conforms to these circumstances, SDHDA will not subordinate its position with regards to the HOME Homeowner Rehabilitation loan to a refinanced or new mortgage. In such cases, the new loan's lenders will require the HOME Homeowner Rehabilitation loan be paid off in order for SDHDA to completely reconvey the loan. The amount due is calculated by SDHDA, based on the number of months that have passed since the HOME Homeowner Rehabilitation activity has been completed and if there are funds in excess of the program limits.
- iii. General Subordination Policy  
Subordination of a loan made by SDHDA under the HOME Homeowner Rehabilitation program is granted at the discretion of SDHDA, and only after consideration of a recommendation made by the SDHDA HOME Development Officer. Factors considered for subordination include the Homeowner's current primary residence, the appraised value of the property for which the mortgage will be subordinated, the outstanding balance of all mortgages, the proposed use of the proceeds of the new mortgage, impact on the Homeowner Rehabilitation program, the needs of the applicant, and other pertinent facts.

A request for subordination of a HOME Homeowner Rehabilitation loan must be in writing and show the new mortgage to which HOME Homeowner Rehabilitation will subordinate is for one or more of the following purposes:

- a. Refinance an existing mortgage to obtain a reduced (fixed) interest rate resulting in a lower monthly payment for the borrower. (No cash out.)
- b. Refinance an existing mortgage to obtain a comparable (fixed) interest rate and extended payment terms resulting in a lower monthly payment for the borrower. (No cash out.)
- c. Obtain a home equity loan for the sole purpose of improving the premises for which SDHDA had made the original HOME Homeowner Rehabilitation loan.
- d. Refinance an existing mortgage to halt foreclosure proceedings by a lender or halt tax deed foreclosure proceedings.
- e. Obtain a loan to pay for medical emergencies not covered by insurance.
- f. For any of the above circumstances, actual customary and reasonable costs required to close the new loan may be included in the new principal mortgage.

iv. Important Subordination Limitation

It is the duty of South Dakota Housing Development Authority to manage its HOME Homeowner Rehabilitation loan portfolio in a responsible manner, not subject tax dollars to unnecessary risk, and maintain the integrity of the HOME Homeowner Rehabilitation program's intent to assist low income homeowners in housing.

As such, SDHDA will not consider requests to subordinate for cash out for the consolidation of consumer debt, such as credit cards, vehicles, or other "cash to homeowner" transactions. In no case will SDHDA agree to subordinate in a transaction where the Loan to Value ratio (including outstanding HOME Homeowner Rehabilitation dollars) exceeds 100% of the appraised property value.

At the time of the subordination request, the premises for which South Dakota Housing Development Authority made the original HOME Homeowner Rehabilitation loan must also be and remain the household's primary residence.

v. Subordination Request Instructions

All requests for subordination must include the following documents. Requests will not be processed or considered complete until all required documents are received.

- a. A written request from the Homeowner(s) indicating the reason for the additional financing.
- b. If required by the provider of the refinanced mortgage, a complete copy of the appraisal performed on the subject property by a qualified appraiser. Otherwise, the property's most recent tax assessment.
- c. Copy of the lender's good faith estimate of closing costs, signed by the borrower.
- d. Request for subordinations must be submitted to the following address:  
 South Dakota Housing Development Authority  
 3060 East Elizabeth  
 PO Box 1237

Pierre, SD 57501  
Attn: HOME Development Officer  
Tel: (605) 773-3181 / Fax: (605) 773-5154

Upon approval, SDHDA will draft and forward an executed subordination agreement to the borrower, or their agent. However, all filing costs associated with this document shall be the responsibility of the borrower.

Please allow 7-10 working days for subordination requests to be processed. Upon approval, SDHDA will draft and forward an executed subordination agreement to the borrower, or their agent. However, all filing costs associated with this document shall be the responsibility of the borrower.

#### **D. AGREEMENT**

Before HOME Homeowner Rehabilitation funds are invested in a property, an agreement must be executed between the Subrecipient and the homeowner receiving assistance. Provisions of the agreement must include, as applicable, the scope of work, expected completion date, client responsibilities, property value limitations, principal residence requirements, property standards, repayment requirements, project termination terms, and a disclosure of the source of HOME Homeowner Rehabilitation funds. Other clauses may be included, as needed.

