Appendix A
HOME 2025 NOFA
Federal and State Overlays

All activities funded with HOME funds and/or HOME Program Income (PI) are required to comply, where applicable, with HUD's federal "overlay" requirements found in 24 C.F.R. § 92.350, *et seq*. of the HOME Final Rule, as well as those listed below in this Appendix.

Failure to comply with state or federal overlays could result in significant Project cost increases, rejection of the HOME application, and/or loss of points in current or future HOME funding rounds. Projects must comply with all applicable state and federal laws, including, but not limited to:

a. National Environmental Policy Act (NEPA);
b. California Environmental Quality Act (CEQA);
c. State and federal (Davis-Bacon) prevailing wage;
d. URA Acquisition and Relocation;
e. Fair Housing and Equal Opportunity;
f. Section 3 (employment of low-income persons);
g. Violence Against Women Act
h. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200;
i. Build America, Buy America Act;
j. Americans with Disabilities Act, where applicable;
k. Tenant protections and selection practices pursuant to 24 C.F.R. § 92.253; and
l. Policy Conditions from the 2025 Federal Award Agreement between the California Department of Housing and Community Development (HCD) and The U.S. Department of Housing and Urban Development (HUD).

National Environmental Policy Act (NEPA) & HUD Environmental Review Requirements (contained in 42 U.S.C. §§ 4321-4347 and the implementing regulations at 24 C.F.R. Part 58)

After Applicant has submitted the HOME application to the Department, and before the NEPA Authority to Use Grant Funds (AUGF) has been issued, the Applicant and any participant in the development process must not engage in any Choice-Limiting Actions as defined in this NOFA and at 24 C.F.R. 58.22. All Choice-Limiting Actions on the site or on behalf of the project by anyone after the HOME application has been submitted to the Department and before the AUGF is issued will disqualify an Applicant's Project from receiving any HCD federal funds – not only for this HOME NOFA round, but future

NOFA rounds.

Thus, Applicants must take great caution before proceeding with project activities.

NOTE: Pursuant to HUD's NEPA regulations, certain activities are not considered Choice-Limiting Actions regardless of when they are carried out. These activities include, but are not limited to, such things as: environmental and other studies; resource identification and development of plans and strategies; submitting funding applications, inspections and testing for hazards or defects; purchase of insurance; payment of principal and interest on loans made or obligations guaranteed by HUD; and assistance for improvements that do not alter environmental conditions and are necessary to address the effects from disasters or imminent threats to public safety. For more information on activities not considered Choice-Limiting Actions, see 24 C.F.R. § 58.22.

For all new construction Projects and substantial rehabilitation Projects, compliance with NEPA is evidenced by an AUGF. HUD issues the AUGF for CHDO and Developer Projects, and the Department issues the AUGF for State Recipient Projects. For rehabilitation Projects not requiring an AUGF, state approval of the environmental documentation is still required prior to taking any Choice-Limiting Actions. For a thorough explanation of the NEPA process, see the Department's Environmental Review webpage at https://www.hcd.ca.gov/grants-and-funding/environmental-review.l

Submit general questions regarding Choice-Limiting Actions, or the level of environmental assessment required of the Project, to NEPA@hcd.ca.gov prior to taking any action concerning the proposed HOME Project.

The application must disclose all known environmental hazards, and, if awarded, the Department must be fully informed of all environmental issues. Failure to do so will be considered a material misrepresentation and result in a performance point penalty for all members of the development team for future HOME applications with the Department.

NOTE: The Department is unable to give legal advice regarding a specific Project or program. If an Applicant has specific questions regarding a Choice- Limiting Action, or environmental laws that may affect the Project or program, the Department recommends that the Applicant consult with a legal advisor or professional consultant prior to taking any actions on the Project. Applicants understand and agree that they are solely responsible for their decisions with respect to Choice-Limiting Actions, or potentially Choice-Limiting Actions, and the Department shall have no liability therefor.

California Environmental Quality Act

By execution of this Agreement, the Applicant is also subject to the provisions of the California Environmental Quality Act (CEQA). Applicant assumes responsibility to fully comply with CEQA's requirements regarding the work performed.

For Projects located on Native American Lands as defined by 25 C.C.R. § 8201(y)(1), the Department will be the lead agency and will prepare any exemption documentation for all other Projects subject to CEQA.

Federal Prevailing Wage Requirements (Davis-Bacon)

Federal prevailing wages must be paid on Projects involving site development, construction, and/or rehabilitation with 12 or more HOME-assisted units.

