



**HOME Investment Partnerships Program**

**American Rescue Plan Program**

**Application Guidelines**

**Applications Due: October 31, 2023**

**[Housing@mt.gov](mailto:Housing@mt.gov)**

**[HOME-ARP - Montana Housing \(mt.gov\)](https://mt.gov/housing)**

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Alternative accessible formats of this document will be provided upon request. If you need this document in an alternative format, such as large print, Braille, audio tape, or computer diskette, please contact the Montana Housing at (406) 841-2840, TDD (406) 841-2872, or the Relay Services number, 711.

The Montana Department of Commerce does not discriminate on the basis of disability in admission to, access to, or operations of its program, services, or activities. Individuals, who need aids or services for effective communication or need other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known. Please provide as much notice as possible for requests.

## **APPLICATION GUIDELINES FOR THE HOME INVESTMENT PARTNERSHIPS AMERICAN RESCUE PLAN PROGRAM**

### **I. Introduction**

The HOME Investment Partnerships American Rescue Plan Program (HOME-ARP) is a one-time federal block grant administered through the Montana Department of Commerce (Commerce) to provide funding for reducing homelessness and increasing housing stability. Montana's allocation of HOME-ARP funds is provided by the U.S. Department of Housing and Urban Development (HUD), and Commerce provides these funds to applicants undertaking eligible activities.

The objective of the HOME-ARP Program is to reduce homelessness and increase housing stability in Montana for qualifying populations and low-income households, as defined in these guidelines.

Commerce will accept applications that meet this objective using HOME-ARP funds to develop rental housing or non-congregate shelter, and to provide supportive services to qualifying populations. In exchange for funds, recipients agree to terms and conditions set forth by Federal and State authorities. After completion of a project, property owners agree to income, rent, and other restrictions for a period of affordability (POA). HOME-ARP-assisted properties will be monitored for compliance throughout the POA.

This document presents the requirements for HOME-ARP applications. Applicants should use these guidelines if the project will include HOME-ARP funds.

The HOME-ARP application guidelines, administration manuals, and other relevant information and resources are available on Commerce's website at [HOME-ARP - Montana Housing \(mt.gov\)](https://commerce.mt.gov/housing). Interested persons may also e-mail staff at [Housing@mt.gov](mailto:Housing@mt.gov) or call (406) 841-2840, Montana Relay Service at (406) 841-2702, or 711 regarding any questions they may have about the HOME-ARP program.

Applications are due to Commerce no later than October 31, 2023. Commerce will rank the applications and make recommendations to the Commerce Director, who will make the final award decisions. Note that HB 632 states the Economic Transformation, Stabilization & Workforce Development Commission (EWAC) may provide recommendations to Commerce on the use of HOME-ARP funds. Any applications received after this date may be considered for funding only if additional funds are available after awards have been made to eligible applicants received by the date listed above. These funds will be distributed through Commerce's HOME-ARP program.

### **II. Eligible Applicants**

Local governments, public housing authorities (PHAs), and private developers, including non-profit organizations, community housing development organizations (CHDOs), and human resource development councils (HRDCs) are eligible applicants for HOME-ARP funds. Commerce will open the first round of competitive applications to eligible applicants in non-entitlement communities. If all HOME-ARP funds are not expended in the first round, a second round will be opened to all communities across the state regardless of entitlement status.

### **III. Qualifying Populations**

HOME-ARP funds must be used to primarily benefit individuals or families from the following qualifying populations, which are defined in detail below:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act ([42 U.S.C. 11302\(a\)](#));
- At-risk of homelessness, as defined in section 401(1) of the McKinney-Vento Homeless Assistance Act ([42 U.S.C. 11360\(1\)](#));
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, as defined by HUD;
- Other populations where providing supportive services or assistance under section 212(a) of the Act ([42 U.S.C. 12742\(a\)](#)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability;

Veterans and families that include a veteran family member that meet one or more of the criteria for a qualifying population are eligible to receive HOME-ARP assistance.

Qualifying populations must occupy no less than 70% of the assisted units in HOME-ARP projects. The remaining 30% may be occupied by low-income households not otherwise meet the criteria of a qualifying population. However, Commerce intends HOME-ARP funds to benefit qualifying populations.

**Homeless as defined** in section 103(a) of the McKinney-Vento Homeless Assistance Act ([42 U.S.C. 11302\(a\)](#)) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

**At risk of homelessness as defined** in section 401(1) of the McKinney-Vento Homeless Assistance Act ([42 U.S.C. 11360\(1\)](#)) An individual or family who has an annual income below 30 percent of median family income for the area, as determined by HUD. Does not have sufficient resources or support networks, such as family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter.

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

**Other households requiring services or housing assistance to prevent homelessness** is defined as individuals and families who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services,

temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

**Other households at greatest risk of housing instability** is defined as an annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs, has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph of the “at risk of homelessness”).

**Veterans and families that include a veteran family member** that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

**Low-income households who are not otherwise qualifying populations** may occupy up to 30% of the assisted units for HOME-ARP projects.

#### **IV. Eligible Activities**

HOME-ARP funds can be used for the following eligible activities:

**Production or Preservation of Affordable Housing** HOME-ARP funds may be used to acquire, rehabilitate, or construct affordable rental housing primarily for occupancy by households that meet the definition of one or more of the qualifying populations. Eligible rental housing includes but is not limited to manufactured housing, single room occupancy (SRO) units, and permanent supportive housing. All housing units newly constructed or reconstructed with HOME-ARP funds must meet Uniform Physical Conditions Standard (UPCS) and comply with all zoning ordinances and building codes adopted by the state and local government. Recipients are required to adopt smoke-free requirements in all housing units and include the three basic visitability features: a zero-step entrance, doors with 32 inches of clear passage space, and a wheelchair-accessible bathroom.

The following do not meet the HOME-ARP definition of housing: emergency congregate shelters, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses, and housing for students or dormitories do not constitute housing in the HOME-ARP program. However, HOME-ARP funds may be used to acquire and rehabilitate such structures into HOME-ARP rental housing.

