

APPENDIX B

SUMMARY OF PUBLIC COMMENTS

PUBLIC INPUT MEETINGS

MDOC began the information gathering process for the 2011 Annual Action Plan in June 2010. Informational flyers were sent to local officials, public agencies, interested citizens, and organizations statewide inviting participation in preparing Montana's Consolidated Plan. Display advertisements were placed in major newspapers around the state (Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula) asking for public comment, giving dates and locations of the upcoming public input meetings. Notices were posted on the *Discovering Montana* e-Calendar. The information on the public meetings was also posted on the Consolidated Plan web page

One on-site community input meeting was held in Helena on June 16 in conjunction with the 2010 Montana Housing Partnership Conference. To encourage greater participation and to minimize travel costs for participants, one web-based meeting originating in Helena-based was held.

Public Input Meetings				
Location		Date	Time.	# Attendees
Helena	Great Northern Hotel	6/16/2010	3:16 - 4:45p.m.	60 + 12 staff
Webinar	Helena-based	6/29/2010	1:30 – 3:30 p.m.	11 + 10 staff

HOME, CDBG, MBOH, and MDPHHS representatives were present at the meetings to answer questions and respond to public comments.

PUBLIC REVIEW MEETINGS

The draft 2011 Annual Action Plan was released for public review and comment on November 15, 2010. The public comment period was open through December 30, 2010. The comment periods were advertised in the state's seven major newspapers. Flyers were sent to the Consolidated Plan mailing list, and meeting notices were posted on the *Discovering Montana* E-Calendar and the Consolidated Plan web page.

Two public review meetings are scheduled in November and December. Again, to encourage greater participation and to minimize travel costs for participants, these meetings, originating in Helena, were open to the public as well as being conducted in webinar format.

Public Review Meetings				
Location		Date	Time.	# Attendees
Webinar	Helena-based; Basement Conference Room B18, 301 S. Park Ave.	11/30/2010	10:00 to 12:30 a.m.	4 + 4 staff
Webinar	Helena-based; Conference Room 228, 301 S. Park Ave.	12/16/2010	1:30-3:30 p.m.	11 + 4 staff

MEETING SUMMARIES

Copies of the meeting summaries from the public meetings are on file with the Montana Department of Commerce, Community Development Division; 301 South Park Avenue; P.O. Box 200523; Helena, Montana 59820.

Public Comments

A variety of comments were received at the meetings, as well as some written comments. In general, the questions were program-specific. Some questions were able to be answered on the spot by representatives from the individual programs. Other questions requiring a more in-depth response were referred to the appropriate program staff for follow-up.

HOME Program Proposed Changes

Proposed changes and points of clarification to the HOME Program's 2011 application processes were proposed during the public input meetings.

APPLICATION DUE DATE

- PROPOSAL:** The proposed application due date for the 2011 HOME Program competitive grants: **Friday, February 11, 2011.**
- Adopted as proposed.**

MAXIMUM GRANT AMOUNT – COMPETITIVE GRANTS

- PROPOSAL:** Increase the maximum HOME grant amount to **\$750,000** from \$500,000
- Must meet HUD's Fair Share Test and Subsidy Limit Tests: the minimum number of HOME units is the GREATER of the fair share # of units or the # determined by the subsidy limit test
- Fair Share =
$$\frac{\text{Planned HOME Investment} \times \text{Total Number of Units in Project}}{\text{Total Eligible Project Costs}}$$
- 221(d)(3) Subsidy Limit Test =
$$\frac{\text{Planned HOME Investment}}{\text{221(d)(3) Subsidy Limit}}$$

- **Example** (for comparable units¹):
 Total eligible cost: \$ 1,000,000
 221(d)(3): \$ 80,000
 HOME Investment: \$ 750,000
 Total number of units: 10

Fair Share Test: $\frac{\$750,000}{\$1,000,000} = 0.75 \times 10 \text{ units} = 8 \text{ HOME units (round up)}$

Subsidy Test: $\frac{\$750,000}{\$80,000/\text{unit}} = 10 \text{ HOME units (round up)}$

Minimum Number of HOME Units: 10 units

- ❖ **Comments:** Concern was expressed that projects could potentially be over-subsidized and/or fewer projects would be funded, to the detriment of smaller communities; funds would be tied up longer; the ceiling should only be raised in response to rising costs; more outreach and training on how to access HOME funds should be provided.

