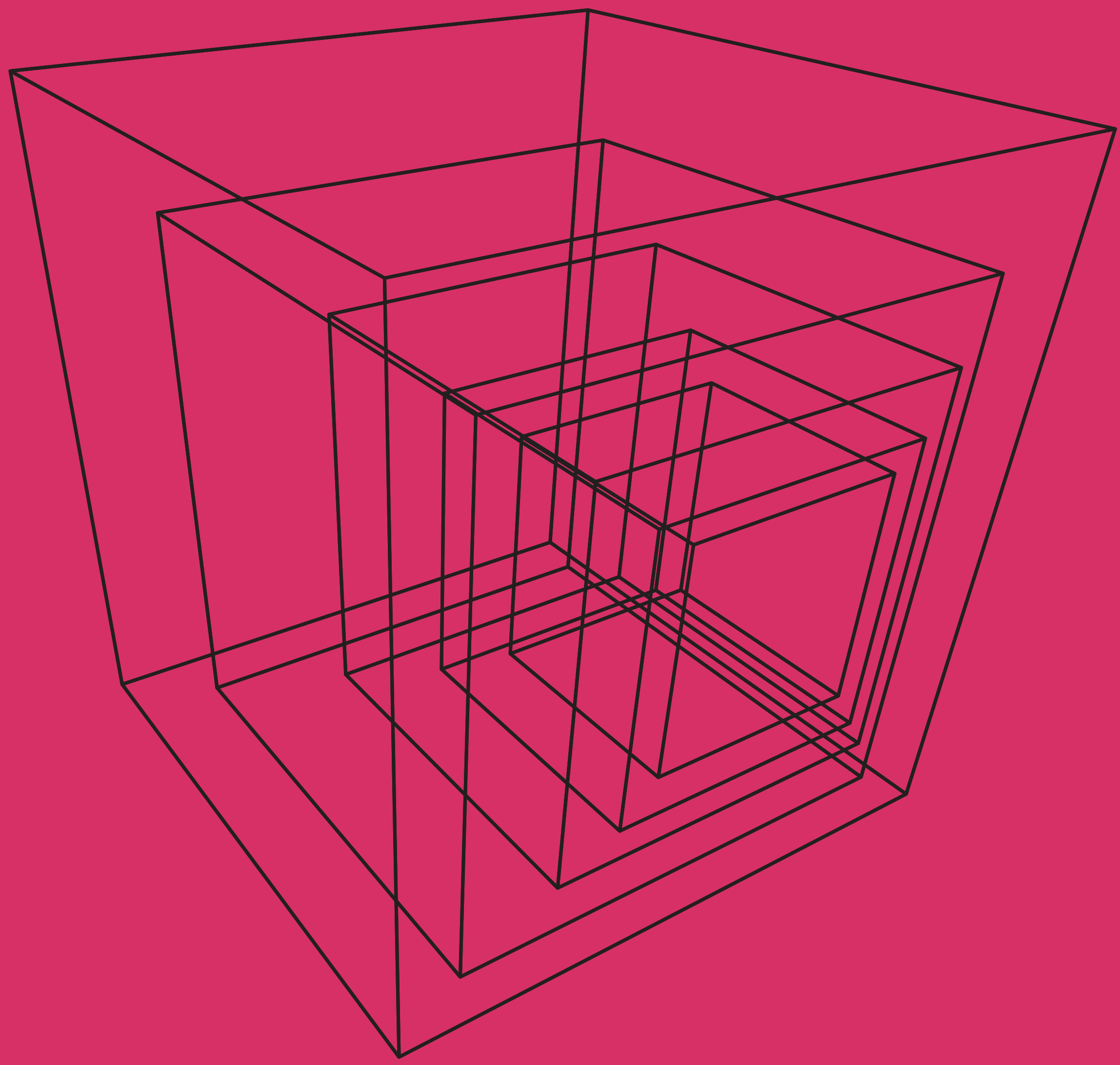
# Consolidated Plan

**2004**
**American Dream Downpayment Initiative**



**Department of City Planning / City of New York**

*as of August 16, 2004*

# Consolidated Plan

## American Dream Downpayment Initiative

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# INTRODUCTION
## to
# 2004 CONSOLIDATED PLAN
## American Dream Downpayment Initiative

The *2004 Consolidated Plan American Dream Downpayment Initiative (ADDI)* is an amendment to the City of New York's *2004 Consolidated Plan* which serves as the City of New York's official 2004 application for the four U.S. Department of Housing and Urban Development (HUD) Office of Community Planning and Development entitlement programs: Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Shelter Grant (ESG), and the Housing Opportunities for Persons with AIDS (HOPWA) for the 2004 Consolidated Plan program year.

