



Department of Commerce

Washington State Housing Trust Fund Handbook

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CHAPTER 1: HOUSING TRUST FUND STATUTORY CRITERIA

Section 100. Purpose

This chapter identifies the criteria for funding of affordable housing as found in the Revised Code of Washington (RCW) [43.185](#) and [43.185A](#). Each section contains excerpts from the RCW that lays the foundation for Housing Trust Fund (HTF) guidelines and procedures.

Section 101. Priorities

[RCW 43.185.070](#)

(4)The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in [Chapter 35.82 RCW](#). As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (5) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock.

Section 102. Preferences

[RCW 43.185.070](#)

(5)The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

- (a) The degree of leveraging of other funds that will occur;
- (b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;
- (c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;
- (d) Local government project contributions in the form of infrastructure improvements, and others;
- (e) Projects that encourage ownership, management, and other project-related responsibility opportunities;
- (f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;
- (g) The applicant has the demonstrated ability, stability and resources to implement the project;
- (h) Projects which demonstrate serving the greatest need;

- (i) Projects that provide housing for persons and families with the lowest incomes;
- (j) Projects serving special needs populations which are under statutory mandate to develop community housing;
- (k) Project location and access to employment centers in the region or area;
- (l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in [RCW 50.72.020](#); and
- (m) Project location and access to available public transportation services.
- (n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department.

(6) The department may only approve applications for projects for persons with mental illness that are consistent with a behavioral health organization six-year capital and operating plan.

Section 103. Geographic Distribution

[RCW 43.185.050](#)

- (1) At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in non-rural areas of the state.

Section 104. Type of Award

[RCW 43.185.010](#)

The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans.

Section 105. Eligible Applicant

[RCW 43.185.060](#)

Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, regional support networks established under Chapter 71.24

RCW, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or state-wide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made.

Section 106. Eligible Activities

[RCW 43.185.050](#)

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

- (a) New construction, rehabilitation, or acquisition of low and very low-income housing units;
- (b) rent subsidies
- (c) matching funds for social services directly related to providing housing for special need tenant in assisted projects;
- (d) technical assistance, design and finance services and consultation and administrative costs for eligible nonprofit community or neighborhood-based organizations;
- (e) administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;
- (f) shelters and related services for the homeless;
- (g) mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;
- (h) mortgage insurance guarantee or payments for eligible projects;
- (i) down payment or closing cost assistance for eligible first time homebuyers;
- (j) acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and
- (k) projects making housing more accessible to families with members who have disabilities.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i) and (j) of this section and not for the administrative costs of the department.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(6) Administrative costs of the department shall not exceed five percent of the annual funds available for the housing assistance program, except during the 2011-2013 fiscal biennium when administrative costs associated with housing trust fund application, distribution, and project development activities may not exceed three percent of the annual funds available for the housing assistance program; administrative costs associated with compliance and monitoring activities of the department may not exceed one quarter of one percent annually of the contracted amount of state investment in the housing assistance program; and re-appropriations may not be included in the calculation of the annual funds available for determining the administrative costs.

[RCW 43.185A.030](#) (Similar to above but includes the following)

- (1) (b) Rent subsidies in new construction or rehabilitated multi-family units.
- (d) mortgage subsidies for new construction or rehabilitation of eligible multi-family units; and
- (e) mortgage insurance guarantee or payments for eligible projects.

[RCW 43.185.070](#)

(6) The department may only approve applications for projects for persons with mental illness that are consistent with a regional support network six-year capital and operating plan.

Section 107. Eligible Populations

[RCW 43.185.010](#)

The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.... The legislature further finds that minorities, rural households, and migrant farmworkers require housing assistance at a rate which significantly exceeds their proportion of the general population. The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as the mentally ill, recovering alcoholics, frail elderly persons, and families with members who have disabilities, and single parents.

[RCW 43.185.010](#)

(5)“Low-income household” means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income adjusted for household size, for the county where the project is located.

[RCW 43.185A.030](#)

(1) Using monies specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

Section 108. Affordability

[RCW 43.185.010](#)

The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state and local level adversely affect the ability of low and very low-income persons to obtain safe, decent and affordable housing.

The legislature further finds that members of over one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income....

[RCW 43.185.050\(1\)](#)

The department shall use money from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located.

[RCW 43.185A.010\(1\) and \(5\)](#)

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1)“Affordable housing” means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family’s income. The department shall adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(5) “Low-income household” means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

Section 109. Minimum Length of Commitment

See [RCW 43.185.070\(5\) \(f\)](#) in [Section 102](#)

Section 110. Project Location

See [RCW 43.185.070\(5\) \(k\) & \(m\)](#) in [Section 102](#)

Section 111. Shared Appreciation

[RCW 43.185A.060](#)

Protection of state interest.

The department shall adopt policies to ensure that the state’s interest will be protected upon either the sale or change of use of projects financed in whole or in part under [RCW 43.185A.030](#) (2) (a), (b), (c), (d), and (e). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in

the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period.

[RCW 43.185.120](#)

Protection of state's interest.

The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under [RCW 43.185.050](#) (2)(a), (i) and (j). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period.

Section 112. Sale and Change of Use

See [RCW 43.185A.060](#) and [RCW 43.185.120](#) in [Section 111](#).

Section 113. Leveraging

See [RCW 43.185.070\(5\) \(a\)](#) in [Section 102](#).

Section 114. Monitoring and Compliance

[RCW 43.185.090](#) and [RCW 43.185A.070](#)

The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan.

CHAPTER 2: FUNDING GUIDELINES

Section 200. Purpose

This chapter contains the guidelines for the award and management of all HTF capital funds.

Section 201. Program Guidelines

201.1. Priorities and Preferences

[RCW 43.185.050](#) and [RCW 43.185.070](#) establish criteria, priorities and preferences for the allocation of Housing Trust Fund resources. The Department of Commerce (Commerce) makes every effort to balance statutory priorities and preferences and to ensure distribution of funds statewide. The HTF targets at least 30 percent of funds to projects located in rural areas of the state.

In awarding funds, Commerce gives preference to projects serving households with the lowest incomes, persons with special needs, and populations with a disproportionate need for housing assistance relative to the general population. In accordance with [RCW 43.185.070\(4\)](#), Commerce also gives priority to projects that utilize existing housing stock.

Commerce uses the same criteria to evaluate all projects of similar type. In addition to the statutory criteria contained in [RCW 43.185.070](#), Commerce evaluates projects based on a number of factors:

- Cost reasonableness
- Financial feasibility
- Readiness
- Applicant’s experience and capacity to develop and manage the project
- Ability to provide appropriate services, if applicable

201.2. Cost Containment Policy

Commerce compares projects of similar type, activity, size and geographic location to determine cost reasonableness as follows:

- Type: Multi-family or Single-family
- Activity: New construction or Rehabilitation
- Size: Small (1-25 units), Medium (26-100 units), Large (>100 units)
- Location: King/Pierce/Snohomish Counties; Other Metro; Non-Metro (rural)

Project costs are “reasonable” if the per-unit cost is at or below 110 percent of the average per unit cost of comparable projects within the same funding round. If there are insufficient projects of similar type, activity, size, and location within a funding round to provide for a reasonable comparison, data from up to three prior rounds will be used. (Average per-unit costs will not be published in advance, since they cannot be determined until applications have been received.)

Commerce may allow higher capital costs if the applicant can demonstrate that these costs would result in sufficient savings over time in operating and maintenance costs to justify the additional expense. Commerce excludes land acquisition and capitalized reserves from the cost comparison.

201.3. Funding Limits

The following funding limits apply unless a different limit is identified in the solicitation for applications. These limits help to ensure the distribution of limited HTF resources among affordable housing projects statewide.

Per Project: The maximum award per project is \$3 million for multi-family projects and \$600,000 for homeownership projects.

Per Applicant: The maximum award per applicant is \$3 million per year and \$6 million per biennium. Commerce views organizations that share common by-laws, board members (more than 50 percent), and service area as the same organization within their common service area.

Funding Limit Waivers: Organizations can request a waiver of the per-project and annual per-applicant limit; however, they cannot receive a waiver of the biennial per-applicant limit. Requests must be submitted in writing at least two weeks in advance of the application due date, or by the date identified in the solicitation for applications, whichever is sooner.

Waiver requests should include a justification and a description of the risk to the project if a waiver is denied. The request should also document attempts to secure other resources.

Waiver requests are subject to review and approval by the Managing Director of the Housing Trust Fund. Factors for consideration include, but are not limited to geographic location, readiness, target population, access to other funding sources, scale of project, long-term financial viability, and potential cost savings resulting from additional HTF investment. Commerce also considers past performance of the applicant including whether or not projects were completed on time, within budget and in accordance with HTF guidelines. Commerce will notify the applicant of approval or denial of the waiver within 3 business days of receipt of the request.

201.4. Grant and Loan Terms

[RCW 43.185.010](#) directs that the HTF be established as a continuously renewable resource, that the needs of very low-income citizens be given priority and that, whenever feasible, HTF assistance be provided in the form of loans. [RCW 43.185.120](#) further directs that the state's interest be protected upon either the sale or change of use of HTF-financed projects.

Commerce will provide awards in the form of amortized loans, deferred loans, and recoverable grants. The State's interest in the property will be secured by appropriate collateral and documentation, such as a Deed of Trust, Low Income Housing Covenant, and Promissory Note. The typical term of an HTF award will be 40 years.

The financing structure of each project will depend on the operating pro forma provided with the application and the requirements of other funding sources, such as the federal Low-Income Housing Tax Credit (LIHTC) program. In general, projects that demonstrate the financial ability to service debt will receive funding in the form of a loan.

Loans

Loans may be amortized or deferred, depending on anticipated cash flow. If amortized, loan payments will be due quarterly. Deferred loans will be due and payable in full on or before the termination date of the contract. For all loans, interest rates will range from 0 to 3 percent, compounded quarterly.

Commerce may consider alternative loan terms (e.g., annual payments, cash flow loans, multi-tiered terms, etc.) if requested in advance of the issuance of contract documents and within an adequate time-frame for review and approval. A justification and updated pro forma must accompany the request.

Recoverable Grants

Commerce may award recoverable grants to projects that serve extremely low-income populations and have insufficient cash flow to support any debt. Projects typically include, but are not limited to shelters, special needs housing, and seasonal housing for farmworkers. There is no expectation of repayment unless the conditions of the grant are not met. Funds are recoverable if there is a change of use, change of ownership, refinance, sale of property, or violation of contract terms.

201.4.1. Grant and Loan Recipients and Assignees

HTF awards will be made to eligible applicants as defined in Section 202.1. All grants, loans, and related legal documents will be between Commerce and the award recipient. Commerce may approve assignment of a HTF loan to another HTF-eligible organization if it will preserve or enhance the project and protect the State's interest. Commerce may also approve assignment of a HTF loan to a Limited Partnership (LP) or Limited Liability Company (LLC) under the following conditions:

- For non-tax credit projects, the HTF award recipient must be the sole member and manager of the LP/LLC and the LP/LLC must be treated as a disregarded entity by the Internal Revenue Service for tax purposes.
- For LIHTC projects where there is a for-profit investor, the HTF award recipient must be the sole managing member or manager of a LLC or sole general partner of an LP.
- All disbursements of HTF funds will be made to the nonprofit award recipient.
- The nonprofit recipient's obligations under the HTF contract will remain in effect.

201.5. Prevailing Wage

Recipients of HTF funds may be subject to the state Prevailing Wages law, [Chapter 39.12 RCW](#).

HTF grant applicants/recipients should assume that Prevailing Wages law will apply and build the requisite costs into all project development budgets prior to applying and contracting with the HTF, unless they obtained an otherwise determination from the Washington State Department of Labor and Industries (L&I).

If the HTF applicant/recipient receives a loan that is incurring interest, is not forgivable, and is required to be repaid in full, such HTF loan in and of itself is not expected to trigger a requirement that prevailing wages be paid on the project. However, if the applicant/recipient is receiving other public funds and/or is a public entity (e.g., city, county, housing authority), it may be required to pay prevailing wages on the

project. A definitive determination regarding the applicability of Prevailing Wages law can only be obtained from the L&I.

Commerce strongly recommends that all HTF applicants/recipients examine their project facts and all aspects of their expected funding prior to applying for HTF funding to determine whether or not prevailing wages must be paid on their project and, if so, what wage rates apply. Commerce further recommends that HTF applicants/recipients consult with L&I and their private legal counsel regarding Prevailing Wage law requirements and specific factual questions (e.g., will the project funding structure activate a prevailing wage requirement?). Failure to secure a determination from L&I prior to commencement of work on a project can result in significant additional cost to the project.

HTF staff is not authorized and is not responsible for determining whether or not Prevailing Wages law applies to any specific project. Each project's unique financing structure (i.e., the amount and terms of all public funds awarded to or invested in the Project) may affect the applicability of Prevailing Wage law. Furthermore, Commerce cannot guarantee that funds can be provided to cover additional project costs if a higher prevailing wage rate (e.g., commercial rather than residential) is determined to be required by L&I. The HTF applicant/recipient is responsible for including applicable prevailing wage requirements in construction bid specifications.

L&I provided Commerce with the following helpful information: L&I cannot provide a blanket statement that Prevailing Wages law does not apply to a project, since L&I cannot be certain they know every aspect of all of the project's details. However, L&I can and will assist you if you provide specific facts and ask if those particular facts activate a Prevailing Wages law requirement. Some trades have a residential prevailing rate. The residential construction rates are generally lower than the regular (sometimes called "commercial") rates. [WAC 296-127-010](#) defines "residential construction" for the Prevailing Wages law. L&I can assist you on whether your project facts conform to this definition. L&I also provides a helpful [policy](#) on how L&I applies that "residential construction" rule. For more information regarding prevailing wages, please consult [L&I's website](#) or contact L&I at PW1@lni.wa.gov or (360) 902-5335.

Note: Projects receiving HOME, National Housing Trust Fund funds, or HUD vouchers may also be subject to the wage requirements of the Davis-Bacon Act. Refer to the HOME Handbook and to the U.S. Department of Housing and Urban Development for details.

201.6. Use of the Apprenticeship Program

For projects with construction costs of at least \$1 million, the HTF contractor must include apprentice training program requirements in their construction contractor bid package. The HTF contractor must also make best efforts to select a prime contractor that will hire apprentices enrolled in an approved apprenticeship program and who will procure sub-contractors who will also hire apprentices enrolled in an approved apprenticeship program as described in [RCW 39.04.300](#) through [39.04.320](#). At least 15 percent of the labor hours must be performed by apprentices enrolled through the Washington State Apprenticeship and Training Council (WSATC).

The HTF contractor is required to acquire a completed "Statement of Apprenticeship/Journeyman Participation" form from the general contractor that includes subcontractor data. The HTF contractor must submit this form to the Washington Community Reinvestment Association (WCRA) and the HTF contract manager with each voucher request.

For more information regarding apprenticeship programs, please consult the [Washington State Department of Labor and Industries Apprenticeship Programs website](#).

201.7. Archaeological and Cultural Resources

Certain capital construction projects are subject to the requirements of [Washington State Executive Order \(EO\) 05-05](#) "Archaeological and Cultural Resources". Exceptions include federally funded projects, which are subject to a review under Section 106 of the [National Historic Preservation Act](#). The EO may require a review of capital construction projects and land acquisitions by the Department of Archaeology and Historic Preservation (DAHP), as well as by affected tribes.

In the event that historical or cultural artifacts are discovered at the project site during construction or rehabilitation, the HTF contractor shall immediately stop construction and notify the local historic preservation officer and the state historic preservation officer at DAHP at (360) 586-3065. DAHP's EZ forms are used to satisfy state and federal requirements for project compliance reviews. Use of these forms is highly recommended and will expedite the review process. The following EZ forms can be found on DAHP's website at <http://www.dahp.wa.gov/hud-reviews>:

- EZ1 (Project Review Sheet)
- EZ2 (Determination of Eligibility), and
- EZ3 (Building Rehabilitation Worksheet)

Projects are required to demonstrate compliance with historical, cultural, and tribal review processes, including any recommended survey work, prior to the disbursement of HTF funds for any site work or construction or rehabilitation activity. If HTF funds will be used for land acquisition, the review process must be completed prior to the second draw. Compliance will be evidenced by the following:

- Letter of determination from DAHP.
- Copy of dated notification to affected tribes and tribes' response, if any. Tribes are required to respond within 30 days of notification. If no response is received within 30 days of notification, there is considered to be no impact.
- Documentation that any applicable requirements have been satisfied or that an approved plan is in place.

If the review process identifies a need for Commerce to meet with affected tribes, the HTF contractor is responsible for notifying Commerce.

201.8. Evergreen Sustainable Development Standard

All affordable housing projects or programs receiving state capital funds from the Housing Trust Fund are subject to [RCW 39.35D.080](#) and must be built or implemented according to the Evergreen Sustainable Development Standard (ESDS). Please refer to Section 207 for detailed information pertaining to the ESDS.

Note: The Standard is reevaluated and updated periodically to reflect changes in the green building industry and other laws, such as the State Building Code. HTF contractors are responsible to follow the current ESDS.

Section 202. Eligibility Guidelines

202.1. Eligible Applicants

The following types of organizations are eligible to apply for HTF funds as referenced in [RCW 43.185.060](#):

- Local governments
- Local housing authorities
- Nonprofit community or neighborhood-based organizations
- Federally-recognized Indian tribes in Washington State
- Regional support networks established under [Chapter 71.24 RCW](#)
- Regional or statewide nonprofit housing assistance organizations

Although an organization may be eligible to receive HTF funds, the proposed project or activity must also be eligible (see 202.2 and 202.3).

Nonprofit applicants must provide a certification from the Washington State Secretary of State that they are registered to do business in Washington as a nonprofit organization in accordance with [RCW 24.03](#). Furthermore, nonprofit organizations must submit a letter from the Internal Revenue Service designating them as a tax-exempt nonprofit organization, and a copy of their by-laws stating a clear housing purpose. Commerce views organizations that share common by-laws, board members (more than 50 percent), and service area as the same organization within their common service area.

202.2. Eligible/Ineligible Project Types

HTF funds must be used for projects where housing is the primary focus or need. The following project types are designated as eligible or ineligible for HTF funding:

Eligible Project Type:

- Assisted living facilities
- Boarding homes
- Community land trusts
- Emergency shelters (including shelters for survivors of domestic violence)
- Group homes
- Homes/loans for low-income homebuyers
- Multi-family rental housing
- Seasonal and year round housing for farmworkers
- Transitional housing

Ineligible Project Type:

- Alcohol treatment facilities
- Chemical dependency treatment facilities
- Correctional facilities
- Facilities providing continual or frequent nursing, medical or psychiatric services
- Medical treatment facilities

- Nursing homes
- Private foster care facilities
- Student housing other than housing of “independent students” as defined by HUD in its Federal Register Notice dated September 21, 2016 (Docket No. FR-5969-N-01).

202.3. Eligible Activities

The following activities are eligible for HTF funding from capital bond proceeds as indicated in [RCW 43.185.050\(2-5\)](#) and from portions of the [HOME](#) program:

- Acquisition of real property
- Acquisition to preserve low-income or very low-income housing
- Down payment or closing cost assistance for eligible low-income homebuyers
- New construction
- Rehabilitation of single and multi-family housing
- On-site improvements

Note: Off-site improvements may be eligible under the Community Development Block Grant (CDBG) Housing Enhancement Grant program. For more information, refer to the Housing Enhancement Grants section of the CDBG Specialty Grants [web page](#).

202.4. Eligible Populations

HTF-funded housing units may serve households with incomes up to, but not exceeding, 80 percent of the local area median income as stated in RCWs [43.185.010](#), [43.185A.010\(5\)](#) and [43.185A.030\(1\)](#). The state’s HOME funded units are targeted to households with incomes at or below 50 percent of the local area median income. Legislative provisos may also require that certain population groups be given priority for housing. Information regarding specific priorities or set-asides will be included in the application notification for each funding round.

202.4.1. Farmworker Housing

HTF funds can be used for both year-round and seasonal farmworker housing. HOME funds may only be used for year-round projects. Specific requirements and limitations apply to seasonal projects.

For purposes of HTF funding, the following definitions apply:

Farmworker Housing – Housing for persons with incomes derived from farm work of at least \$3,000 per year and having household incomes at the time of initial occupancy of at or below 50 percent of the area median income.

Farm Work – Services in connection with cultivating soil, raising or harvesting, or in catching, netting, handling, planting, drying, packing, grading, storing, or in preserving in its unmanufactured state any agriculture or aquaculture commodity; or delivering to storage, market, or a carrier for transportation to market or to processing any agricultural or aqua cultural commodity; or working in a processing plant and directly handling agricultural or aqua cultural products.

Year-Round (or Permanent) Farmworker Housing – Housing that serves as the permanent residence of a farmworker household. It may be multi-family or single-family housing.

Seasonal (or Temporary) Farmworker Housing – Housing that is occupied by farmworkers on a seasonal basis and is not considered their permanent residence. The housing may operate either seasonally or year-round, but occupancy is temporary in duration.

Note: Other programs and agencies, including the Washington State Department of Health, may use different definitions.

All HTF-funded seasonal farmworker housing projects must obtain a [Temporary Worker Housing](#) License from the Washington State Department of Health and must comply with all applicable state and federal regulations pertaining to the construction, licensing, and operation of temporary worker housing. The project's Management Plan must identify the anticipated annual operating period (e.g. May 1 through October 31).

Seasonal housing projects may lease up to 75 percent of available beds to agricultural employers, provided:

- The project's Management Plan defines a process for leasing beds that allows for participation by multiple employers.
- The cost per bed-night charged to an agricultural employer is no less than the average annual cost per bed-night for the project.
- Agricultural employers sign a lease agreement that identifies the number of beds rented, period of occupancy, amount of rent, and procedures for dealing with unused beds.
- Rents collected by agricultural employers do not exceed amounts charged to farmworkers on a walk-in basis.
- Agricultural employers leasing beds for farmworkers admitted to the U.S. for agricultural labor under Section 201(a)(15)(H)(ii)(a) of the Immigration and Nationality Act comply with all elements of that program, to include paying 100percent of housing costs for those workers.

202.5. Eligible/Ineligible Costs

HTF and HOME program funds may be used only for low-income housing units and other space integral to the low-income residential development, such as parking and common areas that are for the exclusive use of low-income tenants in the project (e.g. community kitchen, computer room, case manager's office, and other common areas such as lobby, corridors, stairwells, and storage areas). Costs associated with market rate units or commercial areas are not eligible for reimbursement and should be segregated from low-income residential costs.

Eligible costs include:

- Accounting/Audit expenses during development period
- Appraisal
- Architectural/Engineering costs
- Bond premium
- Boundary and topographic survey
- Capital Needs Assessments related to project development (pre-construction)
- Closing, title, and recording fees
- Construction loan fees

- Developer fees
- Environmental site assessment
- Geotechnical study
- Hazardous abatement and monitoring
- Impact/mitigation fees
- Infrastructure improvement (if within property boundaries of the project)
- Insurance costs during development period
- Landscaping
- Legal
- Low Income Housing Tax Credit (LIHTC) fees
- Major appliances (e.g., stoves, refrigerators, washer/dryer, dishwasher)
- Fixtures, including furniture or other equipment that is permanently affixed to the building or property
- Marketing/leasing expenses
- Marketing study
- Other loan fees (Impact Capital, State HTF, etc.)
- Permits, fees, and hook-ups
- Playground equipment if solely for residents
- Project management
- Property acquisition
- Purchase and sale extension payment
- Real estate taxes during development period
- Replacement Reserves (except for projects using HOME funds)
- Relocation expenses for projects using HOME funds
- Sales taxes
- Technical assistance
- Utility costs during development

Ineligible costs include but are not limited to:

- Administrative expenses (see glossary)
- Artwork
- Capital Needs Assessments for long-range planning and project management (post-construction)
- Carrying costs at rent-up
- Computers
- Furniture
- Off-site infrastructure (may be eligible under the state CDBG program)
- Office equipment
- Operating reserves and operating subsidies
- Relocation expenses (except with HOME Program funds)
- Soft cost contingencies

202.5.1. Eligibility of Prior Costs

HTF funds may be used to reimburse costs incurred up to two years prior to the date of the HTF award, or three years prior to the date of contract execution, whichever is earlier. HOME funds may be used to

reimburse costs up to two years prior to commitment in HUD's Integrated Disbursement and Information System (IDIS) (generally, contract execution). Requests to use HTF funds to reimburse earlier expenditures must be submitted and approved in advance of contract execution.

Note: Refer to Section 403.4 for information concerning Voucher Request Processing and Section 402.4.4 for Electronic Funds Transfer setup.

Section 203. Project Guidelines

203.1. Affordability

Rent payments, including tenant-paid utilities, may not exceed 30 percent of the maximum monthly income level established for each assisted housing unit. Maximum rents are based on the income of the target population rather than the individual household income and are derived from the U.S. Department of Housing and Urban Development's (HUD's) Section 8 income limits.

203.2. Length of Commitment

To ensure the long-term affordability of HTF-funded housing units and remain in compliance with [RCW 43.185.070\(3\)\(f\)](#), applicants must commit to serving the project's target population for 40 years.

The length of commitment will be secured by a covenant running with the land, except in the case of homeownership.

Any change during the length of commitment to the population served or to supportive services for residents with special needs requires prior approval by Commerce.

203.3. Tenant Relocation

Relocation assistance must be provided to tenants who are permanently or temporarily displaced. Relocation costs are not an eligible use of HTF funds, but are an eligible use of HOME funds. All projects requiring tenant relocation must submit a description of the relocation plan, the costs involved, and the funding source(s) to be used.

