



Application Guidebook

Affordable Housing Development

www.BillingsMT.gov/chdo



Table of Contents

Section I: Overview	2
Consolidated Plan	2
Affordable Housing Priorities	2
Program Funding Process	2
Application Review Process	3
Committing Funding	3
Section II: Housing Projects Overview	4
Introduction	4
Housing Types	4
Housing Ownership Projects	6
Rental Housing Projects	6
Section III: Community Housing Development Organizations	7
Introduction	7
CHDO Activities	8
CHDO Roles	9
CHDO Support	10
Section IV: Program Requirements	11
Introduction	11
Maintaining Affordability	12
Property Standards	12
Lead-Based Paint Requirements	12
Davis-Bacon Labor Standards	13
Uniform Relocation Act	14
Outreach, Marketing & Affirmative Marketing	15
Section V: Finance	16
Matching Contribution Requirements	16
Funding Sources, Uses & Operations	16
Assistance Limits, Subsidy Layering & Underwriting	16
Certification of Federal Assistance	17
Section VI: Market Assessments	18
Requirements	18
Section VII: Market Application	20
Requirements	20
Need for Financial Assistance	20
Multi-Family Projects	21
Rehabilitation & Construction Activities	22
Community Efforts	22
Section VIII: Contact Information	23
Appendix A: Funding Sources, Uses & Operations	24
Appendix B: Implementation Schedule	30

COMMUNITY DEVELOPMENT DIVISION
AFFORDABLE HOUSING DEVELOPMENT PROGRAM

HOME INVESTMENT PARTNERSHIPS PROGRAM & COMMUNITY DEVELOPMENT BLOCK GRANT

Section I: Overview

Consolidated Plan

The City of Billings receives federal funding as an entitlement through the HOME Investment Partnerships Program (HOME) and the Community Development Block Grant Program (CDBG). Funding for the Affordable Housing Development Program is allocated through the public processes each year in support of the City's Consolidated Plan. Please review the current Consolidated Plan strategies located online www.BillingsMT.gov/CDreports.

Affordable Housing Priorities

The goal of the Affordable Housing Program is to increase the number of affordable housing units for low to moderate income households. The City has limited funding to achieve this goal and must prioritize projects to gain maximal benefit from funding available. Priorities for the Affordable Housing Development program include the following:

- Infill development
- Energy efficiency
- Utilization of green / recycled materials
- Universal accessible design
- Tobacco-free projects
- Loan products to finance affordable housing projects versus grants, with the exception of funding awards to Community Housing Development Organizations (CHDOs).

The City is required to allocate fifteen percent (15%) of new HOME entitlement funding to certified CHDOs. Therefore, projects submitted by CHDOs are considered the highest priority for funding allocations.

Program Funding Process

City staff prepares an application to establish a routine funding source for the Affordable Housing Development program through the City's CDBG and HOME allocation process. Applications for all City programs are available each December and are due in January. Applications are reviewed by the Community Development Board and recommendations are made for City Council final approval each May for funding availability in July. This process establishes an overall funding pool for affordable housing projects and can include both HOME and CDBG funding, if available.

Application Review Process

Applicants may submit affordable housing applications for a specific project at any time and **complete** applications are considered in order of receipt. The City may also issue a standard Request for Proposals (RFP) for affordable housing projects if the City needs to meet program specific commitment requirements. Upon receipt of an application:

- Staff reviews proposed project for feasibility and compliance with program requirements. *If the project is not close to being shovel-ready, the application will not be processed further.*
- Environmental Review Records are prepared by City staff.

- Applicant presents project concept to the Community Development Board (scheduled to meet the first Tuesday of each month).
- Staff prepares memo for Community Development Board review (memos must be sent to the Board at least two weeks prior to action).
- Community Development Board makes recommendation to City Council as an action item on the agenda.
- If approved through the Community Development Board, staff prepares the Development Agreement, Deed Restriction Agreement, Trust Indenture and Promissory Notes for review by the Legal Department and the applicant.
- Following approval from the Legal Department of all agreements, staff prepares a memo for City Council Public Hearing and action (due approximately one month in advance of scheduled meeting).
- Public Hearing takes place and City Council makes final determination of funding allocation.

Committing Funding

Applicants are required to secure all additional funding sources prior to submitting an application to the City's Affordable Housing Development program. The City of Billings will not commit funding to acquisition, new construction or rehabilitation until:

- The project location has been securely identified by an actual address.
- Developer has completed a market conditions study of the proposed project's neighborhood to ensure adequate need and long-term sustainability of the project.
- All additional necessary financing is secured by the applicant.
- The budget and production schedule have been established.
- Underwriting and subsidy layering review has been completed by City staff.
- Developer capacity and fiscal soundness have been assessed.
- Developer can ensure the commencement of construction within 12 months of execution of written agreement.
- Developer can ensure the project would be issued a certificate of occupancy and occupied within four years of the written agreement date.

Please note: The City of Billings will only provide funds to the entity that owns the proposed project. The City will only commit funds to a project by officially entering into a written agreement with an applicant. Written agreements must be approved via Billings City Council, which can take approximately four weeks to schedule.

Section II: Housing Projects Overview

Introduction

In general, the Affordable Housing Development Program includes the following activities for rental and homeownership specific to the HOME and CDBG programs.