#### **E. OWNERS NOTICE OF COMPLETION**

A Residential Rehabilitation Inspection Form must also be executed by the Homeowner when the rehabilitation work is completed.

## **SECTION V: PROJECT COSTS**

#### **A. ELIGIBLE COSTS**

Eligible costs include:

- i. Project Hard Costs: the actual cost of housing improvements site improvements. Such costs include those associated with the following:
  - a. Meeting applicable Residential Rehabilitation Standards identified within this Policy and Procedure Manual.
  - b. Making essential improvements, including energy-related repairs or improvements, improvements necessary to permit use by handicapped persons, and the abatement of lead-based paint hazards, as required by 24 CFR 92.355, and to repair or replace major housing systems in danger of failure.
  - c. Making accessibility improvements for persons who are disabled.
  - d. Demolishing existing structures.
  - e. Making utility connections, including off-site connections from the property line to the adjacent street.
  - f. Making improvements to the project site in keeping with improvements of the surrounding, standard projects. Site improvements may include on-site roads and sewer and water lines necessary to the development of the project.
- ii. Project Soft Costs: other reasonable and necessary costs incurred by the Subrecipient and associated with the home improvements funded with HOME Homeowner Rehabilitation. Such costs include the following:
  - a. Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups.

- b. Processing the financing for a project, such as fees for title evidence, recording and filing of legal documents, building permits, attorney fees, private appraisal fees, and fees for an independent cost estimate and builders profit and developers fees.
  - c. Costs of a project audit that the participating jurisdiction may require with respect to the development of the project.
  - d. Staff and overhead costs, up to \$500 per HOME Homeowner Rehabilitation loan, directly related to carrying out the project, such as work specification preparation, loan processing, inspections, and other services related to assisting HOME Homeowner Rehabilitation recipients.
  - e. Project contingency funds, not to exceed 10 percent of the known project costs. Known project costs do not include contingency funds. Under exceptional circumstances, the HOME Homeowner Rehabilitation Project Manager may approve contingencies of more than 10 percent. Requests for larger contingencies should be made in writing with appropriate explanation of the circumstances requiring larger amounts. Upon project completion, the project commitment amount (including the Promissory Note and Mortgage and Security Agreement must be reduced by the amount of any unused contingency funds.
- iii. Eligible Administrative Costs include reasonable costs for the following:
- a. Funds may be used to pay administrative costs incurred by the Subrecipient in the performance of program activities, but may not exceed the amount of administrative funds allocated in the HOME Subrecipient Written Agreement. Funds can be used for general management, oversight and coordination of the program. Costs include, but are not necessarily limited to, necessary expenditures for the following: Salaries, wages, and related costs of the Subrecipient's staff. In charging costs to this category, the Subrecipient may either include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities involve program administration assignments, or the pro-rated share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The Subrecipient may use only one of these methods.
- Program administration includes the following types of assignments:
- Developing systems and schedules for ensuring compliance with program requirements.
  - Developing agreements with entities receiving HOME Homeowner Rehabilitation funds.
  - Monitoring HOME-assisted housing for progress and compliance with program requirements, including program audits.
  - Preparing reports and other documents related to the program for submission to SDHDA.
  - Coordinating the resolution of audit and monitoring findings.
  - Evaluating program results against stated objectives.
  - Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in ii (a) through (e) above.
  - Travel costs incurred for official business in carrying out the program.
  - Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services.

- Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
- b. Staff and overhead directly related to carrying out the project(s), such as work specification preparation, client and loan processing, inspections, or other services related to assisting HOME Homeowner Rehabilitation recipients. Note: These costs may be charged as administrative costs or as project soft costs at the discretion of the Subrecipient. This may also include the costs of initial assessment/inspection for proposed projects that are later determined to be ineligible for the program.
  - c. Public information, including the provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME Homeowner Rehabilitation funds.
  - d. Activities that affirmatively further fair housing.
  - e. Indirect costs may be charged to the HOME program under a cost allocation plan prepared in accordance with OMB Circulars A-87 or A-122, as applicable.