**Supportive Services, including, Homeless Prevention Services, and Housing Counseling** HOME-ARP funds may be used to provide a broad range of supportive services to qualifying individuals or families in combination with other HOME-ARP activities. Supportive services include services listed in the McKinney-Vento Homeless Assistance Act, homelessness prevention and housing counseling services.

**Purchase and Development of Non-Congregate Shelter (NCS)** These structures can remain in use as non-congregate shelter for the duration of the period of affordability, or can be converted to: emergency shelter under the Emergency Solutions Grants (ESG) Program, permanent housing under the Continuum of Care (CoC) Program; or affordable housing under the HOME Program.

## **Ineligible Project Activities**

Projects under construction prior to notice of award are not eligible for HOME-ARP funding. HOME-ARP funds cannot be used to construct single-family homes for homeownership, rehabilitate housing for existing homeowners or provide mortgage assistance or housing counseling through homebuyer programs. HOME-ARP funds may not be used for expansion or rehabilitation of public housing. Commerce will not accept applications for supportive services not associated with another HOME-ARP eligible activity.

## **V. Other Considerations**

### **Period of Affordability (POA)**

During the 15-year POA, the recipient will need to provide certification of compliance that households occupying the HOME-ARP assisted units meet the definition of one or more qualifying population at initial occupancy.

### **Underwriting and Subsidy Layering**

Due to the additional complexities of underwriting and operating HOME-ARP assisted units, there are significant flexibilities in program requirements to allow projects to remain financially viable and affordable to qualifying populations. Commerce considers the financial viability of the proposed project to ensure that an award will only be the amount necessary to provide quality affordable housing for the duration of the HOME-ARP compliance period and will not result in any undue profit to the developer or contractor. Factors for consideration include but are not limited to:

- Whether the rents and operating expenses proposed in the Proforma are reasonable
- Whether the project costs are reasonable for the area and whether other fees are in line with industry standards
- Whether the applicant has considered and leveraged all other potential sources of funds prior to applying for HOME-ARP.

HOME-ARP regulations do not have a requirement for match.

### **Eligible and Ineligible Project Expenses**

Project activities *eligible* for reimbursement with HOME-ARP funding include, but are not limited to:

- Development hard costs. Expenses that directly relate to construction or rehabilitation activities that implement the scope of work identified in the contract, including materials, labor, and permanent furnishings, equipment, and fixtures. Expenses necessary to demolish existing structures, make utility connections including off-site connections from the property line to the adjacent street, improve the project site (on-site roads and sewer and water lines), provide broadband internet access, and construct or rehabilitate common space (costs associated with common spaces are prorated based on the percentage of assisted units in the project; also, spaces must be located within the same building as the assisted units).
- Acquisition costs. Costs associated with real property acquisition in conjunction with HOME-ARP activity that will benefit qualifying populations.
- Related soft costs.
  1. Planning and design costs associated specifically with the project, including architecture and engineering fees and costs for other professional services directly related to the

- construction or rehabilitation of the project.
- 2. Costs associated with financing, such as insurance premiums, title and recording fees, building permitting costs, legal fees, appraisal fees.
- 3. Costs to provide information services such as affirmative marketing and fair housing information to prospective tenants.
- 4. Staff costs directly related to carrying out the project.
- 5. Costs of environmental review and release of funds directly related to the project.
- 6. Costs of addressing environmental provisions as set forth in 24 CFR 93.301.
- Supportive services costs. There are three categories specifically included as supportive services under HOME-ARP.
  - 1. As adapted from the services listed in section 401(29) of the McKinney-Vento Homeless Assistance Act. These include but are not limited to costs of childcare, knowledge and basic educational skills, employment assistance and job training programs, providing meals or groceries, certain legal services, and financial assistance such as rental application fees and security deposits.
  - 2. As adapted from certain eligible homelessness prevention services under the Emergency Services Grant (ESG) regulations at 24 CFR Part 576. These services are only eligible to the extent that the assistance is necessary to help qualifying populations regain stability in their current permanent housing or move into other permanent housing to achieve stability.
  - 3. Housing counseling services consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111 respectively. These costs include but are not limited to staff salaries and overhead costs of directly providing services, marketing and outreach, and intake.
- Relocation costs. Relocation payments to persons who are temporarily relocated up to a year during rehabilitation.

Expenses that are *not eligible* for HOME-ARP grant funding include, but are not limited to:

- Any costs associated with homeownership activities;
- Inpatient detoxification and other in patient drug or alcohol treatments;
- Temporary furnishings, fixtures, or equipment;
- Any unauthorized costs incurred prior to the date identified in the Notice of Award letter;
- Assistance to a project previously assisted with HOME-ARP funds after the first year of the affordability period;
- Acquisition of property owned by the State of Montana;
- Delinquent taxes, fees, or charges on properties to be assisted with HOME-ARP funds;
- Political activities, advocacy, lobbying, counseling services, travel expenses, and preparing or providing advice on tax returns;
- Infrastructure outside of the project property;
- Rental subsidies;
- Administration, outreach, or other costs to manage and operate the recipient organization;
- Any other ineligible cost listed in the HOME-ARP regulations.

### **Environmental Requirements**

HOME-ARP assisted projects are required to comply with the environmental review process specified at 24 CFR Part 58. To determine the level of review required and find the appropriate forms, use the environmental review toolkit located on Commerce's website.

In general, environmental requirements are triggered when the public is made aware of an entity's intent to apply for federal funds administered by Commerce, or at the time an application is submitted – whichever comes first. It is essential that applicants complete the appropriate environmental review process prior to taking any action on the project that may prohibit the use of federal funds. These actions include but are not limited to property acquisition, mitigation, rehabilitation, relocation, and construction.

### **Lead-Based Paint**

HOME-ARP units must meet HUD standards for lead-based paint (LBP) mitigation. Any contractor or subcontractor engaged in any activity that disturbs LBP in units built before 1978 must be certified and follow specific work practices to prevent lead contamination. For units built before 1978, recipients must provide proper notice to tenants, which includes distributing the *Protect Your Family from Lead in Your Home* brochure. Tenants must sign the *Disclosure of Information on Lead Based Paint* form to acknowledge receipt of information pertaining to LBP. In addition to complying with Title X of the Residential Lead Based Paint Hazard Reduction Act of 1992, UPCS inspections will be performed at HOME-ARP assisted rental properties throughout the state.