New York City's Consolidated Plan program year begins January 1 and ends December 31. Each year the City of New York is required by federal regulations to conduct a public comment period on the Proposed Plan prior to submission of the document to HUD for review and approval. However, the Initiative came into existence as part of the Federal Fiscal Year 2004 Appropriations Act which was passed into Law after the conclusion of the Proposed 2004 Consolidated Plan's public comment period in mid-December 2003. The Proposed Plan was submitted to HUD as originally formulated on December 17, 2003 and subsequently approved January 26, 2004. Federal guidelines and regulations concerning eligible activities and use of ADDI funds went into effect at the end of April 2004.

This amendment is part of the City's activities to fulfill federal Consolidated Plan citizen participation regulations regarding availability of the Plan to the public which require localities to provide the public with reasonable access and opportunity to examine the document.

Included are the Program Descriptions for each ADDI-funded program. In addition, a chart has been provided corresponding to each program description on the administrating agency, funding source and amount, program activity, eligible household types, and eligible income type. For each program, the number of proposed accomplishments, a HUD requirement, has been reported in the charts.

The Consolidated Plan's public comment period for the American Dream Downpayment Initiative amendment began August 16, 2004 and ends September 14, 2004. Written comments received concerning the Initiative will be summarized and Agency's responses will be incorporated into the amended 2004 Plan for submission to HUD.

Written comments and any questions regarding the Consolidated Plan can be directed to:

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## American Dream Downpayment Initiative (ADDI)

| OMB_Code | Funding Source | Amount | Accomplishment | |
|---|---|---|---|---|
| H-HPD-0200 | HOME Investment Partnership (American Dream Downpayment Initiative) | $8,744,300 | See ADDI funded programs | |

| Activity Codes/Names | | Household Type | Income |
|---|---|---|---|
| 13 | Direct Homeowner Assistance | Homeowner First Time | Low (51 to 80% MFI) |

The American Dream Downpayment Initiative (ADDI) was signed into law on December 16, 2003 as part of the FFY2004 HUD appropriations process. The amount the City has received consists of FFY2003 and FFY2004 grant amounts ($4.011 million and $4.733 million, respectively). The Initiative will be administered as a part of the HOME Investment Partnerships Program formula grant program.

Under ADDI, eligible homebuyers can qualify for a forgivable loan to use toward the downpayment and/or closing costs on a one- to four-family home purchased in one of the five boroughs of New York City. The amount of the forgivable loan will be up to six-percent (6%) of the purchase price of the home. All funds must go to assist households earning less than 80% of area median income (as of July 2004 that amount is $50,250 for a family of four (adjustable for family size)).

ADDI's goal is to increase the homeownership rate helping qualified first-time homebuyers with homeownership downpayment and closing costs. In ADDI the eligible homebuyer must be "first-time", meaning the buyer has not owned a home during the three-year period prior to purchase of a home with ADDI assistance. ADDI funds may be used to buy "single-family" homes, defined as one- to four-family homes.

The program was created to assist low-income first-time homebuyers not only with downpayment assistance and closing costs, but also with assistance to perform rehabilitation carried out in conjunction with the assisted home purchase.

## HomeFirst Down Payment Assistance Program (ADDI)

| OMB_Code | Funding Source | Amount | Accomplishment | |
|---|---|---|---|---|
| H-HPD-0201 | HOME Investment Partnership (American Dream Downpayment Initiative) | $6,090,000 | Households | 287 |

| Activity Codes/Names | | Household Type | Income |
|---|---|---|---|
| 13 | Direct Homeowner Assistance | Homeowner First Time | Low (51 to 80% MFI) |

The HomeFirst Program offers down payment assistance to first-time homebuyers. Eligible homebuyers can qualify for a forgivable loan to use toward the down payment and/or closing costs on a one- to four-family home purchased in one of the five boroughs of New York City. The amount of the forgivable loan will be up to six-percent (6%) of the purchase price of the home.