Affordable Housing Activities	HOME 25% Match Requirements Apply	CDBG Maximal Leveraging Encouraged
Property Acquisition	Purchase of existing standard or substandard property / building in need of rehabilitation is eligible under both HOME and CDBG.	
Rehabilitation	Alteration, improvement, or modification of an existing structure, including foundation work. Also includes adding a room to a structure, but not an entire housing unit.	
Conversion	Changing the use of an existing structure to affordable housing. Conversion is considered <i>rehabilitation</i> . Adding units beyond the walls of an existing structure is new construction rather than conversion. Conversion to commercial use is not eligible under HOME.	
Infrastructure Improvements	Eligible under HOME only on-site where no infrastructure is present or repair of existing infrastructure is essential to the development. New utility connections to an adjacent street are eligible. Off-site improvements (not eligible for HOME) may be eligible for match credit.	Allowed in CDBG to support affordable housing activities in residential areas where at least 51% of the residents are low / moderate income. Site improvements that are made to property that is in public ownership are considered a public improvement and are eligible for assistance.
Acquisition of Vacant Land	Allowed if construction will begin within 12 months of purchase. The City cannot loan funds to an owner to purchase property that is pre-existing in the City inventory or that was purchased for another program.	Allowed in support of affordable housing activities.
Demolition	HOME funds can be used for demolition of existing structures only if construction will begin on the HOME project within 12 months.	The prevention / elimination of blighted conditions on a spot or area basis is eligible. Clearance of toxic contaminants from property to be used for new construction of housing is eligible.
Reconstruction	Rebuilding a structure on the same lot where housing is standing at the time of project commitment. Number of units may not change. Also includes replacing a substandard manufactured / mobile house with a new manufactured house, provided a permanent foundation is installed to meet FHA mortgage insurance requirements. Reconstruction is considered rehabilitation in the HOME program.	Defines reconstruction as the rebuilding housing on the same site, including the permanent installation of manufactured housing on a site where the demolition of housing has taken place.
New Housing Construction	Any project including the addition of dwelling units outside the existing walls of a structure is considered new construction.	Not eligible in Billings
Relocation	Costs associated with compliance with the Uniform Relocation Act are eligible under HOME and CDBG, although can make a project unfeasible.	
Project Soft Costs	Includes finance-related cost, private lender origination fees, credit reports, title reports, recordation fees, preparation and filing fees, escrow or financial management services, appraisal fees, attorney fees, loan servicing and developer fees. All soft costs must be reasonable and necessary.	Not eligible in Billings
Housing Construction-Related Costs	Architectural fees, engineering fees, builder's fees impact fees on behalf of the owner.	Not eligible in Billings

The City's intent is to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities. All projects must be permanent or transitional housing and are required to meet property standards. Projects may include single-family housing, manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single-room occupancy housing, and group homes.

Housing Types

Multifamily Housing: A project containing more than one rental unit. City funds must be used only to support the development of City-assisted, low-income units. If the assisted and non-assisted units are comparable in terms of size, features and number of bedrooms, the actual cost of City-assisted units must be determined by prorating the total eligible development costs of the project so that the proportion of the total development costs charged to City funds does not exceed the proportion of the City-assisted units in the project.

Transitional Housing: Designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children. Transitional housing facilitates the movement of individuals and families to independent living within a time period that is set by the project owner before occupancy.

Single Family Housing: One-to four-family single residences, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

Manufactured Housing: Funds may be used to purchase, rehabilitate, or replace a unit. Funds may also be utilized to purchase the land upon which a manufactured home is located. All new manufactured housing and all manufactured housing that replaces an existing substandard unit (considered reconstruction) must be on a permanent foundation that meets the requirements for foundation systems as set forth in [24 CFR 203.43f\(c\)\(i\)](#).

Units must also be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner, as a priority. Although HUD allows funding projects with a land lease at least equal to the required period of affordability, City priority is for the land to be owned by the homeowner in all possible cases.

Construction of all manufactured housing, including manufactured housing that replaces an existing substandard unit under the definition of "reconstruction", must meet the Manufactured Home Construction and Safety Standards codified at [24 CFR part 3280](#). These standards preempt State and local codes which are not identical to the federal standards for the new construction of manufactured housing. Installation must comply with the manufacturer's written instructions for installation of manufactured housing units.

Single room occupancy (SRO) housing: Dwelling units consisting of a single room that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of nonresidential space, or reconstruction. For acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification.

Elder cottage housing opportunity (ECHO): Small, free- standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

Accessory Dwelling Units (ADUs): Small dwelling units that may be incorporated within, or added onto, a principal dwelling unit, garage, or other accessory structure, or may be built as a separate, detached structure on a lot where a single-family dwelling exists or will exist.

Public Facilities: This category includes emergency shelters or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories). Projects not meeting property standards at completion are also considered ineligible and non-compliant with City requirements.

Public Housing: Housing Authorities may apply for City funds for the development of affordable housing. CDBG funds may be used for acquisition, site development, and infrastructure. If HOME funds are being sought, the application should include a letter certifying the units are non-public housing units, or public housing units with the stipulations as identified below:

- Proposed units will be developed under Section 24 of the 1937 Act (HOPE VI).
- No Capital Fund assistance under Section 9(d) of the 1937 Act will be used for development.
- Units developed with both HOME and HOPE VI may, post development:
 - Receive Operating Assistance under Section 9 of the 1937 Act.
 - Be subsequently rehabilitated or modernized with Capital Funds.

Housing Ownership Projects

Beneficiaries: All homeownership units developed utilizing City funds must benefit households less than 80 percent of the Area Median Income (AMI) on initial sale. The City solely utilizes recapture restrictions payable directly to the City in homeownership projects.

Acceptable Ownership: A one-to-four unit dwelling or condominium unit. The land may be owned in fee simple or the homeowner may have a 99-year ground lease. For manufactured housing, the ground lease must be owned by the unit owner (preferable) or leased for a period at least equal to the applicable period of affordability.

Ineligible forms of Ownership: Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) are not eligible forms of ownership.

Sale Deadline: City staff strongly recommends pre-sale of homeownership units prior to construction and commitment of funds. Units must be sold within six months of construction completion or be converted into rentals. Applicants seeking assistance to develop homebuyer units must include a plan for converting units into rentals with the project application. The above considerations must be noted in the Implementation Schedule accompanying the application.