## **B. HOMEOWNER REHABILITATION FUNDING PRIORITY**

Subrecipients must prioritize the rehabilitation needs of each project in the order identified below:

- i. **Property Standards**  
Rehabilitation activity must focus first on all work necessary to meet required Residential Rehabilitation Standards identified within this Policy and Procedure Manual.
- ii. **Accessibility Improvements**  
If there are sufficient project funds remaining after all required property standards will be satisfied, additional work may entail accessibility improvements, including exterior ramps, kitchen and bathroom adaptations, or any other improvement which would upgrade the living conditions for handicapped use, as listed under Section 504 of the Rehabilitation Act of 1973.
- iii. **Energy-Related Repairs or Improvements**  
Where practicable, and subsequent to a determination that all required property standards will be satisfied, individual measures which further the energy efficiency of the rehabilitated property may be performed. Individual measures completed under this category must be of a nature that would further the rehabilitated property's ability to meet energy efficiency.
- iv. **Incipient Repairs**  
If, after completing all necessary or applicable improvements stated under (i) - (iii) above, project funds are still available and upon SDHDA approval, the Subrecipient may make incipient repairs. Incipient repairs are repairs to components in the home that are functional at the present time, but have been identified as worn and will likely need to be replaced or repaired within the next five years.

## **C. EXAMPLES OF TYPICAL DEVELOPMENT ACTIVITIES**

- i. Exterior

Repair or replace all, or part of, the roof structure.  
Repair or replace all, or part of, porches and/or step system.  
Cover or coat exterior surfaces with appropriate materials, with the goal of eliminating or reducing maintenance.  
Repair, replace, and/or install rain gutter system.  
Grade the site to direct the flow of rainfall or melting snow away from structure.  
Repair or replace damaged/non-functional doors and windows.  
Clean up property.  
Repair foundation and/or chimney.  
Utility connections.  
Lead-based paint control or abatement.

- ii. Interior
  - Repair/replace/construct walls, ceilings and floors.
  - Repair/replace/install interior doors, handrails, stairs, kitchen cabinets and bathroom fixtures.
  - Repair/replace mechanical systems: heating, ventilation, plumbing and electrical.
  - Repair/replace structural components such as posts, beams, bearing walls, etc.
  - Lead-based paint control or abatement.
- iii. Special Design Features
  - Widen doorways to accommodate the use of wheel chairs.
  - Construct ramp to provide/improve access for persons with disabilities.
- iv. Related Soft Costs
  - Assessment and inspection work performed by Subrecipient staff may also be charged as an administrative expense.
  - Property Appraisal or Broker's Opinion of Value.
  - Building permits.
  - Contracted professional services: plan preparation, specifications, work write-ups, lead-based paint assessments and clearances, etc.
  - Mileage and/or travel directly related to the project.

#### **D. PROHIBITED ACTIVITIES AND COSTS**

- i. Purchase or repair of appliances not permanently attached to the home.
- ii. Landscaping, except for restoration of the site following an eligible activity, or for health, safety or accessibility reasons.
- iii. Permanent Relocation costs. Program funds may not be used to pay for permanent relocation costs of any household member unless approved in writing by SDHDA.
- iv. Site improvements, unless necessary to correct a violation of the Residential Rehabilitation Standards and Residential Rehabilitation Inspection Form.
- v. Any other cost determined to be ineligible per federal HOME regulations for HOME Homeowner Rehabilitation funded projects.
- vi. Additions to the footprint of a home that is located in a floodplain. Other additions need to be approved by the HOME Project manager. If changes, are made to increase the size of the dwelling the additions must comply with local building code.

## **SECTION VI: RECORD KEEPING**

## **A. RECORD KEEPING REQUIREMENTS.**

Subrecipients shall be responsible to establish and maintain sufficient records to enable SDHDA and/or HUD to determine whether the Subrecipient has met the requirements of the Subrecipient Agreement and policies and procedures outlined in this manual. Additionally, project files must be set-up in a manner prescribed by SDHDA.