HTF funded projects must follow the relocation requirements of the Washington State Department of Transportation (DOT) as described in [Chapter 8.26 RCW](#).

Note: Projects receiving state HOME funds must follow the federal requirements outlined in Section 104 of the Uniform Relocation Act (URA). Applicants are advised that HTF may elect to apply HOME funding to qualified projects. For projects that can be judged HOME-eligible, applicants should assume [URA Section 104](#) applies to any relocation activities.

DOT and URA require notices be sent to tenants regarding the type of displacement and benefits provided to tenants. Applicants must submit samples of the notices they are using.

203.4. Project Location and Consistency with Local Plans

Projects receiving HTF funds must comply with applicable local comprehensive growth management plans and local HUD Consolidated Plans and must meet all zoning and building code requirements of the local jurisdiction.

Projects for homeless families or individuals must be consistent with a local or state Continuum of Care plan and the local Homeless Plan.

Projects accessible to services, jobs, transportation and amenities are strongly encouraged and will be given preference in accordance with [RCW 43.185.070\(3\)\(k\), \(l\) and \(m\)](#).

203.5. Project Schedule

The application should include a project schedule that provides, at a minimum, a list of realistic milestones that give a comprehensive picture of tasks, completion dates and staff responsibilities. The “Project Schedule” form contained in the application provides a place to enter specific benchmark dates in the areas of site control, feasibility analysis/due diligence, relocation, financing, design/permitting, construction, and occupancy. Applicants should include processes already underway, and any additional tasks or benchmarks appropriate to their project. The project schedule must include target dates for the start of construction and certificate of occupancy or substantial completion (i.e., placed in service).

Projects are generally expected to begin construction within one year of award and be placed in service within two years of contract execution. The application announcement and award letter may identify a specific date by which the start of construction is expected to begin. If specific timelines are established and not met, an application or award may be withdrawn. Timeline extensions must be requested in advance and are subject to Commerce approval. Requests must include an explanation for the delay and an updated project schedule.

Section 204. Project Financial Guidelines

204.1. Construction Lending

If an applicant proposes using HTF funds for construction or rehabilitation and these activities require a building permit, Commerce will be considered a construction lender and will contract with a third party to manage the review of project construction.

204.2. Construction Contingency

In the development budget, applicants should assume a construction contingency of 10 percent for new construction and 15 percent for rehabilitation. If a different contingency level is used, applicants must justify the level in their application, even if HTF funds are not used for the construction contingency line item.

The third party construction reviewer will monitor the use of contingency funds when reviewing construction draws. If the costs are determined to be unjustified, Commerce may disapprove reimbursement of those costs from HTF funds. If contractors are uncertain regarding the correct use of contingency funds, they should consult with their HTF project manager prior to expending these funds.

Use of leftover construction contingency for unplanned purposes (e.g., added amenities, additional replacement reserves, etc.) must be approved in advance by Commerce.

204.3. Contractor's Profit and Overhead

If the general contractor is a principal, related party or otherwise has an identity of interest with the applicant or project owner, the contractor's combined profit and overhead is limited to 10 percent of total rehabilitation/construction costs plus site work costs.

204.4. Operating Expenses

Commerce does not have a published allowable cost range or cost per unit range. All applications must include an operating budget prepared by the proposed management entity with detailed justification supporting the proposal. In the case of homeownership projects, an affordability analysis will satisfy this provision.

Commerce may allow projects to use cash flow to pay for services needed by project residents. HTF staff will require detailed information on the type and amount of services in the application.

If using state Operating and Maintenance (O&M) Program funds, projects cannot use rental income to pay for services to tenants. Service-related costs must be paid for with service income.

If the applicant is paying for services required by a target population, the operating pro forma must include the cost of those services. If services are provided by another organization as in-kind services, the operating pro forma should exclude the cost. The form that details service revenues and expenditures should include only direct services.

Operating costs are subject to review every year as part of the annual report. Projects receiving O&M funds will be reviewed annually to determine the need for continued subsidy. Refer to [Chapter 6](#) for O&M Fund annual review details.

204.5. Vacancy Rates

Applicants should use a 5 percent residential vacancy rate and a 10 percent non-residential vacancy rate when preparing their operating pro forma. Exceptions will be allowed if adequate justification is provided, such as in the case of very small or special needs projects.

204.6. Reserves

204.6.1. Operating Reserves

Operating reserves are intended to provide operating funds for a project during periods when occupancy rates are lower than expected and operating income is not sufficient to pay the fixed operating costs, such as utility payments, debt service, and salaries.

All projects must demonstrate in the operating pro forma the ability to capitalize an operating reserve by the end of the second full year of project operation. The operating reserve should be equivalent to three months of the project's first year operating expenses. An exception may be allowed for special needs projects.

Operating reserves should continue to be funded for the life of the project. Over time, as actual operating expenses increase, the operating reserves should also increase. Applicants may choose to maintain a higher level of reserves, but not lower.

Note: HTF capital construction funds cannot be used to capitalize operating reserves.

204.6.2. Replacement Reserves

Replacement reserves are intended to accumulate and provide funds when needed to replace or maintain major systems of the building. The replacement reserves funded from capital or operating income over time should be enough to pay for the major maintenance and replacement needs of that project for the next 20 years. In general, reserve deposits should be at least \$350 per unit per year. The per unit reserves must be reflected in the development budget if they are capitalized or the operating pro forma if they are to be deposited from operating income.

Minimum replacement reserves for rehabilitation projects shall be determined by the required capital needs assessment and life cycle cost analysis (see [Section 205.9](#)). The estimated useful life estimates of a life cycle cost analysis must come from a nationally recognized organization such as Marshall and Swift.

Applicants must assess their projects and establish replacement reserves with a vision of maintaining the long-term viability of the property. The assumptions behind amounts put into the budgets should be stated as part of the narrative explanation for that line item.

204.7. Developer Fees

The following guidelines apply to the HTF-funded portion of the developer fee:

- Commerce limits the portion of the HTF award that can be used for developer fee. While Commerce does not restrict the total developer fee for a project, it is expected that the fee be in line with industry standards.
- No more than 10 percent of the HTF award may be used for developer and project management fees (including ESDS coordination).
 - Project management is defined as staff time and project-related costs during the development/implementation period. Staff time and project-related costs claimed must be clearly documented and differentiated from other duties not related to the project.
- Payment of the developer fee from HTF funds must be proportional to the level of construction completed, as determined by the third party construction reviewer. The HTF project manager may allow exceptions. However, Commerce will retain no less than 10 percent of the developer fee payable from HTF funds until the contractor has completed the project and complied with all submittal and contractual requirements.

204.8. Debt Coverage Ratio

Projects must have an overall Debt Coverage Ratio (DCR) that provides a cushion against risk that may result from unforeseen circumstances, such as higher than anticipated vacancy rates.

Deferred loans are not considered in the DCR calculation during the deferral period, only the years when they are due and payable. The annual contributions to operating and replacement reserves must be included in the operating expenses when calculating the DCR.

Projects should have an overall DCR of at least 1.10.

Commerce reserves the right, during contract development, to direct the use of excess cash flow when a project has an overall DCR greater than 1.20.

204.9. Subordination

Commerce is willing to subordinate its financial lien position to private lenders, but its covenant is not subject to subordination. Commerce requires review and approval of private lender subordination agreements prior to subordination. Commerce requires at least 2 weeks to review these documents.

Subordination of Commerce debt to other public debt may be granted on a case-by-case basis after negotiation with the public lender. Commerce subordination to other public lenders is determined by the size and type of investment of the other lender in a particular project.

Generally speaking, the greater a public funder's investment in a project, the higher its lien position will be.

204.10. Funding Commitments/Leverage

The applicant should demonstrate support for the project from local organizations and local government. A strong indicator of local support is commitment of funds for capital development. Other examples are waivers of fees for utility hook-ups or building permits, as well as waiver of impact fees. Operations and maintenance support in the form of project-based Section 8, local O&M commitments or other local subsidies are considered as well.

Applicants must document funding commitments and leverage in the HTF application. Commerce also requires letters of commitment for donations, including sponsor contributions.

Applicants must submit a capital campaign plan if applicable.

Applicants must disclose where they have sought funding and why they have or have not secured those funds.

Commerce may award funds even though funds from other sources have not been committed. However, Commerce will not release funds until all funding commitments are confirmed.

All funds must be secured and the HTF contract executed within the timeframe identified in the HTF award letter. Otherwise, the award may be rescinded.

204.11. Retainage When HTF Contract Is Pre-Construction Only

For projects using HTF funds solely for pre-construction costs, Commerce will withhold 10 percent of its award until project completion. Exceptions must be requested and approved in advance of contract execution.

Section 205. Project Documentation Guidelines

205.1. Development Consultant Agreement

Applicants must provide a copy of the developer agreement if a third-party developer is used. The Agreement must clearly identify the duties, period of performance (e.g., pre-development work only, through construction completion, etc.), and developer compensation. Commerce must be notified if there is a change in developer or the role of the developer, or if the development agreement is terminated.

205.2. Market Study

Applicants must, at a minimum, describe efforts to identify existing rental properties within the proposed project's market area which are available to the target population. A third-party market study must accompany the application if the project involves Low-Income Housing Tax Credits (LIHTCs) or if another funder requires a market study.

Market studies are not required for:

- Projects whose financing does not include 4 percent (bond) or 9 percent (competitive) LIHTCs.
- Projects whose financing does not include another public funder which requires a market study.
- Scattered site single-family projects - either rental or homeownership.
- Projects for persons with developmental disabilities (DD).
- Projects for persons with chronic mental illness (CMI).
- Projects for homeless persons.
- Domestic violence (DV) projects.
- Special needs projects for persons with chronic substance abuse issues combined with homelessness and/or other conditions requiring intensive support services.
- Group foster care projects.
- Tribal projects on tribal land.
- Rent-subsidized multi-family projects (project-based).
- Seasonal occupancy farmworker projects.

If the project does not meet any of the above criteria, a market study is required. The market study must:

- Be prepared by a professional independent analyst who is on the Washington State Housing Finance Commission's Approved Analyst list.
- Be dated no more than 12 months prior to the application deadline. Updates to existing market studies will be accepted. (This guideline may be waived on a case-by-case basis.)
- Provide a detailed project description including site amenities, unit mix, comparison to market rate projects, comparison to other rent restricted projects, and a precise delineation of the market area.
- Describe the supply and demand for market rate and rent restricted housing. The analysis should include data regarding under-served or specialized low-income markets and vacancy rates for the target population of the proposed project. The study should reach a conclusion about the proposed project's competitive position.

- Include a rent gap analysis for both market rate and rent restricted housing. The study must draw conclusions, supported by data, on both the current and projected market need, the size of the pool of qualified potential residents, the demographic profile of the typical income eligible resident, absorption rate, and the viability of the proposed project as sited.
- Be submitted with the application if an applicant has site control. If site control has not been obtained at the time of application, the applicant must submit the market study upon receipt of site control.

205.3. Site Control

Site control is required at the time of application for all multi-family projects and single-family subdivision developments. A change in site after application or award requires approval and could result in withdrawal of the application or award.

The application must include a detailed description of the site and site control documentation. Site control documentation should include a deed of trust, current option, current purchase and sale agreement, a current title report showing the entity holding fee simple title, an executed lease agreement for the length of the commitment to serve low-income households, or an executed disposition or development agreement.

Exceptions to this requirement are allowed for scattered site homeownership programs, and owner-occupied rehabilitation. In most cases, site control is required prior to HTF contract execution.

HTF awards for single-family rental projects are contingent upon Commerce's approval of each proposed site. The applicant must identify the pool of available single-family properties. Applicable documentation may include lists of properties in the proposed size, location, condition and price range and other comparable information. Prior to disbursing funds for any particular site, Commerce retains the right to confirm the development and operating budgets and any other pertinent information for each site.

205.4. Environmental Review

205.4.1. Phase I Environmental Site Assessment

Commerce requires multi-family projects and subdivision developments to submit a Phase 1 Environmental Site Assessment (ESA) with the application. The ESA must ensure that any environmental hazards are recognized and mitigated. If any hazards are identified, they must be abated or mitigated prior to occupancy.

A Phase 1 Environmental Site Assessment must:

- Accompany multi-family, subdivision, or mobile home park applications.
- Include limited surveys of lead-based paint, asbestos, mold, and wetlands as applicable.
- Be carried out according to the [American Society for Testing Materials \(ASTM\) E1527 standard](#).
- Be dated no more than 12 months prior to the HTF application due date. (Note: A letter updating a Phase 1 assessment completed more than 12 months prior to the application due date is acceptable.)

If the Phase 1 ESA identifies any environmental hazards and recommends a Phase 2 ESA, then the latter is required and must be included in the application when available.

Commerce requires single-family rental projects to submit a completed Environmental Checklist upon receipt of site control for each single-family home. Each property must have a limited survey of lead based paint, asbestos and mold hazards. Commerce reserves the right to deny funding to a project based on risk, cost, or feasibility of mitigation.

205.4.2. Environmental Review Requirements for Federal Funds

Projects receiving federal funds from Commerce (e.g., HOME funds) must meet both federal environmental review requirements under the [National Environmental Policy Act \(NEPA\)](#) and state requirements under the [State Environmental Policy Act \(SEPA\)](#). Federal environmental review requirements must be met prior to contract execution.

205.5. Asbestos, Lead-Based Paint, Mold, and Wetlands

The American Society for Testing Materials E1527 standard does not require assessments for asbestos, lead-based paint, mold, or wetlands. However, these concerns must be addressed as part of the due diligence requirements in HTF applications.

- For all existing buildings, limited surveys for asbestos, lead-based paint, and mold are required. At a minimum, the surveys should include documentation of a site inspection, the stated sampling methods that were applied, and a conclusion regarding the presence of these concerns. Applicants should specify these surveys as required additions when ordering the Phase 1 ESA.
- For all vacant land, a limited wetland survey is required. At a minimum, the survey should include documentation of a site visit, a survey of data regarding the documented presence of wetlands in the geographic area of the project site, the stated analytical method that was applied, and a conclusion regarding the presence of a wetland.

If the presence of asbestos, lead-based paint, mold, or wetland is confirmed or the probability of their presence is high, then the HTF application must contain a plan to mitigate, abate, or manage each issue. This plan must include the cost to resolve each area of concern; the development budget must reflect these costs.

205.6. Management Plan

A management plan is necessary to help ensure the responsible operation of the project for the length of the commitment. The application must include a description of the proposed management plan. See [Section 403.6.1](#) for required content.

For acquisition projects, the management plan must be submitted during the contracting process. For new construction projects, the management plan must be submitted within 90 days of the Certificate of Occupancy date. See [Section 403.6.2](#) for information regarding the submission of management plans.

205.7. Special Needs Documentation

Projects that require special licensing must provide documentation of current license. Projects applying for an initial license must provide a letter of support from the licensing agency. Letters and licensing documentation relating to this section must be submitted with the application. Applicants must provide documentation of all service funding commitments.

If an agency or organization other than the applicant provides primary support services for special needs populations, then Commerce requires submission of a Memorandum of Understanding (MOU) that defines the roles and responsibilities of each entity. The MOU must also explain how costs will be covered.

Projects designed to serve:

- **Persons with developmental disabilities** must have a letter from the Department of Social and Health Services (DSHS) Regional Office approving the proposed project. A referral agreement with the DSHS must be executed and submitted prior to execution of the HTF contract. The referral agreement is necessary to ensure each resident meets the eligibility requirements of DSHS's Division of Developmental Disabilities (DDD) program.
- **Persons with chronic mental illness** must have a letter of support from the lead person of the Regional Support Network (RSN) confirming that the project is consistent with the RSN's plan.
- **Homeless persons and families** must have a letter from the lead person of the local Continuum of Care Planning Group (CCPG) confirming that the project is consistent with the Continuum of Care Plan.

205.8. Appraisal

Commerce requires a full appraisal supporting the purchase price for projects that involve the purchase of real property and/or building(s). An appraisal is required even if HTF funds are not being used for acquisition of the property. If the property is offered at a below market price, donated, acquired without purchase, or if the property is already owned by the applicant, Commerce will accept a current property tax assessment in lieu of a formal appraisal.

An appraisal must be:

- Based on the highest and best use.
- Conducted by someone with a current general appraisal certificate in the State of Washington.
- Dated no more than 12 months prior to the application due date. (Note: A letter updating an appraisal completed more than 12 months prior to the application due date is acceptable.)

For projects that are exempt from site control at the time of application (see [Section 205.3](#)), appraisals will be required before release of funds.

Scattered site homeownership projects and down payment assistance programs are exempt from the appraisal requirement at application, but must provide appraisals at the time of purchase.

205.9. Construction Cost Estimate

Commerce requires projects involving rehabilitation or new construction to submit a construction cost estimate with the application. If site control has not been obtained at the time of application, the cost estimate must be submitted upon receipt of site control. To ensure that project costs reflect the current market and match the construction plans, Commerce strongly advises applicants to engage a professional cost estimator or have the project architect use a professional cost estimator.

Construction Cost Estimates must:

- Justify rehabilitation and new construction costs.
- Be prepared by a professional independent third party. Acceptable parties include the project architect, engineers, or professional cost estimators.
- Be submitted on the professional cost estimator's letterhead.
- Be based upon the capital needs assessment for rehabilitation projects and include unit-by-unit details of estimated costs.
- Include detail sufficient to indicate the life cycle of the building systems for new construction projects. A summary estimate is not enough.
- Reflect design features that are described in the application. This includes all costs associated with design features elected in the [Evergreen Sustainable Development Standard \(ESDS\)](#).
- Include an escalation factor that reflects construction cost increases from preparation of the cost estimate through the signing of the construction contract.
- Include an inflation adjustment, or some statement assuring the relative accuracy of costs linked directly to the planned construction start date.
- State whether or not prevailing wages were used in completing the estimate and, if so, whether residential or commercial wage rates were assumed.
- Correspond with the line items submitted in the development budget. Any differences must be documented and explained.
- Be dated no more than 12 months prior to the HTF application due date.

205.10. Capital Needs Assessment (CNA)

A capital needs assessment is required for all projects, except homeownership and owner-occupied rehabilitation projects. Projects that do not require building permits are **not** exempt from obtaining a capital needs assessment. A professional, independent third party must complete the CNA.

Submission Timelines:

- **Moderate Rehab** projects must submit a CNA with the HTF application. The pre-construction CNA should be dated no more than 6 months prior to the application submittal date. An as-built update to the CNA must be provided within 90 days of receipt of the Certificate of Occupancy.
- **New Construction and Substantial ("Gut") Rehab** projects must provide an as-built CNA within 90 days of receipt of the Certificate of Occupancy. Substantial rehab includes the replacement or improvement of all the major systems of the building, including its envelope.

The capital needs assessment must include a life cycle analysis of all building systems, an estimate of any capital contribution to replacement reserves if needed, and an estimate of the annual replacement reserve contribution. (The estimated useful life estimates of a life cycle cost analysis must come from a nationally recognized organization such as Marshall and Swift.)

For Moderate Rehab projects, the capital needs assessment should also:

- Include an inspection of all units. If 100 percent of the units are not inspected, then an explanation is required. At a minimum, this explanation should include any assumptions made concerning areas that were not inspected and the reasons for those assumptions.
- Provide the scope of work on which the construction cost estimate is based. If the construction cost estimate and its scope of work differ from the capital needs assessment, the applicant must provide an explanation.

205.11. Zoning and Consistency with Local Plans

Applicants must provide a letter from the local jurisdiction that the site is properly zoned and that the proposed project has received all necessary local plan approval(s). If a variance, special or conditional use permit is required, the local jurisdiction must provide a letter discussing the likelihood of obtaining approval prior to the execution of the HTF contract. The letter must be submitted with the application.

If a proposed project will continue an existing use, a zoning letter is not required.

For projects located in HUD participating jurisdictions, applicants must provide a signed letter of consistency with the local Consolidated Plan.

205.12. Low Income Housing Tax Credit (LIHTC) Documents

The application includes the basic information required by the Washington State Housing Finance Commission (WSHFC) for Tax Credit applications. This includes the LIHTC budget (Form 6C), credit factor calculations (Form 6D), and scoring synopsis sheet (Form 11). Applicants **not** pursuing LIHTCs are not required to complete these forms for the HTF application.

Section 206. Applicant Documentation Guidelines

206.1. Organizational Capacity

206.1.1. Good Standing

An applicant must be in good standing with Commerce in order for a new project to be considered. Good standing is defined as:

- No outstanding findings with the HTF, or the applicant is making a good faith effort to comply with an agreed-upon corrective action plan.
- All required documents have been received and are current (i.e. insurance, audits, annual reports, etc.).
- All HTF loan repayments are current or a workout plan has been agreed to by Commerce.

206.1.2. Financial Capacity and Accountability

Applicants must demonstrate, with a reasonable level of assurance, that the sponsoring organization is fiscally sound and has reliable systems to manage and account for public funds. Applicants are required to submit the following documents at Commerce's request:

- Audit reports for each of the past two years for the applicant, including an OMB circular A-133 supplement as appropriate, any audit findings, corrective action plan, management letter and agency response.
- Applicant organizations which have not been audited must provide financial statements for each of the past two fiscal years and a year-to-date statement certified by the applicant's Chief Financial Officer. Financial statements should include balance sheets and cash flow, revenue and expense and long-term debt statements.
- Nonprofit organizations must provide copies of their IRS Form 990 (available from the IRS' Forms & Publications [website](#)) for the prior two years. If the applicant is a new organization and only has one tax return, a copy of the prior year's IRS Form 990 will be sufficient.
- Outstanding HTF annual reports for previously funded projects.
- Current monitoring or other report from licensing agency, if license required.

206.1.3. Past Performance

An applicant's past performance and experience working with Commerce is a major factor in determining organizational capacity. The following performance areas are considered:

- Ability to secure full financing for projects.
- Accurate, complete and timely submission of reimbursement requests with appropriate back-up documentation.
- Award amounts and status of projects currently under development.
- Completion of prior projects within original proposed schedule.
- Completion of prior projects within original projected budget.
- Overall performance of prior projects, including but not limited to:
 - Occupancy levels and population served, as compared to target population.
 - Maintenance of appropriate operating and replacement reserves.
 - Proper maintenance and planning for longer term capital needs.
- Accurate, complete and timely submission of annual reports.
- Timely remittance of loan repayments.

Organizations with projects in workout status will require additional evaluation and assessment. Refer to [Section 504](#) for additional information.

206.2. Staff Skills and Experience

If an applicant has not had experience in affordable housing development within the past seven years, they must partner with a development consultant experienced in affordable housing development. If an applicant has no prior experience with the Evergreen Sustainable Development Standard, they must use an experienced third party as the ESDS coordinator.

Applicants must demonstrate that the skills and experience of the development team and the property management team, and the capacity of the organization are appropriate to the size and complexity of the project. Commerce will review the following documentation:

- List of key property management staff and their qualifications and experience.
- List of key development team members and their qualifications and experience.

Applicant organizations, their Board of Directors, and development teams will be assessed for representative diversity and experience serving a diversity of populations.

206.3. Board Composition

New applicants must submit a list of board members, addresses, occupations and length of tenure on the board, including any terms of office prescribed by the organization. The board must have a minimum of three unrelated adults.

206.4. Board Resolution

Applicants must submit with the application a copy of the signed board resolution or board minutes authorizing submittal of an HTF application.

206.5. Identity of Interest

Applicants must disclose at the time of application, or any time after an award has been made, any financial, familial, or business relationship that may result in something less than an arm's length transaction.

206.6. Washington State Quality Award

Beginning in 2011, eligible organizations receiving over \$500,000 during the previous calendar year from state housing-related funding sources must apply to the Washington State Quality Award (WSQA) program for an independent assessment of their quality management, accountability, and performance system, as required under [RCW 43.185C.210](#). This means that, if an organization received over \$500,000 in state housing-related funds *in any year since 2010*, the organization is required to apply to WSQA.

Organizations are expected to apply to WSQA within three years after triggering the requirement, and every three years thereafter. For example, an organization exceeding the threshold in 2011 would be required to submit their first application by December 31, 2014.

Applicants must self-declare if they are subject to WSQA requirements and provide documentation that they have either applied to WSQA or filed a Notice of Intent to Apply. A Lite Application is acceptable. If an organization fails to apply within the required timeframe, Commerce may withhold execution of the HTF contract until the application has been submitted.

Specific information about WSQA Application requirements, fees, and deadlines can be found on the [WSQA website](#).

Section 207. Evergreen Sustainable Development Standard

207.1. Evergreen Sustainable Development Standard

The Evergreen Sustainable Development Standard (ESDS) is a building performance standard required of all affordable housing projects or programs receiving capital funds from the Housing Trust Fund after July 1, 2008.

The ESDS was developed in compliance with [RCW 39.35D.080](#) and contains 80 criteria safeguarding health and safety, increasing durability and sustainable living, preserving the environment, and increasing energy efficiency.

The ESDS [webpage](#) provides the latest edition of the ESDS Criteria, along with related forms, documents, and supporting information.

207.2. Evergreen Application Checklist

When applying to the Housing Trust Fund, project sponsors are required to submit an Evergreen Application Checklist. This form is submitted with the Stage 2 Application and is located within the Excel-format portions of the applications for both Multifamily and Homeownership. Project sponsors must also submit a total development budget and construction cost estimate that includes the sustainable features identified in their completed Evergreen Application Checklist.

The threshold point requirements on the Evergreen Application Checklist must be met for a project to receive full consideration during its application review.