Rental Housing Projects

Beneficiaries: At least 90 percent of all City-funded rental units must benefit households with annual incomes that do not exceed 60 percent of the AMI; the remaining ten percent of the units may benefit households with income less than 80 percent AMI.

Occupancy Deadline: If housing is not occupied after six months following the date of completion, the City will require the developer to submit information detailing previous marketing efforts and a marketing plan for continued efforts to lease. The City requires repayment of federal funds for units not rented to eligible households 12 months post the date of project completion.

Tenant Participation: All rental housing project applications must include a fair lease and grievance procedure to be approved by the City. A Tenant Participation Plan must also be included with the application to ensure active tenant engagement for management decisions.

Section III: Community Housing Development Organizations

Introduction

A Community Housing Development Organization (CHDO) is a private nonprofit organization certified by the HOME program to perform housing-related activities involving *ownership, sponsorship* and / or *development*.

Each CHDO must demonstrate staff capacity and development to obtain CHDO certification status annually. Applications to obtain CHDO certification from the City of Billings are available online at www.BillingsMT.gov/chdo. The application is designed to examine compliance with the following:

- Organization's Charter, Articles of Incorporation, By-Laws or Resolutions identifies, among its purposes, the provision of decent affordable housing for low-income people.
- Provision of services to the Billings area for at least one year.
- Organized under State and local laws.
- Prohibits sharing net earnings to benefit any member, founder, contributor or individual.
- Organization is free to contract for goods / services from vendors of its own choosing.
- Tax exemption status from the Internal Revenue Service.
- Prohibits control by a governmental entity.
- At least one-third of the governing board's membership are low-income, residents of low-income neighborhoods, or elected representatives of low-income neighborhood organizations.
- A formal process for low-income program beneficiaries has been established to advise the organization.
- No more than one-third of the governing board's membership are public officials or employees of a governmental entity.
- The organization has paid employees with housing development experience to work on projects.
- Financial accountability standards have been established.
- Capacity to maintain compliance for entire affordability period (up to 20 years).
- Registration with [Dun and Bradstreet](#) to obtain a DUNS number.
- Confirmation of registration with the [System for Award Management](#).

CHDOs must maintain certification status throughout the period of affordability (up to 20 years) for any project undertaken with funds allocated by the City of Billings.

CHDO Activities

The City of Billings is required to commit at least 15 percent of all HOME entitlement funds to eligible CHDOs; commonly referred to as *set-aside funding*. Projects where the CHDO acts as an **owner / developer or sponsor** of housing are eligible set-aside activities including:

- Acquisition, rehabilitation or new construction of rental housing
- Acquisition, rehabilitation or new construction of homebuyer properties

City funds can only be provided to the entity that owns the project. Funds are reserved when the City of Billings enters into a written agreement with a CHDO or project owner committing the funds to a specific local project.

Role	Rental Housing		Homeownership
	Acquisition	Rehab / New Construction	Acquisition, Rehabilitation & New Construction
Owner	CHDO is owner in fee-simple absolute or long-term ground lease for entire period of affordability.	CHDO is owner in fee-simple absolute or long-term ground lease for entire period of affordability. Hires / Oversees developer rehabilitating or constructing the housing.	Not Applicable
Developer	CHDO is owner in fee-simple absolute or long-term ground lease for entire period of affordability.	CHDO is owner in fee-simple absolute or long-term ground lease for entire period of affordability. Hires / Contracts with Experienced Project Manager to oversee all aspects of development, including obtaining zoning, securing non-City financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs. In sole charge of all aspects of the development process, including obtaining zoning, securing non-City financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs.	CHDO is owner in fee simple absolute and developer until sale to low-income household. CHDO must arrange financing and in sole charge of construction. CHDO may provide down payment assistance (<10% of HOME project costs) in set-aside. Actual sales price or method by which sales price will be established will be included in the written agreement.
Sponsor	CHDO is owner and property was developed by a subsidiary wholly owned by the CHDO, a limited partnership where CHDO / subsidiary is sole general partner / managing member. If removed for cause, the CHDO must be replaced by another CHDO. Owned by CHDO then transferred. Funds committed to CHDO.	CHDO developed property and agrees to convey to an identified nonprofit (not created by governmental entity) organization at a predetermined time after completion.	Not Applicable

CHDO Roles

Owner: Rental housing is *owned* by a CHDO if the CHDO is the owner in fee simple absolute of multifamily or single-family housing (or has a long-term ground lease) for rental to low-income households.

If the housing is to be rehabilitated or constructed, the CHDO must hire and oversee the developer that rehabilitates or constructs the housing. At minimum, the CHDO must hire or contract with an experienced project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs.

The CHDO must own the rental housing during development and for a period at least equal to the period of affordability. If the CHDO acquires housing that already meets the City's property standards, the CHDO must own the rental housing for a period at least equal to the period of affordability.

Rental Developer: Rental housing is *developed* by a CHDO if the CHDO is the owner of multifamily or single-family housing in fee simple absolute (or has a long-term ground lease) and the developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rent to low-income households.

The CHDO must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs. At a minimum, the CHDO must own the housing during development and for a period at least equal to the period of affordability.

Homeownership Developer: The CHDO is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income households. The CHDO must arrange financing of the project and be in sole charge of construction.

The CHDO may provide down payment assistance when it sells the housing to low-income households using set-aside funds. The HOME funds for down payment assistance cannot be greater than ten percent of the amount of HOME funds for development of the housing.

In the written agreement for this activity, the actual sales price or the method by which the sales price will be established must be identified. Proceeds from future sales will be returned to the City via recapture provision.

Sponsor: Rental housing is *sponsored* by the CHDO if it is rental housing *owned* or *developed* by a subsidiary of a CHDO, a limited partnership of which the CHDO or its subsidiary is the sole general partner, or a limited liability company of which the CHDO or its subsidiary is the sole managing member.