At a minimum the Subrecipient must keep the following records:

- i. Records demonstrating the income eligibility of each household assisted with HOME Homeowner Rehabilitation.
- ii. Records demonstrating that the dwelling was the principal residence of the owner at the time HOME Homeowner Rehabilitation funds were invested in the property.
- iii. Documentation that the owner has legal title to the property and that a records search was conducted, or that a title search was ordered.
- iv. A full description of each project assisted with HOME Homeowner Rehabilitation, including the location and form of assistance provided.
- v. Records demonstrating that each project meets the property standards established within the Policy and Procedure Manual.
- vi. Records demonstrating that the value of the property, after rehabilitation cannot exceed the Single Family Mortgage Limits under Section 203(b) of the National Housing Act.
- vii. Records demonstrating that the total cost of rehabilitation did not exceed 100% of the value of the property after rehabilitation. If costs otherwise exceeded these limits, documentation of appropriate waivers and that the proper alternative environmental review process was followed.
- viii. Records which identify all sources and amounts, and application of funds contributed to each project.
- ix. "Matching" contributions records associated with an HOME Homeowner Rehabilitation project, documenting sources of funds other than HOME Homeowner Rehabilitation and whether the source is a federal or other source.
- x. Records documenting administrative costs incurred by the Subrecipient in the performance of HOME Homeowner Rehabilitation activities.
- xi. Records demonstrating adequate budget control, in accordance with 24 CFR 85.20, including evidence of periodic account reconciliation.
- xii. Records demonstrating compliance with the Subrecipient Written Agreement, including but not limited to the Subrecipient's cost allocation plan, if applicable.
- xiii. Records demonstrating compliance with applicable uniform administrative requirements identified within the Policy and Procedure Manual.

- xiv. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.
- xv. Equal Opportunity, Fair Housing and Affirmative Marketing Records:
- a. Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME Homeowner Rehabilitation Program funds.
  - b. For all Subrecipients: documentation of actions undertaken and outcomes achieved under the Subrecipient's Affirmative Marketing Plan.
  - c. Documentation of actions undertaken to meet the requirements of 24 CFR part 135, which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).
  - d. Documentation and data on the steps taken to implement outreach programs to minority and female-owned businesses, including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of \$25,000 or more, paid, or to be paid, with HOME Homeowner Rehabilitation funds; the amount of the contract or subcontract, and documentation of the Subrecipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as the source of supplies, equipment, construction, and/or services.
- xvi. If applicable, records supporting requests for waivers of the conflict of interest prohibitions identified in 24 CFR part 92.356.
- xvii. Records of certifications concerning debarment and suspension required by 2 CFR part 2424.
- xviii. Records demonstrating compliance with the environmental review requirements of 24 CFR part 92.352 and 24 CFR part 58.
- xix. Records demonstrating the age of house.
- xx. For HOME Homeowner Rehabilitation projects on buildings built before 1978: any required lead-based paint notices provided to occupants of assisted housing, and evidence of compliance with lead-based paint regulations at 24 CFR part 35.
- xxi. Evidence that all required agreements, Promissory Notes, Mortgage and Security Agreements, and Residential Rehabilitation Inspection Form have been properly executed.
- xxii. Procurement policy standards if contractors or subcontractors are utilized by the Subrecipient.

## **B. PERIOD OF RECORD RETENTION**

Records must be retained by the Subrecipient until the loan has been reconveyed, except as follows:

- i. Written agreements must be retained for five years after the agreement terminates;

- ii. If any litigation, claim, negotiation, audit, or other action has been started before the expiration of the regular period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

### **C. ACCESS TO RECORDS**

The Subrecipient must provide SDHDA, HUD, the Comptroller General of the United States, or any of their representatives, with reasonable access to all and any pertinent books, documents, papers or other records pertaining to the Subrecipient's administration of HOME Homeowner Rehabilitation Program funds provided by SDHDA, in order to make audits, examinations, excerpts, and transcripts.

## **SECTION VII. APPLICANT AND PROJECT PROCESSING**

### **A. STEP 1: PRIOR TO DISBURSEMENT**

The Subrecipient's Written Agreement lists documentation that must be provided before any disbursements may be made under the HOME Homeowner Rehabilitation Program.