If a project contains both rehab and new construction elements, it must comply with all the mandatory requirements. A separate Evergreen Application Checklist must be submitted for each element and the appropriate threshold number of points must be met for each.

Farmworker housing projects for seasonal occupancy-only have different criteria and threshold requirements, which are available upon request.

207.3. Evergreen Project Plan

Once the project receives an allocation of HTF funds, the project sponsor will submit the Evergreen Project Plan (EPP). The EPP consists of the following:

1. The EPP form, available on the ESDS [website](#).
2. Required attachments for each criterion. Each attachment should clearly indicate at the top of the page the applicable criterion. Attachments should show how the EPP meets requirements.

The specific EPP instructions within each criterion of the ESDS are noted like this:

Required Documentation for the Evergreen Project Plan

It is essential that these instructions are followed in order to produce an acceptable EPP. The third party verifier (3PV) will verify on site the measures outlined in the EPP. All mandatory criteria that apply to a given project must be included in the plans and specs, implementation, and construction.

HTF funds will not be disbursed until the EPP has been approved by Commerce. If at some point during development the project is found to be out of compliance with the ESDS, funds may be withheld by Commerce until the issue is resolved.

207.4. Evergreen Coordinator

The project sponsor must designate an Evergreen Coordinator (EC) as their agent regarding the implementation of the ESDS.

The EC will have the following responsibilities:

- Understand the specifications for all of the ESDS measures in the project.
- Prepare the Evergreen Application Checklist for the project sponsor to submit with their Stage 2 Application.
- Prepare the EPP for Commerce approval.
- Prepare and maintain the Evergreen Binder, ensuring that it is up-to-date with the appropriate technical submittals and available to the third party verifier (3PV) on the job site at all times.
- Communicate progress, coordinate site visits, and facilitate verification and quality control with the 3PV.
- Communicate with Commerce regarding EPP implementation during development.
- Oversee the development process to make sure that the ESDS features are implemented and correctly installed, and troubleshoot any ESDS problems with the general contractor or sub-contractors.

207.5. Third Party Verifier

Commerce uses a third party verifier (3PV) to conduct on-site inspections in a consistent, fair, and transparent manner. The goal is to verify the correct implementation of ESDS features without delaying construction. ESDS on-site inspections should be scheduled to coincide with draw inspections.

The responsibilities of the 3PV are:

- Initially review the project plans, specifications, and construction cost estimate to verify that the features and details in the EPP are included.
- Track the application and installation of the features and details of the Evergreen Project Plan during construction. Verify through direct observation that all measures are implemented and that the quality of the installation meets specifications. Additional documentation may be requested by the third party verifier from the Evergreen Coordinator as needed.
- Alert and inform Commerce about any emerging issues.
- Provide limited technical assistance to the EC while on site.
- Determine whether or not each individual ESDS feature in the EPP is installed appropriately and submit the results of these observations to Commerce during and after construction.

207.6. Evergreen Binder

The Evergreen Binder contains the documents necessary for the 3PV to complete their on-site review of the ESDS elements of the project. The Evergreen Binder is required to be on the job site, as well as complete and up-to-date throughout construction. The Evergreen Binder consists of the Contracts Document Table, the EPP and any necessary attachments. The Contracts Document Table and the instructions for the Evergreen Binder are located in an excel spreadsheet on the ESDS [webpage](#).

207.7. Steps in the Evergreen Development Process

Below is an outline of the step-by-step process required by the Evergreen Sustainable Development Standard:

1. **Evergreen Application Checklist:** Project sponsor submits the Evergreen Application Checklist with the Stage 2 application and ensures that the ESDS features are included in the construction cost estimate and the outline plans and specs.
2. **HTF Application Review:** HTF review team evaluates the Evergreen Application Checklist to determine whether it passes the ESDS threshold requirements. If there are questions or concerns, the Evergreen Coordinator must resolve the issues. If Commerce does not receive needed information within Commerce's required timeframe, the project will be dropped from further consideration in that funding round.
3. **HTF awards:** When a project receives HTF funding, the EC prepares the complete Evergreen Project Plan.
4. **EPP Approval:** The EPP is sent to the HTF Project Manager assigned to the project. If there are questions or concerns, the EC must resolve the issues. The project sponsor will agree to a date by which all additional information will be submitted. **The HTF Contract Manager must approve the EPP prior to disbursement of any HTF funds.**
5. **Coordination with the Third Party Verifier:** The HTF Project Manager sends the approved EPP to the 3PV. The project sponsor sends the following to the 3PV:
 - a. plans and specifications
 - b. development budget
 - c. construction cost estimate
 - d. all other relevant construction documentation
6. **3PV Initial Oversight:** The 3PV compares all documents to confirm that the features listed in the EPP are reflected appropriately. If there are questions or concerns, the 3PV notifies Commerce and contacts the EC to resolve the issues.
7. **Evergreen Binder:** The EC assembles the Evergreen Binder in accordance with [Section 207.6](#) of this handbook.
8. **Voucher Requests:** Once the HTF contract is executed and any outstanding conditions have been met, the project sponsor can draw down funds using the current voucher reimbursement system. The EC coordinates and assists the 3PV with site visits to inspect ESDS features. The EC will contact the 3PV to schedule an on-site inspection to verify the installation and implementation of ESDS features. If a problem surfaces during development regarding agreed upon ESDS features, Commerce may withhold payment of voucher requests until the issue is resolved.
9. **Project Completion:** At the end of development, the 3PV evaluates all the site visits and documentation reviewed and makes a final recommendation to Commerce regarding whether or not the project meets the ESDS requirements. ESDS 8.1, 8.2, 8.3 and 8.4 are verified by the HTF Project Manager, not the 3PV. The HTF Project Manager may withhold payment of voucher requests until these documents are received. Once it is determined that all measures of the EPP have been met, Commerce will send a letter to the project sponsor confirming that the project has been built in compliance with the ESDS.

207.8. Waivers

The HTF's Evergreen Program Manager may consider waivers for specific ESDS Criteria to accommodate the variation in projects. To be considered for a waiver, the project sponsor must demonstrate that:

- the criterion creates an excessive hardship or is inadvisable for a specific project, AND
- an alternative path is identified and will be implemented that meets the intent of the criteria.

Project sponsors must submit waiver requests via email to the HTF Contract Manager. The HTF project manager will forward the request to the HTF Evergreen Program Manager for review.

207.9. Compliance

Should a completed project fail to meet threshold requirements, including verification of mandatory ESDS criteria, the project sponsor will be responsible for bringing the project up to the standard or implementing alternatives accepted and approved by Commerce. Failure to meet ESDS requirements at project completion may affect consideration of future funding requests.

The project sponsor is responsible for ensuring that the project is operated according to the Management Plan and the Owner's Manual. HTF field monitors will visit the project periodically while the HTF contract is in effect and assess whether or not the project is being managed according to these approved documents.

CHAPTER 3: APPLICATION REQUIREMENTS

Section 300. Purpose

This chapter describes the application process, including the procedures for application submission, notification of funding decisions and project debriefing. Refer to [Chapter 2](#) for a full description of the criteria used for reviewing, evaluating and prioritizing applications for funding. The information provided by applicants in their application is the basis for all funding decisions. All HTF application forms are available for download from the Housing Trust Fund Application and Awards [webpage](#).

300.1. Assistance Available Prior to Application

Housing Trust Fund staff is available to provide information about application and funding requirements to project developers. Staff can address questions concerning HTF guidelines and procedures. Applicants have sole responsibility for drafting HTF applications. Predevelopment assistance may be available from Impact Capital as noted in Section 300.2.2.

Before you begin preparation of an HTF application we recommend the following:

- Begin the process early.
- Review The Housing Trust Fund Handbook thoroughly to understand HTF guidelines and procedures.
- If you have questions, contact HTF staff for clarification as early as possible.

300.2. Other Funding Sources

300.2.1. Coordination with Other Funding Sources

The Housing Trust Fund review will include coordination and timing of investment with other local, state, and federal funding sources to ensure complete and ready projects.

300.2.2. Predevelopment Financing

Impact Capital administers a program that provides risk capital for low-income housing development projects through loans and recoverable grants. Nonprofit applicants can obtain more information from Impact Capital's [website](#), or by calling (206) 587-3200 or (800) 336-0679.

Section 301. Process Overview

301.1. Staging of Applications

HTF application submissions occur in two stages. At each stage, the application must be received by Commerce by 5:00 p.m. on the due date. The purpose of Stage 1 applications is to provide Commerce with an indication of the demand for funds and the types of projects proposed. Stage 1 also allows HTF staff to perform preliminary due diligence and conduct an initial assessment of proposed projects. Commerce evaluates projects for competitiveness based upon several factors, including but not limited to:

- consistency with funding priorities, including project type, location and target population;
- likelihood of securing all necessary capital and operating funds;
- readiness to proceed;
- organizational capacity;
- available funds.

Based on this initial assessment, HTF staff will invite selected projects to submit a Stage 2 application. An invitation to Stage 2 does not imply or ensure HTF funding of a project. Stage 1 applicants that are not invited to Stage 2 may still submit an application.

Stage 2 invitees will receive an assigned Application Number in their notification, as well as a reminder that any portfolio-management documents required by HTF (e.g., Audit, Annual Reports) must be submitted prior to application review.

301.1.1. Pre-Stage 1 Organizational Assessment for Homeownership Applicants

NOTE: As of January 2012, this requirement is no longer in effect.

Homeownership applicants must undergo an Organizational Capacity Assessment (OCA) to be performed by HTF staff prior to applying for HTF funds. HTF may request updates from existing homeownership providers on a case-by-case basis. To begin the OCA process, a prospective applicant must first submit an OCA Request form to Commerce. Commerce will distribute a suite of forms to the applicant, and may schedule a site visit. Refer to [Section 702](#) for more specific information about the OCA process.

301.2. Project Review

The HTF review team will read and evaluate applications to determine to what extent the proposed project meets HTF criteria, is complete, and addresses the following areas:

- Soundness of project concept/design
- Target population and need
- Financial feasibility and long-term viability
- Cost-effectiveness
- Readiness to proceed
- Organizational Capacity

Refer to [Chapter 2](#) for complete program guidelines and criteria.

HTF staff may contact applicants for clarification regarding their responses to questions and for additional information about the project. In addition, the HTF review team will consult with other public funders to assess local priorities and the degree of support. The geographical regions of the state must be considered and balanced when developing recommendations for funding.

301.3. Notification of Funding Decisions

Applicants will receive prompt notification of HTF funding decisions. Award notification will occur approximately 12 weeks after the submission of HTF applications.

A list of the applicants receiving awards will be posted on the Commerce website. Commerce will send a funding award letter to each applicant that includes the conditions of the award and the name of the HTF project manager assigned to each project.

Commerce will also forward the award list upon request, in electronic or in hard copy form, to all interested parties.

301.4. Project Debriefing

Failure to receive HTF funding is not necessarily a reflection on the quality of a project, but may be due to specific factors, including lack of available funds and the overall competitiveness of the funding round. Applicants not receiving HTF funding may request a meeting with staff to discuss why the project was not funded and receive specific feedback on their application.

If, after meeting with staff and learning the reasons for non-funding, applicants believe there is a consequential misunderstanding of the project specifics that will jeopardize the project or other critical funding, those concerns may be discussed with the Assistant Director of the Community Services and Housing Division.

Section 302. Stage 1 Application

The Stage 1 Application consists of a single Excel file with several tabs and is available for download from the Housing Trust Fund Application and Awards [webpage](#). The application is suitable for both Multifamily and Homeownership projects. The Stage 1 Application forms are not designed for printing - please submit them electronically only. Signatures are not required.

302.1. Submitting the Stage 1 Application

Save each Stage 1 Application file using the convention "Applicant_Name-Project_Name," and provide both in the subject line of the submission email. Send a separate email for each application. Indicate if there are additional attachments, such as financial or supporting documents, in the first line of the body of the email. This helps to ensure that all sent documents are successfully accounted for.

Note: The Stage 1 Application, and all other HTF application forms, should be submitted in their original published format. DO NOT convert the application to PDF or other format.

Email Stage 1 applications to htfapp@commerce.wa.gov. Commerce will send applicants an email confirming receipt of the application. If applicants do not receive e-mail confirmation by the close of business on the day following the Stage 1 due date, they should contact HTF staff immediately.

302.2. Additional Documentation: Funding Limit Waiver Letters

If an applicant obtains a waiver of the funding limit, as detailed in Chapter 2, the organization should include a copy of the waiver request and approval with its application. Refer to [Section 201.3](#) for Funding Limit Waiver policy guidelines and requirements.

302.3. Additional Documentation: Financial Information

If necessary, HTF staff will request Stage 1 applicants to provide updated audit reports and financial statements. Applicants must submit the requested information prior to, or simultaneously with, the Stage 2 Application by the Stage 2 due date. A Stage 2 Application is not considered as “received” until the required financial information has been received.

Financial documents that may be requested by HTF staff include:

- Audit reports for each of the past two years for the applicant, including an OMB circular A-133 supplement as appropriate, any audit findings, corrective action plan, management letter and agency response.
- Applicant organizations which have not been audited must provide financial statements for each of the past two fiscal years and a year-to-date statement certified by the applicant’s Chief Financial Officer. Financial statements should include balance sheets and cash flow, revenue and expense and long-term debt statements.
- Nonprofit organizations must provide copies of their IRS Form 990 for the prior two years. If the applicant is a new organization and only has one tax return, a copy of the prior year’s IRS Form 990 will be sufficient.
- Outstanding HTF annual reports for previously funded projects.

302.3.1. Additional Financial Information Requirements for New Applicants

In addition to the above financial information, nonprofit applicants who have not previously received a HTF award must provide the following:

- Certification from the Washington State Secretary of State that the applicant is registered to do business in Washington as a non-profit organization in accordance with RCW 24.03.
- Letter from the Internal Revenue Service that designates the applicant as a tax-exempt non-profit organization.
- List of Board members, addresses, occupations and length of tenure on the board including any terms of office prescribed by the organization.
- By-laws that include a clear housing purpose.

Note: Applicants must fulfill all Stage 1 requirements in order to be considered for Stage 2.

Section 303. Stage 2 Applications

The Stage 2 Application consists of the published Application forms, as well as all materials required as attachments. Completion of a competitive Stage 2 application requires significant time and expense. If a project has not been invited to Stage 2, the Stage 1 applicant may want to consult with HTF staff for feedback before proceeding with a Stage 2 application.

303.1. Multifamily vs. Homeownership Application Requirements

Multifamily applicants must complete all elements of the Combined Funders Application, and submit both an electronic copy (via CD) and a hard (paper) copy.

Homeownership applicants must complete all elements of the HTF Homeownership Application, and submit both an electronic (via CD) and a hard (paper) copy.

If your application is submitted by mail, materials must be post-marked by the due date for the current round in order to be accepted. If hand-delivered, it must be received at Commerce by 5:00 p.m. on the due date. Allowances may be made, as in the case of delivery persons being caught in heavy traffic.

303.2. Instructions for Preparing an Electronic Stage 2 Application

303.2.1. Labeling the Disc

All Stage 2 Applications to the Housing Trust Fund must include electronic copies of all documents on a CD. Label each project application's CD with the following information in the order shown:

1. Application Number (provided at the time that Stage 2 Invitations are distributed)
2. Applicant Name
3. Project Name

303.2.2. Contents of the Disc

Maintain the original format of all electronic documents. For example, do not convert any electronic documents to PDF format if not already in that format. The single exception to this rule is in the case of the Affidavits and Table of Contents/Self-Certification Checklists. These must be signed by the appropriate officer of the submitting organization, and hence must be scanned for electronic submission.

When saving the application to disc, please observe the following:

- Create a separate folder for each Tab, and label as appropriate. Within each folder place the relevant Attachments as indicated by the Table of Contents/Self-Certification Checklists in the Application documents.
- Create a folder labeled "Application Documents." Save the published Application documents in this folder. Maintain the names of the files, but add the Commerce-provided application number (ex: "S9U87 Stage 2 Forms.xls")

If the project proposes using CDBG Housing Enhancement (CDBG-HE) funds or HTF Operations & Maintenance (O&M) funds, please also include the application materials required by those programs. The application forms for CDBG-HE can be found at the Housing Enhancement Grants section of the CDBG Specialty Grants [web page](#), while the application materials for O&M can be found on the Housing Trust Fund Application and Awards [webpage](#) if new O&M funds have been made available. Use the same format described above (i.e., submit all Attachment materials in a separate folder labeled as indicated by the Table of Contents/Self-Certification Checklists).

Should the above constitute an undue hardship for your organization due to lack of access to scanning equipment, you may forgo the requirement to submit all documents in electronic form by prior arrangement with Commerce. Please contact Sean Harrington by phone at (360) 725-2995, or via email at sean.harrington@commerce.wa.gov, to discuss as necessary.

303.3. Instructions for Preparing a Hard Copy Stage 2 Application

The application should be submitted in an appropriately-sized three-ring binder, with the disc secured from within. Both the Combined Funders Application (CFA) Self-Certification Checklist and the HTF Addendum Self-Certification Checklist are REQUIRED to ensure that your application meets all the application requirements and is complete.

- Complete the application in accordance with the CFA Table of Contents & Self-Certification Checklist provided with the Combined Funders Application.
- Create divider tabs, using the numbering system found in the CFA Table of Contents.
- Insert the attachments listed in the HTF Addendum behind the applicable tab indicated in the addendum (namely, Tabs 2, 6, and 9). Do not substitute any forms.
- Place the responses and attachments behind the appropriate tab with Sections first, followed by Forms, and then required attachments.
- Attachments should generally be on letter size (i.e., 8.5" x 11") paper, but are accepted on legal size (8.5" x 14") paper as appropriate (e.g., architectural renderings). Larger size documents should be reduced to no smaller than legal size.-

Note: Faxed or emailed materials will not be accepted in lieu of the required hard copy application binder.

303.4. Omitted Documentation

Applicants are required to self-certify that all required application documents have been submitted by including signed copies of both the CFA Self-Certification Checklist and the HTF Addendum Self-Certification Checklist. If HTF staff determines during application review that critical information has not been included as itemized in the checklists, applicants will be given the opportunity to provide the additional materials required.

303.4.1. Process for Omissions and Corrections

The process for dealing with omitted application materials is as follows:

1. Commerce will notify applicants during the review process when their application is found to be incomplete or when HTF staff discover issues that require additional information to be addressed.
2. Applicants will have 5 business days from the notification date to submit missing materials.
3. Applicants who fail to submit the missing items within 5 business days or who submit items considered unresponsive to HTF guidelines **will not receive further consideration.**

CHAPTER 4: CONTRACT DEVELOPMENT AND MANAGEMENT

Section 400. Purpose

This chapter outlines the contract development and management process followed by Housing Trust Fund staff from the time of award until a project is Placed in Service.

Section 401. Pre-Contract Development

Pre-contracting is the period from award notification through completion of contract negotiations.

401.1. Assignment of Project

All award recipients will receive a letter from Commerce specifying the amount of the award, any conditions on the award, and the name and contact information of the Project Manager (PM) assigned to the project.

Commerce will notify its third party reviewer of the award, project contact, and assigned PM. (The role of the third party reviewer is described in [Section 403.3. Construction Review and Inspection.](#))

Contractors and development consultants are expected to work closely with the PM and third party reviewer during pre-contracting, project implementation and placed-in-service activities. Failure on the part of the contractor or development team to maintain communication with the PM, make continuous progress toward agreed-upon timelines, or provide required documentation in a timely manner will reflect poorly on their capacity and performance. Failure to follow through in these areas may adversely affect the organization's ability to secure future HTF financing.

401.2. HTF Project Manager Responsibilities

The HTF Project Manager is the primary contact for communications related to negotiations, contract development and execution, disbursement of funds, and any other issues throughout the development phase of the project. PM responsibilities include:

- Negotiating specific terms and conditions of the grant or loan, including repayment provisions.
- Communication and coordination regarding the development and execution of the contract and related legal documents. **(Note: Final language in all legal documents is subject to the approval of the state's Assistant Attorney General.)**
- Ensuring all conditions of the award and pre-contracting requirements are met prior to contract execution.
- Review and approval of the final project budget and schedule prior to contract execution, and any revisions that occur during development.
- Review and approval of all draw requests and back-up documentation.
- General oversight of the project until issuance of the Certificate of Occupancy.

401.3. Contract Negotiations

The PM will contact the contractor to discuss the proposed award terms, uses of HTF funds, any identified conditions or potential issues, documentation needed prior to contracting, and the expected timeframe for contract execution. If HOME funds are awarded to the project, HOME-specific requirements will also be addressed.

Prior to contract execution, the PM will work closely with the contractor to ensure all pre-contracting requirements are met, including but not limited to:

- HTF award conditions must be met or a timeframe agreed to for addressing outstanding issues. Depending on the specific conditions or requirements, Commerce may approve execution of a contract but withhold disbursement of funds until the conditions are met (e.g. compliance with [Washington State Executive Order 05-05](#), Archeological and Cultural Resources).
- If HOME funds are used, HOME-specific pre-contracting requirements must be met. (Refer to the HOME [Handbook](#).)
- All necessary capital financing must be secured and evidence of commitments provided from other funders, including tax credit investors. If any conditions apply to the commitment of other funds, they must be identified and evidence provided that the conditions have been met.
- The third party construction review must be initiated, including review and approval of the project plans and specifications, Evergreen Plan, construction budget and documents, and establishment of an inspection schedule. (Refer to [403.3. Construction Review and Inspection](#).)
- The PM will request any documentation needed via the Project Data Sheet (PDS form) and confirm the timeframe for submission of these documents.
- Prior to drafting contract documents,
 - Parties must clarify and agree to repayment terms.
 - The PM must review and approve a final development budget and operating pro forma.
 - Reimbursement requests for costs incurred prior to contract execution will require prior approval. (Refer to [202.5.1. Eligibility of Prior Costs](#).)
 - Parties must agree upon the developer fee drawdown schedule (Refer to [204.7. Developer Fees](#)).
 - The contractor must identify a realistic target date for when the project will be placed in service. This date will be used to establish the commitment period of the contract.

The PM must be notified immediately of any issues that could cause a delay to the start of the project, including the anticipated length of the delay and any actions being taken as a result.

401.4. Material Changes to Project

The contractor must notify Commerce of material changes to the project at least 30 days prior to drafting of the contract. Such changes are subject to review and approval and could potentially result in amendment or withdrawal of the HTF award. Material changes include but are not limited to changes to target population, project location, number of units, total development cost, ownership entity, and project schedule, or the loss of a major source of funds.

401.5. Scoping Meetings

If multiple public funders are involved in a project, the contractor is responsible for scheduling at least two scoping meetings prior to contracting:

- Pre-bid Meeting - within 6 weeks of award.
- Post-bid Meeting - within 30 days of bid and at least 30 days prior to closing.

Each scoping meeting is typically a conference call that includes, at a minimum, the project sponsor, developer, and representatives of each of the public funders. The purpose is to bring all parties up to date, discuss potential changes to the project budget or scope of work, and reach a common understanding of timelines, key milestones, and conditions for release of funds.

Section 402. Contract Development

The contract development phase includes contract drafting, review, and execution. Contractors should allow six weeks between drafting of contract documents and final execution. The timeframe may be negotiated with the PM, but will depend on HTF staff workload, priorities, and type of funding.

The HTF contract is comprised of two parts: *Specific Terms and Conditions* and *General Terms and Conditions*. The boilerplate language for the HTF contract and related legal documents has been pre-approved by the Office of the Attorney General. The General Terms and Conditions are not negotiable. Limited revisions to the Specific Terms and Conditions or other legal documents may be allowed, as noted below. Substitution or addition of non-HTF documents is subject to the approval of Commerce's Assistant Attorney General (AAG).

402.1. Contract Draft

Part II (Scope of Work) of the Specific Terms and Conditions includes project-specific details that must be negotiated with the PM prior to drafting the contract.

Once contract terms have been agreed upon and pre-contract conditions have been satisfied, the PM will send the completed Project Data Sheet (PDS) to the HTF Contract Specialist (CS), who will draft the contract documents. The priority of each contract will be determined by Commerce based on closing dates, project readiness, and the workload of the CS staff. The contractor should give no less than three weeks' notice of their anticipated closing date.

The CS will send draft contract documents to the PM for review. The PM may fill in additional information or make changes as applicable. After the PM has approved the initial draft of the contract and related documents, the CS will send them to the contractor for review via email.

402.2. Contractor Review

The timeline for final execution of the contract is largely dependent on how long it takes the contractor to review the draft contract. It may vary dramatically, depending on other funding sources and the extent of third party review. Unless otherwise negotiated with the PM, contractors should complete their reviews within 15 working days in order to facilitate timely execution of the contract and related documents.

402.2.1. Revisions to Contract Documents

Proposed changes to HTF contract documents must first be discussed with the PM. Revisions solely to improve the accuracy or clarity of terms may be considered and approved by Commerce staff.

More substantive changes to the Specific Terms and Conditions require review and approval by Commerce's AAG and should be expected to add up to three weeks to the timeline for execution. Requests must be made in writing with an explanation and include any relevant documentation to support the revision. If the AAG does not accept the revision, the CS will inform the PM about the issue or issues so that the PM can negotiate revised language with the contractor.

Once the PM, contractor and, if applicable, AAG are in agreement on the revised contract language, the CS will finalize and prepare the HTF contract and related documents for execution.

402.3. Contract Execution

It is the contractor's responsibility to be aware of their deadlines, keep their PM informed in advance, and allow plenty of time for contract execution. Contractors should allow a minimum of two weeks to obtain final signatures. Commerce cannot guarantee its ability to respond to rush requests.