The subsidiary of the CHDO may be a for-profit or nonprofit organization and must be wholly owned by the CHDO. If the limited partnership or limited liability company agreement permits the CHDO to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the CHDO must be replaced with another CHDO.

City-assisted rental housing is also *sponsored* by a CHDO if the CHDO *developed* the rental housing project that it agrees to convey to an identified private nonprofit organization at a predetermined time after completion of the development of the project. *Sponsored* rental housing is subject to the following requirements:

- The private nonprofit organization may not be created by a governmental entity.
- City funds must be invested in the project that is owned by the CHDO.
- Before commitment of City funds, the CHDO sponsor must select the nonprofit organization that will obtain ownership of the property.

- The nonprofit organization assumes the CHDO's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development.
- If the housing is not transferred to the nonprofit organization, the CHDO sponsor remains responsible for the HOME assistance and the HOME project.

CHDO Support

Project-Specific Pre-Development Assistance: Up to 10 percent of the total requested HOME funds for a specific project may be loaned to a certified CHDO for technical assistance in the early stages of development for an eligible project. The CHDO must have proof of site control as evidenced by a deed, sales or option contract to acquire the property.

The loan amount may not exceed an amount the City determines to be reasonable and customary. Funds may be utilized to cover project costs necessary to determine feasibility, including consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General CHDO operational expenses are not allowable costs.

The CHDO must repay the loan to the City from construction loan proceeds or other project income. If City staff determines the project is not feasible due to impediments beyond the CHDO's control, loan repayment may be waived.

Section IV: Program Requirements

Introduction

Projects receiving funding from the City for affordable housing development must meet (but are not limited to) the following requirements:

- Conformance to the City's Consolidated Plan strategies.
- Demonstrated affordable housing need in the community.
- Neighborhood task force project review.
- Compatibility with the surrounding neighborhood.
- Completion and compliance with an Environmental Assessment.
- New Construction: Compliance with local building codes and the Model Energy Code.
- Rehabilitation: Compliance with Housing Quality Standards (HQS) or Uniform Physical Condition Standards (UPCS).
- Compliance with Lead-based paint requirements for structures built prior to 1978.
- Compliance with the Uniform Relocation Act.
- Historic review for existing structures built fifty (or more) years ago, including reviews by:
 - Yellowstone Historic Preservation Board; and
 - State Historic Preservation Office.
- Davis-Bacon Labor Standards requirements:
 - CDBG – apply to *construction projects* financed in whole or part with CDBG funds of more than \$2,000 when total number of units is 8 or more. Projects with 7 or fewer units are exempt.
 - HOME – apply if number of HOME-assisted units is 12 or more. Exempt if number of units is 11 or less.
- Compliance with Affirmative Marketing and Fair Housing Practices.
- Compliance with Section 504, Americans with Disabilities Act, and the Fair Housing Act construction and / or rehabilitation standards.
- Affordability Requirements:
 - Maintaining units to a minimum property standard (*site inspections required*).
 - Household income eligibility requirements (*reported and monitored annually for tenants*).
 - Rental projects must be leased initially for at least one year, other lease requirements apply.
- Minimum Insurance Requirements:
 - Commercial General Liability insurance in the minimum amounts of \$750,000 per claim and \$1,500,000 per occurrence, with the City being named as an additional insured
 - Proof of separate, additional professional liability insurance in the amount of \$1,000,000 per claim
 - Performance and Completion Bonding, approved by the City Legal Department
- Unique Entity ID (UEI) Registration: All contractors must acquire a UEI number through the federal government's System for Award Management (SAM). The process is free. Please refer to this [fact sheet](#) for UEI details.
- Registration with the System for Awards Management at www.sam.gov.

Maintaining Affordability

The City requires ongoing monitoring in order to maximize affordability for units assisted with federal funding. This includes (but is not limited to):

- Establishing a **period of affordability** for each project, based on per-unit subsidy provided.
- Annual site visits during the period of affordability to ensure units are maintained to meet HQS or UPCS standards.
- Annual reviews of homeowner properties to ensure the units are owner-occupied.
- Annual reviews / reports of tenant income certification.
- Tenant lease restrictions.

Units are monitored for the entire period of affordability for program compliance and the City of Billings may assess a fee to the owner for project monitoring. The HOME program establishes minimum periods of affordability:

<i>Funding Invested Per Unit</i>	<i>Period of Affordability & Monitored Compliance</i>
< \$15,000	5 Years
\$15,000 to \$40,000	10 Years
\$40,000+	15 Years
Refinancing Rental Housing	15 Years
Rental New Construction	20 Years

Please note: Applicants seeking HOME funds for multi-family rental projects should carefully review the overall requirements in the [*Compliance in HOME Rental Projects: A Guide for Property Owners*](#), prior to applying for funds. This guide is available for download on the City's website [here](#).

Property Standards

In carrying out the site and neighborhood requirements with respect to new construction of rental housing, the City of Billings is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.57(e)(2) and (3).

HQS and UPCS are uniform national standards established by HUD pursuant to 24 CFR 5.703 for housing that is decent, safe, sanitary, and in good repair. Standards are established for inspectable items for each of the following areas: site, building exterior, building systems, dwelling units, and common areas.

Lead Based Paint Requirements

Lead Based Paint regulations do not apply in the following circumstances:

- Housing built after January 1, 1978;
- Housing exclusively for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing);
- Any zero-bedroom dwelling, including efficiency apartments and single-room occupancy housing; and
- Property that has had all lead based paint removed and/or has been found to be free of lead-based paint by a certified lead-based paint Risk Assessor.

The lead hazard regulations are particularly pertinent for projects conducting rehabilitation, acquisition. Required lead hazard reduction activities are based on the City investment per unit, excluding the cost to address any lead-based paint hazard.