Eligible borrowers must be first-time homebuyers with a maximum annual household income up to 80% of Area Median Income (AMI) (as of July 2004 that amount is $50,250 for a family of four (adjustable for family size)); purchase a one- to four-family home in one of the five boroughs of New York City; have a satisfactory employment history to qualify for a mortgage loan; successfully complete a homebuyer education course with an HPD-approved counseling agency; occupy the property as their primary residence for at least seven years; and match part of the HPD down payment loan.

## Employer-Assisted Housing (EAH) Down Payment Assistance Program (ADDI)

| OMB_Code | Funding Source | Amount | Accomplishment | |
|---|---|---|---|---|
| H-HPD-0202 | HOME Investment Partnership (American Dream Downpayment Initiative) | $2,654,000 | Households | 125 |

| Activity Codes/Names | | Household Type | Income |
|---|---|---|---|
| 13 | Direct Homeowner Assistance | Homeowner First Time | Low (51 to 80% MFI) |

The Employer-Assisted Housing (EAH) Down Payment Assistance Program offers down payment assistance to first-time homebuyers working with participating employers. To qualify, New York City employers enrolled in EAH provide employees with cash incentives to use toward the down payment or closing costs to purchase a one- to four-family home in the five boroughs of New York City. HPD will contribute a forgivable loan in an amount up to six-percent (6%) of the purchase price.

Eligible borrowers must be first-time homebuyers with a maximum annual household income up to 80% of Area Median Income (AMI) (as of July 2004 that amount is $50,250 for a family of four (adjustable for family size)); purchase a one- to four-family home in one of the five boroughs of New York City; have satisfactory employment history to qualify for a mortgage loan; successfully complete a homebuyer education course with an HPD-approved counseling agency; occupy the property as their primary residence for at least seven years; and have an employer that provides employees with cash incentives, which HPD will match.

# HOME HUD Requirements

Described in this section is the federally required information related to the City's use of HOME Investment Partnership-funds: 1) HOME Resale Provisions; 2) Forms of Investment; and 3) Affirmative Marketing/Minority and Women Business Enterprises, including Affirmative Marketing Strategies, Minority/Women Business Enterprises, Equal Opportunity and Fair Housing, and Employment and Training.

### 1. HOME Resale Provisions

The City plans to continue to use HOME funds to support the development of affordable homes for first time low-income home purchasers. The City has established a number of different HOME ownership models involving a variety of subsidy forms including down payment assistance and direct mortgage loans (to cover contributions of cash and/or real property). For a full description of the various subsidy mechanisms the City may employ please refer to the next section of the Action Plan entitled "Other Forms of Investment". As required, this section outlines the City's policies and procedures regarding the resale restrictions to be used in conjunction with these efforts.

The City currently operates a number of homeownership programs, including the Nehemiah and Partnership Programs, which are designed to produce affordable homes for low and moderate-income homebuyers. In addition, the City administers a variety of programs, designed to sell multifamily apartments as low-income cooperative units. In each case, the City has already established a subsidy recapture mechanism designed to allow the initial homeowner an opportunity to earn a fair return on his or her investment at resale, while simultaneously affording the City an opportunity to recoup a portion of the public funds provided to the assisted home.

In all of these instances the City's resale/recapture system could be classified as some form of the "diminishing subsidy" model or the "shared equity" approach that were "preapproved" by HUD. In some cases the City will employ a combination of these models. But while the recapture provisions share the same basic structure, it is important to note that each of the programs the City operates utilizes a slightly different subsidy recapture provision. These differences are necessitated by the different structures of the various programs. For example, in the single family homeownership programs, the purchasers are required to invest a significant amount of personal equity as a down payment, while in many of the low income cooperative programs the units are sold at a nominal price and owner equity is almost nonexistent. Similarly, in some cases the programs are targeted to very low income families and the amount of City subsidy may be extremely large, while in other cases the program is designed to serve families at the top of the low income bracket and the amount of the public subsidy is necessarily less.

As a result, the City has selected a range of different resale/recapture models for use in conjunction with HOME funds. Notwithstanding specific differences, there are a number of common elements.

First, the deed or other conveyancing documents and the subsidy lien on the property will include a covenant limiting the resale of the property to families at or below 80% of the then applicable area median income, who will occupy the property as their principle residence. In addition, the resale price of the units will be restricted for the first 20 years (15 years in the case of rehabilitation units) to an amount that is "affordable to a family earning at or below 75% of the median income".