### **Displacement, Relocation, and Acquisition**

The Uniform Relocation Act (URA) requirements apply when HOME-ARP funds are proposed for acquisition, demolition, or rehabilitation of any occupied property or structure. The recipient must ensure that it has taken all reasonable steps to minimize displacement of families, individuals, businesses, non-profit organizations or farms through a Residential Anti-displacement and Relocation Assistance Plan. To the extent feasible, temporarily displaced residential tenants must be provided a reasonable opportunity to lease and occupy a dwelling unit in the building/complex upon completion of the project. Any temporary relocation required during the project must be arranged and paid for by the recipient and carefully documented to ensure compliance with the Uniform Relocation Act. Relocation costs are eligible HOME-ARP expenses.

If the applicant or partners in the project currently own the property, they will be required to document the following:

- The fair market value of the property or permanent easement was established by a certified, licensed appraiser;
- The seller has been made aware of his/her rights under the URA;
- The seller was made aware of the fair market value of the land and/or easement, and his/her right to just compensation;
- The sale is voluntary; and
- The acquisition process is URA-compliant.

If applicants are proposing the use of HOME-ARP funds for property or structures already occupied by residential households, a General Information Notice (GIN) should be sent as soon as possible (even prior to application) to all occupants informing them that HOME-ARP assistance has been requested and there is no intent to evict the occupants or involuntarily relocate them because of the proposed HOME-ARP activity.

The acquisition of non-residential property such as hotels and motels for the production of HOME-ARP NCS units or HOME-ARP rental housing will not make a person occupying those properties eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353.



**Conflict of Interest**

No employee, officer or agent covered by the conflict of interest provisions who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME-ARP funded projects or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from the HOME-ARP assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-ARP assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Recipients must comply with the Conflict of Interest provisions in 24 CFR 85.36 for HOME-ARP assisted projects, and 24 CFR 93.353 for HOME-ARP assisted projects. Any potential or actual conflict of interest must be disclosed to Commerce to coordinate efforts to inform the public and to ensure proper steps are taken to address the conflict.

**Federal Funding Accountability and Transparency Act**

HOME-ARP assistance provided to recipients shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006.

**Eminent Domain**

HOME-ARP funds should not be used in conjunction with property taken by eminent domain. If an applicant is considering that, prior to any eminent domain activity or decisions, eligible applicants must consult with Commerce to ensure URA regulations are followed.

**VAWA**

The Violence Against Women Act (VAWA) requirements apply to all rental housing assisted with HOME-ARP. See Commerce's HOME/ HTF Grant Administration Manual for more information on compliance with VAWA provisions.

**Energy Conservation**

Applicants must demonstrate that the proposed project's design includes energy efficiency measures that are aligned with the Federal Renewable Energy Target (FRET), to the extent practicable. See [https://www.hud.gov/program\\_offices/economic\\_development/eegb/renew300](https://www.hud.gov/program_offices/economic_development/eegb/renew300). The National Renewable Energy Laboratory (NREL) online tools at <http://www.nrel.gov/> may be used by applicants to calculate potential energy production, financial and economic impacts and solar data.

**Public Participation**

Commerce encourages applicants to engage with their stakeholders, e.g. community organizations, the public, housing partners, and current or potential property residents through informal meetings or planning sessions to make information available and inform the public of the proposed activity. A public hearing held by local government is required if a non-profit owner or developer anticipates requesting a property tax exemption for the completed project. Applicants should retain documentation, including posters, agendas, sign in sheets, presentations materials and handouts, photos, and survey responses resulting from or generated for such meetings and sessions.

**Affirmative Fair Housing Marketing Plan (AFHMP)**

Each HOME-ARP project with five or more units must include a complete AFHMP that will guide marketing of the units to assure fair and equitable opportunities for housing. During the Period of Affordability, for all HOME-ARP assisted projects, implementation of the AFHMP must be documented and the

documentation must be retained for review. For more information on AFHMP requirements and compliance, please see the HOME/HTF Grant Administration Manual on Commerce's website.

### **Preferences, Methods of Prioritization, and Limitations**

Preferences establish the order in which applicants are admitted to a HOME-ARP project by permitting one qualifying population to be selected for assistance before other qualifying populations. A project utilizing preferences must provide sufficient details to show compliance with HOME-ARP requirements and describe the referral methods to be used in the project. Preferences are optional and do not make anyone eligible for a HOME-ARP assisted project that was not otherwise eligible.

A method of prioritization is the process by which eligible households are selected for a HOME-ARP project and are only permitted if a preference is established. If a project chooses to not implement a preference, eligible households must be selected from a waiting list in chronological order.

Limitations exclude certain qualifying populations or subpopulations from a HOME-ARP project and are not permitted unless necessary to address a specific gap in housing or services that cannot be addressed through a preference.

### **Referral Methods**

All applicants requesting HOME-ARP funds must describe the referral methods to be used in the project. Referral methods must be compliant with all fair housing and civil rights laws, as well as all nondiscrimination and equal opportunity requirements listed in 24 CFR 5.105(a). Projects may use the coordinated entry system of the local Continuum of Care if it accepts all qualifying populations. If the CE does not include all qualifying populations or does not have a sufficient number of qualifying individuals and families to refer to the project, the CE must be used with other referral methods. These other referral methods include either a project-specific waitlist, a waitlist where qualifying individuals and families are accepted in chronological order, or direct referrals from an outside agency consistent with HOME-ARP requirements. If a project will not use CE, it must use a waitlist available to all qualifying populations accepted in chronological order.

## **VI. Administrative Procedures and Requirements**

For HOME-ARP projects, the recipient will comply with the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 et seq.; 24 CFR Parts 92, as applicable; Section 3205 of the American Rescue Plan Act of 2021;; 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*; any applicable state and federal laws, regulations, administrative directives and procedures, as now in effect or as may be amended during the contract; all administrative directives and procedures that may be established or amended by the Department for the Program, including the most current version of the Department's HOME-ARP Application Guidelines and current HOME Grant Administration Manual; the Montana Consolidated Plan; and all other applicable local, state, and federal laws, regulations, administrative directives, procedures, ordinances, or resolutions.