402.3.1. Contractor Signatures

Once finalized, the CS will send the HTF contract and related legal documents to the contractor via email for signature. Related documents include, but are not limited to, a promissory note, deed of trust, low income housing covenant and, if applicable, assignment, assumption, and consent agreement. A Form W-9, verifying the contractor's tax ID number, will also be provided.

The contractor signs and returns the contract (two originals), promissory note, and any other requested documents, to the CS. In the case of a tax credit project, the contractor signs the assignment, assumption, and consent agreement and returns it to Commerce with the signed contract.

The contractor retains the deed of trust and low income housing covenant until the contract is fully executed. After the contract has been executed, the deed and covenant must be signed, notarized and recorded. (Refer to Section [402.4.3. Recording of Documents.](#))

The completed Form W-9 must be returned to Commerce prior to submitting the first invoice for payment.

402.3.2. Contract Execution and Document Distribution

Commerce will execute the contract only when the conditions have been met and all negotiable items have been agreed upon. The CS forwards the contract with the contractor's signature to HTF Management for review. HTF Management, in turn, routes the contract to the Assistant Director (AD) of the Community Services and Housing Division for signature. This process may take up to seven working days.

The date the AD signs the contract is the official date of execution.

The CS will return a fully executed contract and, if applicable, the assignment, assumption, and consent agreement to the contractor.

402.4. Closing

402.4.1. Escrow Instructions

The PM will draft escrow instructions for projects using HTF funds for acquisition and for other situations as determined by the PM. The escrow instructions will, at a minimum:

- Identify the priority of document recordation and distribution;
- Direct the trustee to pay applicable HTF monitoring and loan fees; and
- Direct the trustee to ensure the purchase of extended lender's title insurance with Commerce as the beneficiary.

402.4.2. Title Insurance and Loss, Hazard and Liability Insurance

The contractor must purchase extended lender's title insurance in the amount of the HTF award, and loss, hazard and liability insurance as outlined in Section 3.0 of the *Housing Trust Fund (HTF) General Terms and Conditions*. Evidence of all insurance commitments must be provided to Commerce.

The HTF contract will not be executed until evidence of liability insurance has been provided.

402.4.3. Recording of Documents

The low income housing covenant, deed of trust, and, if applicable, assignment, assumption and consent agreement must be recorded immediately after HTF contract execution. If the project includes acquisition, documents should be recorded simultaneously with closing on the acquisition.

Documents must be recorded in the following order: (1) covenant, (2) deed, and (3) other documents. It is the responsibility of the contractor to ensure that all documents are recorded in the correct order and the originals returned promptly to Commerce.

Commerce may withhold payment of HTF funds pending receipt of the original recorded documents.

402.4.4. Electronic Fund Transfer (EFT)

It is the responsibility of the contractor to authorize receipt of payments from the State of Washington via Electronic Funds Transfer by completing and submitting a Statewide Payee Registration form to the [Department of Enterprise Services](#) (DES). The process to register as a Statewide Payee is described on DES's Receiving Payment from the State [web page](#).

402.4.5. First Voucher (see also Section 403.4.)

Commerce will provide the HTF contractor with an electronic copy of the HTF voucher request form with appropriate line items. The PM and the contractor will discuss the method of payment (e.g., warrant or electronic fund transfer) and other information that may be needed before payment can be authorized.

402.4.5(a). Required Documentation If First Voucher Is For Acquisition

If HTF funds are used for acquisition, the preliminary closing statement prepared by the title company or escrow agent will serve as back-up documentation for the voucher. An appraisal may be required if it was not included with the HTF Application. The final closing statement should be submitted when

available. The PM should be notified of upcoming closing dates well in advance to ensure availability of funds.

402.4.6. Administration Fee and Monitoring Fee

The Administration Fee is one percent (1%) of the award amount and the Monitoring Fee is one (1%) percent of the award amount, for a total of two percent (2%). (Currently, no administration or monitoring fees are collected for HOME funds.)

These fees must be paid at closing or before the second voucher is processed. The PM can withhold payment on voucher requests until the fees are paid.

The Administration Fee and the Monitoring Fee are both eligible costs that can be included in the development budget and can be requested on the first voucher.

If using HTF funds to pay the fees, the contractor must first draw the funds and then send payment to Commerce. Reimbursement of the Administration Fee and the Monitoring Fee cannot be withheld by Commerce.

Contractors must note their HTF contract number on any payments remitted to Commerce.

Section 403. Contract Management During Development

The purpose of this section is to outline the process for managing the oversight of acquisition, construction, or rehabilitation of a project from contract execution to completion of all activities described in Section 2.01 of the contract's Scope of Work.

403.1. Timelines and Work Plan Schedules

The project work schedule is used to determine the completion date which, in turn, determines the commitment period of the contract. Changes to the schedule must be documented in a revised schedule and sent to the PM. The project work schedule must include key benchmark dates for completion of the project.

The project must be completed according to the negotiated and approved work plan schedule. Additional timelines may be identified as special conditions in the contract based on project type and financing.

If the project is placed in service considerably later than was originally projected (generally six months or more), the contract documents may be amended to adjust the commitment period of the project.

403.2. Site Visits

Site visits will be conducted at the discretion of the PM or when requested by the contractor.

403.3. Construction Review and Inspection

Commerce contracts with a third party to provide pre-construction review, construction draw review, and to conduct site inspections during construction. The third-party construction reviewer is currently

the Washington Community Reinvestment Association (WCRA). A third-party review will occur prior to the approval of each construction draw, which may include an on-site inspection of the work performed. (See also [Section 403.4.](#))

The contractor is responsible for determining applicability and undertaking all necessary actions related to prevailing wage and apprenticeship requirements. (Refer to [Section 201.5](#), Prevailing Wage, and [Section 201.6](#), Use of the Apprenticeship Program.)

The contractor is responsible for ensuring compliance with [Washington State Executive Order 05-05](#), Archeological and Cultural Resources. Documentation of compliance will be required before HTF funds may be drawn. (Refer to [Section 201.7](#), Archeological and Cultural Resources.)

403.3.1. Pre-Construction Review

The purpose of the pre-construction review is to:

- Ensure the budget is adequate for the proposed project based on a review of the project's plans and specifications;
- Determine whether or not the proposed plans are appropriate for the project; and
- Verify whether or not the plans and specifications incorporate the Evergreen Sustainable Development Standard (ESDS) mandatory and optional features.

The PM determines the timeframe for the WCRA review, depending on the readiness of the plans and specifications and other negotiated conditions. The following steps are involved in the WCRA pre-construction review process:

1. The PM requests a pre-construction review and provides the name of the contractor, the name of the project, and the contract number to the WCRA.
2. The WCRA representative provides the contractor with a list of the items needed to complete the review.
3. The WCRA oversees the review by an approved third party inspector and sends a report of its review to the PM. The PM may send the review to the contractor to address any concerns raised.
4. If Commerce is a permanent take-out lender, HTF staff or a sub-contractor may conduct a site inspection prior to closing on the permanent loan. Commerce may contract with a professional inspection or commissioning service to verify that project completion is up to the housing standards and satisfies other agreed upon features.

403.3.2. Construction Review

During the construction phase, the third-party reviewer (currently, WCRA) will review draws against the budget to determine the adequacy of funds in the reserve/escrow to complete the project and monitor costs for appropriateness, including the use of contingency funds. The WCRA will request a disbursement control budget (budget spreadsheet) from the contractor to track project costs.

For each construction draw request, or as requested by the PM, the third-party reviewer will engage a third-party inspector to perform an inspection of the property. Inspections may be done less frequently as agreed to by the PM. The objectives of the third-party inspection are to:

- Ensure costs included in the draw request are in conformance with the construction contract and other construction project documentation such as permits, plans and specifications.
- Provide third-party verification of the Evergreen Sustainable Development Standard (ESDS) requirements, including review of the Evergreen Binder on site, for completion of items as construction progresses. (Refer to [Section 207](#), Evergreen Sustainable Development Standard)
- Produce a report detailing the progress of the project, any deviations from the plans and specifications or change orders, and compliance with ESDS and applicable accessibility standards. Final verification of compliance with ESDS will be provided at project completion.

The purpose of the third-party review is to determine the source of costs, compliance and quality of construction, and provide a recommendation for funding the draw. The WCRA will forward the draw review memo to the PM with a report on the project's progress, including findings or other items of concern, apprenticeship participation if applicable, and including a recommendation for funding.

403.4. Voucher Request Processing

The project manager reviews and approves all invoice vouchers. The PM will make a determination whether each invoice or bill is an eligible cost. If an invoice or bill is determined to be an ineligible cost, the amount must be subtracted from the total requested. The contractor may be asked to submit an explanation of budget changes. Allowable costs incurred prior to the execution of a contract may be reimbursed when approval is granted by Commerce. (Refer to [Section 202.5.1](#), Eligibility of Prior Costs.)

The basic criteria for approval of invoice vouchers are:

- The payee must be the non-profit organization with which Commerce has a direct contractual relationship. Vouchers must be signed by an authorized individual from the contractor's organization (electronic signatures are acceptable).
- The HTF contract must be fully executed and applicable requirements met (e.g. proof of liability insurance, approved Evergreen Plan, etc.).
- All invoice vouchers must have back-up documentation justifying the amount requested. This can be in the form of an approved closing statement, invoices for services rendered and materials delivered, or bills from the contractor for project management and developer fees. Incorrect or incomplete vouchers may be returned to the contractor for correction and resubmission.
- Draw requests must correspond with the development budget categories. For each invoice voucher submitted, an invoice voucher summary must list each invoice with Development Budget line item detail.

Stored materials will be approved for disbursement on a draw by draw basis. No offsite stored material will be funded as part of the draw without approval and subject to additional requirements such as Bill of Sale, financing statements, evidence of insurance and inspection of materials to determine they are segregated by project from other stored material.

Construction contingencies are to be used for unanticipated costs unless otherwise approved by the PM. If HTF funds are allocated in the budget for construction contingency, the contractor must provide documentation and a full explanation for the use of the contingency.

The process for reimbursement is as follows:

1. Original vouchers and back-up documentation must be submitted to the PM. Copies of all vouchers and back-up documentation for any expenditure must be submitted to the third-party reviewer for review prior to PM approval.
2. The PM and the third-party reviewer will determine if any Development Budget line items are being overspent. If a contractor proposes to exceed an original budget line item by 10 percent or more, the contractor may be asked to submit a revised Development Budget and a narrative explaining the revisions.
3. Once the PM approves payment of eligible costs, the voucher is signed and sent to the Commerce fiscal office for payment.
4. The contractor should allow up to 18 business days to receive payment after submitting a properly completed invoice voucher.
5. The PM may require that all legal documentation, updated budget, updated work schedule, lender's title insurance, and other required documentation be submitted before the final draw is approved.

See also Sections [204.7](#), Developer Fees, [204.11](#), Retainage When HTF Contract is Pre-Construction Only, and [402.4.4](#), Electronic Funds Transfer (EFT).

403.5. Contract Oversight

Oversight of the contract to monitor the progress of the project during the development phase is primarily carried out through ongoing communication with the contractor and developer, receipt and review of required documentation, and through the third-party construction review process (see [Section 403.3](#), Construction Review and Inspection).

In addition to collecting all of the required documentation, project oversight and progress review are done through the voucher process. Back-up documentation is reviewed for all line items for which reimbursement is requested to verify cost eligibility and consistency with the line items in the Development Budget. The third-party reviewer may conduct construction inspections on behalf of Commerce to verify progress and compliance with plans and specifications.

403.6. Project Documentation

The contractor and developer are responsible for knowing the documentation requirements contained in the HTF contract and explained in this handbook. Required documents must be submitted to the project manager to be maintained in the project file. All required documents must be in the project file at the completion of development.

Once construction is at least 60 percent complete, the PM will send the contractor a checklist of all final and outstanding documents and provide a timeframe for submitting them. This includes, but is not limited to:

- Certificate of Occupancy (or Substantial Completion)
- Final Development Budget and Operating Pro Forma
- Operating and Reserve Account Statements
- Tenant Roll
- As-Built Capital Needs Assessment
- Management Plan
- ESDS Orientation, Owners, and Residents Manual
- Property and Liability Insurance Certificates

In addition, projects serving persons with developmental disabilities must have a referral agreement between the contractor and the Washington State Department of Social and Health Services (DSHS). A copy of this agreement must be provided to Commerce when the project is placed in service.

403.6.1. Required Elements of the Management Plan

Note: This subsection is currently under revision.

403.6.1(a). Performance Standards

- How does the sponsor organization seek to ensure property management staff is informed of and in compliance with regulatory requirements?
- What is the target vacancy rate or occupancy rate for this project?
- What is the target rent collection ratio for this project?
- What is the target turnover time?
- What is the goal for cash flow?
- What are the deposit goals for both the operating reserve and replacement reserve?

403.6.1(b). Accounting System

- How is project income handled?
- How are funds disbursed from the project?

Note: If only one person is involved, risk is high. The person who balances the checkbook should not be the same person who writes the checks, or there should be monthly oversight by management of account balances.

403.6.1(c). Marketing Procedures

- Is there a waiting list? How is the list managed?
- Are there types of households that receive special attention or which have priority on the waiting list?
- When and how is the waiting list refreshed?
- How is the property marketed to special needs households if they are part of the target population?

403.6.1(d). Leasing Procedures

- Does initial determination of eligibility include 3rd party verification?
- When and how is eligibility recertified?

- What provision does the lease make for terminations or evictions?

403.6.1(e). Rent-Setting Procedures

- Are the target income levels specified for all units and do they agree with our contract?
- Are the rents tied to the HUD rent limit tables?
- When and how are rents increased?
- How are rents adjusted for households that exceed target income levels over time?

403.6.1(f). Special Needs Services

- If the project serves a special needs population, who is the service provider?
- When and how is the service provider evaluated?
- How are complaints handled regarding special needs services?

403.6.1(g). Maintenance Schedule

- When and how often are units inspected?
- What is the schedule for routine maintenance of all building and property systems?
- How are reports by residents of building or system malfunctions handled?
- What is the time frame sought for resolution of those concerns?

403.6.1(h). Security and Emergency Plan

- Is there a Security and Emergency Plan?

403.6.2. Submission of the Management Plan

Note: This subsection is currently under revision.

The management plan must be provided electronically to the PM. Commerce may require that additional information be included in the management plan. Organizations may use this template in total or in part, or they may choose to use another format. The important thing is to include the required information and a table of contents. Commerce staff may provide contractors with an optional management plan template, upon request.

Note: Organizations are evaluated on their performance regarding timely submission of documents.

Section 404. Award Revisions

In certain circumstances, award revisions may be allowed once an award has been made but has not yet been contracted. Award revisions may be considered for substantial changes in deal structure, overall concept, site issues, construction review changes or other substantial changes that may be beyond the control of the applicant.

The process for award revisions is as follows:

- Applicant submits documentation of changes, including, but not limited to: updated development budget, operating pro-forma, and development schedule, as well as an explanation of the need for proposed changes. This information may closely follow an

amendment application (provided by Commerce staff upon request) or be prescribed by the PM.

- HTF Management will present recommendations to the Assistant Director for Community Services and Housing for final approval.

This process may happen at any time after an award has been made and prior to contract execution. If the contract has not been executed within the negotiated timeframe, this process may be used to determine if the award commitment should be extended or terminated. If the award is rescinded, the contractor may need to reapply for funding.

Monetary award revisions must follow the procedures as set forth in [Section 405.2. Monetary Amendments](#).

Section 405. Contract Amendments

Amendments are made to executed contracts and are intended to address emergent needs. Increasing or decreasing an award before there is an executed contract is not considered an amendment, but a revision to the award (see Section 404 above). Contract amendments must be executed to be valid and amendments to other legal documents are sometimes necessary.

405.1. Technical Amendments

Technical amendments are reviewed and acted upon on a case-by-case basis. They include, but are not limited to, an extension of the contract completion date, revisions to the loan terms and conditions, reallocation of HTF funding to replacement reserves and revisions to the target population(s).

- Contractors must submit amendment requests in writing to the project manager.
- The request must describe the proposed changes in detail and provide justification for these changes.
- The PM and HTF Management will review the request and make a recommendation to the Assistant Director who will approve or deny the amendment request.

Amendments to executed contracts will follow a process similar to contract execution.

405.2. Monetary Amendments

Monetary amendments involve an increase in the loan or grant amount for a project. If a project experiences a substantial funding gap above the original award amount, communication with the project manager is critical.

- All requests for monetary amendments must come to the PM and be substantiated and submitted in a form prescribed by Commerce.
- An award of additional funds for a project will generally not exceed \$100,000. There are limited unobligated funds available (if any) at any given time. Commerce cannot guarantee that funding for amendments will be available, or that amendments will have any particular priority in funding decisions.

- The PM will make a recommendation through HTF Management to the Assistant Director who will approve or deny the request.

If additional funds are not awarded, the applicant may need to rescind their award and reapply in a new funding round.

Administration and monitoring fees, as noted in [Section 402.4.6](#), apply to monetary amendments funded by the Housing Trust Fund. An increase to the developer fee is not allowed.

Section 406. Placed In Service

The purpose of this section is to outline what occurs once a project is “placed in service”. A project is considered to be placed in service once a certificate of occupancy, or equivalent, has been issued for the property. The Placed in Service date is used to determine the start of the commitment/affordability period, annual reporting, and compliance monitoring.

406.1. File Review

Once the contract activities as stated in Section 2.01 of the HTF contract have been completed, the PM will initiate a Placed in Service file review to ensure that all legal documentation has been received and that all necessary fiscal, administrative, and programmatic management documents are in place. Projects that have not submitted all of the required “Placed in Service” documents to Commerce within one year of the activity completion date, as referenced in the development schedule, will be considered out of compliance and may move to “workout” status (refer to [Section 504](#), Workouts).

If HTF funds are used to pay the developer fee, 10 percent of the fee will be retained until all required documentation has been provided.

406.2. Initiation of Asset Management and Compliance

When a project is placed in service, the HTF Asset Management and Compliance Team assumes monitoring responsibilities for the duration of the contract commitment period. Asset Management staff will contact the contractor to initiate asset management activities, including setup in the Web-Based Annual Reporting System ([WBARS](#)).

Refer to [Chapter 5](#) for additional information on HTF guidelines and procedures for compliance and asset management.

406.3. Placed in Service Site Visit

Within 12 months of project completion, an HTF compliance field monitor will schedule a Placed in Service site visit to view the property, survey overall systems such as tenant file maintenance and annual reporting, and review the management plan and capital needs assessment with property management staff. All applicable files must be made available upon request to Commerce staff for examination during the site visit. However, the primary purpose of this initial visit is to discuss Commerce’s expectations and provide technical assistance. HTF staff will notify the contractor in writing of any issues or concerns identified during the site visit and recommended course of action.

CHAPTER 5: COMPLIANCE AND ASSET MANAGEMENT

Section 500. Purpose

All real estate finance portfolios must be actively managed to protect their root source of capital and to ensure that the investments made with that capital are advancing the intended purposes. The Housing Trust Fund portfolio is no exception.

Housing Trust Fund money is specifically mandated to assist low and very low-income citizens meet their basic housing needs. Therefore, care is taken to invest Housing Trust Fund dollars in projects that serve households with low incomes, often with special needs, and provide appropriate and well-maintained housing for many years.

The Housing Trust Fund's Asset Management and Compliance Team (AM) is responsible for monitoring all projects that have been placed in service. Monitoring consists of desk monitoring and on-site visits that help inform stakeholders as to whether or not the invested dollars are yielding what is expected. Monitoring activities may involve coordination with other public funders. This coordination could include sharing annual report information and on-site monitoring duties and reports.

The goal of the Asset Management and Compliance Team is to ensure that projects are providing safe and affordable housing to Washington State's vulnerable persons. The nature of these projects requires a strong and positive relationship between the State and contractors. Commerce aims to prevent potential compliance issues by working proactively with organizations to address changing conditions. HTF staff provides technical assistance where appropriate to ensure the long-term viability of Housing Trust Fund projects.

Housing Trust Fund staff responsibilities during the term of a contract include:

- Monitoring project performance.
- Providing technical assistance and training.
- Working with contractors to adjust to changing conditions.
- Enforcing terms of written agreements, up to and including all avenues of recourse.

Contractor responsibilities during the term of a contract include:

- Providing a timely and complete annual report for every project that is placed in service.
- Providing yearly audits and certificates of proof of insurance.
- Making payments per contract terms.
- Communicating with Asset Management staff about any changes that may impact the original agreement and/or ability to continue to provide affordable housing as outlined in the contract.
- Cooperating with on-site monitoring.
- Participating in workout or technical assistance strategies.

Section 501. Monitoring

The Department of Commerce has a statutory responsibility to monitor HTF recipients for compliance. As stated in both RCW 43.185.090 and RCW 43.185A.070: “The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan.”

501.1. Desk Monitoring

Desk monitoring primarily consists of reviewing annual reports, examining audited financial information, and tracking loan repayments. Timely, complete, and accurate annual reports, organizational financial audits, and certificates of proof of insurance are the primary documents used by asset managers to determine compliance. Loan payment history is also monitored and incorporated into the overall assessment of contract compliance.

Refer to sections [501.3](#), Annual Reports, [507](#), Audit and Insurance Requirements, and [501.2](#), Loan Payments.

501.1.1. HTF Income Requirements

HTF contractors must verify that each household occupying an HTF-assisted unit is income-eligible by determining the household’s annual income prior to occupancy through the certification process. Thereafter, the contractors must recertify the tenant’s household income for every year of occupancy during the HTF contract commitment period.

When determining eligibility, the contractor must use the HUD’s definition of “annual income” as defined in [24 CFR 5.609](#). If applicable, the contractor should use the adjusted gross income as defined in the HTF contract. Only one definition can be applied to each HTF-assisted property.

The initial certification and first recertification of a particular household require third-party verification of all income and of total household assets that exceed \$5,000. Annual self-certifications are acceptable every year thereafter with the exception of every sixth year of the household’s occupancy, when third-party verification is required.

Housing of Students

Commerce’s position on students housed within HTF-funded properties follows HUD’s Section 8 Student Rule as outlined in the Federal Register Notice dated September 21, 2016 (Docket No. FR-5969-N-01).

501.1.2. HTF Rent Limits

Commerce imposes the Section 8 rent limits on housing units funded by the HTF. The rent limits are derived from HUD’s Section 8 income limits. Maximum rents to be paid by the tenant are determined by the AMI of the target population and the number of bedrooms in each unit.

Commerce applies the Section 8 rent limits to the sum of the resident rent payment plus utility allowance. Thus, for HTF-funded units, the maximum rent that can be charged to tenants is equal to the Section 8 rent limit less the allowance for resident-paid utilities (excluding telephone, cable television, and other telecommunications).

The intent is for the tenant share of rent on HTF-funded units not to exceed 30 percent of the monthly income of the target AMI population.

Rental Subsidies

Commerce does not apply the Section 8 rent limits to gross rent including housing assistance subsidy. However, care should be taken when there is a tenant-based subsidy to ensure that the tenant share of rent does not exceed the maximum allowed rent for the AMI target population, particularly when the gross rent for the unit exceeds the “payment standard” for the local housing market.

Multiple Public Funding Sources

For projects with multiple public funding sources, the most restrictive limits apply. The Multifamily Tax Subsidy Projects (MTSP) and the Housing Economic Recovery Act (HERA) income and rent limits do not apply to HTF contracts. Contractors should become familiar with the contractual requirements of each funder and apply the most restrictive rent limits.

501.1.3. Rent Overcharges

HTF contractors are responsible to apply the current and most restrictive rent limits to HTF-funded housing units.

If Commerce identifies a potential rent overcharge via the annual report review, the contractor must investigate the issue and provide a written response. Upon confirmation of a rent overcharge, the contractor must refund the affected tenant the amount of overpayment and document resolution of the issue within 30 days of Commerce’s review.

If the contractor self-identifies a rent overcharge, it must refund the tenant within 30 days of discovery and notify Commerce concerning identification and resolution of the issue.

With regard to rent overcharges to former tenants, the contractor shall make reasonable efforts to locate the previous tenants and refund overpayments within 60 days of identifying the issue. Within the same timeframe, the contractor shall inform Commerce in writing of the steps taken to find and refund the former tenants and the outcome of these efforts.

501.2. Loan Payments

Asset Management staff tracks the status of loan payments. Contractors must contact AM staff if they cannot make their payments or will be late making payments. If a contractor is pursuing a workout, AM may agree, at Commerce’s discretion, to suspend loan payments during the course of the workout.

Contractors that fail to make their payments and do not contact HTF Asset Management staff regarding the situation are considered to be out of compliance with the HTF loan terms. For information on addressing compliance issues, refer to [Section 505](#).

501.3. Annual Reports

Annual reporting is a requirement of the Housing Trust Fund contract. The Combined Funders’ Web-Based Annual Reporting System (WBARS) is used by contractors to submit annual reports, and is the primary tool used by Commerce to monitor contract compliance and project performance for the

Housing Trust Fund's portfolio of projects. WBARS was created to meet the needs of multiple public funders.

The annual reporting period is a calendar year beginning January 1st and ending December 31st. There are four report tables. Commerce requires that Tables 1, 2 and 3 be submitted to the Funder level by January 31st of the year following the end of the reporting period. Table 4 must be submitted to the Funder level by June 30th. Backup documentation is also required by June 30th. Refer to the Matrix of Supplemental Annual Report Materials, available on the WBARS & Annual Reporting [webpage](#).