Davis-Bacon Labor Standards

The Davis-Bacon Act requires, when applicable, the payment of prevailing wage rates, as determined by the U.S. Department of Labor, to all laborers and mechanics on federally-funded construction projects. As a rule, CDBG construction contracts in excess of \$2,000 will trigger Davis-Bacon, and HOME contracts involving 12 or more HOME units will require Davis-Bacon compliance. Staff will evaluate each application to determine if Davis-Bacon applies to a specific project.

Definitions

Laborer or mechanic: Anyone performing construction work on the project, including trade journeymen, apprentices, and trainees. “Laborers” and “mechanics” are the two groups of workers that must be paid not less than Davis-Bacon wage rates.

Employee: Every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship that may exist between a contractor or subcontractor and such person.

Apprentices and trainees: The only workers who can be paid less than the wage rate on the wage decision for their work classification are “apprentices” and “trainees” registered in approved apprenticeship or training programs. Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program. The maximum number of apprentices or trainees on the job site cannot be more than the ratio of apprentices or trainees to journeymen allowed in the approved program.

Prevailing wages: Prevailing wages are listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Wage decisions may include fringe benefits such as health insurance, retirement, vacation and contributions to training funds.

Site of work: The “site of work” is where the Davis-Bacon wage rates apply, usually the boundaries of the project. “Site of work” can also include other adjacent or nearby property used by a contractor or subcontractor in the construction of the project.

Proper designation of trade: A work classification on the wage decision for each worker based on the actual type of work performed must be done. In addition, each worker must be paid no less than the wage rate on the wage decision for that classification regardless of skill level. The only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.

Split-classification: Employees performing work in more than one classification should be paid the wage rates specified for each classification only if accurate time records showing the time spent in each classification of work are maintained. If accurate time records are not maintained, these employees must be paid the highest wage rate of all of the classifications of work performed.

Wage Decisions

Davis-Bacon wage decisions define the minimum wage payment requirements for classifications such as carpenters, electricians, plumbers, and roofers that work on the project. The geographically specific Davis-Bacon wage decision, provided by the Department of Labor, contains a schedule of work classifications and wage rates to be followed. Wage decisions can be found online: <http://www.gpo.gov/davisbacon/>.

The prime contractor, or the party ultimately accountable for meeting Federal regulations, is responsible for several key steps in a Davis-Bacon contract. Prior to bidding a construction contract, the Davis-Bacon wage decision must be obtained and included in the bid package. Once the project is underway, a copy of the wage

decision and a copy of a Department of Labor "Notice to Employees" at the job site must be posted in a place easily accessible to construction workers employed at the project.

Reporting

A certified payroll report beginning the first week a company works on the project and continuing until the firm has completed its work will be required by the project monitor. The payrolls are certified because each payroll is signed and contains language certifying that the information is true and correct. "No work" payrolls may be submitted whenever there is a temporary break in work on the project.

The prime contractor reviews each subcontractor's payroll reports for compliance prior to submitting the reports to the contract administrator. The prime contractor is responsible for the full compliance of all subcontractors and will be held accountable for any wage restitution found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations.

Every contractor (including subcontractors) must keep a complete set of payrolls and time cards for a Davis-Bacon project for three years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor for three years after completion of the project.

Compliance Reviews

The contract administrator or other inspector may visit the project site and interview workers concerning their employment on the project. The interviewer will record the interview information and will compare it to payrolls and related submissions to ensure that the labor standards requirements have been met. Additional information on this topic can be found on the Department of Housing and Urban Development website: <http://www.hud.gov/offices/olr/index.cfm>.

Uniform Relocation Act

If the project involves either temporary or permanent displacement of persons (families, individuals, businesses, non-profit organizations and farms), the applicant must be able to demonstrate the provisions of the Uniform Relocation Act (such as tenant notification) are met. An Acquisition, displacement and relocation plan must be included with the application including name(s), title(s) and phone number(s) of the staff members involved in the planning and administration of Uniform Relocation Act requirements. The plan must include evidence of the following:

- Buyer clearly advised the seller that if an amicable agreement could not be reached, the property would not be acquired.
- Buyer related to the seller that the organization had no authority to acquire the property by eminent domain.
- Property to be acquired was not part of an intended planned or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- Seller was informed of estimated Fair Market Value of property and had substantial time to consider the buyer's offer.

Additional information regarding the Uniform Relocation Act can be found at the following HUD website: <https://www.hud.gov/hudclips/handbooks/cpd-1378-0>

Outreach, Marketing & Affirmative Marketing

In order for projects to be considered feasible, the application must include a plan for outreach and marketing the proposed units to prospective tenants / buyers. The plan must take into consideration the timeline established for development and outreach efforts should commence early enough to ensure sufficient lease-up or purchase when the units are completed.

This plan must include the applicant's plan to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach. Efforts may include the use of community organizations, places of worship, employment centers, or housing counseling agencies. The plan should include efforts to include women, minorities and special needs populations including those with disabilities.

For projects with five or more units, the application must also include HUD's form, the [Affirmative Fair Housing Marketing Plan for Multi-Family Housing](#). The City's Affirmative Marketing Plan is available for review at www.BillingsMT.gov/chdo.

Section V: Finance

Matching Contribution Requirements

By establishing the HOME Program, Congress intended to establish a partnership between the federal government, states, units of local government and nonprofit organizations to expand the supply of affordable housing for low-income families. According to 24 CFR Part 92 §218, contributions must be made to qualified housing in an amount equal to 25 percent of appropriated HOME funds drawn down for housing projects. These contributions are referred to as “match”.

To be considered eligible match, a contribution must be made from nonfederal sources and must be made to housing that is assisted with HOME funds. A complete list of match sources is included in the application. Although match is not required for CDBG funding, applications are reviewed for leveraging ratios and strong financial support for the project is encouraged.