### **B. STEP 2: APPLICATION PROCEDURES**

Subject to completing Affirmative Marketing Requirements identified in Section II of this Policy and Procedure Manual, the Subrecipient, if applicable, must prioritize applicants utilizing the Homeowner Targeting: Priorities and Preferences criteria identified in Section II of this Policy and Procedure Manual. The applicant must also develop an application form that meets the criteria outlined in Section II of this manual and that meets the needs of their own program.

### **C. STEP 3: APPLICANT ELIGIBILITY DETERMINATION**

Upon completing Step 1 and the receipt of applications, the Subrecipient must affirm the following applicant eligibility criteria:

- i. The applicant and the property have not been assisted previously with HOME funds (conduct a title search report or please contact the HOME Development Officer).
- ii. The proposed property is the principal residence of the applicant;
  - a. Obtaining documentation from the applicant that the property proposed for rehabilitation is occupied by the applicant as his/her primary home.
  - b. Reconciling this certification against residency address and evidence of legal title to the property indicated by the applicant in the HOME Homeowner Rehabilitation application.
- iii. The applicant is income-eligible based on the calculation and verification methods identified in Section II.

### **D. STEP 4: PROPERTY ELIGIBILITY DETERMINATION**

Upon completing Step 2, the Subrecipient must affirm the following property eligibility criteria:

- i. The property meets the eligibility requirements as defined in Section II.
- ii. The property does not have a Notice of Sale or Default filed against it based on a title search report.

- iii. The property proposed for rehabilitation meets the definition of “Homeownership” as outlined in this manual. For a property under fee simple ownership or lease-hold owner the applicant should provide evidence of a warranty or quitclaim deed, or if applicable, copy of a long-term lease, or other appropriate form of title evidence.
- iv. After rehabilitation, the property value will not exceed the Single Family Mortgage Limits under Section 203(b) of the National Housing Act for the type of single-family housing for the area, as determined by HUD.  
Note: This determination may need to be made in conjunction with an assessment of the rehabilitation needs and value contribution of the proposed rehabilitation activities.  
The property’s after-rehab value must be determined by one of the following methods:
  - Adding the property’s present assessed value, as established by a local governmental unit, to the cost estimate for the rehabilitation work to be completed. The assessed value can usually be found on the local government’s website. Other known factors available to the Subrecipient must also be taken into consideration.
  - An appraisal performed by a licensed State of South Dakota appraiser.
- v. Properties with Large Acreage:  
The value of all acreage on which the home is situated (contained within the same legal description) must be included. Requests for waivers must be presented, in writing, to SDHDA program staff for approval.

#### **E. STEP 5: PRELIMINARY ELIGIBILITY DETERMINATION AND NOTIFICATION**

After completing Steps 1 - 3 above, the Subrecipient should make a preliminary determination of the applicant’s eligibility for HOME Homeowner Rehabilitation assistance. The Subrecipient must notify the applicant of the status (preliminary eligibility or ineligibility), and if ineligible, state the reasons for this determination.

Homeowners should all be provided with applicable agreement(s) for review. Certain agreements will need to be submitted in Step 7 and must be signed before project set-up.

A file must be maintained which contains records regarding all denied applications. It should include copies of the application, letter of denial disclosing the reason, and any other relevant documentation which was utilized in the denial determination.

#### **Appeals Procedures**

The Subrecipient must establish procedures for accepting and reviewing appeals from the applicant regarding ineligibility determinations, including, but not limited to, review of the application by the Subrecipient’s Executive Director. The appeals procedure must further allow, if requested by the applicant, the ability of the applicant to appeal to SDHDA HOME Development Officer, if the Subrecipient’s initial appeal review is upheld.

#### **F. STEP 6: FIELD ASSESSMENT**

Upon completion of Steps 1-5 and preliminary determination of an applicant’s and their property’s eligibility, the Subrecipient shall:

- i. The Subrecipient must complete the Residential Rehabilitation Inspection Form and an environmental review. Subrecipients are required to follow SDHDA’s property assessment tools. The assessment should answer the following questions:

- a. Is the property located in an area subject to local rehabilitation codes or ordinances? If so, what rehabilitation work needs to be completed to satisfy these codes or ordinances?
  - b. Is the property located in an area subject to local rehabilitation codes or ordinances, what rehabilitation work needs to be completed to ensure that all work done satisfies current State or local codes?
  - c. After rehabilitation, will the property meet the SDHDA Residential Rehabilitation Standards?
  - d. What heating system equipment, if any, should be replaced?
  - e. Is the property structurally sound and not in danger of becoming deteriorated or unsafe within five years after rehabilitation?
  - f. What incipient repairs are recommended?
  - g. What is the estimated cost of the rehabilitation/accessibility modifications work?
  - h. What needs to be accomplished to ensure compliance with the Environmental Regulations and Lead-Based Paint Poisoning Prevention Act requirements found in Section II of this Manual.
- ii. Based on the assessment a scope of work should be developed that details the rehabilitation and accessibility modifications needed, including all work necessary to meet required property standards.

The Subrecipient shall take a sufficient number of photographs of the property to adequately represent the condition of the property and its rehabilitation needs.

- iii. Using the field assessment, establish a preliminary cost estimate for the rehabilitation work needed to meet all required property standards established in Section II of this Policy and Procedure Manual.
- iv. Using the preliminary cost estimate developed in (iii) above, re-determine the eligibility of the proposed project, according to the following funding and property criteria:
  - a. Maximum HOME Homeowner Rehabilitation assistance which may be contributed, as identified in Section II, Funding Limitations, of this Policy and Procedure Manual.
  - b. Property value limitations.

### **G. STEP 7: BID PROCESS**

After completing Steps 1 - 6 above, the Subrecipient is encouraged to complete a procurement (bid) processes for the scope of work to be completed. Procurement processes must comply with Section III (B) of this Policy and Procedures Manual.

Rehabilitation work may not be performed prior to SDHDA project approval of the project set-up.

### **H. STEP 8: SETTING UP THE PROJECT**

- i. Prior to setting up the project, Subrecipients shall facilitate the applicant's execution of an agreement. See Step 9 for more detail on these documents.

- ii. The Subrecipient shall submit the relevant documents to SDHDA for each proposed HOME Homeowner Rehabilitation project as outlined in Section VIII.
- iii. Upon review of the above information, the SDHDA HOME Development Officer will approve or deny the application, or if applicable, request additional information determined to be necessary to evaluate the proposed project. In cases where certain waivers are requested, the HOME Development Officer may also review application for approval or denial. This decision shall be in writing, and shall include:
  - a. If denied, the reason for denial.  
Applications which are denied by SDHDA may be resubmitted by the Subrecipient, provided that the resubmission contains new or additional information or explanations necessary to satisfy the deficiencies noted by SDHDA in the initial submission.
  - b. If approved.  
Upon receipt of SDHDA's project approval, the Subrecipient shall notify the applicant (Homeowner), and the contractor, if applicable, of the application approval and schedule and conduct a pre-construction conference.

**I. STEP 9: PRE-REHABILITATION CONFERENCE**

The Subrecipient shall conduct a pre-rehabilitation conference, attended by the Subrecipient, the contractor, if applicable, and the Homeowner. Conference topics shall include:

- i. Confirmation of the scope of work (rehabilitation activities) to be performed.
- ii. Establishment of a schedule for the commencement and completion of work.
- iii. A discussion of the roles and responsibilities of the parties involved.
- iv. A thorough review of the agreements required to be executed by each party.

**J. STEP 10: EXECUTION OF AGREEMENTS AND NOTICES**

Subsequent to, or as part of the pre-rehabilitation conference, the Subrecipient shall facilitate the execution of, and retain as part of the project file, the following documents:

- i. Agreement. Note: The agreement between Subrecipient and the Homeowner must be the most recent version, and must be executed prior to SDHDA project approval.
- ii. HOME Homeowner Rehabilitation Promissory Note. The original Promissory Note must be forwarded to SDHDA as part of the final project closeout material.
- iii. HOME Homeowner Rehabilitation Mortgage and Security Agreement.

The Mortgage and Security Agreement must be forwarded to a local county Register of Deeds for recording. A copy of the recorded Mortgage and Security Agreement must be retained by the Subrecipient in the project file. The original recorded Mortgage and Security Agreement must be provided to SDHDA.

Note if a revision to the Promissory Note and Mortgage and Security Agreement needs to be made, the Note and Mortgage Modification Agreement must be recorded.