"Affordable " will be defined as a sales price that does not generate payments for principal, interest, taxes and insurance which exceed 30% of the income of a family earning 75% of the then applicable area median. This restriction, by definition, will ensure that all homes sold through the program will be affordable to a range of eligible families. If during the City's monitoring of the program, it discovers that a unit has been sold at a price that exceeds the allowable limit, the City will enforce the terms of the subsidy lien and require immediate repayment of the subsidy, and if necessary foreclose on the lien.

In addition, in order to determine the exact amount of funds to be recaptured, each HOME homeownership program the City operates will use or have used one, or a combination of the five basic models, described below:

Model 1

The public subsidy (including the HOME funds) will be issued in the form of a zero interest-evaporating loan. This loan will diminish on a straight-line basis over its term. (The majority of these loans will be either 20 years or 15 years depending on the length of the HOME compliance period). The outstanding amount of the public subsidy will be due only on sale and then only from profits. The debt will be payable at a rate of 50 cents for each dollar of profit. For example, if an owner originally bought a home for $70,000 and sold it for $90,000, the $20,000 would be declared profit. Fifty percent of that would go to repay the City (assuming the outstanding balance is that high) and the remaining 50% would go to the owner. In a stable market, this method should ensure that the owner recaptures his or her entire equity and enjoys an additional return on that equity in the form of profit from sale.

Model 2

The public subsidy (including the HOME funds) will be made in the form of a zero interest forgivable loan. The amount of this loan will remain constant throughout the compliance period. Once the compliance period ends this loan may be forgiven by the City. Again during the compliance period, the debt will only be due on sale and then only if there is a profit between the price the original owner purchased (including his/her equity contribution) and the price he or she sold the project. While this system may appear to be more restrictive than Model 1 which allows the owner free and clear access to 50% of the profits, it will only be used in situations where there is a relatively certain prospect for sales profits in excess of the amount of the City's lien.

Model 3

The public subsidy would be made in the form of an evaporating loan. This loan will be completely dissolved after three years. During the three-year period the balance would be due only at resale and then only to the extent that the resale price exceeded the original price. The outstanding balance would be payable at a rate of 50 cents for each dollar of profit (see model #1). After the three-year "holding period" the owner would be allowed to enjoy all the profits through sale free and clear. However, the City will continue to hold the lien on the property in the full amount of the initial subsidy and the assistance shall be characterized as a conditional grant throughout the 20-year compliance period. This lien would only come into play if the owner were found to have violated any of the HOME rules. This model provides the least restrictions on the owner and would only be used in situations where the opportunity for profit was already tightly capped by the existence of the restrictions on resale price.

Model 4

The public subsidy will be made in the form of a zero interest forgivable loan. The outstanding principal of this loan will be payable only on sale and then only to the extent that the owner enjoys a profit on the sale. In addition to the basic HOME requirement that the unit be sold to a family earning less than 80% of the median, at a price which is affordable to a family at or below 75% of area median income, in this model the owner will only be allowed to recapture his or her equity and the value of any improvements he or she made to the property and potentially an allowance for any increase in the cost of living. Additional funds earned through the sale will be due to the City. In the case of a cooperative unit, the City may agree to assign their interest or a portion of this interest to the cooperative itself. Since this model affords the owner little opportunity to realize a substantial financial gain through ownership it will be used only in those circumstances where the purchaser is only investing a nominal amount of equity and is not required to secure a mortgage to buy his or her home.

Model 5

The public subsidy will be made in the form of a zero interest loan that may be forgiven after the period of HOME compliance. The outstanding principal of this loan will be due only on sale and then only to the extent that the owner enjoys a profit on the sale. This loan will be payable at a rate of 40 cents on each dollar of sales profit. In the case of a low income cooperative, the City may agree to assign their interest or a portion of the interest to the cooperative itself and may also choose to require the owner to provide up to 75% of his or her remaining profit to the cooperative. This method should allow the owner to enjoy a reasonable gain from sale while preventing a windfall profit through resale.

Each of the above models involves substantial forgiveness of HOME funded homeownership loans (as well as direct City funded contributions) with the specific intent of limiting the homeowner's financial indebtedness and insuring that he or she will be able to earn a fair return on his or her investment. In all cases, the City's resale system will ensure that the statutory limitation on resale price will not unduly limit the owner from recouping his or her initial equity investment and receiving all or a portion of any additional sales proceeds. However, in light of the many real estate markets and sub-markets currently operating in New York City and in recognition of the varied equity requirements the City intends to impose on purchasers, it is not feasible, nor advisable, to set one specific number (or index) as a fair return on equity. Instead fair rate of return will be defined as an appropriate percentage of resale profits as outlined in the specific models presented above.