- Adopted as proposed.** The HOME program acknowledges the concerns expressed and will monitor the effect of this change and adjust, if necessary in subsequent years. All projects remain subject to fair share test and subsidy limit tests and to the subsidy layering guidelines to help ensure projects do not receive more HOME funds than is necessary to ensure a viable project.

- PROPOSAL:** Program Income, recaptured funds, and/or CHDO proceeds cannot be used to increase the HOME grant beyond the \$750,000 ceiling

- Adopted as proposed.**

OWNER-OCCUPIED REHABILITATION

- CLARIFICATION:** In order to meet HUD requirements for homeowner rehabilitation activities, an architect must identify code deficiencies before rehab activities on an owner-occupied home begins and must certify the code deficiencies were corrected after the rehab is complete.

- Adopted, as revised** to include an engineer licensed and qualified to work in Montana as being eligible to identify and certify correction of code deficiencies.

24 CFR 92.251, Property Standards, states in part that: *Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion...In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable: one of three model codes (Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI)); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926...*

Guidance from HUD in **HOMEfires, Vol. 7 No. 2**, October 2006, addresses the question: "When HOME funds are used to rehabilitate a unit, must the entire unit meet the applicable property standards?" In response to the question, HUD states:

¹ Comparable units have the same number of bedrooms, amenities and square footage. If units are not comparable, contact the HOME program for further guidance.

Yes. When HOME funds are used for a rehabilitation project...the entire unit must be brought up to property standards [i.e., applicable state or local codes or one of the model codes described in 24 CFR 92.251(a)(1)]. The HOMEfires goes on to say: It has come to HUD's attention that some PJs believe that, when using HOME funds in a rehabilitation project, only the specific items they chose to address as part of the rehabilitation are subject to the property standards requirement and that the remainder of the unit or project meet the Section 8 Housing Quality Standard (HQS) requirements. This is an incorrect interpretation of the HOME regulations. The purpose of the HOME Program is to develop a stock of standard, affordable housing for low-income families. When HOME funds are committed to a project that will be rehabilitated, the PJ (i.e., the state of Montana HOME Program) is responsible for inspecting the project to determine compliance with the property standard being used in its HOME Program. The work write-up prepared for the project must include all work required to bring the entire unit into compliance with the applicable property standards.

The state of Montana does not have state or local codes related to the rehabilitation of residential, single family properties; therefore, housing rehabilitated with HOME funds must meet the requirements of one of the model codes. The state of Montana HOME Program delegates the responsibility of ensuring the rehabilitated property meets code requirements to its Grantees conducting rehab activities. Code requirements are complex; so the HOME Program consulted with the state of Montana, Department of Labor & Industry, Business Standards Division, Building Codes Bureau, and determined the certification can only be provided by an architect or engineer licensed and qualified to work in Montana.

- CLARIFICATION:** In order to meet HUD requirement that the value of the HOME-assisted owner-occupied house not exceed the value established by HUD, **a qualified appraiser must establish the after rehab value of the house before rehab** starts.
- ❖ **Comments:** Concerns were expressed about the difficulty of getting appraisers to give a current value on a home in need of rehab; asking for an after rehab value is not realistic.
- Adopted.** The HOME Program acknowledges that while it may be difficult to get appraisers to give an after-rehab value of home that is being rehabilitated, HOME regulations and guidance are quite clear that the after-rehab value must be established prior to any rehabilitation work being performed.
 - HUD regulations at 24 CFR 92.254(b) Rehabilitation not involving acquisition, states, in part that: *Housing that is currently owned by a family qualifies as affordable housing only if (1) The estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area...*
 - HUD guidance on determining after-rehab value states: *To establish project eligibility, after rehabilitation value must be established prior to any work being performed...(emphasis added)*
- CLARIFICATION:** In order to meet HUD's requirements, reduce the number of days between the date the activity is set-up for a specific address (i.e., funds reserved) and the activity is completed to **120 days** instead of the current 180. Exceptions may be made for

extenuating circumstances if the Grantee has been consistently drawing funds for the activity throughout the 120-day period.

❖ **Comments:** Concerns were expressed concerning the difficulty of completing some rehab activities within 120 days given Montana's weather and short construction season.