**K. STEP 11: NOTICE TO PROCEED**

Upon receipt of all notices, loan documents, and agreements identified above in Step 9, and confirmation that the Mortgage and Security Agreement has been recorded, the Subrecipient may proceed with rehabilitation activities and/or issue a Notice to Proceed to the contractor.

#### **L. STEP 12: PROJECT MONITORING**

The Subrecipient shall routinely monitor the progress of each project, and is responsible for ensuring that the contractor and/or the Subrecipient's work crew adheres to all applicable rules, regulations and procedures outlined in the HOME Homeowner Rehabilitation Policy and Procedure Manual.

#### **M. STEP 13: PROJECT REVISIONS**

Any change orders associated with a project must be documented in the project file in writing, including the dollar amount of change and the reason for the change. If change orders result in the need to amend the HOME Homeowner Rehabilitation project commitment amounts, this documentation should be provided to the HOME Development Officer, as discussed below.

A project revision (commitment funding increase) may be submitted to SDHDA for approval in the event that the project's scope of work needs to be amended, based on unforeseen and exceptional circumstances which cannot be completed within the budget. If approved by SDHDA, the Subrecipient must have the Homeowner execute a Note and Mortgage Modification Agreement. Appropriate documentation for the project revision must be maintained by the Subrecipient in the project file.

#### **N. STEP 14: PROJECT COMPLETION**

- i. Building Inspections. When notified by the contractor or Subrecipient's work crew that the work has been completed, the Subrecipient shall:
  - a. Contract an inspector or use their own qualified staff to inspect the dwelling unit to confirm that all required property standards have been satisfied and that the original scope, or amended scope, if applicable, has been satisfactorily completed.
  - b. Order any applicable required building department inspections: Municipal or State.
- ii. Notice of Completion and Claimant Liens. Subsequent to a determination that the scope of work and all required property standards have been satisfied, the Subrecipient shall:
  - a. Acquire and retain executed lien waivers ensuring that there are no outstanding liens on the property. It is the Subrecipient's responsibility to ensure and verify that there are no outstanding liens on the property through procedures they develop.
  - b. Once the Subrecipient has verified that there are no outstanding liens on the property they can proceed with requesting payment of the HOME Homeowner Rehabilitation funds.
- iii. Other Project Completion Tasks
  - a. Complete the Residential Rehabilitation Inspection Form.
  - b. Take a sufficient number of photographs of the property to adequately represent the completed condition.
  - c. Complete Project Close-out form.
  - d. In the event that a modification of the Promissory Note and Mortgage and Security Agreement is necessary, the Subrecipient must notify SDHDA for preparation of the Note and Mortgage Modification Agreement.
- v. Items outlined in Section VII must be to be submitted to SDHDA upon project completion.

## **SECTION VIII: PROGRAM/PROJECT FILES AND MONITORING**

### **A. PROGRAM MONITORING POLICIES AND PROCEDURES**

Monitoring and evaluation of Subrecipients is a requirement of the Department of Housing and Urban Development (HUD). Monitoring is the responsibility of SDHDA staff and Subrecipients. The following policies and procedures pertain to the monitoring to be performed by the SDHDA staff.

SDHDA is required to monitor Subrecipients for proper administration of HOME funds in compliance with the HUD HOME Program and SDHDA provisions. In addition, SDHDA will periodically complete on-site visits to the project sites to verify implementation, environmental mitigations, if any, and actual program beneficiaries.

Subrecipients will be monitored annually for their performance, upon completion of their program year. This annual monitoring can be conducted either onsite or via desk monitoring. No Subrecipients will be monitored onsite less than once every three years. Additional onsite monitoring may occur due to new regulations being promulgated (i.e. Lead Based Paint regulations) or new staff being hired.

Once SDHDA staff completes the monitoring, an exit interview will be conducted to discuss the results. To complete the monitoring process, SDHDA will complete a monitoring review report. The monitoring review report will be submitted to the Subrecipient within 45 days of completing the monitoring review.