The HOME Applicant and the construction contractor must ensure that the Davis- Bacon wage requirements as well as state prevailing wage laws are followed, where applicable. The Sources and Uses Form submitted with the HOME application will be examined to ensure that prevailing wage costs have been considered (state and federal, if applicable). CHDOs are required to hire an outside consultant to act as a Labor Standards Coordinator. If the HOME Applicant does not have existing staff to monitor federal labor standards, hiring an outside labor consultant is highly recommended.

For Projects located on Native American Lands as defined by 25 C.C.R. § 8201(y)(1) and if the HOME Applicant has adopted a Tribally Determined Wage (TDW) in accordance with Tribal law, the HOME Applicant may apply its TDW in lieu of Davis-Bacon and the California prevailing wage law.

Homebuyer Projects with 12 or more HOME-assisted units may be excluded from Davis-Bacon wage requirements if either of the following applies:

a. Site development was completed before the HOME application, the use of HOME funds was not contemplated when the site development was completed, and there are no agreements or contracts for more than 11 HOME units. If the use of HOME was contemplated before the site development was completed, Davis-Bacon wages must be paid on the entire Project; or

b. If the families purchase finished lots and contract individually with the General Contractor for construction of their homes, and there are no other construction contracts or subcontracts that cover more than one unit.

Displacement, Relocation, and Acquisition Requirements

Relocation assistance must be provided if individuals and/or businesses will be temporarily relocated or permanently displaced as a result of a HOME-assisted Project. All Projects are required to comply, where applicable, with the Uniform Relocation Assistance and Real Property Acquisition Act (URA) and the Displacement, Relocation, and Acquisition requirements pursuant to 24 C.F.R. §

92.353. Specifically, federal relocation requirements extend back to the “initiation of negotiations” (ION). For more information on federal displacement, relocation, and acquisition requirements, see HUD’s CPD Handbook 1378.0.

Submit questions regarding ION determinations to HOMENOFA@hcd.ca.gov This recommendation applies to all rental and FTHB Projects involving any relocation activities. An accurate determination is critical because relocation costs may be higher if an earlier ION date is necessary. Applications for tenant- occupied properties must have already provided the General Information Notice (GIN) to all tenants by the date of the ION.

The Sources and Uses form submitted with the application must adequately budget for relocation costs. Consistent with federal relocation requirements prohibiting economic displacement, if rents for existing tenants will increase, a transition reserve must be budgeted to maintain rents for existing tenants at the higher of 30 percent (30%) of their income at ION or the rent at the time of ION, not including regular increases in expenses, for as long as they live in the Project.

Homebuyer 90-Day Vacancy Rule: Relocation requirements will also be triggered if a FTHB proposes to purchase a home that has been occupied by a renter in the 90 days preceding the date of the purchase agreement. Exceptions to this rule can be made by the Department on a case-by-case basis with adequate third-party documentation that the tenant moved for reasons unrelated to the sale of the property, such as the tenant moving for another job.

Normally, relocation will not be triggered for OOR or TBRA programs. However, temporary relocation costs are an eligible HOME expense.

A relocation certification is required for all Projects including vacant site(s). Applicants that assert their Project does not require relocation must submit a detailed explanation, including supporting documentation, as to why relocation (of tenants, farms, businesses, etc.) is not required. The Department will review the documentation to determine whether a relocation plan is necessary.

Relocation considerations include:

- Vacant land, which is land that is not developed or being used for agricultural purposes;
- Property vacated for the Project, then relocation applies; and
- Tenants include anyone who is living or storing their belongings on the property with the owner's consent, whether or not the "tenant" pays rent. Squatters are not tenants.

If relocation is not required, the Department will issue *a Certification Regarding Non-application of Relocation Benefits and Indemnification Agreement* ("Non- Relocation Certification"). This Non-Relocation Certification must be executed by the Applicant/borrower/sponsor prior to the Department executing the Standard Agreement, and as a condition thereof. The Non-Relocation Certification substantiates and certifies that there is no displacement including, but not limited to, the displacement or temporary relocation of tenants, businesses, and farms; therefore, no relocation is required. Submission of thorough and clear supporting information will lead to a more efficient review and decision.

The following are examples of supporting documentation for the Non-Relocation Certification:

- Background information
- Project information
- Reports from professionals, such as appraisal or soils report

- Purchase information
- Mini relocation plan with pictures of the vacant land
- Summary relocation report
- Scope of Work from the general contractor
- Letter from the Project engineer stating the scope of work
- Sales contract evidencing the purchase of vacant land
- ALTA survey of (purchased) vacant land
- Property tax assessment for vacant land
- Photographic evidence of vacant land (i.e. from appraisals and/or Market Studies)
- Historic photographic evidence of vacant land (i.e., from Phase I reports)

Pursuant to 24 C.F.R. § 92.353(g) regarding "Displacement, Relocation and Acquisition: Appeals," a person who disagrees with the participating jurisdiction's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the jurisdiction. A low-income person who is dissatisfied with the jurisdiction's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

Projects located on Native American Lands, as defined in 25 C.C.R. § 8201(y)(1), may also be subject to the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) relocation requirements pursuant to 24 C.F.R. § 1000.14.