## **VII. Application Submission**

Commerce will accept HOME-ARP applications through its on-line application software, Service Now. More details will be provided Spring 2023.

As stated previously, applicants that plan to commence a project before it has been awarded HOME-ARP funds should discuss their plans with program staff to ensure they do not take any steps that could violate the various federal and state laws and programmatic requirements that apply to projects involving HOME-ARP funds. Project activities, such as land acquisition, may be subject to HOME-ARP regulations even if performed prior to the submission of an application for HOME-ARP funding and acquired with other funding sources. In general, HOME-ARP environmental requirements are triggered when the public is made aware of an entity's intent to use federal funds administered by Commerce or at the time an application is submitted to Commerce, whichever occurs first. For HOME-ARP, URA requirements are triggered at the time the use of federal funds is contemplated.

A complete HOME-ARP application must include the following sections, as applicable.

### **1. Table of Contents**

### **2. Uniform Application for Montana Housing Loan, Grant, and Tax Credit Programs**

Each applicant must provide a completed Excel spreadsheet of the current *Uniform Application Form for Montana Housing Programs*: <https://housing.mt.gov/Multifamily-Development/Uniform-Application>, which has been updated to request basic information regarding the provision of Supportive Services.

### **3. Responses to Priority Questions (see Appendix A)**

### **4. Documentation to Support Responses to Priority Questions**

The applicant should provide documentation and sources of supporting data for all information and responses provided in the Uniform Application and in response to the Priority Questions.

### **5. a. Certification for Application to the HOME-ARP Program**

### **b. Resolution to Authorize Submission of a HOME-ARP Application**

### **6. Site Plan and Preliminary Architectural Designs or Capital Needs Assessment (CNA)**

For New Construction:

Provide a copy of a site plan that demonstrates compliance with applicable zoning code requirements, and preliminary architectural designs that includes floorplans of all proposed unit sizes. More information on these requirements can be found in the Application Toolkit at [HOME Program - Montana Housing \(mt.gov\)](#).

For Standard Rehabilitation:

Provide a copy of a Capital Needs Assessment that thoroughly addresses all the issues identified. CNA Requirements are available in the Application Toolkit located at: [HOME Program - Montana Housing \(mt.gov\)](#).

### **7. Uniform Relocation Act and Residential Anti-displacement and Relocation Assistance Plan (if applicable)**

The Uniform Relocation Act (URA) and Section 104(d) requirements, as well as the provisions found in 24 CFR 92.535 apply when HOME-ARP funds are proposed for acquisition, demolition, or rehabilitation of any property or structures. If applicants are proposing the use of HOME-ARP funds for property or structures already occupied by residential households, a General Information Notice (GIN) should be sent as soon as possible (even prior to application) to all occupants informing them that the land on which they reside or the building they occupy is being considered to receive HOME-ARP assistance has been requested and informing them there is no intent to evict the occupants or involuntarily relocate them because of the proposed HOME-ARP activity.

Each application for HOME-ARP funds for acquisition, demolition, or rehabilitation of any property or structures must be accompanied by a Residential Anti-displacement and Relocation Assistance Plan, which provides the policy the applicant will follow if project activities trigger the URA. See the Application Toolkit for a template.

#### **8. Draft Management Plan**

Each application for HOME-ARP funds must be accompanied by a draft project construction management plan that identifies all project partners and their capacity, responsibilities, and roles. See the Application Toolkit for a template.

#### **9. Draft Supportive Services Plan**

Each application for HOME-ARP funds must be accompanied by a draft supportive services plan that identifies the service provider, services available to residents of the project, number of staff and the percentage of their time allotted to the project, sources of funds that will pay for service costs for the duration of the affordability period, and the status of agreements with service providers. A draft service agreement must be submitted with all application materials, and a final contract must be in place prior to project completion. See the Application Toolkit for a template.

# Appendix A: Application Scoring and Priority Questions

## Application Scoring

Applications will be ranked based upon the extent to which the proposed project relates to each ranking priority. The amount of HOME-ARP funding to be recommended will be based upon an analysis of the applicant's proposed level of local financial capacity and participation.

The ranking team will prepare and submit a report containing the recommended projects. The Director will make the final decision on awards and funding. (Note that HB 632 states the Economic Transformation, Stabilization & Workforce Development Commission (EWAC) may provide recommendations to Commerce on the use of HOME-ARP funds.)

Commerce staff will review and rank applications on the following priorities:

- A) Geographic Diversity and Housing Needs (100 points);
- B) Capacity of the Applicant (250 points);
- C) Affordability and Financial Feasibility (250 points);
- D) Appropriate Design and Long-Term Solution (150 points);
- E) Long-term Planning and Management (100 points); and
- F) Readiness to Proceed (150 points).

In general, the descriptors below will assist the ranking team in the process of scoring application narratives to reduce subjectivity:

LEVEL 3: In order for an application to receive a "LEVEL 3", it would have provided a very complete narration that thoroughly addressed the overall priority, applicable ranking issues, and minimum requirements, including very complete substantive supporting documentation to support its claims. The Applicant's response to the priority is considered exemplary, particularly innovative, or to be extremely consistent with the intent of the priority. There were no ranking issues of any significance that were not adequately addressed. (250/250; 150/150; 100/100)

LEVEL 2: In order for an application to receive a "LEVEL 2", it would have provided an adequate narrative addressing the overall priority, applicable priority questions, and minimum requirements, with acceptable documentation to support its claims. The applicant's response to the priority is considered average, adequate, or to be generally consistent with the intent of the ranking priority. A "LEVEL 2" would meet the minimum requirements needed to respond to the priority and document compliance with the special requirements pertinent to the ranking priority. The application may not have adequately considered some questions or issues that were considered to be potentially important. (175/250; 100/150; 75/100)

LEVEL 1: In order for an application to receive a "LEVEL 1", it would have provided some narration addressing the overall priority, priority questions or issues, and minimum requirements, but may have provided weak or inadequate responses and/or documentation to clearly or completely support its claims or compliance with a requirement. The applicant's response to the priority is considered below average, inadequate, or not entirely consistent with the intent of the ranking priority. The application may not have been complete or did not consider or sufficiently address some ranking issues that were considered to be important. (75/250; 50/150; 25/100)

LEVEL 0: In order for an application to receive a "LEVEL 0", it would have serious weaknesses or no responses in its narrative to the priority or issues, and lack critical supporting documentation, or would fail to adequately document compliance with one or more of the minimum HOME-ARP requirement(s).