Failure to submit timely, complete and accurate annual reports may result in the contractor being considered out of compliance with the terms and conditions of their contract. Contractors may be asked to re-submit reports which are incomplete or contain erroneous data. Failure to correct and re-submit an annual report when required can also place the contractor out of compliance.

Note: Delinquent reports can affect consideration in future HTF funding rounds, as well as result in withholding of reimbursement from the Operations and Maintenance (O&M) Fund Program or other HTF funding for the organization.

501.3.1. Annual Report Assessment Criteria

Asset Managers review annual reports for contract compliance and project performance. Key elements of this review include:

Compliance:

- Is the required number of units being made available to low-income households?
- Do tenants meet area median income (AMI) requirements?
- Are rent limits on income-restricted units being observed?
- Are the required target populations being served?
- Are unit vacancy periods brief?

Performance:

- Is the occupancy rate high?
- Is the Debt Coverage Ratio adequate?
- Is the operating reserve sufficient?
- Are there adequate annual deposits to the replacement reserve?
- Is cash flow positive?

Note: Contractors are encouraged to add comments to their reports explaining any unusual circumstances affecting project performance. Adequate explanations often reduce the necessity for follow-up.

501.3.2. Annual Report Reviews

Annual reports will be reviewed by Commerce staff using the assessment criteria above. Potential contract compliance issues and performance concerns may be identified during the annual report review. Projects will be evaluated as follows:

In Compliance: Projects with annual report submissions that do not require additional inquiry will receive notification that no contract compliance or performance issues were identified.

Projects demonstrating potential contract compliance and/or performance concerns will receive a letter outlining the areas of concern.

Compliance Concerns: Projects identified as being potentially out of compliance with the terms of the HTF contract are required to provide a written response within 30 days of receipt of the annual report review. Potential contract compliance issues are:

- Unmet unit set-aside requirements
- Questionable tenant eligibility
- Rent overcharges to tenants occupying restricted units
- Extended unit vacancies

Performance Concerns: Projects *without* potential contract compliance issues but displaying one or more of the following performance concerns are not required to provide a written response, but should take the issues cited under advisement:

- Low occupancy rate
- Inadequate debt coverage
- Negative cash flow
- Insufficient operating reserves
- Low annual replacement reserve deposits

501.4. On-site Monitoring

On-site monitoring is a critical aspect of asset management and is an important part of ensuring that projects are well managed. The purpose of on-site monitoring is to assess compliance with the HTF contract and adequate performance related to property management, file management and maintenance of the physical property. All public funders conduct some level of on-site monitoring. To most efficiently use public resources and reduce redundancies, on-site monitoring responsibilities may be coordinated with other public funders when possible.

A Placed in Service visit will occur within 12 months of a project's Placed in Service date (i.e., the date of the Certificate of Occupancy). The purpose of this visit is to facilitate relationship building and ensure that the project is off to a good start. During the visit, the field monitor (FM) will assess property management and maintenance practices. The FM will review a sample of resident files and conduct a physical inspection of the property to include a walk-through of buildings, common areas, and the site. After the Placed in Service visit, on-site monitoring visits will normally occur once every three years. The regular on-site monitoring visit includes the same components as the Placed in Service visit. Commerce may schedule more or less frequent monitoring visits depending on the assessed risk of a particular property to the Housing Trust Fund portfolio.

Refer to [Section 502.1.2](#) for specific guidance and additional requirements for projects with HOME funding.

501.4.1. Scheduling and Notice

On-site monitoring visits will be scheduled a minimum of 30 days in advance. Once a monitoring visit has been scheduled a confirmation notice of the visit will be emailed to the organization. Organizations can request to reschedule if they have a conflict with the proposed visit date. However, due to the overwhelming volume of projects needing on-site inspection, organizations are encouraged to be flexible in the scheduling of these visits. Organizations are expected to have appropriate personnel present during the on-site visit who can answer questions regarding management and maintenance policies and practices. Organizations must provide 48-hour written notice to all tenants prior to a site visit.

501.4.2. On-Site Document Monitoring

During the site visit, the field monitor will review policies, procedures and other documents used to manage the property. This may include the management plan, maintenance schedules and checklist, resident selection policies, waiting lists, rent rolls, capital needs assessment (CNA), third-party agreements, lease documents, compliance with landlord-tenant laws, and other items deemed necessary by the inspector. The resident file review and verification will include a sampling of resident files to verify completion of income certifications and to compare information in the files with annual reports submitted to Commerce via the Web-Based Annual Reporting System (WBARS).

501.4.3. On-Site Physical Inspection

During the site visit, the field monitor will conduct a physical inspection of the property that includes all aspects of the property, i.e. site, buildings, systems, common areas and randomly selected units. Inspection of property and units will be conducted in accordance with the standards set by HUD's Uniform Physical Conditions Standards (UPCS). Generally, up to 20 percent of the units will be inspected. Additional units may be inspected if deemed necessary by the inspector.

501.4.4. Exit Report and Follow-up

Within 7 days of the on-site monitoring visit, the field monitor will provide the contractor with a follow-up exit report detailing any discrepancies, findings, concerns, and actions required. The exit report will contain specific expectations for documenting completion of required actions and a deadline for returning the exit report response to the inspector. Organizations will be responsible for correcting all discrepancies and findings or submitting a corrective action plan by the deadline, which is typically 30 days from the date of the inspection.

The FM will review the exit report response to determine if it meets contract compliance and project performance expectations.

- If the contractor's response does not meet expectations, the FM will follow up with a request for additional information that includes an explanation as to why the original response was not accepted.
- Once a satisfactory response is received from the contractor, the FM will inform the organization that on-site monitoring for that year is concluded.

The exit report may also include recommendations and other technical assistance. Recommendations do not require additional action by the organization. However, if the information will benefit the project's

long-term operational viability, Commerce expects that organizations will adopt and act on recommendations.

501.5. Homeownership

See Chapter 7: Homeownership Program.

501.6. Organizational Assessments

Organization Assessments are typically performed as part of the Stage 2 application review process, but may also be done any time it appears that an organization is at risk. For example, asset management staff may wish to complete an assessment to measure risk as part of a workout or project restructure review. The Organization Assessment consists of an in-depth review of:

- Prior annual reports;
- Recent organization audits;
- Borrower history with the Housing Trust Fund; and
- Property management of the projects within the HTF Portfolio.

Organizations with projects which have received HTF funding may undergo this type of assessment to examine the organization's capacity to provide quality affordable housing long-term.

Organizations with a large number of HTF-funded projects can represent a significant risk to the State's portfolio. Thus, every effort will be made to support their continued ability to provide housing. Technical assistance will be provided to help organizations understand their projects from a portfolio management standpoint and to advance their understanding of quality management practices and important market conditions. HTF staff will also work with other public funders to support training opportunities related to asset and property management best practices.

Section 502. Monitoring HOME General Purpose Funded Projects

Recipients of federal HOME General Purpose grants and loans via the state's "HOME Program" are monitored for compliance with the terms and conditions set forth in connection with:

- Housing Trust Fund (HTF) grant or loan documentation;
- HUD requirements [24 CFR 92.251](#) and [24 CFR 92.504](#); and
- Federal HOME Program guidelines.

Monitoring includes review of a project's:

- Financial and managerial viability;
- Record-keeping methodology; and
- Physical sustainability.

Federal requirements supersede state and local requirements. If a property has Low-Income Housing Tax Credit (LIHTC) and HOME Program funding for the same units, the more restrictive program requirements must be followed.

Review [HUD's HOME Program website](#) for program requirements and reference materials.

502.1. During the HOME Affordability Period

For the duration of the HOME Affordability Period, projects awarded HOME Program funds will be monitored periodically to ensure that the property is performing well and that the units are decent, safe, sanitary, and in good repair.

Contractors are required to certify on an annual basis that the building and all HOME Program assisted units in the project are suitable for occupancy. Certification must be completed through the Commerce's annual reporting process.

Beginning at project completion and for the duration of the HOME Affordability Period, properties with HOME program assisted units are required to undergo regular physical inspections. Where discrepancies/findings related to hazardous areas or health and safety citations are determined, Commerce will require that remedies be made and back-up documentation provided within a specified time-frame. If the owner fails to comply with these requirements, a follow-up visit may be scheduled or the property may be placed on a more frequent inspection cycle. At the discretion of the on-site inspector, other Discrepancies/Findings identified during the on-site inspection may require documentation to substantiate that work was completed to satisfy the compliance issue.

502.1.1. HOME desk monitoring

Residential Lease

A lease that complies with all HOME Program requirements and Washington State law is required for all HOME Program assisted units. The residential lease used at each property must be approved by the Commerce prior to the project being placed in service. Any changes to the lease during the affordability period must be pre-approved by Commerce. Change requests should be submitted to Commerce a minimum of 30 days before implementation is to take effect.

- For projects with supportive services as part of their housing program, the HOME Program prohibits lease terms that require tenants to accept supportive services as part of retaining housing (with the exception for residents in housing identified as "transitional").
- The lease must be for at least 12 months unless mutually agreed to a shorter term by the tenant and owner. There must be documentation in the resident file that the shorter term was mutually agreed to.
- Owners must provide 30-days written notice with cause to terminate tenancy or refuse to renew a lease. Owners may terminate a lease for good cause only in situations that comply with Washington State law. Good cause is defined as: repeated violations of lease terms; violations of federal, state or local law; or for completion of the tenancy period for transitional housing.

Management Plan

A management plan is required for all projects awarded HOME Program funding. The management plan used at each project must be approved by Commerce prior to the project being placed in service. Any

changes to the management plan during the affordability period must be pre-approved by Commerce. Change requests should be submitted to Commerce a minimum of 30 days before implementation is to take effect.

HOME Income Requirements

Every HOME Program assisted unit must be occupied by a household that is low-income. All people in the household, including unrelated individuals, must be counted when determining eligibility based on annual household income.

When determining eligibility, the HOME Program contractor must use HUD's definition of "annual income" as defined at [24 CFR 5.609](#). HOME contractors must verify that each household occupying a HOME Program assisted unit is income-eligible by determining the household's annual income prior to occupancy through the certification process. Thereafter, contractors must recertify tenant household income annually for the duration of the affordability period.

The initial certification and first recertification require third-party verification of income and assets and two months of sources documents from rental applicants. Annual self-certifications are acceptable after the first recertification with the exception of every sixth year in the project's period of affordability, when third-party verification and two-month source documentation are required.

For projects with multiple public funders that have awarded HOME Program funds (state, county and city) and where each funder has assigned a different HOME affordability period start date, the earliest affordability period start date should be used to comply with sixth-year recertification requirements.

Housing of Students

Commerce's position on students housed within HOME-funded properties follows HUD's Section 8 Student Rule as outlined in the Federal Register Notice dated September 21, 2016 (Docket No. FR-5969-N-01).

Contractors are required to submit project financials, aggregate demographic information, and individual tenant data via the annual reporting process (see [Section 501.3](#). Annual Reports).

HOME Program Unit Designations

The number of HOME Program designated units, "unit mix" of Low and High HOME Rent units by bedroom size, and low-income and very low-income restricted units must meet contract requirements for the duration of the HOME affordability period.

For projects awarded HOME Program funds by multiple public funders (state, county and city), each unit designated as HOME Program assisted must be unique to each funder; i.e., the HOME-assisted units cannot overlap among the different public funders.

HOME Income Limits

A HUD-approved income schedule will be provided to contractors each year. The newly published HOME income limits are considered "approved" by Commerce. The contractor must ensure that the correct income schedule is in use at each of its projects. Contractors are responsible for reporting the correct move-in and recertification income amounts for each resident via Commerce's annual reporting system.

Pre-approval by Commerce is required for any other income schedule used by HTF contractors to determine income qualification or requalification.

HOME Rent Limits

HUD publishes two annual HOME rent limits: the High HOME rent limits and the Low HOME rent limits. Commerce observes these rent limits for housing units funded via the state-administered HOME Program for the duration of the HOME affordability period. In general, the maximum rent to be charged is based on unit size and Low HOME/High HOME unit designations.

The HUD-approved rent schedule will be provided to contractors each year. Corresponding rent changes implemented as of the effective date of the newly published HOME rent limits are considered “approved” by Commerce. The contractor must ensure that the correct schedule is in use at each of its projects and is responsible for reporting the correct rent for each resident via Commerce’s annual reporting system. Pre-approval by Commerce is required for any rent changes not related to the implementation of the approved rent schedule. Rent change requests should be submitted to Commerce a minimum of 30 days before implementation is to take effect.

For details on how the HOME rent limits should be applied, please refer to HUD’s [Compliance in HOME Rental Projects: A Guide for Property Owners](#).

For projects with multiple public funding sources, the most restrictive limits apply. Contractors should become familiar with the contractual requirements of each funder and apply the most restrictive rent limits.

At the conclusion of a project’s HOME affordability period, the HTF rent limits will apply to the former HOME Program assisted units.

Utility Allowances

Commerce will determine the methodology allowed for use by contractors in establishing monthly allowances for utilities and services (excluding telephone). On an annual basis, contractors will determine the utility allowance to be used at each of their projects based on the approved methodology. Contractors must ensure that the correct utility allowances are applied when reporting to Commerce via the annual reporting system. Pre-approval by Commerce is required for any utility allowance changes outside of the annual utility allowance determination. Utility change requests should be submitted to Commerce a minimum of 30 days before implementation is to take effect.

502.1.2 On-site Inspections

Project Completion

Upon project completion, but prior to the HOME affordability period start date, an on-site inspection will occur to ensure that contracted work was completed and the property meets applicable property standards specified in [24 CFR 92.251](#) and [24 CFR 92.504](#). This inspection may be conducted by a third-party entity authorized by Commerce.

Placed In Service

A Placed in Service visit will occur within 12 months of the project completion date. This on-site inspection includes a walk-through of all buildings with HOME Program assisted units, all property common areas, the site, and a random sample of HOME Program assisted units. Property management, maintenance, and annual reporting practices will be reviewed, along with a sample of resident files for HOME Program assisted units. Inspections are conducted in accordance with the property standards applicable under [24 CFR 92.251](#), [24 CFR 92.504](#) and Uniform Physical Condition Standards ([UPCS](#)).

Cyclical Inspections

Following the Placed in Service visit, regular on-site inspections are conducted every three years or more frequently if determined necessary by Commerce. Commerce may utilize risk-based modeling to determine if projects with HOME Program assistance require a more frequent inspection cycle than every three years. The risk profile will take into account project size, operational performance, financial performance, reporting history, and property condition.

Regular on-site inspections will include a walk-through of all buildings with HOME Program assisted units, all property common areas, the site, and a random sample of HOME Program assisted units. Property management, maintenance, and annual reporting practices will be reviewed, along with a sample of resident files for HOME Program assisted units. Inspections are conducted in accordance with the property standards applicable under [24 CFR 92.251](#), [24 CFR 92.504](#) and the [UPCS](#). If Commerce has a Memorandum-Of-Understanding (MOU) with another public funder, that funder may be allowed to conduct the physical inspection of the property on behalf of Commerce. When this occurs, Commerce will conduct its own review of resident files, as well as property management, maintenance and annual reporting practices.

502.2. After the HOME Program Affordability Period Expires

When the HOME Program Affordability Period expires, the project will be subject to general HTF program requirements for the remainder of the contract commitment period. Commerce will send a close-out letter to the contractor with further information.

Section 503. Technical Assistance

Asset Management has the capability to provide a wide-range of technical assistance and possible referral for third-party assistance. We are particularly adept at providing guidance regarding Housing Trust Fund and HOME Program contractual obligations and performance expectations for affordable housing. Technical assistance is typically provided during on-site inspections, in exit reports following on-site inspections, and via annual report reviews. Commerce also maintains a Compliance and Property Management [web page](#).

The intention of technical assistance is to improve project viability and sustainability. Contractors should contact the Asset Management and Compliance Team Manager for next steps in receiving assistance.

Commerce staff also provides technical assistance using the Combined Funders' Web-Based Annual Reporting System (WBARS). Refer to the Housing Trust Fund WBARS & Annual Reporting [web page](#) for contact information.

For complete instructions and additional information regarding WBARS, please consult the [WBARS User Guide v2](#). Training seminars are offered by the public funders participating in WBARS. For additional information, instructions and WBARS training information, refer to the Washington State Housing Finance Commission's WBARS [web page](#).

Section 504. Workouts

The Asset Management team will work proactively to address problems arising with Housing Trust Fund projects after being placed in service. Over the course of the contract commitment period, contract terms may need to be adjusted to meet changing market conditions. Asset managers will work with contractors to address these issues.

If a project is encountering difficulties that might benefit from changes to the contract, the contractor is encouraged to contact Asset Management staff to determine what type of solution might be needed. It is Asset Management's goal to work with the contractor to determine a solution that ensures long-term project viability. When a project is in the process of changing its contract terms and conditions it is referred to as a "workout". A contractor may request a workout, or Asset Management staff may recommend a workout upon review and assessment through desk or on-site monitoring.

Upon determination that a workout may be necessary, the asset manager will provide a checklist of required documents and other necessary information to the contractor. It is the responsibility of the contractor to submit a formal request for a workout including all checklist documentation. Workout requests are prioritized based on critical timing, risk assessment, and other public funders' involvement.

The asset manager and contractor will negotiate specific benchmarks and timelines to complete this process. Timelines will depend on project complexity, but contractors can typically expect to receive a final decision within 90 days from the date all requested information and documents are received by Commerce.

Asset Management reserves the right to deny any request. If the request is denied, the asset manager will provide the contractor with the justification for the denial, and a secondary strategy may be developed. If a contractor fails to participate in the workout process by not responding to Asset Management communications or by not providing necessary documentation, Asset Management staff will assess the project's risk to the portfolio and may halt the workout process or pursue more serious actions.

In-Progress: Commerce will be introducing a new comprehensive workout application that will replace the various checklists currently provided to contractors at the time of their initial workout request.

Below are workout categories with definitions and criteria to be used as guidelines.

504.1. Sale of Property

Under certain circumstances, Commerce will approve the marketing and ultimate sale of a property without the affordability restrictions remaining in place after the sale.

Justifiable circumstances may include but are not limited to:

- End of useful life/structural issues.

- Neighborhood issues/concerns/fit.
- Change in demographics or lack of demand for housing by the target population.
- Lack of organization's capacity to continue to provide housing.
- Changing market conditions.

Asset Management must approve the release of affordability requirements prior to sale of the property. Repayment of the Housing Trust Fund loan or recoverable grant will be based on contract terms and conditions and may include shared appreciation. Upon repayment, HTF-imposed property liens and covenants will be released as applicable, and debt obligations will be considered satisfied. Sale of the property may involve an amendment to the current contract.

Criteria for amendment may include but are not limited to:

- Organization can no longer provide housing.
- Property cannot secure qualified tenants.
- Contractor can demonstrate efforts were unsuccessful to transfer the property to another nonprofit.
- Selling the property and returning funds to Commerce will cost less than trying to maintain the current housing option. (This determination should involve a cost-benefit analysis between rehabilitation costs and current property value).
- Selling the property and returning funds to the State may be a higher and better use for appreciated properties.
- Location and type of housing may not be appropriate for a specific client type.

Some contracts may allow proceeds from the sale of a property to be reinvested in another eligible project. (Refer to [Section 202](#) regarding Eligibility Guidelines.) Criteria for reinvestment may include but are not limited to:

- The proposed project meets eligibility requirements;
- The length of commitment will start when the new site is placed in service;
- A new contract or an update of the old contract through amendment will be completed; and
- Any projects requesting additional funds for a new site will compete for those funds in a competitive funding round.

504.2. Transfer of Ownership

Under certain circumstances properties may be transferred to other eligible organizations. (Refer to [Section 202](#) regarding Eligibility Guidelines.) A transfer is defined as the assumption of underlying Housing Trust Fund or HOME debt. Where proceeds are realized by the current owner, please refer to [Section 504.1](#), Sale of Property. New owners will be required to comply with specific contractual obligations to be negotiated with Asset Management.

Justifiable circumstances may include but are not limited to:

- Current owner can no longer provide housing.
- Target population has changed, and the new population does not fit the mission.
- Market conditions have changed.
- Property cannot secure qualified tenants under the current ownership.
- Subsidies are no longer available.

Asset Management must approve the property transfer to an eligible organization, which may be recommended by the current contractor or Asset Management.

Criteria for the proposed new owner may include but are not limited to:

- Eligible organization.
- Engaged in an eligible activity.
- Fiscally sound.
- Staff possesses the skills and experience serving the existing tenant population.

504.3. Loan Restructure

Under certain circumstances, Commerce will allow a change in loan terms to reduce a project's financial burden.

Justifiable circumstances may include but are not limited to:

- Substantial change in market conditions from what was originally forecasted.
- Changes in target population.
- Decrease in available subsidies.
- Higher than expected vacancy rates, turnover costs, or unanticipated expenses related to natural disasters not covered by insurance.

Organizations must prove financial hardship related to current loan terms.

Criteria may include but are not limited to:

- Project does not generate sufficient income or cash flow to cover expenses, debt service, and/or health and safety related capital improvements.
- Project is unable to meet loan terms in either the short- or long-term.

504.4. Request for Additional Funds

The owner of a project that has been placed in service may request additional HTF funds when capital improvements are necessary for the health and safety of the project. Requests are contingent on the availability of HTF funding. This route to funding is only available for projects that have been placed in service. Projects in development must contact their project manager. Organizations requiring funds for expansion of an existing project need to apply through the competitive funding round.

Justifiable circumstances may include but are not limited to:

- Identified health and safety issues.
- Aging of the property and capital needs issues that are not covered by reserves.
- Energy and sustainability measures that would improve overall operating efficiency, decrease tenant-paid utility costs, or increase project financial viability.

Organizations must prove financial need for additional funds.

Criteria include but are not limited to:

- The organization cannot complete necessary work on project without additional funds.

- Alternate financing options have been explored.
- The property requires work to maintain decent and safe housing.

Conditions for release of additional funds include:

- The project must be maintaining units, or the project is currently vacant and cannot achieve occupancy without additional funds for rehabilitation or relocation.
- The additional funds must be necessary for the preservation of the original investment.

504.5. Minor Scope of Work Changes

This category represents minor changes in a project's original scope of work that typically do not change the loan terms or underlying security documents.

Examples may include but are not limited to:

- Change in the number of restricted units, to include creation of common areas, resident manager apartment, etc.
- Changes in target population, i.e., population type or median income.
- Corrections to errors in the contract i.e. inconsistency in number of units required.

The asset manager will review the request to determine if the proposed changes meet HTF eligibility requirements.

Criteria include but are not limited to:

- Property cannot secure qualified tenants.
- Original program model is no longer viable.
- There is a loss of funding sources for operations and/or services.
- Project needs tenants with higher income levels to financially support operations.

504.6. Refinancing and Subordination

Contractors may request Commerce to subordinate to private or public senior debt that is secured by the property. Commerce will need to review and approve other lenders' loan documents and subordination agreements prior to refinancing. Such approval shall be at Commerce's sole discretion. Commerce will expect proceeds from the refinance to be used primarily for improvements to the property.

Refinancing should not be the sole mechanism by which capital improvements are accomplished. Projects are expected to maintain sufficient replacement reserves based on a capital needs assessment and a life cycle cost analysis of building systems.

Circumstances may include, but are not limited to:

- Market conditions or loan pay-down may have increased the equity that could be captured and put to use on the property.
- The project may need repairs or rehabilitation.
- The contractor may get a better interest rate.
- The contractor may want to pay down or pay off other loans on the project including Commerce's loan.

Contractors will need to submit a written request documenting their proposed plan and how it will enhance the project, the organization, and provide public benefit.

Criteria for Commerce approval may include but are not limited to the extent to which:

- Improvements are made to the property through repair, rehabilitation, or other capital improvements.
- Improvements are made to the debt coverage and/or the cash flow of the project.
- The state's lien position is improved.
- The state's loan is reduced or paid off.
- Additional public benefit is achieved.
- Risk to the state's original investment is reduced.

504.7. Year 15 Expiring Tax Credit Projects

Contractors with tax credit projects nearing the end of their 15-year tax credit compliance period should contact the Housing Trust Fund's Asset Management team as they begin planning the project's exit strategy. Once the exit strategy is finalized, the contractor or its representative must submit a letter to Asset Management outlining the exit tax liability and the new ownership structure. Commerce's consent and approval of the final plan will be required. In some cases, it may be necessary to amend HTF legal documents to reflect the new ownership structure.

If none of the original partners/members will be part of the new ownership entity, refer to [Section 504.1](#), Sale of Property.

Section 505. Addressing Compliance Issues

When a project or contractor is deemed out of compliance with the terms and conditions of their contract, Asset Management will assess the seriousness of the compliance issue and determine an appropriate course of action. Decisions are based on weighing risks to tenants or the housing portfolio against the costs in terms of money or time to take action against the contractor. Asset Management may engage in technical assistance, a workout strategy, contract termination, or in the worst case, foreclosure proceedings when working with contractors to address compliance issues.

The state's financial interest in a property is secured by placing liens on any property purchased or constructed with state funds. These liens provide the state with final recourse through the foreclosure process. Foreclosure is a legal process, which will be conducted in conjunction with the Attorney General's Office and is governed by [RCW 61.24](#). In some circumstances, foreclosure proceedings may be initiated by a different funder, at which point the state would coordinate foreclosure activities with this funder.

Section 506. Final Contract Closeout

At the end of the HTF contract commitment period a final contract closeout will take place. In order to close out an HTF contract that has completed its commitment period, Asset Management staff will determine if there is an outstanding loan balance and whether or not there are any liens or covenants that need to be released. Outstanding loan balances must be paid before final contract closeout.