Please note: owner equity or investment is not eligible for match contributions in the HOME program.

Funding Sources, Uses and Operations

The City requires a Microsoft Excel Workbook be completed and submitted with the completed application. The *Funding Sources, Uses and Operations* document identifies all sources of funding to develop the project, proposed uses by funding sources, rent and forecasted income, annual operating expenses and a 20 year operating proforma. An example of the document is included herein as Appendix A.

The *Funding Sources, Uses and Operations* document should list all secured sources (public and private), and all proposed uses (acquisition, construction, soft costs, reserves, etc.). All sources should be documented by commitment letters outlining all terms and conditions for loans, grants, tax credits, etc. If the project is being syndicated, a copy of the limited partnership agreement should be provided.

The proforma must project cash flow over the entire period of affordability; up to 20 years. Assumptions regarding increases in rents and operating expenses must be reasonable based on current economic conditions. In general, the City will rely on an analysis of *before tax cash flow* to establish reasonable rates of return from project operations. Developer fees also must be reasonable given the type, size and complexity of each development. For tax credit projects, the pricing of the credits must be competitive with similar projects in the area, to ensure that investors are not receiving excessive returns.

Assistance Limits, Subsidy Layering & Underwriting

Assistance Limits: The City will not fund projects with less than \$1,000 per assisted unit and cannot allocate more than the per-unit dollar limitations established under Section 221 (d)(3)(ii) of the National Housing Act. A high-cost multiplier may be assigned to the Billings area by HUD not exceeding 240 percent of the original per-unit limits. As of January 2022, the City of Billings was assigned a high-cost multiplier of 270 percent. Please check with City staff for current limits.

Subsidy Layering & Underwriting: Prior to the commitment of funds to a project, the City must conduct a subsidy layering review in accordance with guidelines it has adopted to ensure that it does not invest any more City funds, in combination with other governmental assistance, than necessary to provide affordable housing. Subsidy layering review guidelines are applied when evaluating any project for which City funds have been requested. Key evaluation points to consider are:

- Total proposed funding may not exceed total development costs.
- Costs must be customary for the development of the specific project, and reasonable in terms of industry standards.

- Projected rates of return must be reasonable and the applicants must not receive excessive profits or windfalls from the project. This includes ensuring that tax credits are being sold to investors at competitive rates to avoid providing excessive returns to investors and thereby reducing the amount of equity raised.
- The project should be economically feasible over the term of the affordability restrictions, using reasonable assumptions about increases in rents and operating expenses.

Timing: Reviews will be conducted prior to entering into an agreement with the applicant and will be completed each time funding allocations for the project change. When a project is subject to a similar review by another agency, such as the Montana Board of Housing, or by HUD in conjunction with other federal financing for the project, the City may rely on that analysis to determine that a project is not receiving an excessive subsidy. In such cases, the project file must include a copy of the subsidy layering review performed by the other agency.

Please note: City staff is required to review subsidy layering studies completed by another agency and must apply City standards and document completion, findings and actions taken to address findings.

If development costs and/or sources and terms of financing change during the course of a project, it will be necessary to supplement an initial review to take into account such changes while the project is under development.

Certification of Federal Assistance

Applicants must submit a formal certification identifying all governmental assistance to be provided for the project, as provided in the Application. If the only such funds to be provided are City funds, the certification should clearly state that no other governmental funding will be used. Applicants must also certify that if other governmental assistance is sought or obtained in the future, the City will be promptly notified.

If the City determines that the total amount of City funds and other governmental assistance is excessive, it will consider the following options:

- Reduce the amount of City assistance by reducing excessive costs or increasing non-public sources of funding.
- Make other adjustments, such as lowering the rents to provide additional low-income benefit.
- Deny City assistance unless the applicant agrees to make reasonable adjustments.

- Number of income-eligible households in market area able to afford paying proposed rent at no more than 35 percent of gross income towards housing expense
- Number of new units required by bedroom size and total in market area for project target population, such as 50 percent and 60 percent AMI
- Capture rate per bedroom size
- Absorption time schedule / estimated rent-up period
- Identification of barriers to entry
- Effect of proposed project on market
- Effect of proposed project on other affordable housing projects
- Analysis of voucher / certificates available in market area

Comparable Developments in Market Area

- Projects: existing, under construction, planned for construction in the next year
- Project description, type, population served location, unit sizes by bedroom count
- Project age, amenities, concessions
- Number of units with rental assistance and if project or tenant-based
- Identification of all federal or state assisted projects
- Interview summaries, available operating expenses, turnover rates
- Map of proposed project and existing / planned projects
- Monthly rents and what utilities are included
- Current vacancy rates and photographs
- Contact information for each project
- Comparison of proposed and market rents
- Projected operating funds and expenses, if available

Section VII: Application

Requirements

The preferred application and document delivery method is paperless format (email, CD or flash drive). Ensure each section of the application is scanned and labeled (in order) according to the Attachments Checklist and the application and documents are signed as needed. Non-profit organizations must have the chairperson of their Board of Directors sign the application to assure the application has been authorized by their governing board.

If the application and documents *must* be submitted in paper format, the following hard copy documents are required:

- Use a three-ring binder.
- Single-sided, 8.5" x 11" paper, no double-sided copies.
- Loose leaf, no staples.
- Binder cover includes name of project and submitting organization.
- Spine label includes name of project and submitting organization.
- Binder is to contain ten labeled tabbed sections as outlined in the Attachments Checklist, located in the Application.

The Funding Sources, Uses and Operations Workbook must also be submitted via email, or on a flash drive. This Workbook contains three tabs: the Funding Sources Statement (tab one), Funding Uses (tab two) and Operations (tab three). Organizations are required to use the Excel documents as they utilize formulas for automated calculations. Applicants may review the elements of the workbook in Appendix A.