The applicant's response to the selection criteria is considered very weak, seriously inadequate, lacking a response, or inconsistent with the intent of the selection criteria. The application either did not address or did not provide sufficient information regarding several critical priority questions. No points will be awarded if an applicant receives a level 0. (0/250; 0/150; 0/100)

Applicants must provide responses to each of the priority questions that follow. Commerce staff are available prior to the application deadline for technical assistance to help provide clarification on any of the priority questions.

**Priority A. Geographic Diversity and Housing Needs** (100 points possible)

Commerce will consider the extent to which the applicant will increase the supply of decent, safe, and sanitary affordable housing for qualifying populations as follows.

1. Describe and document the need for an increase in or preservation of the supply of decent, safe, and sanitary affordable housing for qualifying populations in the proposed community.
2. Outline how the Market Study or Market Analysis supports the proposed number of units and the proposed unit sizes.
3. Describe and document how the project targets qualifying populations. Describe any preferences or limitations to be implemented, and the method of prioritization, as applicable.
4. Demonstrate how the proposed project meets the need of a difficult area to serve that has fewer resources available to it than Montana's more populated areas.



**Priority B. Capacity of the Applicant (250 points possible)**

Commerce will consider the applicant's experience in financing, developing, owning, managing, and operating publicly-assisted properties in compliance with state and federal obligations and requirements. Commerce will also consider performance managing previous federally-assisted projects, including compliance with on-going requirements, the level of services proposed for the project, and the capacity of the service provider.

1. Demonstrate and document organizational capacity to coordinate and fulfill programmatic requirements during the construction phase. Reference the Management Plan submitted with this application as applicable.
2. Document the applicant's experience in meeting timely obligation of funds and completing activities in a timely manner in coordination with other federally-sourced funds.
3. Describe any contracted services necessary to carry out the project, such as supportive services, administration and/or project management. Reference the Supportive Services Plan submitted with this application as applicable and provide a copy of the written agreement for supportive services.
4. After construction, the recipient has ongoing responsibilities during the POA. Describe and document the capacity and experience of all professionals that will be assigned to manage, operate, and meet regulatory period-of-affordability requirements of the proposed HOME-ARP assisted housing. Those requirements include but are not limited to annual rental recertifications, periodic on-site monitoring, property management, and requests for rent increases. Reference the Management Plan submitted with this application as applicable.

**Priority C. Affordability and Financial Feasibility (250 points possible)**

Commerce will consider the extent to which the application demonstrates financial feasibility as presented in the Uniform Application.

1. Ensure the financial information in the Uniform Application is complete, accurate, and well documented. Estimate operating and maintenance costs realistically and base projections on actual costs of other existing facilities of similar size and complexity. Substantiate all assumptions made in the pro forma. The pro forma should demonstrate positive cash flow throughout the project's applicable period of affordability.
2. Ensure the Supportive Services section of the Uniform Application describes what services will be provided and how they will be paid.
3. Describe any financial mechanisms that provide rental assistance to eligible residents of the proposed project.
4. Describe and document other funding sources and/or concessions, such as a negotiated reduction in loan interest, to increase project feasibility. Describe whether these sources of funding are proposed, pending agency consideration, or firmly committed. Provide preliminary term sheets and letters of interest or commitment to document the availability of these funding sources.

**Priority D. Appropriate Design and Long-Term Solution (150 points possible)**

Commerce will consider the extent to which an applicant demonstrates that the project aligns with the objectives and goals of the HOME-ARP Program. Commerce will consider the extent to which the scope of the project provides a long-term solution to address a housing need.

1. Submit a site plan and preliminary architectural designs for new construction projects, or a Capital Needs Assessment (CNA) for rehabilitation projects.
  - a. The site plan and designs should include a narrative description that addresses applicable zoning code requirements for the site location and substantiates the cost estimates included in the Uniform Application Spreadsheet. Designs should include a preliminary schematic of the building and floorplans of the proposed unit sizes.
  - b. The CNA must comply with Commerce's CNA requirements, be prepared by a licensed professional, and include detailed cost estimates that match what is included in the Uniform Application spreadsheet.

If a licensed architect or engineer did not produce the CNA, describe how a licensed professional will be procured to oversee the final rehabilitation design and the construction activities to rehabilitate the property.

2. Describe how the proposed project will incorporate energy-efficient design to reduce ongoing utility costs to the project and its residents. If the NREL tool (<http://www.nrel.gov/>) was used, provide documentation of its results to support projections of energy savings.

Describe what other reasonable options to reduce future energy costs will be included in the project design, for example, "Energy Star" rated materials and/or appliances. Describe other sources of funds that will be leveraged to support energy conservation measures.

3. For construction of buildings with more than four units, describe how broadband infrastructure will be provided to residents.
5. Describe any amenities or design features that address specific needs of Qualifying Populations.

**Priority E. Long-term Planning and Management (100 points possible)**

Commerce will consider the extent to which proposals include documentation of community support and consistency with the community's comprehensive planning efforts and public participation.

- 1.** Provide a letter of support from the local government, including a brief description of how the proposed project will address the community's growth policy, housing plan, and housing needs identified therein.
- 2.** Describe and document efforts to reach and involve the public in information, planning, design, and decision-making.
- 3.** Describe how the project meets identified local planning needs. Are the needs of Qualifying Populations identified in community planning documents? Is the proposed project in line with identified community housing needs for Qualifying Populations?
- 4.** Describe how this facility will promote healthy, safe and walkable neighborhoods and reduce transportation costs for residents.