Additionally the City like the Federal government cannot provide an iron clad guarantee that the overall real estate market will improve or that each individual owner's property will appreciate in value. All the City can do is ensure that the specific resale restrictions imposed by the program do not unduly hamper the owner's ability to enjoy what profits the property does generate. Like all homeowners, each individual purchaser must assume some risk that his or her property may not increase in value. However, this event is very unlikely in light of the below market price for which the owner originally purchased the property, and the extremely tight market which exists in New York City for property at affordable rates.

An additional model, proposed and approved in FFY'94, established an alternative resale system for potential use in the City's HOME program. Under this model, owners would not be required to commit to sell their property to other eligible purchasers. In return however, the HOME owner would be required to repay the full HOME investment from net sales proceeds. For these purposes, the net sale proceeds would be defined as sales price minus loan repayment and closing costs. Thus in those instances where the sales price is not sufficient to provide the owner with the capital necessary to retire his mortgage and cover his transaction cost, no repayment of the HOME subsidy would be required.

In instances where the proceeds are not sufficient to provide for a full recapture of the HOME subsidy, and allow the owner to recoup his or her equity (down payment plus principal payments, and any documented capital improvement investment) the City will forgive all or a portion of the HOME subsidy. The HOME subsidy will be forgiven on a pro-rated scale based on the number of years in occupancy. In no event will the city forgive the entire HOME subsidy before a period of at least three years has elapsed.

In addition, the HOME subsidy is to be forgiven in order to allow the owner to recover his or her investment. In no event shall the HOME subsidy be forgiven in order to allow a homeowner to receive more than the amount of his or her equity and the value of any capital improvements. In those instances where net sales proceeds are sufficient to repay the entire HOME subsidy and allow the owner to recoup his or her full investment, the owner may be allowed to retain any excess.

Finally as required in the HOME regulations, any HOME investment that is recaptured by the City is required to be reinvested to assist other first time home-buyers.

**2. Forms of Investment**

The City uses many, if not most, of the approved subsidy forms cited in the regulations and listed below:

- Interest bearing loans or advances;
- Non-interest bearing loans or advances;
- Deferred payment loans;
- Grants;
- Interest subsidies;
- Equity investments;
- Tenant-Based Rental Assistance; and
- Downpayment Assistance.

The newly authorized loan guarantee mechanism will be explored, but will not likely be used during 2004. At present, we are not requesting authorization to use a form other than one of the basic forms preapproved by HUD. However, the City would like to reserve the right to request permission to utilize another subsidy mode at some point in the future.

In certain circumstances the City will also consider using HOME funds to refinance existing debt in connection with the rehabilitation of multifamily housing. Eligible projects may be located anywhere in the City. Under no circumstances will HOME funds be used to refinance multifamily loans made or insured by any Federal program, including CDBG. In addition, the guidelines established by HPD require that 1) the multifamily housing undergoing rehabilitation and refinancing is and will continue to provide affordable housing to low-income families, 2) rehabilitation must be the primary eligible activity for which at least 60 percent of the HOME funds are used, 3) eligible projects must require a minimum level of rehabilitation of $10,000 per unit, 4) a maximum of 40 percent of HOME funds may be used for the refinancing of existing debt, 5) the use of HOME funds must be conditioned upon a low income affordability period of a minimum of 15 years, and 6) HPD must review the management practices of the property owner to insure that disinvestment has not occurred, that the long term needs of the project can be met and that the feasibility of serving the targeted population over at least a 15 year affordability period can be demonstrated.

In most cases, the specific form of the City's subsidy will be easily identifiable as one of the eight broad types listed above. For instance, we are currently utilizing forgivable advances and low interest loans. However, in rare instances the specific type of subsidy we are using may not be readily apparent to some observers. For example, in the case of a City-sponsored program to rehabilitate the occupied low income In Rem housing the City currently owns and manages, the HOME funds would be used to pay contractors for services and equipment necessary to renovate the building. Although the City expects to undertake such projects in limited cases, HPD believes the City's subsidy can easily be classified as either a grant to the building or an equity investment on the part of the City as long as we continue to own the units the City improves.