⊖ **Not adopted.** After further consideration, the HOME Program has decided not to reduce the time in which an individual rehab activity must be completed. However, Grantees must ensure that draw requests for actual, documented, eligible costs the individual rehab activity are submitted no less than every 120 days. A detailed Project Progress Report that includes information relevant to the implementation of the individual rehab activity, including a description of the cumulative progress and accomplishments achieved and any problems or delays that could affect the individual rehab activity implementation schedule or budget since activity set-up and since the last progress report submitted. For any given calendar quarter in which a draw request and Project Progress Report are not submitted, the Grantee must submit a Project Progress Report containing the information previously outlined.

All Grantees are reminded that all funds for each homeowner rehabilitation activity must be drawn and spent and the Completion Report submitted to the Department within **180 days** of the date the funds are committed to the specific activity. Further, the Completion Report must be submitted within 100 days of the final draw or within **180 days** of activity commitment, whichever comes first. Unless otherwise agreed to in writing by the Department, any funds not expended within **180 days** may be withdrawn from the Grantee and used for other HOME eligible activities.

All funds for each homebuyer activity must be drawn and spent and the Completion Report submitted to the Department within **120 days** of the date the funds are committed to the specific activity. Further, the Completion Report must be submitted within 100 days of the final draw or within **120 days** of activity commitment, whichever comes first. Unless otherwise agreed to in writing by the Department, any funds not expended within **120 days** may be withdrawn from the Grantee and used for other HOME eligible activities.

PROPOSAL: In order for potential Grantees to more economically plan and budget for the above (homeowner rehabilitation) requirements, move homeowner rehab activities back to the competitive grant pool (from the Single Family Noncompetitive Program).

❖ **Comments:** Comments received were split between retaining homeowner rehab as an eligible activity under the Single Family Noncompetitive Program and moving the activity to the competitive grant process.

Adopted, as revised to allow Grantees the option of either submitting a competitive grant or participating in the Single Family Noncompetitive Program if certain conditions are met.

* An eligible entity that wants to access the Single Family Noncompetitive Program to conduct homeowner rehabilitation activities must meet all requirements outlined in the Qualification Package. As part of those requirements, the entity will need to demonstrate that it has access to an architect or engineer licensed and qualified to work in Montana, either on staff or under contract, to identify code deficiencies before rehab activities on begins and to certify the code deficiencies were corrected after the rehab is complete.

- * If an eligible entity wants to apply for a competitive grant for homeowner rehab to take advantage of economies of scale, the entity will need to pre-identify up-front a group of homeowners/homes that would qualify for rehab. The entity would be able to procure services of professionals, such as an architect or engineer licensed and qualified to work in Montana, lead-based paint clearance inspectors, appraisers, etc., to complete the rehab activities in a specific area.

SINGLE FAMILY NONCOMPETITIVE PROGRAM

Note: In order to incorporate program changes, existing contracts with previously approved Qualified Entities will only be extended through March 31, 2011. New management plans must be submitted and approved and new contracts will be executed.

- **PROPOSAL:** Reallocate uncommitted funds to the statewide pool from the individual districts after six (6) months, instead of the current 12 months.

- ❖ **Comments:** Comments received generally supported reallocating the funds from the districts after 6 months, instead of the current 12.
- ❖ Some commenters requested that a “reservation system” be implemented so that qualified entities operating in districts that have very active, high volume programs will be assured some level of funding when the uncommitted district funds are reallocated to the statewide pool.
- ❖ Some commenters requested that districts having higher levels of activity be initially funded at higher levels.

- Adopted as modified:** Reallocate uncommitted funds to the statewide pool from the individual districts after six (6) months or on January 1, whichever comes first, instead of the current 12 months after allocation of funds to the four districts. Earlier reallocation of the funds allows the HOME program to use commit and expend funds in a more efficient and timely manner.

- ❖ After considering comments received concerning a reservation system, the HOME Program will implement, on a trial basis, a limited reservation system as follows: When uncommitted funds in any given district fall below 25% of the total funds originally available in the district, the HOME Program will accept reservations from that district. Reservations would be accepted on a first-come first serve basis from any district(s) with uncommitted funds of less than 25%.
- ❖ The HOME Program method of distribution currently includes a factor in the district allocation formula that takes into account the level of commitment activity within each district for the previous two years. Therefore, Districts with high levels of activity are initially funded at a higher level.