The contractor will be notified in advance of the commitment period completion date. It is the contractor's responsibility to notify Asset Management if an extension of the contract is desired. If the contractor does not wish to extend the contract, the contract will be closed out once the loan is repaid in full. Upon repayment, HTF-imposed property liens and covenants will be released as applicable, and debt obligations will be considered satisfied.

Commerce encourages projects to continue providing affordable housing after the HTF contract has ended.

Section 507. Audit and Insurance Requirements

507.1. Audit Requirement

Contractors are required to submit a copy of their organization's consolidated annual audit to Commerce within nine months of the organization's fiscal year end date. Responses to any unresolved management findings and disallowed or questioned costs should be included with the audit report. The contractor must respond to Commerce's requests for more information and/or take corrective action concerning audit issues within 30 days of the request. Various types of audits could be required, as determined by federal and state requirements related to the amount of funding received in a given year. Audits that may be required include an A-133 audit, a Yellow Book audit, or a Financial Statement Audit.

Payment for the audit is the responsibility of the contractor. Audits are to be performed by a Certified Public Accountant (C.P.A.) independent of the organization being audited. If the contractor is a state or local government entity, the State Auditor's Office shall conduct the audit. Contractors failing to provide an audit on an annual basis will be out of compliance with the terms and conditions of their funding.

Note: Compilations and Reviews are not considered audits.

507.2. Audit Waiver Request

All organizations receiving any Housing Trust Fund monies are by default required to provide audit information to Commerce on an annual basis. Commerce may consider a waiver of the Financial Statement Audit requirement for an organization if that organization is eligible (see Section 507.2.1 below) and submits a written waiver request to Asset Management. The written request must provide evidence of a clear and compelling hardship in providing the required audit. Approval, denial or rescission of an audit waiver is at the sole discretion of Commerce. If an organization receives a waiver of a Financial Statement Audit, an annual financial statement will be required instead.

507.2.1. Eligible Organization

The criteria for determining if an organization is eligible for an audit waiver includes, but is not limited to, all of the following:

- Organization does not meet the requirements for an A-133 or Yellow Book audit.
- Organization has no more than 3 projects with outstanding HTF funding.
- Organization has no project or combination of projects that total \$500,000 or more in HTF funding.
- Organization has no projects funded with tax credits, HOME funds or HUD funds.

507.2.2. Audit Requirement Waiver Request Process

The organization must submit a letter to Asset Management on official letterhead to request an audit requirement waiver. The letter must:

- State the organization's eligibility as it relates to the above eligibility requirements.
- Present a clear and compelling hardship in providing the Financial Statement Audit.
- Be signed by the Chief Financial Officer (or equivalent finance/accounting authority) and the Executive Director.
- Include the following language:
 - "In receiving an audit requirement waiver, I agree to submit to the Housing Trust Fund a compiled yearly financial statement that includes organizational financial information and financial information pertinent to the properties held by the organization with HTF funds. I understand that the audit requirement waiver becomes automatically void, and requires no notice from Commerce, if at any time the organization fails to meet the eligibility requirements or does not comply in submitting the yearly financial statement."

507.2.3. Required Criteria for the Financial Statement

- The statement can be created in-house or by an independent accounting firm.
- The statement will include all financial data beginning and ending in the organization's fiscal year.
- The statement is due to Asset Management within 90 days of the organization's fiscal year end.

507.3. Insurance Requirements

Note: This subsection is under review, as Commerce's insurance requirements have changed.

507.3.1. Property Insurance

The contractor is required to keep the building and all other improvements on the premises insured throughout the term of the contract against the following hazards:

- Loss or damage by fire and such other risks (not including earthquake damage) in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis.
- Loss or damage from leakage or sprinkler systems now or hereafter installed in any building on the premises.
- Loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed in a building or buildings on the premises.

The Department of Commerce shall be specifically named as loss payee on all policies, and all policies shall be primary to any other valid and collectable insurance. In the case of homeownership revolving loan fund projects, this insurance may be in favor of the contractor.

507.3.2. Public Liability Insurance

The contractor is required at all times during the term of the contract, at its own cost and expense, to carry and maintain general public liability insurance, including contractual liability, against claims for bodily injury, personal injury, death or property damage occurring or arising out of services provided under the contract. This insurance shall cover such claims as may be caused by any act, omission, or

negligence of the contractor or its officers, agents, representatives, assigns or servants. The limits of liability insurance, which may be increased from time to time as deemed necessary by Commerce, with the approval of the contractor (which shall not be unreasonably withheld), shall not be less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The Department of Commerce shall be specifically named as an additional insured on all policies.

Contractors should consult their contract's terms and conditions regarding the required types and amounts of insurance coverage. Contractors failing to provide current proof of insurance on an annual basis will be out of compliance with the terms and conditions of their contract.

CHAPTER 6: OPERATIONS AND MAINTENANCE FUND PROGRAM

Section 600. Background and Purpose

The 2002 Washington State Legislature passed [Senate House Bill 2060](#), which requires county auditors to charge a \$10 recording fee on all recorded documents with the exception of those previously excluded from any fees. A portion of the revenue from the fee goes to the “Affordable Housing for All” account. Funds from this account are used to support operating and maintenance costs of housing projects, or units within housing projects, that are affordable to extremely low-income households with incomes at or below 30 percent of the area median income (AMI) and which require a supplement to rent revenue to cover ongoing operating expenses.

The Operations and Maintenance (O&M) Fund Program subsidizes housing projects so that affordable housing is made available to a broader range of extremely low-income households than would be possible without such subsidy.

The legislation charged the Department of Commerce with the responsibility of administering the O&M Fund, as described in [RCW 36.22.178](#). The O&M Fund Program is part of the Housing Trust Fund (HTF), and program dollars support projects that have received capital dollars from the HTF.

600.1. Operations and Maintenance Fund Focus

The focus of the O&M Fund Program is to address the gap between eligible operating and maintenance costs and project income related to units restricted to households with incomes at or below 30 percent AMI. Funds are granted in amounts appropriate to the scope of the identified operating gap as determined by a review of the project’s operating pro forma. New awards to projects will generally not exceed \$50,000 contracted annually.

Commerce reserves the right to negotiate modifications in an awardee’s proposed project budget prior to executing a contract.

600.2. Operations and Maintenance Fund Program Subsidy Types

Budget Gap Funding addresses but may not completely cover the gap between eligible operating and maintenance costs and project income.

In the past, the O&M Fund Program provided Rent Buy-Down, 5-Year Budget Gap, One-Time Reserves, and Operating Cost Savings subsidy types that are no longer available to new applicants.

Section 601. Eligibility

601.1. Eligible Applicants

Organizations eligible to apply for O&M funds include all organizations with projects receiving or having received HTF funding as allowed in [Section 202.1](#).

601.2. Eligible and Ineligible Projects

O&M funds must be used for HTF projects that have units restricted to extremely low-income households (at or below 30 percent AMI), including seasonal farmworker projects and projects for persons with special needs (e.g., disabled and homeless).

Projects receiving Section 8 subsidies, or that have units occupied by tenants receiving Section 8 assistance, are generally not eligible. Commerce may make exceptions if the project demonstrates a compelling need for O&M Fund Program subsidy.

601.3. Tenant Income Certification

Units for which the O&M Fund Program subsidy is intended must be occupied at move-in by households with gross annual household incomes at or below 30 percent of the area median income (AMI), as adjusted for household size. If the household income increases to greater than 30 percent of AMI, the contractor is not required to increase rents or require the tenant to move. However, household income should be reviewed annually, to include a review for potential rent increases.

For HOME-funded projects, contractors should use the U.S. Department of Housing and Urban Development's (HUD's) "Technical Guide for Determining Income and Allowances for the HOME Program" to certify the income level for tenants occupying buy-down units. Projects with Low-Income Housing Tax Credits (LIHTCs) must follow Washington State Housing Finance Commission (WSHFC) procedures. If the project has neither tax credits nor HOME funding, and the contractor requires further guidance, Commerce will provide direction under a separate attachment.

601.4. Tenant Rents

Rents for units subsidized by the O&M Fund Program, should be based on what is affordable to a household with income at or below 30 percent AMI. At a minimum, the contractor must observe the rent limits published by the Washington State Housing Finance Commission for 30 percent AMI units. Under no circumstances shall rents for O&M Fund Program-subsidized units exceed the WSHFC rent limits for 30 percent AMI households.

Household income reviews should occur annually and the contractor may adjust rents accordingly. If some households have little or no income at move-in, the rent may be waived or reduced temporarily only if there are sufficient funds available from the O&M Fund Program grant to cover the annual operating gap. At the annual review, the subsidy amount may be adjusted if it is found that tenants are able to pay more rent than projected.

601.5. Housing Trust Fund Annual Report Compliance

Projects applying for or receiving an O&M subsidy must submit their required Housing Trust Fund Annual Report accurately, completely, and on time. Failure to do so will jeopardize reimbursements under the O&M grant agreement.

601.6. Non-Discrimination Policy

O&M Fund Program applicants shall neither deny services to, nor otherwise discriminate in the delivery of services against, any person who otherwise meets the eligibility criteria for the program on the basis of race, color, religion, gender, sexual orientation, age, national origin, citizenship, ancestry, marital

status, physical or mental handicap, or because such person is a recipient of federal, state, or local public assistance.

Section 602. Application

602.1. Application Process

Subject to the availability of funding, applications for O&M grants will be accepted and evaluated on a competitive basis during the HTF Multifamily funding rounds. Currently, there are no O&F funds available for new awards.

If a project is already in the HTF portfolio, and is in need of O&M funding subsidy, this project will need to go through a workout process with the HTF Asset Management team. The applicant or O&M program staff can request funding at the time of workout application. Refer to [Section 504](#) for more information about the workout process.

602.2. Evaluation Criteria & Funding Priorities

The maximum O&M Fund Program award commitment will generally not exceed \$50,000 annually. The award amount is based on project need, other available operating subsidy, and is dependent on the number of units restricted to 30 percent AMI. At the discretion of O&M program staff, exceptions may be made if the project demonstrates a compelling need for O&M subsidy over \$50,000.

Grant applicants should request the full amount of O&M funds needed. Requests will be evaluated and funded as follows:

1. Applicants will first be awarded up to a maximum of \$35,000 of their funding request.
2. If the funding request exceeds \$35,000 and the project has been placed in service, O&M program staff will undertake a second review of the project's updated pro forma. An additional award of up to \$15,000 may be made for a total maximum award of \$50,000 annually.

Note: The additional \$15,000 is only available to projects with committed funds from fundraising or other public operating subsidy equal to a minimum of 25 percent of the total operating budget gap before any O&M subsidy is included in revenue. This additional amount is also dependent on need.

All applications for O&M funding are evaluated according to need, the degree to which the program purpose is met, and the demonstrated ability of the applicant to implement and administer the program.

Other evaluation criteria:

- High occupancy record.
- Committed social services funding and support, if applicable.
- Good track record in property management and maintenance, and with a history of timely payments, clean audits, and timely annual report submissions (for organizations with existing projects funded by the Housing Trust Fund).
- Support of non-state funders.
- Fundraising ability and track record.

Selection priority will be given to projects with the following characteristics:

- All units are restricted to households with incomes at or below 30 percent AMI (as opposed to mixed-income projects).
- Serves persons with special needs, including persons with disabilities and homeless persons.
- Provides temporary housing to seasonal farmworkers.
- Provides supportive services to persons with special needs.
- Has committed local financial support or fundraising dollars applied to the operations and maintenance of the project.
- Does not have any federal operating subsidies such as Section 8, HUD 202 or HUD 811 PRAC.

602.3. Operating Budget and Use of Funds

At the time of application, an operating budget in the required format must be submitted. This budget will be used as the basis for the O&M Fund Program award. An updated operating budget will also be required during contract development to determine the final grant amount for the year. The budget should accurately reflect the income and expenses for the project. The budget should include all applied for or committed operating subsidies and funds raised for operating purposes as individual income line items.

602.4. Obtaining an O&M Grant Agreement

The O&M Fund Program will provide an annual grant agreement for O&M support after the project is placed in service. Funding will begin upon execution of the O&M contract and will be prorated to reflect the remaining days of the calendar year. Project income, when generated, must be used first by the grant recipient before drawing additional funds to complete activities included in the application.

Section 603. Management Plan and Maintenance Plan

A management plan is required for each application to the O&M Fund Program. The plan must be consistent with the guidelines found in Sections [205.6](#) and [403.6.1](#). Commerce staff may provide contractors with an optional management plan template, upon request.

Section 604. Funding Limits and Eligible and Ineligible Uses:

604.1. Funding Limits and Length of Commitment

O&M Fund Program awards and grants are subject to availability of funding. O&M-funded projects will undergo annual reviews that may result in adjustments to O&M subsidy amounts or the discontinuance of the subsidy, at the discretion of O&M program staff. Length of commitment for funding is determined by Commerce and will generally not exceed 20 years. Grants are renewable for a period not to exceed the original O&M award commitment period.

604.2. Eligible Uses

- Project-specific utility costs paid by the O&M grant recipient and which are not specifically metered to an individual unit and are not the responsibility of the tenant. This includes water, sewer, garbage, electricity, gas, telephone, and internet.

- Salaries and benefits for all on-site personnel directly associated with operating the building.
- Off-site property management expenses, including overhead and personnel costs, that are necessary to operate the building.
- Project administrative costs including: audits, accounting/CPA expenses, legal services, advertising and marketing, insurance, security, collection loss, real estate taxes, compliance fees, manager unit expenses, property manager office supplies and rent, and travel related to the project.
- Indirect administrative costs of the nonprofit property owner, not to exceed 5 percent of the current year's total project expense budget, and which can include the following:
 - Administrative expenses such as for human resources, general administration, and executive management.
 - Costs for office supplies, rental equipment, and banking fees.
- On-going maintenance expenses such as for janitorial supplies, maintenance contracts, landscape maintenance, and security.
- Short-term maintenance expenses such as cleaning and repair or replacement costs for damage incurred during occupancy or unit turnover.
- The cost for a Capital Needs Assessment (CNA) of the project.
- Replacement Reserve additions. The replacement reserve consists of funds set aside for the replacement of, or major repair work on, the component systems of a housing facility. The amounts deposited in the replacement reserve account should be based on a capital needs assessment, to include an analysis of all facility systems that will wear out over the life of the project, and the estimated costs to repair and replace those systems. Funds from the reserve may only be used for capital assets that have a useful life exceeding one year. This includes but is not limited to major repairs to or replacement of appliances and major fixtures, windows and doors, plumbing and heating systems, and re-roofing. Short-term maintenance costs for items with a useful life of less than one year should be paid for with project cash flow or organizational sources.
- Operating Reserve additions. The operating reserve consists of funds budgeted each year to cover unforeseen operating costs. The operating reserve may also be used to pay for work that cannot be entirely funded by the replacement reserve. The reserve amount should normally be equivalent to 3 months of all expenses incurred during the first year of operations, excluding long-term replacement reserve items. The reserve will be allowed to accumulate until the balance is equal to 50 percent of a year's budget for operating costs, at which time O&M funds may no longer be used to fund the operating reserve.

Note: If the grant recipient uses O&M funds to capitalize replacement or operating reserves, the contractor must, within 30 days of disbursement of funds by Commerce, provide evidence of deposit. Proof of deposit might include bank deposit documents or documentation showing how the funds are categorized in the accounting records if a specific bank account is not being set up for the reserve funds. The contractor must detail on their O&M Quarterly Report the beginning and ending reserve

balances and provide the amount and purpose of any withdrawals so as to verify whether or not deposits were utilized as intended and for eligible activities.

604.3. Ineligible Uses

- Subsidizing the costs of social services or community or project-oriented events.
- Payment for supplies provided for an individual's use to include hygiene products, housewares, and furniture.
- Training costs.
- Closing costs.
- Depreciation.
- Amortized development costs.
- Private debt service.
- Costs not specifically listed as an eligible use, unless approved by program staff in advance.

Eligible and ineligible uses of O&M Fund Program dollars are subject to change at the discretion of O&M Fund Program staff.

604.4. Reserve Funding

The general requirements and limits on replacement and operating reserves may be adjusted periodically based on public funder standards. Commerce may also adjust the requirements for specific projects based on a review of the capital needs and operating risks of the particular project. Once the term of an O&M grant agreement comes to an end, any funds used for either operating or replacement reserves shall be governed by the eligible uses of reserves in the project's HTF contract.

Section 605. O&M Fund Program Payments

605.1. Subsidy Payments and Adjustments

The O&M subsidy will be paid to projects on a quarterly basis as reimbursement for actual expenses. The O&M Quarterly Report must be submitted with the quarterly subsidy request. The amount of subsidy paid will depend on the expenses accumulated and cumulatively cannot exceed the approved annual amount.

If Commerce provides prior approval to move funds into replacement or operating reserves, the contractor can complete this transaction via a lump sum payment as long as the payment is deposited to a dedicated account and proof of deposit is provided to Commerce within 30 days of receipt of the funds.

In addition, the O&M Quarterly Report provides a place to record beginning and ending reserve balances along with withdrawals, deposits, interest earned, and a corresponding reason. O&M program staff must track O&M funds in the reserve accounts until the funds are spent. The purpose is to ensure the funds are used for eligible activities. Failure to submit a properly completed payment request or O&M Quarterly Report will jeopardize the payment of subsidy funds.

The grant recipient may request adjustments to the subsidy amounts. Commerce has sole discretion to increase subsidy amounts only if there are sufficient uncommitted O&M Program funds to provide an increase. Any adjustments upward will require written substantiation, including a corrective action plan.

A project showing positive net operating income in its operating budget may be required to make additional contributions to its operating and maintenance reserves, or if those reserve balances are adequate, the project's O&M subsidy may be reduced to a lower level.

Section 606. O&M Fund Program Guidelines

As stipulated in [RCW 36.22.178](#), Commerce is responsible for developing guidelines for the use of O&M Fund Program funds. The O&M Fund Program may issue new guidelines from time to time, and new guidelines will supersede all previous guidelines. O&M grant recipients should consult Commerce's O&M Fund Program [webpage](#) for the most up-to-date program guidelines.

CHAPTER 7: HOMEOWNERSHIP PROGRAM

Section 700. Purpose

This chapter outlines the process that Commerce staff will follow to assess Homeownership Program applicants, review project-specific applications, and manage homeownership projects.

Please refer to [Chapter 2](#) for guidelines for the award and management of Housing Trust Fund capital funds.

Contractors and development consultants (if applicable) are expected to work closely with the HTF project manager (PM) during the organizational and project assessment, pre-contracting, project implementation and placed-in-service activities. Failure on the part of the contractor or development consultant to fully communicate with their assigned HTF project manager, keep the project moving in accordance with an agreed-upon or adjusted timeline, or provide required documentation in a timely manner will reflect poorly on their capacity and performance. Failure to follow through in these areas may adversely affect the organization's ability to secure future HTF financing.

Section 701. Homeownership Program Eligibility Guidelines

Before you begin preparing an HTF Homeownership application, review Chapters 1, 2 and 3 thoroughly to understand HTF statutory criteria, program requirements, and the application process. To be eligible for HTF funding, projects must satisfy the guidelines contained in Chapter 2.

701.1. Eligible Applicants

The following types of organizations are eligible to apply for HTF funds as referenced in [RCW 43.185.060](#):

- Local governments
- Local housing authorities
- Nonprofit community, neighborhood, state or regional organizations
- Federally-recognized Indian tribes in Washington State
- Regional support networks established under [Chapter 71.24 RCW](#)

Nonprofit applicants must provide a certification from the Washington State Secretary of State that they are registered to do business in Washington as a nonprofit organization in accordance with [RCW 24.03](#). Furthermore, nonprofit organizations must submit a letter from the Internal Revenue Service designating them as a tax-exempt nonprofit organization.

701.2. Eligible Project Types

HTF funds may be used for a variety of homeownership project types including, but not limited to:

- Single family, duplex or townhouse units
- Condominium units
- Rental units converting to condominium ownership (where existing tenants are not displaced)
- Community Land Trust developments
- Mobile Home Parks with a homeownership component

- Purchase/rehabilitation units

701.3. Revolving Loan Funds

HTF homeownership awards typically result in a loan to a homebuyer from the contractor. Repayment of the loan capitalizes the contractor's revolving loan fund (RLF), and facilitates the reuse of these funds to benefit future low-income homebuyers.

RLF program income is defined as repaid principal and interest. The contractor may use up to 10 percent of this program income for administration of the revolving loan fund. The contractor must report annually to Commerce on the local RLF's activity, to include program income, administrative costs, and any losses due to default.

During the homeownership assessment period, the contractor's revolving loan fund account balance will be reviewed. The existing RLF balance may impact the amount of HTF funds awarded in the future.

701.4. Eligible Activities and Types of Assistance

HTF funds may be used to pay development costs for new construction and acquisition/rehabilitation projects, including acquisition, infrastructure, and building construction and development soft costs.

HTF funds may be used for the following activities incorporating one or more of the eligible project types:

- Down Payment Assistance Loans for existing housing
- Self-Help Projects
- Short-Term Production Loans

701.4.1. Down Payment Assistance Loans for Existing Housing

HTF funds may be used for down payment assistance (DPA) loans to assist low-income households with the purchase of an existing home or condominium.

701.4.1(a). Repayment Terms for DPA Loans

The DPA loan to the homebuyer must be in the form of a loan payable to the homeownership contractor and secured with a subordinate mortgage.

If the homebuyer cannot afford an additional payment, the DPA funds may be loaned on a zero interest basis, secured by a subordinate deed of trust in favor of the contractor, with repayment due when affordable or at refinance or sale. (Affordability should be reviewed annually.)

701.4.2. Self-help Projects

HTF funds may be used for the purchase of land or infrastructure to benefit self-help homeownership projects. HTF funds contributed toward each household must be secured in the form of a loan.

701.4.3. Short-term Production Loans

An example of a short-term production loan is when a contractor acquires and rehabilitates or constructs homes and sells them to qualified low-income homebuyers. HTF funds contributed toward each household must be secured in the form of a loan.

Evidence of site control is required, except for projects that will acquire scattered site existing single-family homes. Developers should specify the proposed resale restrictions and affordability period in the homeownership application.

701.5. Ineligible Activities

HTF funds may not be used to pay for:

- Contractor’s overall program administration costs or organizational overhead. (HTF funds may only be used to pay for direct costs associated with the activities related to the HTF contract – refer to Sections [703.4](#) and [703.5](#).)
- Homebuyer education and counseling.

701.6. Eligible Homebuyers

Homeownership opportunities may be offered to buyers earning up to 80 percent of the area median income (AMI).

701.7. Homebuyer Education

Buyers must successfully complete a pre-purchase homebuyer education program, including programs certified by the Washington State Housing Finance Commission, the U.S. Department of Housing and Urban Development and the Neighborhood Reinvestment Full-Cycle Lending program.

Section 702. Homeownership Assessment

702.1. Assessment Elements

The assessment part of the HTF Homeownership Program is built around three key elements:

1. Organizational Capacity
2. Program Design
3. Project Review

702.1.1. Organizational Capacity Element

The purpose of the Organizational Capacity element is to determine whether or not an organization has sufficient capacity to successfully undertake their proposed homeownership program. Some of the areas looked at when assessing organizational capacity are:

- Organizational Structure

- Articles of Incorporation and Certificate of Good Standing.
- 501(c)(3) status.
- Bylaws and amendments.
- A history of housing development activity that is consistent with HTF funding goals and parameters.
- Planning
 - Mission and vision are clear, specific, compelling, and achievable.
 - Operating/business plan is clear, identifies needs and goals, and is consistent with other local plans.
 - Multi-year strategic plan.
 - On-going planning process that involves staff, board leadership and stakeholders.
 - Process for monitoring progress toward achieving goals.
- Leadership and Governance
 - Established governance model and structure.
 - Clear legal structures in place for successful operation and adequate meeting and reporting practices.
 - Skilled and active Board of Directors.
 - Accurate financial, planning and programmatic records.
 - Respect of the community and key partners.
- Financial Management
 - Professional accounting system with appropriate record-keeping procedures.
 - System by which the organization can produce and review financial reports on a monthly basis.
 - Documented on-going financial oversight process.
 - Adequate resources to meet current year operating expenses.
 - Systems in place to meet regulatory agency and funding-source compliance requirements.
 - Meets audit standards and addresses any audit findings in a timely manner.
 - Risk management plan in place.
- Administration and Staffing
 - Skilled and committed executive director and staff.
 - Documented staffing model that clearly identifies functional units, employee responsibilities, and appropriate professional service agreements.
 - Sufficient computer capacity to manage its operations.
- Programs
 - Programs align with organization capacity and staffing.
 - Programs focus on a documented need.
 - Programs have clear policies and procedures.
- Production and Performance History
 - Completes its projects on time and within budget.

- Meets all compliance and reporting requirements.
- Has a history of good production volume and performance that is commensurate with the size of the organization.