### 3. Affirmative Marketing/MBE-WBE Outreach

Affirmative Marketing Strategies

Section 92.351 of the HOME regulations requires that participating jurisdictions adopt affirmative marketing procedures for HOME-assisted housing containing five or more housing units. HPD has adopted appropriate affirmative marketing procedures and requirements for providing information regarding the availability of such units in HOME-assisted projects.

The Office of Development, the Office of Housing Operations, the Office of Planning & Intergovernmental Affairs and the Office of Community Partnerships provide information to attract eligible persons from all racial, ethnic and gender groups in the City of New York to available housing.

It should be noted that HPD does not directly rent units in privately owned housing but ensures that funding recipients, i.e. owners, sponsors, developers, etc. participating in HPD programs adhere to the affirmative marketing strategy in compliance with HUD HOME regulations. HPD instructs recipients of HOME funds of methods of informing and soliciting applications from persons in the housing market area who are not likely to apply for the housing without special outreach. Such methods include advertising in various newspapers or contacting community organizations. HPD's marketing plans have been reviewed and approved by HUD.

An affirmative marketing plan describing the efforts to be undertaken to affirmatively market HOME assisted vacant units must be submitted for review and evaluation in order to receive clearance from HPD's Office of Community Partnerships to proceed with a project. In addition, HPD requires recipients to submit documented information (tenant applications, copies of advertisements and outreach materials, and any documented responses to outreach efforts) demonstrating the recipient's efforts to affirmatively market HOME-assisted vacant units. Where it is determined that the agreed upon plan was not followed, HPD will consider on a case-by-case basis, whether the agency should continue to do business with that recipient. Where it is determined that the agreed upon plan was inadequate, HPD will assist the recipient in improving the affirmative marketing plan.

When City-owned housing is upgraded and disposed of using HOME funds, the Agency will ensure that all new owners and managers adopt affirmative marketing procedures.

In general, HPD will create and adopt methods for informing the public, owners and potential tenants about Federal fair housing laws and New York City's affirmative marketing policy. HPD will also provide training in fair housing laws for property managers and staff involved in tenant selection. Press releases, solicitations, application packages and informational brochures will include the Equal Housing Opportunity logotype and slogan. The Fair Housing Unit of HPD's Office of Community Partnerships will augment these efforts through the continuing management of locally based fair housing counseling offices located throughout the city. The Fair Housing Unit will also investigate complaints of discrimination in the marketing and rental of HOME assisted units.

Minority/Women Business Enterprise

In accordance with Section 281 of the HOME Investment Partnerships Act and Section 92.350 of the HOME regulations, HPD has established an outreach program to ensure the inclusion and participation, to the maximum extent possible, of minority and women business enterprises (M/WBEs) in contracts funded in whole or in part through the HOME program. The outreach consists of a good faith, comprehensive and continuing endeavor supported by a key ranking staff person with oversight responsibilities and access to the Commissioner. The outreach program is comprised of the following initiatives:

1) Development of a systematic method for identifying and maintaining an inventory of certified M/WBEs, their capabilities, services, supplies, and or products;

2) Utilization of direct mailings and the local media, electronic and print to market and promote contract opportunities.

3) Development of informational and documentary materials on contract opportunities for M/WBEs;

4) Sponsoring and attending business opportunity related meetings, conferences and seminars targeting M/WBEs; and

5) Maintenance of centralized records with statistical data on the utilization and participation of M/WBEs as contractors and subcontractors in all HOME assisted contracting activities.

Equal Opportunity and Fair Housing

In accordance with Section 92.350 of the HOME regulations, "no person in the United States shall on the grounds of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of, or be subjected to any discrimination under any program or activity funded in whole or in part by HOME funds". In addition, HOME funds will be made available in accordance with the following federal statutes and regulations:

- Fair Housing Act;
- Executive Order 11063 (Equal Opportunity in Housing);
- Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federal Programs);
- Age Discrimination Act of 1975;
- Section 504 Rehabilitation Act of 1973;
- Executive Order 11246 (Equal Employment Opportunity);
- Section 3 of the Housing and Urban Development Act of 1968; and
- Executive Orders 11625, 12432, and 12138 (Minority/Women's Business Enterprise).

Employment and Training

Opportunities for training and employment arising from the HOME program will be provided in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended. The City will "demonstrate compliance with the 'greatest extent feasible' requirement" of Section 3 by meeting the goals set forth for providing training, employment, and contracting opportunities to Section 3 residents and Section 3 business concerns.