Fair Housing and Equal Opportunity

The Applicant/Awardee must comply with all applicable local, state, and federal laws, constitutions, codes, standards, rules, guidelines, and regulations, including, without limitation, those that pertain to accessibility, construction, health and safety, labor, fair housing, fair employment practices, affirmative marketing and outreach practices, nondiscrimination, and equal opportunity, where applicable.

To the furthest extent applicable and subject to federal preemption, the Applicant/Awardee must comply with all relevant laws, including, without limitation, the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.); the Unruh Civil Rights Act (Civ. Code, § 51); Government Code § 11135 (the prohibition of discrimination in state-funded programs); Government Code § 8899.50 (the duty to affirmatively further fair housing); California's Housing Element Law (Gov. Code, § 65583 et seq.); California Code of Regulations, Title 2, §§12264 – 12271 (legally permissible consideration of criminal history information in housing); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the ADA of 1990 (42 U.S.C. § 12101 et seq.); the Fair Housing Act (FHA) and amendments (42 U.S.C. § 3601 et seq.); the Fair Housing Amendments Act of 1988; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Architectural Barriers Act of 1968 (42 U.S.C. § 4151 et seq.); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 – 6107); and all federal and state

regulations implementing these laws.

Federal Section 3 Rule

In 2020, HUD published a final rule (24 C.F.R. Part 75) ("Section 3"), which outlines requirements for creating economic opportunities for low and very low- income persons and eligible businesses. Section 3 requires recipients of certain HUD financial assistance (which includes HOME funds) to provide, to the greatest extent possible, job training and employment opportunities to low- and/or very low-income residents in connection with HOME Projects and activities in their neighborhoods.

Violence Against Women Act Requirements

Assurance of Compliance with the "Violence Against Women Reauthorization Act of 2022" (VAWA) (S.3623 - 117th Congress (2021-2022)) (as amended or reauthorized) Title VI - Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Sec. 601-603. See also 81 FR 80803, Nov 16, 2016.

VAWA provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking when it comes to finding and keeping a home they can feel safe in. VAWA now expands housing protections to HUD programs beyond HUD's public housing program and HUD's tenant-based and project-based Section 8 programs. VAWA now provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. During the performance of this Agreement, the HOME Recipient shall ensure that all requirements of VAWA are complied with, including but not limited to:

1. Domestic Violence survivors are not denied assistance as an Applicant, or evicted or have assistance terminated as a tenant, because the Applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, and stalking.
2. It will implement an 'emergency transfer plan', which allows for domestic violence survivors to move to another safe and available unit if they fear for their life and safety.
3. It will provide "Protections against denials, terminations, and evictions that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, if the Applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy."
4. It will implement a 'Low-barrier certification process' where a domestic violence survivor need only to self-certify in order to document the domestic violence, dating violence, sexual assault, or stalking, ensuring third party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200

Procurement Requirements for State Recipients Using Administrative Subcontractors

State Recipients using administrative subcontractors paid with HOME Funds must follow, where applicable, a competitive Request for Qualifications (RFQ) or Request for Proposals (RFP) procurement process to select the administrative subcontractor. For information on this procurement process, see the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200.

Projects located on Native American Lands, as defined in 25 C.C.R. § 8201(y)(1), may also be subject to NAHASDA procurement requirements pursuant to 24 C.F.R. § 1000.26.

Continuing Compliance Responsibilities

The Awardee must collect and report data upon execution of the Regulatory Agreement until the final Project Completion Report is accepted in the federal disbursement and information system. Annual performance reports must be submitted to the Department during the entire affordability period pertaining to the outcomes of the program, pursuant to the Regulatory Agreement provisions.

Local government Applicants must comply with the requirements of 2 C.F.R. Part 200.

Applicants/Awardees are responsible for disclosing all changes to the Project after submitting the application. Such changes could include, but are not limited to, development team member changes, increased or decreased costs, intent to apply for additional funds, changed Project description, environmental issues, and/or Project timeline changes.

Questions regarding compliance with the submittal requirements can be directed to HOMENOFA@hcd.ca.gov.