702.1.2. Program Design Element

The purpose of the Program Design element is to determine whether or not an organization's program design provides the foundation for the program to successfully carry out its mission. Some of the areas examined for this element are:

- Homeownership Program Manual
 - The timeframe for submission is negotiated between the project manager and the contractor.
 - Must be submitted electronically to the PM if possible.
 - Commerce may require that additional information be included in the manual.
 - Unless the contractor is notified of deficiencies in the program manual within 60 days from the date Commerce receives the manual, the contractor may assume approval of the manual.
- Program Design (Goals, Policies and Procedures)
 - Program design is driven by the organizational goals.
 - The organization's goals create the policies that guide the administration of the program.
 - The policies are used to create procedures, which provide detailed guidance for operating the program on a daily basis.
- Program Overview and Pipeline Summary
 - Program products and services are clear and reflect program goals.
 - Pipeline commitments are clearly described and realistic.
- Need, Demand and Market Analysis
 - The organization has current and accurate information on local housing needs and the local real estate market.
 - The organization has confirmed data related to the demand for program products and services (e.g., waiting list).
 - The market analysis clearly supports the program design.
- Program Administration
 - Have job descriptions for all in-house program positions.
 - Have clearly-defined relationships with other key players.
 - Have adequate staffing for all essential program roles.
- Budget and Finance
 - The budget for administration of program and its projects is realistic.
 - Contingency plans and reserves are in place in case of project delays.
- Homebuyer Education

- Provides thorough pre- and post-purchase education and counseling that includes financial literacy, household budgeting, credit counseling, home maintenance/repair, and energy-efficient living skills.
- Supports and counsels homebuyers who encounter financial difficulties.
- For self-help projects, provides construction and conflict resolution training.
- If a co-op or homeowners association, provides conflict resolution and self-governance skills training.
- Regulations and Compliance
 - Complies with all applicable federal, state and local regulations as well as funding agency requirements.
 - Has an effective portfolio management system with thorough compliance documentation.
- Revolving Loan Funds
 - Accurately report and account for program funds annually.
 - Have compliant policies and procedures in place for re-use of funds.

702.1.2(a). Contents of the Homeownership Program Manual

At a minimum, the Homeownership Program Manual must address the following:

(a) Organizational Structure

- Description of the homeownership program.
- Program Mission and Goals.
- Description of the organization's structure, including the authority, duties, and relationship of the board and staff.
- Provision governing the possible termination of the organization or the program. The manual and by-laws must include procedures for termination that includes notifying Commerce.

(b) Program Procedures

- Marketing
- Selection of homebuyers
- Program support and education for homebuyers

(c) Program Staffing

- Identify the number of staff dedicated to the homeownership program and the duties of each position.

(d) Loan Qualification, Processing and Servicing

- Procedure for determining the affordability gap and the process to qualify applicants for a loan (e.g., employment and income verification, asset verification, credit reports, etc.).

- If the homebuyer cannot afford an additional payment, the down payment assistance (DPA) may be loaned on a zero-interest basis with repayment due when affordable or at refinance or sale. The DPA loan should be secured by a subordinate deed of trust in favor of the contractor. and affordability reviewed annually.
- The organization must have a good-faith estimate of the total financing costs for each homebuyer.
- Identify first mortgage rates and provide consistency with state average rates.
- Identify documents required for the transaction (e.g., lease, deeds of trust, promissory note)
- Procedure for servicing active loans to include:
 - Loan forgiveness
 - Late payments
 - Defaults
 - Foreclosure procedures (if applicable)
 - Resale policies, including shared appreciation and provisions for affordability preservation
 - Processing of loan repayments

(e) Fiscal Procedures and Oversight

- Description of the accounting system used to track and manage all funds related to the homeownership program. Procedures should describe how RLF funds returned in the form of repayment are tracked and re-used.

(f) Program Income

- Description of the types of program income to be generated (e.g., second mortgage, leases), and the methods by which the program income is to be tracked and used.
- Income expectations of the program over the life of the contract commitment.

(g) Program Files

- Records retention requirements, to include procedures for maintaining all files related to the program in an orderly and safe manner for the duration of the commitment period. The location of the files should be specified for both active and inactive files.
- Individual files must include, at a minimum:
 - Income verification;
 - Documentation identifying all lenders;
 - An appraisal (if required);
 - Purchase and sale agreement;

- Building and any other inspection reports;
- Buyer's final closing statement;
- Deed(s) of trust;
- Promissory note(s);
- Both lender's and owner's title insurance;
- Evidence of fire, hazard, and liability insurance; and
- Any other documentation related to the transaction.

(h) Fiscal Files

- All fiscal files related to the homeownership program must be maintained in an orderly manner at the contractor's designated place of business for the duration of the commitment period.
- There needs to be a provision requiring the contractor to notify the department in writing of the designated location of the files in the event the program is terminated.

(i) Data Collection and Reporting

- Types of data collected by the program.
- Data security measures.
- Description of how homeownership data will be used.
- Types of reports that will be generated using the data.

702.1.3. Project Review Element

The purpose of the Project Review element is to analyze a specific proposed project and to review other projects being carried out by the organization. Some of the areas assessed for the Project Review element are:

- Project Overview
 - Consistent with the program's design and goals.
 - Has a realistic schedule in the program development pipeline.
 - All financing sources are secured.
 - All private and public lending partners (including first mortgages) are identified.
 - Demonstrates effective leveraging of Housing Trust Fund resources.
- Market & Marketing
 - Organization understands and documents the project need, demand and market sector.
 - In compliance with program policies and all Fair Housing regulations.
- Administration and Development Roles
 - In-house and contracted roles and responsibilities are clearly defined.
 - A project plan is in place.
- Funding and Financing

- Effectively leverages other resources.
- Other project funding sources are committed.
- Has a financing plan that sets forth accurate project costs and demonstrates the project's viability and sustainability.
- The contractor develops projects that support the organization and homes that are affordable to targeted homebuyers.
- Property and Construction
 - The site selected is a developable site with appropriate zoning at a location compatible with the needs of the homebuyer population to be served.
 - A thorough environmental review of the site has been completed.
 - If the project involves new construction, the contractor has site control at the time of application.
 - The contractor uses sound methods to determine complete and accurate construction costs.
 - Complete narrated budgets have been prepared for all aspects of project development.
 - Per unit costs are within the funder's acceptable range.
 - The project incorporates sustainable design features.

702.2. Homeownership Assessment Process

The Organizational Capacity and Program Design assessments will occur simultaneously during an on-site visit by HTF staff. The Project Review of a specific proposed project might also be discussed during the on-site capacity and design assessments, but would not entail the more detailed formal review until after completion of the other assessments and until after Commerce receives a Stage 2 project application.

An applicant that meets the organizational capacity and program design criteria, has submitted a project-specific application that meets HTF requirements, and is ready to proceed, would be eligible to receive an award commitment based on the project scope/1-year pipeline needs and based on the availability of HTF dollars.

Section 703. General Homeownership Program Guidelines

703.1. Local Support

The homeownership project should demonstrate support from local organizations and local government. Commitment of funds for capital development from local organizations and/or local government is a strong indicator of support. Other indicators of local support are waivers of fees including impact fees, utility hook-ups, or building permits.

703.2. Readiness

The project should be ready to proceed within 60 days of completion of the funding round for which it applied. Indicators of readiness include:

- Site control
- Well-developed architectural plans
- Consistency with current zoning

- Absence of environmental hazards, or presence of mitigation plan with appropriate funding
- Commitment of all other funds
- The timing for the project is critical.
- Permits are obtained or documented as “in-process” with no outstanding issues.
- Adequate affordable housing stock
- Waiting list of eligible program participants

703.3. Funding Limits

Each applicant is limited to \$600,000 per year. This funding limit helps to ensure the distribution of limited HTF resources among eligible homeownership projects statewide. Under certain circumstances, Commerce may grant a waiver of these limits.

703.4. Project Administration Funds

The contractor may retain up to 10 percent of designated HTF revolving loan fund program income to pay for direct project administration costs. Program income is defined as repaid principal and interest.

703.5. Developer/Project Management Fee

The combined project management fee and developer fee must not exceed 10 percent. The project management fee may only be used to pay for staff time and project-related costs during the development/ implementation period. Staff time and project-related costs claimed must be clearly documented and differentiated from other duties not related to the homeownership project.

At the discretion of the HTF project manager, reimbursement of the developer fee payable from HTF funds shall be proportional to the degree of project completion or HTF funds drawn. If a third-party developer is hired, a copy of the developer agreement must be provided to the HTF project manager. This memorandum of understanding (MOU) must clearly identify the duties and compensation of the developer.

703.6. Length of Commitment

For homeownership projects, the length of the project implementation period will be negotiated between the contractor and the HTF project manager.

The contract commitment period, along with the affordability covenant, is 25 years. If a homeowner sells their home, the contractor must ensure that the HTF investment is recaptured at the time of sale. Proceeds from homeowner loans repaid to the contractor shall be used solely for the purpose of providing additional assistance to other eligible homeowners. If the organization discontinues its homeownership program, any funds in the revolving loan fund must be returned to Commerce.

For projects serving people with special needs, any change during the life of the contract to the population served or to supportive services requires prior approval by Commerce.

703.7. Project Design Elements

The Evergreen Sustainable Development Standard (ESDS) was developed to set a minimum level of sustainable performance for projects that apply to the Housing Trust Fund. Refer to [Section 207](#) of the HTF Handbook and the Evergreen Sustainable Development Standard [page](#) of the Commerce website for detailed information pertaining to the ESDS.

703.8. Need, Demand, and Market Analysis

The required market analysis allows the homeownership program to select an appropriate target market and set priorities for programs, products and services. The analysis should focus on what the potential customer needs and wants, to include what they are willing to pay for and at what price. The process typically includes:

- Defining the geographic area and consumer base to be served;
- Identifying unmet needs;
- Collecting data regarding supply and demand, including competition; and
- Analyzing the information to determine a realistic market niche.

Commerce staff will review the scope of the analysis to determine if there is evidence the contractor has collected information relevant to the target buyer, and will assess whether or not the program design aligns with the results gathered.

703.9. Phase 1 Environmental Site Assessment

A Phase 1 Environmental Site Assessment (ESA) is required for subdivisions and mobile home parks. The Phase 1 ESA must:

- Follow the [American Society for Testing Materials \(ASTM\) E1527 standard](#).
- Be dated no more than 12 months prior to the HTF application due date. (Note: A letter updating a Phase 1 assessment completed more than 12 months prior to the application due date is acceptable.)

If the Phase 1 ESA identifies any environmental hazards and recommends a Phase 2 ESA, then the latter is required and must be included in the application when available. Please refer to [Section 205.4.1](#) of the HTF Handbook for additional guidance.

Projects receiving both state and federal funds from Commerce (e.g., HOME program funds) must meet both federal environmental review requirements under the National Environmental Policy Act ([NEPA](#)) and state requirements under the State Environmental Policy Act ([SEPA](#)).

703.10. Appraisal

Commerce requires a current property tax assessment or a full appraisal supporting the purchase price for projects that involve the purchase of real property and/or building(s). If a current property tax assessment does not support the purchase price of real property and/or building(s), the applicant must complete an appraisal. If the property is already owned by the applicant, does not need acquisition funding, or is being donated, an appraisal will not be required.

An appraisal must be:

- Based on the highest and best use.
- Conducted by someone with a current general appraisal certificate in the State of Washington.
- Dated no more than 12 months prior to the application due date. (Note: A letter updating an appraisal completed more than 12 months prior to the application due date is acceptable.)

For projects that are exempt from site control at the time of application (see [Section 205.3](#)), appraisals will be required before release of funds.

Scattered site homeownership projects and down payment assistance programs must provide appraisals at the time of purchase.

Section 704. Contract Development

The contract development phase includes contract drafting, review, and execution. The contract will be drafted when the HTF project manager (PM) determines it is appropriate. The HTF contract should be executed according to the timeline developed and approved by the PM during negotiations with the contractor. Final execution of the contract is highly dependent on the contractor's turnaround time for review.

704.1. Project Manager

The HTF project manager's key job responsibility is to protect the state's interest through developing and implementing contracts for the creation or preservation of low-income affordable housing units throughout the state. The PM is the point of contact for all communication regarding the HTF contract, and is the person responsible for decisions, recommendations, and oversight, as applicable, for each assigned project. PM responsibilities include:

- Review, negotiation, and approval of all documents and invoice voucher requests. **(Note: Final language in all legal documents is subject to the approval of the state's Assistant Attorney General.)**
- Review and approval of all budgets and work plan schedules for the project, which may require revision at several points during the development phase of the project.

In the event the project is delayed for any reason, such as due to local opposition, the PM should be notified immediately.

704.2. Pre-Contract Development

Any issues identified during pre-contract development must be resolved before the contract is drafted. All funds must be committed.

Contractors may be required to submit plans and specifications to the Washington Community Reinvestment Association (WCRA) for new construction projects at the PM's discretion.

704.3. Contract Draft

When the pre-contract conditions are satisfied, or when the project manager determines it is appropriate, the PM will send the contract details to the HTF contract specialist (CS), who will draft the contract documents. Contracts will be drafted based on priorities including, but not limited to, closing dates, project readiness, and the workload of the CS staff.

The CS will send draft contract documents to the PM for review. The PM may fill in additional information or make changes as applicable. After the PM has approved the initial draft of the contract and related documents, the CS will send them to the contractor for review.

704.4. Contract Review

The HTF contract is comprised of both *Specific Terms and Conditions* and *General Terms and Conditions*. Section 2 of the Specific Terms and Conditions is negotiable and should be discussed with the PM. The General Terms and Conditions are not negotiable.

704.4.1. Contractor Review

The timeline for final execution of the contract is largely dependent on how long it takes the contractor to review the draft contract. The timeframe may vary depending on other funding sources and the extent of third party review. Unless otherwise negotiated with the PM, contractors should complete their reviews within 15 working days in order to facilitate timely execution of the contract and related documents.

Changes to the contract language may be requested by the contractor or a third party. The contractor should discuss proposed changes with the PM. Once the PM and the contractor are in agreement, the contract will go to the Assistant Attorney General (AAG) for review.

704.4.2. Assistant Attorney General Review

After the contractor and the PM are in agreement regarding the contract language and related legal documents, the contract will be routed to the Assistant Attorney General (AAG) for review, approval, and signature.

If there are no changes to the contract, this process can take up to 15 working days.

If the AAG does not accept the contract language, the contract specialist will inform the PM about the issue or issues so that the PM can negotiate revised language with the contractor.

Once all issues have been resolved, the AAG will approve and sign three copies of the contract and return them to the CS.

704.5. Contract Execution

It is the contractor's responsibility to be aware of their deadlines, keep their PM informed in advance, and allow plenty of time for contract execution. Contractors should allow a minimum of two weeks to obtain final signatures. Commerce cannot guarantee its ability to respond to rush requests.

704.5.1. Contractor Signature

After the AAG signs the contract and returns it to Commerce, the contract specialist will send the following documents to the contractor for signature and/or completion:

- Two identical original contract documents;
- A Form W-9, verifying the contractor's tax ID number, available from the IRS' [Forms & Publications](#) webpage; and
- A Statewide Payee Registration Form, available from the Department of Enterprise Services' [website](#).

704.5.2. Document Processing

The contractor sends the signed contract (2 originals), and any other requested documents, back to the contract specialist. Once the contract is fully executed, Commerce will return one original copy of the contract to the contractor.

704.5.3. Contract Execution and Document Distribution

Commerce will execute the contract only when the conditions have been met, other funding sources are fully committed, and all negotiable items have been agreed upon. The contract specialist forwards the contract with the contractor's signature to HTF Management for review. HTF Management, in turn, routes the contract to the Assistant Director (AD) of the Community Services and Housing Division for signature. This process may take up to seven working days.

The date that the AD signs the contract is the official date of execution. The contract execution date can be as much as four weeks following final approval of the contract draft.

The CS will return one fully executed original contract to the contractor.

704.6. Closing

704.6.1. Electronic Fund Transfer (EFT)

It is the responsibility of the contractor to authorize receipt of payments from the State of Washington via Electronic Funds Transfer by completing and submitting a Statewide Payee Registration form to the [Department of Enterprise Services](#) (DES). The process to register as a Statewide Payee is described on DES's Receiving Payment from the State [web page](#).

704.6.2. Administration Fee and Monitoring Fee

The Administration Fee is one percent (1%) of the award amount and the Monitoring Fee is one (1%) percent of the award amount, for a total of two percent (2%).

These fees must be paid at closing or before the second voucher is processed.

The PM can withhold payment on voucher requests until the fees are paid.

The Administration Fee and the Monitoring Fee are both eligible costs that can be included in the development budget and can be requested on the first voucher.

If using HTF funds to pay the fees, the contractor must first draw the funds and then send payment to Commerce. Reimbursement of the Administration Fee and the Monitoring Fee cannot be withheld by Commerce.

Contractors must note their HTF contract number on any payments remitted to Commerce.

Section 705. Contract Management During Development

The purpose of this section is to outline the process for managing the oversight of homeownership projects from contract execution to completion of all activities described in Section 2.01 of the contract's Scope of Work.

705.1. Timelines and Work Plan Schedules

The project schedule is an important document that will be closely tracked. Changes to the schedule or project completion date must be documented in a revised schedule and sent to the PM. The project schedule must include key benchmark dates for completion of the project.

The project manager will require monthly project status reports.

The project must be completed according to the negotiated and approved work plan schedule. Additional timelines may be identified as special conditions in the contract based on project type and financing.

705.2. Site Visits

At the PM's discretion, a site visit may occur at any time during the development process. All files must be made available to the PM as requested during a site visit.

705.3. Construction Review and Inspection

At Commerce's discretion, the department may request a third party to provide pre-construction review and construction draw review services. The third-party construction reviewer is currently the Washington Community Reinvestment Association (WCRA). The PM will review and approve construction draws based upon recommendations from WCRA.

705.3.1. Pre-Construction Review

The purpose of the pre-construction review is to:

- Ensure the budget is adequate for the proposed project based on a review of the project's plans and specifications; and
- Determine whether or not the proposed plans are appropriate for the project.

The PM determines the timeframe for the WCRA review, depending on the readiness of the plans and specifications and other negotiated conditions. The following steps are involved in the WCRA pre-construction review process:

1. The PM requests a pre-construction review and provides the name of the contractor, the name of the project, and the contract number to the WCRA.
2. The WCRA representative provides the contractor with a list of the items needed to complete the review.
3. The WCRA oversees the review and sends a report of its review to the PM. The PM may send the review to the contractor to address any concerns raised.

705.4. Voucher Request Processing

The project manager reviews and approves all invoice vouchers. The PM will make a determination whether each invoice or bill is an eligible cost. If an invoice or bill is determined to be an ineligible cost, the amount must be subtracted from the total requested. The contractor may be asked to submit an explanation of budget changes. All expenses for reimbursement must be no more than 12 months old. Allowable costs incurred prior to the execution of a contract may be reimbursed when approval is granted by Commerce. (Refer to [Section 202.5.1](#), Eligibility of Prior Costs.)

To facilitate the process, the PM will complete an HTF voucher form with appropriate line items and send the contractor an electronic copy of the voucher prior to the contractor's first request for fund drawdown. The PM and the contractor will discuss how payment will be made (e.g. warrant or electronic fund transfer) and any other information which may be needed to process the draw request.

The basic criteria for approval of invoice vouchers are:

- The payee must be the non-profit organization with which Commerce has a direct contractual relationship. Vouchers must be signed by an authorized individual from the contractor's organization. (An emailed scan copy of the original signed voucher is acceptable.)
- The HTF contract must be fully executed and applicable requirements met (e.g. proof of liability insurance, approved Evergreen Plan, etc.).
- All invoice vouchers must have back-up documentation justifying the amount requested. This can be in the form of an approved HUD settlement statement, Homebuyer Information Form, invoices for services rendered and materials delivered, or bills from the contractor for project management and developer fees. Incorrect or incomplete vouchers may be returned to the contractor for correction and resubmission. (All back-up documentation can be scanned and emailed as well.)
- Draw requests must correspond with the development budget categories. For each invoice voucher submitted, an invoice voucher summary must list each invoice with Development Budget line item detail.

The Homebuyer Information Form is required and must be provided to the HTF project manager for each homebuyer. For most projects that include down payment assistance, the form should accompany the voucher/draw request. The form is necessary because it provides Commerce with demographic and eligibility data such as family size and family income.

The process for reimbursement is as follows:

1. Original vouchers and back-up documentation must be submitted to the PM. Commerce may require a third-party review of all vouchers and back-up documentation for expenditures prior to PM approval.
2. The PM and the third-party reviewer will determine if any Development Budget line items are being overspent. If a contractor proposes to exceed an original budget line item by 10 percent or more, the contractor may be asked to submit a revised Development Budget and a narrative explaining the revisions.
3. Once the PM approves payment of eligible costs, the voucher is signed and sent to the Commerce fiscal office for payment.
4. The contractor should allow up to 18 business days to receive payment after submitting a properly completed invoice voucher.
5. The PM may require that all legal documentation, updated budget, updated work schedule, and other required documentation be submitted prior to approval of a draw.

Construction contingencies are to be used for unanticipated costs unless otherwise approved by the PM. If HTF funds are allocated in the budget for construction contingency, the contractor must provide documentation and a full explanation for the use of the contingency.

See also Sections [202.5](#), Eligible/Ineligible Costs, [204.7](#), Developer Fees, and [704.6.1](#), Electronic Funds Transfer (EFT).

705.4.1. If the First Voucher Is for Acquisition

If HTF funds are used for acquisition, the preliminary closing statement prepared by the title company or escrow agent will serve as back-up documentation for the voucher. An appraisal may be required if it was not included with the HTF Application. The final closing statement should be submitted when available. Contractors should notify the project manager about upcoming closing dates well in advance to ensure availability of funds.

705.5. Desk Monitoring

Oversight of the contract to monitor the progress of the project during the development phase is primarily accomplished through ongoing communication with the contractor and by receipt and review of required documentation and status reports.

Contractors should be aware of the documentation requirements by referring to the contract and this handbook, and through contractor training and technical assistance.

Contractors must submit monthly project status reports during the project's implementation phase.

In addition to collecting all of the required documentation, project oversight and progress review are done through the voucher process. Back-up documentation is reviewed for all line items for which reimbursement is requested to verify cost eligibility and consistency with the line items in the Development Budget. The third-party reviewer may conduct construction inspections on behalf of Commerce to verify progress and compliance with plans and specifications.

705.6. Project Documentation

All required documentation must be in the project file at the completion of development.

Section 706. Award Revisions

In certain circumstances, award revisions may be allowed once an award has been made but has not yet been contracted. Award revisions may be considered for substantial changes in deal structure, overall concept, site issues, construction review changes or other substantial changes that may be beyond the control of the applicant.

The process for award revisions is as follows:

- Applicant submits documentation of changes, including, but not limited to: updated development budget and development schedule, as well as an explanation of the need for proposed changes. This information may closely follow the amendment application.
- HTF Management will present recommendations to the Assistant Director for Community Services and Housing for final approval.

This process may happen at any time after an award has been made and prior to contract execution. If the contract has not been executed within the negotiated timeframe, this process may be used to determine if the award commitment should be extended or terminated. If the award is rescinded, the contractor may need to reapply for funding.

Monetary award revisions must follow the procedures as set forth in [Section 707.2](#), Monetary Amendments.

Section 707. Contract Amendments

Amendments are made to executed contracts and are intended to address emergent needs. Increasing or decreasing an award before there is an executed contract is not considered an amendment, but a revision to the award (see Section 706 above). Contract amendments must be executed to be valid.

707.1. Technical Amendments

Technical amendments are reviewed and acted upon on a case-by-case basis. They include, but are not limited to, an extension of the contract completion date, revisions to the loan terms and conditions, and revisions to the target population(s).

- Contractors must submit amendment requests in writing to the project manager.
- The request must describe the proposed changes in detail and provide justification for these changes.
- The PM and HTF Management will review the request and make a recommendation to the Assistant Director who will approve or deny the amendment request.

Amendments to executed contracts will follow a process similar to contract execution.

707.2. Monetary Amendments

Monetary amendments involve an increase in the loan or grant amount for a project. If a project experiences a substantial funding gap above the original award amount or a readiness issue, communication with the project manager is critical.

- All requests for monetary amendments must come to the PM and be substantiated and submitted in a form prescribed by Commerce.
- The PM will make a recommendation through HTF Management to the Assistant Director who will approve or deny the request.

If additional funds are not awarded, the applicant may need to rescind their award, restructure the proposal, and reapply in a new funding round.

Administration and monitoring fees, as noted in [Section 704.6.2](#), apply to monetary amendments funded by the Housing Trust Fund.

Section 708. Placed In Service

The purpose of this section is to outline what occurs once a project is “placed in service”.

708.1. Homebuyer Information Form

The Homebuyer Information Form is required and must be provided to the HTF project manager for each homebuyer prior to beginning the Placed in Service process. For projects that include down payment assistance, the form should accompany the voucher/draw request. The form is necessary because it provides Commerce with demographic and eligibility data such as family size and family income.

708.2. Placed In Service Process

Once the contract activities as stated in Section 2.01 of the HTF contract have been completed, and the qualified homebuyer transaction is complete, the PM will initiate a Placed in Service file review to ensure that all legal documentation has been received and that all necessary fiscal, administrative, and programmatic management documents are in place.

The Placed in Service process will vary depending on project type, HTF-funded activities, and other funding sources. Homeownership projects must be 100 percent complete and occupied in accordance with the scope of work to be placed in service. The process may include a site visit by HTF staff, as well as a contractor and developer performance evaluation.

All homeownership projects must be placed in service within one year of the activity completion date, as referenced in the development schedule. Projects not placed in service within that timeframe will be considered out of compliance.

708.3. Completion of Placed in Service

If the project manager decides to perform a site visit, HTF staff will notify the contractor in writing of any issues or concerns identified during the visit, as well as regarding the necessary corrective action and a timeframe for completing the corrective action.

708.4. Contractor and Developer Performance Evaluation

The purpose of contractor and developer performance measures is:

- To recognize successes and best practices.
- To mitigate risks that might jeopardize the long-term viability of the housing.
- To highlight areas that can benefit from technical assistance.

Note: Organizations are evaluated on their performance regarding timely submission of documents and an appropriate or agreed to level of communication with the project manager.