For the purpose of reporting the results of the monitoring, the following definitions will apply:

- a. A “concern” will be declared for areas which are identified as not fully in compliance that don’t involve funds, and for areas SDHDA staff feels should be given more attention to effort to prevent non-compliance. If a concern is identified two years in a row, it will become a deficiency.
- b. A “deficiency” will be declared for areas which are identified as being in non-compliance, but do not involve funds, or are consistently in non-compliance. If a deficiency is identified two years in a row, it will become a finding.
- c. A “finding” will be declared if it is discovered that there is a consistent or material non-compliance with any part of the grant agreement, programmatic requirements, or financial accountability.

In reporting results of monitoring SDHDA will clearly describe any problems and the solution expected of the Subrecipient. All findings and deficiencies must be responded to within 45 days of receipt of the monitoring report. If a response cannot be provided within 45 days, the Subrecipient must contact SDHDA for other arrangements. Failure to respond within 45 days may result in Subrecipient not being able to drawdown additional HOME Homeowner Rehabilitation funds and continued noncompliance may result in the Subrecipient not being eligible to administer HOME Homeowner Rehabilitation program funds in the future.

## **B. ONSITE PROJECT MONITORING**

An onsite file monitoring visit may consist of reviewing any concerns that were established if documentation was reviewed ahead of time. SDHDA may request all necessary monitoring information to be submitted to the SDHDA office at least 30 days prior to the onsite visit. To perform the monitoring, SDHDA staff will review programmatic requirements and financial records.

SDHDA staff will visit required projects onsite to verify implementation according to the Subrecipient Written agreement, program beneficiaries, work write-ups for housing, and the results of the environmental review. Each Subrecipient will be required to have staff accompany SDHDA staff for all housing projects.

Upon completion of onsite project visits, SDHDA staff will prepare a report to be sent to the respective Subrecipient. The definition of findings, deficiencies, and concerns will be applicable, as will be the requirement for responding to findings and deficiencies.

The results of all monitoring will be maintained in a file for each respective Subrecipient in order to develop a history of administrative practices. This history will be used by the SDHDA staff, in conjunction with the initial review, to determine the scope and depth of monitoring.

Attached are the following monitoring checklists that SDHDA staff will utilize:

- HOME Monitoring Checklist 4-A – Program Overview
- HOME Monitoring Checklist 4-A2 – Subrecipient File Overview
- HOME Monitoring Checklist 4-B – Documentation
- HOME Monitoring Checklist 4-C – Case File
- HOME Monitoring Checklist 4-D – Monitoring Summary

SDHDA staff, as part of its Subrecipient monitoring requirement, will perform periodic property standards re-inspections, based on a random sample of the projects undertaken by the Subrecipient. It is anticipated that a minimum of 5 percent, or a higher percentage if determined to be necessary and/or appropriate by SDHDA, of the projects will be re-inspected by SDHDA for Property Standards compliance review. The Subrecipient must retain evidence of such required inspections in the applicable project file.

## APPENDIX A

### PROGRAM DEFINITIONS

**Annual Income** Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

**HOME Assisted Unit** means the housing unit developed with the assistance of HOME funds.

**Low-Income Family** means a family whose annual income does not exceed 80% of the median income for the area, as determined by HUD, with adjustments for family size.

**Manufactured Home** a structure transportable in one or more section, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include the plumbing, heating, air conditioning, and electrical systems contained therein.

**Person with Disabilities** means a household comprised of one or more persons, at least one of whom is an adult, who has a disability. A person is considered to have a disability if the person has a physical, mental, or emotional impairment that:

- a. Is expected to be of long-continued and indefinite duration;
- b. Substantially impedes his or her ability to live independently; and
- c. Is of such a nature that such ability could be improved by more suitable housing conditions.

A person will also be considered to have a disability if he or she has a development disability, which is a severe, chronic disability that:

- a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- b. Is manifested before the person attains age 22;
- c. Is likely to continue indefinitely;
- d. Results in substantial functional limitations in three or more of the following areas of major life activity: Self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and
- e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

Notwithstanding the preceding provisions of this definition, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted with HOME funds, with the deceased member of the household at the time of his or her death.

**Project** means a site or sites with any building that are under common ownership, management, and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking under 24 CFR Part 92.

**Rehabilitation** means the labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

**Substantial Rehabilitation** means rehabilitation that involves costs in excess of 75 percent of the value of the building after rehabilitation.