**Priority F. Readiness to Proceed (150 points possible)**

Commerce will consider steps the applicant has taken to ensure the project can proceed in a timely manner.

1. Are all sources of funds presented in the Uniform Application committed to the project? Describe how the applicant will have all funds fully committed within nine months of a HOME-ARP award.
2. Are there any known environmental issues or concerns that could delay or stop the project? Have any Choice Limiting Actions taken place? Consider any activities that have already occurred or are in progress, such as property acquisition or mitigation. Describe the status of the environmental review process and the project's ability to comply with or demonstrate compliance with the National Environmental Protection Act (NEPA) and HOME-ARP environmental regulations.
3. Describe the project's design status and the anticipated timeline for completion. If procurement is necessary for design, implementation, and/or management of the project and has already been completed, please provide the following documents:
  - a. Affidavit of publication for the Section 3 Notice;
  - b. Direct Solicitation of Disadvantaged Business Enterprises;
  - c. The full Request for Proposals (RFP) or Request for Qualifications (RFQ);
  - d. The affidavit of publication for the RFP/RFQ;
  - e. Meeting minutes and/or interviews with prospective entities; AND
  - f. The scoring criteria used to select the successful entity.

If procurement is necessary for design, implementation, and/or management of the project and has not already been completed, describe who will be carrying out the procurement and the steps that will be taken to comply with HUD procurement requirements and State law.

4. For projects that will trigger the Uniform Relocation Act (URA) due to the acquisition and/or rehabilitation of a proposed property, Commerce will consider, and award points based on, the thoroughness of the Residential Anti-displacement and Relocation Assistance Plan provided with this application. In addition, applicants whose projects have potential to trigger URA provisions must provide responses to the following questions:
  - a. Does the applicant own the property and/or permanent easement(s) on which the proposed project will take place? If yes, please answer the following questions and provide supporting documentation:
    - i. When was the property and/or easements acquired?
    - ii. When did the applicant begin considering the use of federal funds for the proposed project?
  - b.
    - i. Will real property need to be acquired to complete this project?
    - ii. Will a permanent easement(s) need to be acquired to complete this project?
  - c. If the answers to questions a. or b. are 'yes', the applicant will need to document compliance with URA and answer the following questions.
    - i. If property or permanent easements will be acquired to complete this project, what steps

will the applicant take to document compliance with URA?

- ii. If property or permanent easements have been acquired to complete this project, please provide evidence, including dated signatures, documenting the following:
  - The fair market value of the property or permanent easement was established by a certified, licensed appraiser
  - The seller has been made aware of his/her rights under the URA;
  - The seller was made aware of the fair market value of the land and/or easement, and his/her right to just compensation;
  - The sale is voluntary; and
  - The acquisition process is URA-compliant.
- d. i. Will any person or business need to temporarily relocate to complete this project?
- ii. Will this temporary relocation last for more than one year?
- iii. Will any person or business be prohibited from returning after temporarily relocating?
- e. If HOME-ARP assistance is proposed for a project involving a property that is currently occupied, please provide documentation demonstrating the General Information Notice (GIN) was received by all occupants informing them that the land on which they reside or building which they occupy is being considered to receive HOME-ARP assistance and informing them that there is no intent to evict the occupants or involuntarily relocate them because of the proposed HOME-ARP activity.

See the Application Toolkit for sample documents

- f. Will any person or business need to temporarily relocate to complete this project? Will this temporary relocation last for more than one year? If the proposed project involves temporary relocation:
  - i. Identify each household and/or business that will need to be temporary relocated.
  - ii. How will the temporary relocation affect the project budget?
  - iii. How will the temporary relocation affect project implementation and/or project construction?
  - iv. Who will be responsible for documenting compliance with URA?

## Appendix B:

# HOME-ARP Certification for Application

## MONTANA HOME-ARP CERTIFICATION FOR APPLICATION



### ***The Applicant hereby certifies that:***

It will comply with all requirements established by the Montana Department of Commerce (Commerce) and applicable state laws, regulations, and administrative procedures and all Montana HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) program requirements.

It will comply with the terms, conditions, selection criteria, and procedures established by the HOME-ARP program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of HOME-ARP funds.

It acknowledges and understands that specific statutory and regulatory requirements apply to and restrict the Applicant's actions before and after an award for HOME-ARP funds is made.

### National Objective

It will complete a project that expands the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for qualifying populations and low-income households.

### State Objectives

It will complete project activities that meet one or more of the goals and objectives established in the most current version of the Montana Consolidated Plan.

### ACQUISITION, DISPLACEMENT AND RELOCATION

It will minimize displacement as a result of acquisition, rehabilitation, or demolition activities assisted with HOME-ARP funds. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), the implementing regulations 49 CFR part 24, and 24 CFR §92.353. The Applicant will provide uniform, fair, and equitable treatment of persons who are displaced in connection with project activities or whose real property is acquired.

- The URA and accompanying regulations require the Applicant to provide relocation payments and offer relocation assistance to all persons displaced as a result of acquisition of real property for an activity assisted under the HOME-ARP program. Such payments and assistance must be provided in a fair and consistent and equitable manner that ensures that the relocation process does not result in a different or separate treatment of such persons on account of race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children). The Applicant must ensure that, within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, source of income, age, handicap, or familial status (families with children); and
- The Applicant must also inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations of 49 CFR part 24, Subpart B, and found in the applicable local government's Anti-displacement and Relocation Assistance Plan.



- The Applicant must comply with the Residential Anti-displacement and Relocation Assistance Plan adopted by the Montana Department of Commerce for the HOME-ARP program and the Anti-displacement and Relocation Assistance Plan adopted by the Applicant.

### *Building Standards*

The Applicant will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under the HOME-ARP program to comply with the standards outlined in this application.

The Applicant will also comply with the accessibility requirements of 24 CFR part 8 and 28 CFR parts 35 and 36, and the Fair Housing Act (42 U.S.C. 3601-3619) as applicable. The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

### *Citizen Participation*

The Applicant will comply with the detailed Citizen Participation Plan adopted by Commerce for the HOME-ARP program.