Build America, Buy America Act (BABA)

On November 15, 2021, the Build America, Buy America Act (BABA) was enacted as part of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117- 58). BABA requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. This requirement is known as the "Buy America Preference (BAP)" and the specific requirements are codified in 2 C.F.R. Part 184.

NOTE: For the purposes of BABA, housing is considered "infrastructure." Starting August 23, 2024, BABA applies to new awards of HOME funding. The following language must be included in all contracts and agreements with Subrecipients, contractors, Developers and subgrantees, and in any procurement bid/contract documents to ensure BABA compliance by subgrantees, Developers and/or contractors:

The parties to this contract must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 Financial Report 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.*

*The term "infrastructure project," in this context, is defined in 2 C.F.R. § 184.3 and means any activity related to the construction, alteration, maintenance, or repair of infrastructure (including buildings and housing) in the United States regardless of whether infrastructure is the primary purpose of the Project.

2 C.F.R. Part 184 and HUD's Notice CPD-23-12: CPD Implementation Guidance for the Build America, Buy America Act's Domestic Content Procurement Preference as Part of the Infrastructure Investment and Jobs Act - HUD Exchange provides further guidance on the implementation of BABA. Additional details on fulfilling the BABA requirements can be found on HUD's website Build America, Buy America Act - HUD Exchange.

NOTE: BABA requirements may be waived for eligible Tribal recipients/subrecipients consistent with HUD's Multi-Agency Tribal Public Interest Waiver. Awards/subawards to an Indian Tribe (25 U.S.C. § 5304(e)) at or below $2,500,000 may be exempt from BABA for the life of the award. In addition, for Tribal awards/subawards obligated between January 10, 2025, and September 30, 2026, recipients may purchase non-compliant manufactured products regardless of award amount, consistent with the waiver terms.

Policy Conditions from the 2025 Federal Award Agreement between the HCD and HUD

The 2025 HOME Projects NOFA reflects conditions applicable to the Addendum 1 policy requirements found in the Department's 2025 HUD Grant Agreement.

However, On September 10, 2025, the United States District Court of the District of Rhode Island via Memorandum and Order (Case No. 1:25-cv-00345) enjoined the United States Department of Justice from enforcing or implementing Conditions 6 and 8, specified below. Unless and until the preliminary injunction is lifted, and pursuant to and in accordance with the Stipulation entered December 8, 2025, wherein the United States Department of Justice in the same case agreed and stipulated to never enforce or apply the HUD PRWORA Notice until such time as judgment on the merits has been issued, Recipient is not obligated under this Standard Agreement to implement Condition 6 or 8. The Department will notify Recipient if and when the preliminary injunction is vacated, at which time Recipient will be obligated to apply Conditions 6 and 8.

The following conditions shall control notwithstanding any other provision of the 2025 HOME Projects NOFA, as applicable, specifically:

1. The HOME Recipient shall not use grant funds to promote “gender ideology,” as defined in Executive Order (E.O.) 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government;

2. The HOME Recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the U.S. Government’s payment decisions for purposes of section 3729(b)(4) of title 31, United States Code;

3. The HOME Recipient certifies that it does not operate any programs that violate any applicable Federal anti-discrimination laws, including Title VI of the Civil Rights Act of 1964;

4. The HOME Recipient shall not use any grant funds to fund or promote elective abortions, as required by E.O. 14182, Enforcing the Hyde Amendment; and that,

5. Notwithstanding anything in the Department’s Consolidated Plan and its application for federal assistance, funds made available under the 2025 HUD Grant Agreement shall not be governed by Executive Orders revoked by E.O. 14154, including E.O. 14008, or NOFA requirements implementing Executive Orders that have been revoked.

6. The HOME Recipient must administer its grant in accordance with all applicable immigration restrictions and requirements, including the eligibility and verification requirements that apply under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (8 U.S.C. 1601-1646) (PRWORA) and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA, Executive Order 14218, or other Executive Orders or immigration laws.

7. No state or unit of general local government that receives funding under this grant may use that funding in a manner that by design or effect facilitates the subsidization or promotion of illegal immigration or shields illegal aliens from deportation, including by maintaining policies or practices that materially impede enforcement of federal immigration statutes and regulations.

8. The Department (HCD) or the HOME Recipient and/or its agents as applicable, as directed by the federal government, must use SAVE, or an equivalent verification system approved by the Federal government, to prevent any Federal public benefit from being provided to an ineligible alien who entered the United States illegally or is otherwise unlawfully present in the United States.

9. Faith-based organizations may be subrecipients for funds on the same basis as any other organization. HOME Recipients may not, in the selection of subrecipients, discriminate against an organization based on the organization's religious character, affiliation, or exercise.