Section 702.2 describes the process used to assess organizational capacity, program design and the proposed project. The “end of project” contractor and developer performance will be evaluated based on the following four areas:

- Pre-Contracting
- Contract and Development
- Placed in Service
- Overall Performance

708.4.1. Pre-Contracting

The pre-contracting stage includes the period from the time of award up to contract execution. The contractor and developer will be evaluated on responsiveness in communications and submission of requested documentation during the pre-contracting stage.

708.4.2. Contract and Development

The contract and development stage includes the time period from contract execution through completion of the activities described in Section 2.01 of the HTF contract’s scope of work. The contractor and developer will be evaluated on responsiveness in communications and planning, as well as timeliness in submitting legal documents, revised budgets, revised work schedules, and voucher requests.

708.4.3. Placed in Service

The Placed in Service phase covers the time period between completion of the activities described in Section 2.01 of the HTF contract and receipt by Commerce of all required documentation and information. The contractor and developer will be evaluated on responsiveness in submitting all required documents and information to the department within a designated timeframe and the ability to market homes to a targeted client base.

708.4.4. Overall Performance

The contractor's and developer's overall performance will be evaluated based on the parties' ability to complete the project according to the schedule and within the stated budget, and to deliver the number of sold homes specified in Section 2.01 of the HTF contract.

Failure on the part of the contractor and/or developer to deliver the following will adversely reflect on the capacity of the contractor, and may negatively impact future awards from the Housing Trust Fund:

- Required documentation in a timely manner;
- Appropriate communication with HTF staff; and
- Results as detailed in the HTF contract.

Section 709. Annual Reports

Annual reports are due on July 31 of each year. Projects are required to begin submitting annual reports on July 31 following the year the project was placed in service.

APPENDIX A

Disability Access Requirements in New Construction Housing Projects Receiving Public Support in Washington State

Housing projects in Washington State that receive support from public funding are subject to several overlapping sets of requirements related to ensuring accessibility for people who have disabilities. These include the Federal Fair Housing Act (42 U.S.C. 3604 et. seq.), the Washington State Law Against Discrimination (RCW 49.60.222), the Washington State Building Code (WAC 52-50), the Americans with Disabilities Act of 1990 (2 U.S.C. Part B) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The applicability of each of these laws and their enacting regulations must be considered in turn when determining which disability access requirements and design standards apply to any particular housing construction project receiving support from public funds. Often several, or all, will apply. In which case the applicable requirements must be viewed collectively, and in each instance where there is a difference in scoping or design standard, the most stringent among those applicable must be met.

Standards Applicable to All Multi-family Housing Projects:

The Federal Fair Housing Act, Washington State Law Against Discrimination, and Washington State Building Code apply to all residential buildings having four or more units, regardless of whether they are privately owned or publicly assisted.

The design standards applicable under the Fair Housing Act are the Fair Housing Accessibility Guidelines (24 CFR Part 100). The Washington State Building Code, is the applicable standard for the Washington State Law Against Discrimination. The State Building Code has been determined to be substantially equivalent to the Fair Housing Accessibility Guidelines, and in some areas the state code is more stringent than the federal guidelines. Of all the accessibility requirements that apply to publicly assisted housing projects, only the Washington State Building Code is enforced by local building code officials. Those responsible for publicly assisted housing projects may not rely on local building code officials to explain or interpret the accessibility requirements under the other applicable laws, nor may those officials waive any requirements under those laws.

Standards Applicable to Federally Assisted Housing Projects:

In addition to the standards cited above, projects benefiting from federal funds in the amount of \$2,700 or more, must also comply with Section 504 of the Rehabilitation Act of 1973, as amended. Section 504 scopes the required number of accessible units by project, rather than by residential building or facility, making the facility type irrelevant.

24 CFR 8.22 (a) New multifamily housing projects (including public housing and Indian housing projects as required by Sec. 8.25) shall be designed and constructed to be readily accessible to and usable by individuals with handicaps.

(b) Subject to paragraph (c) of this section, a minimum of five percent of the total dwelling units or at least one unit in a multifamily housing project, whichever is greater, shall be made accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in Sec. 8.32 is accessible for purposes of this section. An additional two percent of the units (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairments.

These required accessible units are to be distributed, to the extent feasible, throughout projects and sites and available in a sufficient range of sizes and amenities to allow people with disabilities a range of living options comparable to those who do not have a disability (24 CFR 8.26).

The Uniform Federal Accessibility Standard (UFAS 24 CFR part 40)¹ is the design standard under Section 504, except that "UFAS may not be used to waive or lower the minimum of five percent accessible units required by sec. 8.22 (b) or to apply the minimum only to projects of 15 or more dwelling units, " (24 CFR 8.32 (d)) and except to the extent that these projects may also be subject to additional requirements in those areas in which the State Building Code is more stringent.

Standards Applicable to Projects Assisted by State or Local Government

Title II of the Americans with Disabilities Act applies to any housing project that receives assistance through an entity of state or local government. If all or part of that assistance is in the form of federal funds that pass through a state or local government entity to the project, such funding would confer both ADA Title II and Section 504 responsibilities related to ensuring accessibility for people who have disabilities.

The residential scoping requirements under the Americans with Disabilities Act Accessibility Guidelines (ADAAG) are as follows:

234.1.1 Accessible Dwelling Units. In residential facilities, at least five percent, but not less than one unit, of the total number of dwelling units in a facility shall comply with 1101 and 1102.

EXCEPTION: Where residential facilities contain four or less dwelling units, at least five percent, but not less than one unit, of the total number of dwelling units in the project shall comply with 1101 and 1102.

234.1.2 Accessible Dwelling Units, Alterations. Where dwelling units are altered or added, the requirements of 234 shall apply only to the dwelling units being altered or added until the number of accessible dwelling units complies with the minimum number required for new construction.

234.1.3 Communication Features. In residential facilities, at least two percent, but not less than one unit, of the total number of dwelling units in a facility shall comply with 1101 and 1103.

EXCEPTION: Where residential facilities contain four or less dwelling units, at least two percent, but not less than one unit, of the total number of dwelling units in the project shall comply with 1101 and 1103.

234.1.4 Communication Features, Alterations. Where dwelling units are altered or added, the requirements of 234 shall apply only to the dwelling units being altered or added until the number of dwelling units with accessible communication features complies with the minimum number required for new construction.

¹ The federal Architectural Transportation Barrier Compliance Board has proposed to harmonize UFAS and ADAAG into a single enforceable standard for both applications. If HUD adopts the Access Board proposal, the new ADAAG would replace UFAS as the design standard for projects covered under Section 504.

234.1.5 Dispersion. Dwelling units required to comply with 1102 and dwelling units required to comply with 1103 shall be dispersed among the various types of dwelling units in the facility and shall provide choices of dwelling units comparable to and integrated with those available to other residents.

EXCEPTION: Single level dwelling units shall be permitted where spaces and amenities are equivalent to those provided in multi-level dwelling units.

ADAAG would also provide the applicable design standards for such projects, except to the extent that they may also be subject to more stringent provisions under the State Building Code.

GLOSSARY

Administrative Costs. The cost of salaries, wages and related costs for eligible HTF applicants. Such costs are organizational rather than project-related and are not eligible for reimbursement with HTF capital bond proceeds.

Affordability. Affordability is achieved when a household's rent or mortgage payment and utility costs do not exceed 30 percent of the monthly income for the targeted income group as adjusted for household size.

Alcohol Treatment Facility. A private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism. It is designed to provide intensive inpatient and long-term treatment services. The Department of Social and Health Services Division of Alcohol and Substance Abuse provide services in accordance with the Washington State Department of Health regulations found in WAC 246-324 and are certified. (WAC 440-22). This definition also applies to a chemical dependency treatment facility.

Alcoholism Intensive Treatment Services. Those services provided to the detoxified alcoholic in a residential setting, including, as a minimum, limited medical evaluation and general health supervision, alcoholism education, organized individual and group counseling, discharge referral to necessary supportive services, and a patient follow-through program after discharge.

Amortization. Payment of a loan in regular installments of principal and interest. HTF loan payments are due on a quarterly basis.

Applicant. The organization submitting the HTF application and usually the organization that will contract with the Department to complete the proposed project.

Assignment, Assumption, and Consent Agreement. A document used as a legal record of the agreement on the part of the trust fund to allow the transfer of the state trust fund financial obligation or property from one entity to another. Such a transfer usually involves the transfer from the non-profit to the limited liability partnership or company in which the non-profit is the general partner.

Assisted Living. A package of services provided to frail seniors or persons with disabilities in a licensed residential facility to assist each resident with one or more of their activities of daily living (ADL). Such services include, but are not limited to bathing, cooking, dressing and some nursing or medical care, but do not include continuous skilled nursing care as provided in a nursing home facility.

Bridge Loan. Temporary or interim financing used for development activities when permanent financing is not immediately available.

Capital Needs Assessment (CNA). A document completed by a professional, independent party that defines what a project's immediate and long term capital needs are and provides a plan for financing such needs. The study must be used to demonstrate that the proposed project scope of work is adequate and proposed replacement reserves will be sufficient to address future capital repair/replacement needs.

Cash Flow. Cash available for the property owner after vacancy, expenses and debt service payment have been deducted from gross income.

Child Care Expenses. The lesser of: (1) The estimated reasonable costs of child care for children under 13 years of age when it is necessary for the employment of an adult household member, or for his or her further education; or (2) Gross Income.

Chemical Dependency Treatment Services. See alcoholism intensive treatment services.

Committed Funds. Funds committed to a project by a funding source. The award amount, terms and uses of the committed funds are documented in a letter to the applicant. A copy of the award letter is included with the application for CTED funds.

Common Area. Areas such as hallways, laundries and kitchens used by project residents only.

Community Center. Areas open to non-residents and for other public functions.

Compilation. Presentation of financial statement information by the entity without the accountant's assurance as to conformity with generally accepted accounting principles.

Conditional Funds. Funds committed with conditions to a project by a funding source. The conditions of the commitment, amount, terms and uses are documented in a letter to the applicant. A copy of the letter is included with the application for Commerce funds.

Construction Loan. A short-term interim loan for financing the cost of construction.

Contract Manager. The Commerce staff person responsible for the development phase of a Commerce-funded project.

Contract Specialist. The Commerce staff person(s) who are responsible for the development, routing, and distribution of legal documents for the state housing trust fund.

Contractor. See Applicant.

Consultant Fees. Fees paid to a third party developer or consultant for costs associated with implementation of a project.

Contingent Interest. See Shared Appreciation.

Correctional Facilities. Facilities such as jails, prisons and detention centers.

Cost Approach Appraisal. A method of appraising property based on the depreciated reproduction or replacement cost (new) of improvements, plus the market value of the site.

Covenant. See Low-Income Housing Covenant.

Date of Occupancy. The date at which either a renter or household occupies a unit or a homeowner closes on the purchase of a house.

Debt Service Payment. Payment made to lender for funds borrowed for projects.

Deed of Trust. A legal instrument by which a borrower gives a lender an interest in the property.

Deferred Loan. Principal or principal and interest payments are deferred for a specified period of time or until the occurrence of a defined event (such as the transfer of property). Deferred amount may be due and payable in full at this time, depending upon the terms of the loan.

Developer Fee. A fee paid to the developer for services. It is used to offset overhead and is paid through the development process. It is usually based on a percentage of the costs, dollars per buildable square feet, or dollars per unit.

Developer/ Owner. The central legal entity that is responsible for the acquisition, development and or redevelopment and in many cases the ongoing management of real estate. Some duties may include, but not limited to creation of general design concept, site selection, obtains financing, assembly of development team, selection and approval of the project manager scope of work and activities. In many cases, developer may hire a third-party consultant to perform all or some of these duties.

Displacement. The permanent relocation of a person (to include families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HTF funds.

Displaced Person. A person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition of a project assisted with HTF funds.

Down Payment. The cash difference between the contract price for the property being purchased and the amount covered by the mortgage.

Effective Gross Income (EGI). $EGI = (\text{potential gross income} - \text{vacancy allowance}) + \text{miscellaneous income}$

Eligible Costs. For any period means the reasonable operating costs of the Operating and Maintenance funded units properly attributable to such period, limited to the types of costs specified in the O&M Fund Guidelines.

Eligible Project Types. Assisted living facilities, boarding homes, emergency shelters (including shelters for survivors of domestic violence), group homes, homes for first-time homebuyers, multi-family rental housing, seasonal and year-round housing for farmworkers, and transitional housing.

Entitlement Community. A local jurisdiction that receives an allocation of Community Development Block Grant funds directly from HUD.

Equity. The part of the total value of the development owned by the owner.

Extremely Low Income Households. Households earning 30 percent of the area median income or less.

Farmworker Household. A household whose income is derived from farm work in an amount not less than \$3,000 per year and which at the time of initial occupancy of the housing project, has an income at or below 50 percent of the area median income. Also see Household.

Financial Review. Accounting service providing some assurance to the Board of Directors and interested parties as to the reliability of financial data without the CPA conducting an examination in accordance with generally accepted auditing standards.

Gross Income. Includes a household's earned income, income from assets and income from other sources as defined by [24 CFR Part 5 §5.609](#).

Gut Rehabilitation. The rehabilitation of a building resulting in a building shell or a building with no building systems.

Homeless Family. A family that lacks a fixed, regular, and adequate nighttime residence and has a primary nighttime residence that is: a supervised publicly or privately operated shelter designed as temporary accommodations; an institution providing temporary residence for individuals intended to be institutionalized; or a place not designed, or ordinarily used as, regular sleeping accommodation for human beings.

Household. One or more persons inhabiting a housing unit as their principal residence.

Housing Costs. Include playground areas, laundry facilities, hallways and kitchens if used by residents of the housing project only.

Ineligible Project Type. Alcohol treatment facilities, chemical dependency treatment facilities, correctional facilities, facilities providing continual or frequent nursing, medical or psychiatric services, medical treatment facilities, nursing homes, and private foster care facilities.

Independent Living. A senior citizen or person with a developmental disability who lives in his or her own home or group facility and does not require assistance with activities of daily living. However, services may be provided to residents that are generally provided to seniors or special needs residents such as transportation, meals and social events. Typically, an independent living facility does not require licensing.

Interest. The amount of money charged by the lender for the use of a principal amount of money. It is expressed as a percentage and may be calculated in a variety of ways. The interest rate may be fixed over the life of the loan or may be adjustable at regular intervals as defined by the lender.

Lease. A lease provides site control for the term of the lease. The person holding the lease has the use of the property as long as they comply with the terms of the lease. Any lease must state the term and amount due during any given period. Any period for which the rental amount is not set is not part of the site control period.

Leverage Ratio. The ratio of total project dollars from other sources as compared with HTF funds.

Length of Commitment. The period of time for which the applicant commits the development for use as proposed in the HTF application. Length of commitment cannot be less than 25 years per RCW.

Life Cycle Cost Analysis. A document, prepared by a professional, independent party that estimates the remaining useful life of all building components and equipment. The estimated useful life estimates must come from a nationally recognized organization such as "Marshall and Swift." This analysis must be based upon a capital needs assessment.

Loan. Funds provided by a lender to the housing project, which must be repaid to the lender within a specified period of time and under certain conditions.

Low-Income Housing Covenant. A covenant is a legal instrument used to document an agreement to ensure or exclude certain uses or activities pertaining to a specific piece of property. In the case of the Housing Trust Fund, the covenant ensures that the land will be used for low-income housing (sometimes for particular groups of people) for a specified period of time (usually 40 years). The covenant runs with the land and is still in force, even if the land is sold.

Market Comparison Approach Appraisal. A method of appraising property where value is estimated by analyzing sales prices of similar properties (comparables) recently sold.

Medical and Disability Expenses. A household's unreimbursed medical expenses and unreimbursed expenses for the assistance and care of household members who are handicapped or disabled, all as estimated for the next twelve months.

Medical Treatment Centers. Facilities licensed as medical treatment centers.

Migrant Farmworker Housing. Developments that reserve all or some units for farmworker households who can document employment at a workplace during the year from which they cannot return to their primary residence every night. Units may be operated either seasonally, less than 12 months each year, or year-around. Residents must also meet the definition of farmworker.

Multi-Family Housing. Includes apartment-type structures with five or more units, condominium units in structures of more than one living unit that do not meet the definition of single-family housing and mobile home parks.

Net Operating Income (NOI). Income from property after Operating Expenses have been deducted but before deducting financing expenses (i.e. interest and principal payments or debt service). Net Operating Income is calculated as follows: $NOI = EGI - \text{total operating expenses}$

Non-Entitlement Community. Cities and towns with populations less than 50,000 or counties with populations less than 200,000 provided that the cities, towns and counties do not participate in HUD Urban County Consortiums.

Non-Residential Costs. Costs associated with commercial childcare or daycare facilities, or any space used for commercial purposes or the proportionate share of kitchens, community rooms, etc., not used by residents of the HTF project.

Nursing Homes. State licensed nursing homes.

Operating Budget. For any period means the budget for property operations submitted by the applicant to Commerce for the purposes of the contract for that period as approved by Commerce with any modifications required or approved by Commerce.

Operating Reserves. Funds set aside to cover unanticipated increases in operating expenses or revenue shortfalls. Such reserves shall be used for project-specific operating expenses.

Operating Subsidy. Financial assistance used to supplement the day-to-day operations of a project.

Option. An option states that the holder has the right to purchase or lease a property for a specific dollar amount during the term of the option. An option is often renewable for a set time period for a set fee.

Overall Debt Coverage Ratio (DCR). The relationship between Net Operating Income (NOI) and annual debt service. Only amortizing debt is included in the calculation of debt service. Deferred loans are not considered in the DCR calculation during the deferral period, only the year when they become due and payable. Operating and replacement reserves must be included in the operating expenses when calculating the DCR. Overall Debt Coverage Ratio is calculated as follows: $\text{Net Operating Income} / \text{sum of all amortizing debt} = \text{Overall Debt Coverage Ratio}$.

Participating Jurisdictions. Cities, counties and consortia that receive a HUD allocation of federal HOME funds.

Permanent Loan. Long term financing, which allows the owner to pay for the cost of the development over the course of its useful life. Also known as a takeout or primary loan.

Phase/Level I Environmental Site Assessment. A Phase /Level I Environmental Site Assessment is required for all HTF multi-family and subdivision developments. The objective of the assessment is to provide an independent, professional opinion regarding recognized environmental conditions that may have an adverse effect on the proposed housing project. The Phase I Environmental Site Assessment is intended as a risk management tool used to identify environmental hazards and reduce liability.

Placed in Service. A project that has been completed and achieved 90% occupancy in the case of Multifamily projects, or 100% occupancy in the case of Homeownership projects.

Policy Advisory Team. A group of individuals that represent the broad array of interest groups that comprise the low-income housing development community. A member of the Affordable Housing Advisory Board (AHAB) chairs the Policy Advisory Team (PAT). The chair of AHAB, in consultation with the Managing Director of the Housing Finance Unit and the Deputy Director of the Housing Division, selects the chair of the PAT. The purpose of the PAT is to periodically review HTF policies, discuss options for improving the policies and make recommendations to Commerce.

Pre-development Cost. Generally, these are costs associated with the planning of a housing project. They include a variety of costs which must be incurred prior to the start of construction, but which may be necessary in order to obtain financing commitments for the project. Examples are market analyses, preliminary architect fees, engineering fees, surveys, application fees, site option costs and environmental assessments.

Primary Lien Position. The position where a lender has the first interest in the value of a property. This is important in the case of defaults and other legal matters associated with borrowing funds to purchase property.

Private Foster Care Facilities. State licensed, single-family foster care facilities.

Professional Independent Party. An individual or firm hired by an HTF applicant or contractor to provide information related to a project. Such individuals or firms may not be employees of the

applicant or contractor. Examples of such parties include appraisers and construction cost estimators.

Project Completion. All necessary title transfer and construction work is completed and HTF funds disbursed.

Project Manager. Individual that acts on the owner behalf to oversee the project through its completion. Duties may include, but not limited to, review and coordinate plans and specs prepared by other professionals, review and evaluate bid packages, review draw requesting and change orders, monitor the construction draws with on-site inspections, conduct and/or attend construction meetings and establish job costs accounts and track costs.

Promissory Note. Official documentation that a contractor owes a specified amount of money to the trust fund that will be paid under specified circumstances.

Proposed Funds. Funds that have been or will be requested from a potential project funding source, but have not been committed by the source.

Purchase and Sale Agreement. A purchase and sale agreement states the conditions under which the purchaser will purchase and the seller will sell. It is not as firm as an option since both sides often have ways out. It should specify a price and have a period of time for the purchaser to get financing and close any other contingencies in the agreement.

Rehabilitation. To restore or refurbish and building or structure to a good condition.

Related Entity. An organization directly or indirectly related to the applicant for economic interest through a contract or affiliation agreement. The related entity may have ownership and voting interest, but less than majority ownership.

Rent. All charges for use and occupancy of the property payable by or on behalf of a household occupying a unit, whether or not such amounts are technically “rent” under landlord-tenant laws.

Replacement Reserves. Funds set aside to replace building components, including appliances and mechanical systems, as they wear out or are damaged.

Relocation Expenses. Payments made to families, individuals, businesses, nonprofit organizations, or farms when temporary or permanent relocation is necessary.

Resource Allocation Unit. Commerce staff persons who are responsible for the review and evaluation of applications for trust fund funding.

Rural. Projects will be deemed “rural,” to determine if they contributes to HTF’s Statutory target of 30% rural projects and to determine which Evergreen Sustainable Development Standard requirements apply, if they are located in:

1. Counties with a population of less than 85,000, subject to the following:
 - a. Cities within these counties with a population greater than 20,000 will be deemed “Urban”. For example, Franklin County except the City of Pasco.

b. Cities within these counties with a population greater than 20,000 but less than 25,000 and with a prevailing “rural” character; will be deemed “Rural”. For example, the City of Moses Lake.

2. Counties with a population greater than 85,000 but less than 385,000 when more than an aggregated 25% of that county’s population resides in one substantially contiguous metropolitan area. In this case, the county except such metropolitan area would be considered Rural. For example: Yakima County except the City of Yakima.

Senior. A person 55 years of age or older.

Shared Appreciation. An arrangement in which the Department receives its proportional share of appreciation in a property. The calculation of is based upon the Department’s share of a project’s total development cost (TDC). The requirement is imposed if and when a property is sold, refinanced, changes use or ownership, or destroyed prior to the term of commitment and if the funds generated by the premature termination are not timely reinvested in housing for low and very-low income housing.

Shelter Project. Developments offering short-term temporary residency ranging from a few days to two months for homeless families and individuals.

Single Asset Entity. A legal organization that is created to own and operate a single affordable housing project and does not engage in any other business or activity or incur any liability or obligation unrelated to the project.

Single-Family Housing. Includes detached, semi-detached, row house, and townhouse units and subdivisions. Row houses and townhouses are included when an unbroken ground-to roof party of firewall separates each unit from the adjacent unit. Condominiums are included as single-family housing when they are zero-lot-line or zero-property-line construction; when units are separated by an air space; or, when an unbroken ground-to-roof party of firewall separates units.

Special Needs Populations. Generally defined as persons requiring support services. Examples of special needs populations include persons with chronic mental illness, developmental disabilities, alcohol or substance abuse, or HIV/AIDS, survivors of domestic violence, the frail elderly, homeless persons, or youth under age 21. Such populations may also have multiple descriptions/diagnoses (i.e. a person is homeless, chronically ill and has alcohol or substance abuse issues).

Subdivision. The creation of a number of smaller lots out of one or more large lots for the purposes of developing each smaller lots and selling them. The divided property itself is also known as a subdivision.

Subordinate Loan. Interest in a property by a lender in which another lender or other party has an existing lien, which takes priority over the subordinate lien. When the property is sold, the first lien holder is paid first; the second lien holder is paid second and so forth. Any funds remaining after all liens have been satisfied are paid to the owner.

Sustainable Housing. The creation or rehabilitation of buildings into spaces that are well lit, comfortable, healthy, energy and resource efficient, functional and long-lived, and that promote

the general wellbeing of the occupants and the environment. Sustainable development requires thorough planning, can be blended into any architectural style, is not necessarily expensive, demands an integrated approach for maximum impact, and uses energy efficiency as a central organizing principle.

Tenant. The person or persons occupying a unit, whether or not they are tenants as defined under applicable laws.

Term. The period of time over which a loan is outstanding until it is entirely repaid.

Title. Evidence of legal ownership interest in a property and the right to encumber the property (e.g., to borrow funds, which will be secured by a loan against the property).

Total Development Cost (TDC). The sum of project development costs noted on a project development budget. Such costs will include building/land acquisition and construction / rehabilitation hard and soft costs (i.e. development and other development costs noted on the HTF development budgets). Residential and non-residential TDCs may be noted in the HTF applications.

Transitional Housing. Developments offering intermediate term temporary residency ranging from two months to two years. Social services are typically included in this kind of development.

Urban. An urban area or community is defined as any municipality with a population greater than 20,000 and does not fall into the definitions of rural. Projects located within a municipality with a population <20,000, but which is adjacent to a city deemed "Urban" may be deemed functionally related to that city and therefore also deemed Urban; for example, Brier, population 6,361 (2003), which is functionally related to the City of Lynwood.

Utility Allowance. If utilities are paid directly by the resident, the rent must include a utility allowance according to the schedule established and provided by the local housing authority. The utility allowance schedule must estimate the average monthly cost of utilities (except telephone) for each unit type (single family, apartment, duplex, manufactured housing, etc.)

Vacancy. Estimated losses due to the non-occupancy of the rental space.