## CIVIL RIGHTS, EQUAL OPPORTUNITY, FAIR HOUSING REQUIREMENTS

### *Civil Rights*

The Applicant will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4 ), and the regulations issued pursuant thereto (24 CFR part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied in the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

### *Equal Opportunity*

The Applicant will comply with 24 CFR part 5, subpart A including the following:

- 24 CFR part 107, which provides prohibits discrimination against individuals on the basis of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with federal funds;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.). The act provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance;
- Section 504 of the Rehabilitation Act of 1973, amended (29 U.S.C. 794) (24 CFR part 8). The act provides that no otherwise qualified individual shall, solely, by reason of his or her disability, be excluded from participation (including employment), denied program benefits or subjected to

- discrimination under any program or activity receiving federal assistance funds;
- Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (24 CFR Part 75). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment be given to persons of low- and very low-income, employed by a Section 3 business concern, or participating in YouthBuild, with priority given to persons residing within the service area or neighborhood of the project or in public or Section 8-assisted housing. The Applicant must assure good faith efforts toward compliance with the statutory directive of Section 3; and
- Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a HOME-ARP Applicant and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The Applicant and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action must include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The Applicant and subcontractors must post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. For contracts over \$10,000 the Applicant or subcontractors will send to each applicable labor union a notice of the above requirements, the Applicant and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The Applicant or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.

### *Fair Housing*

The Applicant will affirmatively further fair housing and will comply with:

- Title VIII of the Civil Rights Act of 1968 (also known as The Fair Housing Act) (42 U.S.C. 3601 et seq.), as amended by the Fair Housing Amendments Act of 1988 and the regulations issued pursuant thereto. The law states that it is the policy of the United States prohibiting any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, disability, or familial status. HOME-ARP Applicants must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and
- Executive Order 11063, as amended by Executive Order 12259, requires HOME-ARP recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex, or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

### *Prohibition Against Discrimination on Basis of Religion*

The Applicant will comply with section 109(a) of the Housing and Community Development Act that prohibits discrimination on the basis of religion or religious affiliation. No person will be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with HOME-ARP funds on the basis of his or her religion or religious affiliation.

*Prohibition Against Excessive Force* [Applicants other than towns, cities and counties may remove this paragraph]

The Applicant will, if awarded HOME-ARP funds, adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 104(1) of the Housing and Community Development Act, as amended.

#### *ADA Compliance*

The Applicant will do a self-assessment of impediments to accessibility in compliance with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12131-12189). The Applicant is required to find a means of making HOME-ARP program activities and services accessible to persons with disabilities; to review their communities for impediments to disabled citizens; and develop a plan to address those impediments.

#### CONFLICT OF INTEREST

The Applicant will comply with the provisions of 2 CFR 200.318 or 24 CFR 93.353 as applicable and with sections 2-2-125, 2-2-201, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

#### ENVIRONMENTAL REQUIREMENTS

##### *Environmental Impact*

The Applicant certifies that all project activities will be carried out in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 USC 4321) and implementing regulations of 24 CFR part 58. The Applicant certifies that the proposed project will not significantly impact the environmental regulations and must fulfill its obligations to give public notice of environmental findings and compliance performance.

The Applicant certifies that it understands that neither a HOME-ARP award recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under the HOME-ARP program on an activity or project until Commerce has approved the Applicant's Request for Release of Funds and the related certification has been approved.

Furthermore, the Applicant certifies that neither it nor any participant in the development process will commit non-HUD funds on or undertake an activity or project under the HOME-ARP program if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

The specific requirements for historic preservation, archaeological resources, farmland, airport zones, Coastal Barrier Resource System, coastal zone management, floodplains, wetlands, explosives and

hazards, contamination, noise, endangered species, wild and scenic rivers, safe drinking water, and sole source aquifers; and

When a local government is a HOME-ARP recipient, its chief executive officer or other officer of the applicant approved by the state:

1. consents to assume the status of responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, which further the purposes of NEPA, insofar as the provisions of such federal law apply to the HOME-ARP program; and
2. is authorized and consents on behalf of the applicant and her/himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

#### *Air Quality*

It will comply with the Clean Air Act (42 U.S.C. 7401, et seq.) which prohibits engaging in, supporting in any way or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the state implementation plan for national primary and secondary ambient air quality standards.

#### *Farmlands Protection*

The Applicant will comply with the Farmlands Protection Policy Act of 1981 (7 U.S.C. 4202, et seq. and 7 CFR 658) and activities must not result in the conversion of unique, prime, or statewide or locally significant agricultural properties to urban uses.

#### *Floodplain Management and Wetlands Protection*

The Applicant must comply with Executive Order 11988, 24 CFR part 55, Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 (42 USC 4001-4128, 42 USC 5154a), Executive Order 11990, particularly sections 2 and 5 and must:

- Avoid construction and other activities in the 100-year floodplain when practicable and if no practicable alternative is available to construction or other activities within the 100-year floodplain, then the structure must be elevated to at least the base flood elevation or flood proofed to one foot above the base flood elevation.
- Not conduct activities in a floodway or any new construction critical action in a 100- or 500-year floodplain.
- Not conduct activities that adversely affect wetlands. Wetlands mean areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances, does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.

#### *Historic Preservation*

The Applicant will comply with:

Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, as amended) through completion of the procedures outlined in 36 CFR 800 and 36 CFR 63. Project activities must not be

performed on properties that are either listed in or determined eligible for listing in the National Register of Historic Places. Compliance with these procedures should include:

1. consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that exist with a proposed HOME project's area of potential environmental impact, and/or to determine the need for professional archaeological, historical, or architectural inventory of potentially affected properties to determine whether they would qualify for register listing; and
2. consulting, with the SHPO and THPO, Keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by HOME-ARP work and to determine how to avoid or mitigate adverse effects to significant properties from project work.