Need for Financial Assistance

The application will be evaluated on the availability of other financial resources to make the project feasible in addition to the relative need for financial assistance / gap financing. This evaluation will serve as the basis for the City's recommendations regarding the amount of financial assistance awarded for the project.

The application should clearly demonstrate that the request for financial assistance is necessary and reasonable, relative to the organization's financial capability. **CDBG and / or HOME funds should be requested only for the difference between the total cost of a project and the amount of funds that an applicant can reasonably provide.** Each applicant is expected to contribute a reasonable share of project costs and to request the least amount of CDBG / HOME assistance to complete a project.

Ensure total Sources match total Uses, both of which should match with request amount. Applicants should substantiate that other private, local, State or federal resources are not available at reasonable cost to address the identified need and have demonstrated that the level of local financial participation in the proposed project is the maximum that can reasonably be expected. Steps showing efforts to secure financing and other resources should be clear. Applicants should have firm letters of commitment to the project from financial institutions, agencies, or organizations.

Multi-family Projects

The application should include a copy of the organization's lease agreement, Resident Handbook, property rules and move-in / move-out procedures. If the organization has not developed these documents, the application must include a complete narrative including the following elements:

- Describe property management structure. Will organization self-manage the project, or will it be contracted out? If so, describe, in detail, Management Contract terms.
- Describe target population.

- Describe how the property will be marketed to attract a sufficient number of persons subject to the income restrictions of this property. What methods will the organization use to reach target market?
- Describe application process or waiting list development. Explain how information and rental applications are to be made available to the public before the opening of the development.
- What application fees or earnest money deposits will be required of applicants? How will these fees or deposits be applied? Will the organization require references/referrals?
- What are rent collection policies? When and how can a tenant pay his/her/their rent? Will the organization accept cash or money orders? By when must rent be paid? Are there late fees? When do late fees commence?
- Describe security deposit requirements. Under what conditions will they be refunded? How will the organization assess damage to units?
- For transitional rental housing, what is the minimum and maximum lease period?
- Describe move-in and move-out policies. How much notice must a tenant provide before moving out? What orientation materials or services will be provided to acquaint tenants with the project?
- Describe process for determining rent increases and informing tenants.
- What are the resident policies? Describe property rules regarding topics such as noise, pets, overnight or extended-stay guests, parking, use of community facilities and maintenance of the unit.
- Under what conditions may a tenant be evicted or be denied lease renewal? How much notice will the organization provide to a tenant before eviction?
- How will the organization ensure the lease does not contain prohibited terms as required by the HOME Program Federal Regulations?
- Who will be responsible for performing the income certification and recertification functions? What steps will be followed to ensure that recertifications are performed on schedule?
- How will the organization address over-income tenants?
- How will the organization ensure that the project's rents comply with regulations?
- If there is community space in the project, how will it be utilized and what rules will govern its use? Is it available to the public at large for a fee or solely for the use of the tenants?
- Will there be a resident organization established? How will it be established and maintained?
- What is the management's plan for the delivery of community/resident services within the development?
- Are there required or optional resident services available? If so, is the cost subsidized through other sources, or paid separately by tenants? Describe how the costs are paid for and/or subsidized.
- If support services are required for the target population, identify how these support services will be provided. What resources will pay for these services?

Rehabilitation & Construction Activities

If the project includes rehabilitation or construction activities, the application should include the identification of key staff responsible for the following:

- Preparing any needed Request for Proposals (RFP) and evaluation criteria
- Preparing contract documents
- Advertising the RFP and bid solicitations, including letter to minority / women-owned and Section 3 business enterprises

- Obtaining Architect's Accessibility & Property Standards Certification
- Preparing bid package
- Clearing plans through city planning/zoning office
- Conducting bid opening
- Conducting pre construction conference
- Issuing Notice to Proceed
- Conducting performance monitoring
- Reviewing and approving change orders
- Establishing procedures for contractor to submit payment requests
- Obtaining Certificate of Completion
- Obtaining lien waivers from contractor and subcontractors
- Obtaining Certificate of Occupancy

Community Efforts

Applicants should be able to demonstrate efforts made to obtain citizen views on the need and support for the project and have a plan for citizen participation. If a project is located within a Task Force area, a presentation to the Task Force prior to applying for funding is **required**. A current list of Task Forces and Chairs may be obtained by request from the Community Development Division.

Section VIII: Contact Information

For additional information, please contact:

Jordan Langton, Community Development Coordinator
(406) 860-9126
langtonj@billingsmt.gov

Physical Address:

City of Billings - Community Development Division
316 N. 26th St.
4th Floor
Billings MT 59101

Mailing Address:

City of Billings - Community Development Division
P.O. Box 1178
Billings MT 59103

Appendix A: Funding Sources, Uses & Operations

FUNDING SOURCES STATEMENT

- Please list sources of funding for the project. List both the funding source and the agency which administers the program.
- Include financing, grants, donations, and equity. Attach letter(s) of commitment.
- Identify each source as to TYPE by noting after name (L) for Loan, (G) for Grant, or (E) for Equity.
- Identify each source by DESCRIPTION CODE using the codes from the list below.
- Indicate in the STATUS column whether (P) Proposed, (R) Requested, or (A) Approved.