#### *Lead-Based Paint*

The Applicant will comply with current requirements of Title X of the Residential Lead Based Paint Hazard Reduction Act of 1992. The Applicant will comply with the requirements found in section 24 CFR part 35. Both Commerce and DPHHS provide education and information on LBP hazards to parents, families, healthcare providers, award recipients, and contractors. Commerce requires that any contractor or subcontractor engaged in renovation, repair and paint activities that disturb lead-based paint in homes, child and care facilities built before 1978 must be certified and follow specific work practices to prevent lead contamination. In addition to complying with Title X, UPCS inspections will be performed at rental properties assisted with HOME, Section 8, and other public rental properties throughout the state.

#### *Noise, Facility Siting*

The Applicant will comply with the Noise Control Act of 1972, as amended by the Quiet communities Act of 1978, and 40 CFR part 149.

The Applicant will conduct all activities in a manner to ensure internal noise levels are no more than 45 decibels and external noise levels are no more than 65 decibels.

#### *Water Quality*

The Applicant will use only lead-free pipes, solder, and flux for projects with a potable water system and will avoid sites and activities that have the potential to contaminate sole source aquifer areas. If the project overlies a sole source aquifer area, the Environmental Protection Agency (EPA) review the project.

The Applicant will comply with:

- the Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349), as amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and
- the Federal Water Pollution Control Act of 1972, as amended, including the Clear Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

### *Wildlife and Endangered Species*

The Applicant will comply with:

- the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical; and
- the Fish and Wildlife Coordination Act of 1958, as amended, (U.S.C. 661 et seq.) which requires that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

### *Wild and Scenic Rivers*

The Applicant will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism may not be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

### *Airport Hazards*

The Applicant will comply with 24 CFR part 51, subpart D.

### *Contamination and Toxic Substances and Explosive and Flammable Hazards*

The Applicant will comply with 24 CFR part 58.5(i)(2) and 24 CFR part 51, subpart C.

### FINANCIAL MANAGEMENT

The Applicant will comply with the applicable requirements of:

- 2 CFR part 200. It will maintain a financial management system that includes records to document compliance with Federal and State laws and regulations and the terms and conditions of the HOME program. The records must be sufficient to allow for the preparation of reports required by general and program-specific terms and conditions and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to Federal statutes and program requirements.
- 24 CFR part 92, subpart K. It will comply with the program administration requirements relating to the following: disbursement of funds, program income, uniform administrative requirements, cost principles, audits, recordkeeping, property management, and performance reports.

The Applicant will promptly refund to Commerce any HOME-ARP funds determined by an audit to have been spent in an unauthorized or improper manner or for ineligible activities.

The Applicant will give Commerce, the Montana Legislative Auditor, HUD, and the Comptroller General, through any authorized representatives, access to and the right to examine all records, books, papers, or

documents related to the HOME-ARP award.

### *Labor Standards*

The Applicant will comply with:

- State regulations regarding the administration and enforcement of labor standards. Montana's prevailing wage law applies to contracts entered into for construction services or non-construction services let by a county or municipality in which the total cost of the contract is \$25,000 or more. It requires that bidders on contracts pay a set rate of compensation, including employee benefits, and that at least 50% of the employees of each contractor working on the jobs be bona fide Montana residents;
- Davis-Bacon Act, as amended (40 USC 3141). For projects with 12 or more HOME-ARP -assisted units, the Act mandates that all laborers and mechanics be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except "permissible" salary deductions, the full amounts due at the time of payments, computed wage rates not less than those contained in the wage determination issued by the US Department of Labor. Weekly compliance statements and payrolls are required to be submitted to the federally funded recipient by the contractor;
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.). According to the Act, no contract work may involve or require laborers or mechanics to work in excess of eight hours in a calendar day, or in excess of 40 hours in a work week, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours. If this Act is violated, the contractor or subcontractor is liable to any affected employee for unpaid damages as well as to the United States for liquidated damages; and
- Federal Fair Labor Standards Act, (29 U.S.C.S. 201 et seq.). The act requires that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed workweek.

### *Legal Authority*

The Applicant possesses legal authority to apply for the funds and to execute the proposed project under Montana law and, if selected to receive a HOME-ARP award, will make all efforts necessary to assure timely and effective implementation of the project activities described in the submitted application.

### *Lobbying*

The Applicant certifies that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influencing an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned

shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### *Political Activity*

It will comply with the Hatch Act (5 U.S.C. 1501, et seq.; 5 CFR Part 151), which restricts the political activity of individuals principally employed by a state, municipality, or local agency in connection with a program financed in whole or in part by federal loans or grants. An affected employee may not be a candidate for public office in a partisan election.

#### *Procurement*

All services will be procured in a manner that provides fair and unbiased, full and open competition, without conflicts of interest in accordance with 24 CFR 92.356 and 2 CFR 200.

APPLICANT:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

UEI Number: \_\_\_\_\_



# Appendix C:

## Resolution to Authorize Submission of a HOME-ARP Application

## Resolution Authorizing Submission of HOME-ARP Application

WHEREAS, the (Name of applicant) is applying to the Montana Department of Commerce for financial assistance from the HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) to (describe purpose of project);

WHEREAS, the (Name of applicant) has the legal jurisdiction and authority to construct, finance, operate, and maintain (the proposed housing);

That the (Name of applicant) agrees to comply with all applicable parts of Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, and Section 3205 of the American Rescue Plan Act of 2021, which have not been cited herein, as well as with other applicable federal laws and regulations, and all State laws and regulations and the requirements described in the HOME-ARP Application Guidelines and HOME Project Administration Manual;

That the (Name of applicant) commits to provide the amount of non-HOME funds as proposed in the HOME-ARP application; and

That (name of Chief Elected or Executive Officer), (title), is authorized to submit this application to the Montana Department of Commerce, [on behalf of (name of applicant), to act on its behalf and] to provide such additional information as may be required.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attested: \_\_\_\_\_

Applicant's UEI Number: \_\_\_\_\_

### Note concerning the UEI Number requirement:

The requirement that the applicant's UEI (Unique Entity Identifier) must be provided by all applicants is a compliance requirement of the Federal Funding Accountability and Transparency Act of 2006.

Additionally, entities receiving HOME-ARP funds must be registered in the federal System for Awards Management (SAM). Debarred entities may not receive HOME-ARP funds.