SOURCE	AMOUNT	TYPE	DESCRIPTION CODE	STATUS	RATE %	LOAN TERM (YEARS)	AMORTIZATION PERIOD (YEARS)	ANNUAL DEBT SERVICE	DATE REQUESTED	ACTUAL OR EXPECTED COMMITMENT DATE
TOTAL SOURCES	0							0		
DESCRIPTION CODES										
1. AHP Subsidized Financing			6. Housing Agency Bond			11. Rental Rehabilitation				
2. Other Loans (Conventional)			7. State & Local Grants			12. Other HUD				
3. Low-Income Housing Tax Credit			8. Foundations			13. Other Loans (subsidized)				
4. Equity			9. Other Grants			14. CDBG				
5. Other Subsidies			10. HOME							

NOTE: TOTAL SOURCES OF FUNDS MUST EQUAL TOTAL USES OF FUNDS

FUNDING USES - Page One

	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	TOTAL PROJECT BUDGET
Personnel Services							
Supplies							
Communications							
Printing/Duplication/Postage							
Advertising							
Accounting/Auditing							
Travel							
Training							
Other Administration							
TOTAL ADMINISTRATION COSTS							
Land							
Existing Structure							
Demolition							
Homebuyer's Assistance							
TOTAL LAND & BUILDING COSTS							
Site Work							
Off-Site Improvement							
Environmental							
Other							
TOTAL SITE WORK COSTS							
New Building							
Rehabilitation							
Accessory Structures							
General Requirements							
Contractor Overhead							
Contractor Profit							
Construction Contingency							
Community Revitalization							
Other							
TOTAL REHAB & CONSTRUCTION COSTS							
SUBTOTAL Page One							

FUNDING USES - Page Two

	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	TOTAL PROJECT BUDGET
Architect Design							
Architect Supervision							
Attorney, Real Estate							
Consultant/Agent							
Engineer/Surveyor							
Other							
Other							
TOTAL PROFESSIONAL WORK & FEES							
Hazard & Liability Insurance							
Credit Report							
Construction Interest							
Origination Points							
Discount Points							
Inspection Fees							
Title & Recording							
Legal Fees							
Taxes							
Other							
Other							
TOTAL CONSTRUCTION INTERIM FEES							
Credit Report							
Discount Points							
Origination Fees							
Title and Recording							
Legal Fees							
Prepaid MIP							
Other							
Other							
TOTAL FINANCING FEES							
SUBTOTAL Page Two							

FUNDING USES - Page Three

	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	TOTAL PROJECT BUDGET
SOFT COSTS							
Feasibility Appraisal							
Market Study							
Environmental Study							
Tax Credit Fees							
Cost Certification							
TBRA							
Other							
TOTAL SOFT COSTS							
SYNDICATION COSTS							
Organizational (Partnership)							
Bridge Loan Fees & Expenses							
Tax Opinion							
Other							
TOTAL SYNDICATION COSTS							
DEVELOPER'S FEES							
Developer's Overhead							
Developer's Fees							
Consultant Fee							
Other							
TOTAL DEVELOPER'S FEES							
PROJECT RESERVES							
Rent-Up Reserve							
Operating Reserve							
Replacement Reserve							
Escrow							
TOTAL PROJECT RESERVES							
SUBTOTAL Page 3							
SUBTOTAL Page 1							
SUBTOTAL Page 2							
GRAND TOTAL PROJECT COSTS							

RENT AND FORECASTED INCOME -Year One						
Number of Bedrooms	Number of Units	Gross Rent Including Utilities	Tenant Paid Rent	Total Monthly Rent	Median Income Target up to 50% AMI	Average Square Feet Per Unit
1						
2						
3						
4						
5						
6						
7						
Subtotal - Gross Monthly Income						
Less Vacancy Factor in %						
Other Project Income (monthly)						
Total Forecasted Monthly Income					/ monthly	
Total Forecasted Annual Income					/ yearly	
Projected Annual Percentage Increase in Income:						

ANNUAL OPERATING EXPENSES			
Administration		Maintenance	
Advertising		Decorating	
Management		Repairs	
Legal / Partnership		Exterminating	
Accounting / Audit		Ground Expense	
Other		Snow Removal	
Total Administrative		Other	
		Total Maintenance	
Operations		Taxes	
Fuel		Real Estate Taxes/Payment in Lieu of Taxes	
Lighting & Misc Power		Other	
Water / Sewer		Total Taxes	
Gas			
Trash Removal		Total Operating Expenses	
Payroll / Payroll Taxes		Annual Replacement Reserves	
Insurance		GRAND TOTAL EXPENSES	
Other			
Total Operating			
Projected Annual Percentage Increase in Operating Expenses:			

15 YEAR OPERATING PRO-FORMA							
<i>Operating Year</i>	<i>Forecasted Rental Income</i>	<i>Forecasted Operating Expenses</i>	<i>Forecasted Replacement Reserve</i>	<i>Net Income Available for Debt Service</i>	<i>Debt Service Payments</i>	<i>Net Cash Flow</i>	<i>Debt Service Coverage Ratio</i>
1							
2							
3							
4							
5							
10							
15							
<p><i>*Debt Coverage Ratio = Net Income Available for Debt Service / Debt Service</i></p> <p><i>Properties with debt coverage ratio lower than one indicates a negative cash flow.</i></p>							

Appendix B: Implementation Schedule

IMPLEMENTATION SCHEDULE	
<i>Financing</i>	<i>Anticipated Completion Date (month / year)</i>
Construction Loan Commitment	
Construction Loan Closing	
Low Income Housing Tax Credits	
Grant Commitments (list all):	
-	
-	
Permanent Loan Commitment	
Permanent Loan Closing	
Other (specify):	
<i>Project Start-Up</i>	<i>Anticipated Completion Date (month / year)</i>
Site Acquisition	
Zoning	
Infrastructure Available	
Environmental Review	
Advertise Architect / Engineer	
Design Completion	
Advertise for Construction Bids	
Construction Bid Award	
Building Permits	
Marketing	
Other (specify):	
Other (specify):	
<i>Project Activities</i>	<i>Anticipated Completion Date (month / year)</i>
Pre-Construction / Rehabilitation Conference	
Issue Notice to Proceed	
Begin Construction / Rehabilitation	
Complete Construction / Rehabilitation	
Final Inspection / Issue Certification of Occupancy	
Audit	
Marketing	
Prequalification Activities	
Rent-Up	
Other (specify):	