- **CLARIFICATION:** For homebuyer assistance activities, draw requests, including applicable back-up documentation, must be submitted to the HOME program within four (4) weeks of the loan closing.

- Adopted.**

- ❖ Additionally, the HOME program would prefer the activity set-up report, and applicable back-up documentation, as outlined in Exhibit 3A-1 of the HOME Administration Manual, be submitted to the HOME Program well before the loan closing to ensure the activity is eligible.

- ❖ The HOME Program requires that homeowner rehab projects be submitted for review before the Qualified Entity commits to a rehab activity to ensure the activity meets HOME requirements. The documentation that must be submitted is outlined in Exhibit 3A-3 of the HOME Administration Manual.

CLARIFICATION: In order to retain and use program income and/or recaptured funds, a Grantee either must be a qualified entity for the Single Family Noncompetitive Program or must have an open competitive HOME grant. If a recipient of HOME-funded program income and/or recaptured funds is not a qualified entity and does not have an open competitive grant (subject to the maximum allowable grant amount), the Grantee must return the HOME funds to the MDOC for redistribution through normal HOME Program processes.

- ❖ **COMMENTS:** Concern was expressed that Grantees that who had previously retained program income and/or recaptured funds may have committed those funds for specific activities; a transition plan for those Grantees, rather than an abrupt change, is needed.

Adopted, as revised. HOME Program rules require that any program income or recaptured funds retained by a HOME Grantee must be disbursed by that HOME Grantee before it requests additional HOME funds from MDOC. Additionally, activities assisted with HOME program income or recaptured funds are treated the same as those assisted with the HOME allocation; all HOME program rules and requirements apply to program income or recaptured funds. Further, HUD requires that program income and/or recaptured funds from homebuyer, homeowner, or other activities must come back to the original Grantee. Grantees currently holding program income and/or recaptured funds will have some options for the disposition of those funds.

The state of Montana HOME Program must have a method by which to ensure all HOME program rules and requirements are met when program income and/or recaptured funds are utilized by Grantees.

- 1) The Grantee can return accumulated and future program income and/or recaptured funds to MDOC. MDOC will use the funds returned from homeowner and homebuyer activities for further homeowner and homebuyer activities throughout the state through the Single Family Noncompetitive Program; funds generated from competitive activities will be reallocated through the competitive pool of funds.
- 2) If the Grantee currently has an open competitive grant, it can elect to use accumulated and future program income and/or recaptured funds on that open grant, subject to MDOC conditions and approval.
- 3) The Grantee must be or must become a qualified entity for the Single Family Noncompetitive Program to use accumulated and future program income and/or recaptured funds for homeowner or homebuyer activities. If the Grantee is not currently a Qualified Entity and it has not communicated its intent to become a Qualified Entity, it must communicate that intent to MDOC and begin the qualification process no later than Monday, November 30, 2010. Since HUD requires timely expenditure of funds, the dollar amount of program income and/or recaptured funds the Qualified Entity may keep on hand in its local account will be limited by mutual agreement between MDOC and the Qualified Entity; the Qualified Entity must demonstrate to MDOC that the amount of funds it wishes to keep on hand is reasonable based upon the Entity's level of activity.

- 4) The HOME program agrees that a one-time only transition plan for use of program income/recaptured funds may be appropriate for some Grantees with an existing pot of funds, under limited circumstances.
- * The Grantee must request that it be allowed to use its program income and/or recaptured funds on a specific HOME-eligible activity it has identified.
 - * The Grantee must demonstrate that the pot of funds it has on hand, plus other committed funds, is sufficient to complete the project.
 - * No later than December 31, 2010, the Grantee must submit an application package, which meets the requirements found in the 2010 HOME Application Guidelines, to the HOME Program for evaluation and approval.
 - * If the HOME Program approves the package, the Grantee will have 24 months from the date of approval to complete the proposed activity.

CLARIFICATION: Ranking narratives will not be automatically sent to successful applicants. Successful applicants will be advised in the award letter they can request the narrative along with a one-on-one evaluation meeting

Adopted.

CLARIFICATION: Formally remove CHDO Pre-development Loan as an eligible HOME budget line item

Adopted.

CLARIFICATION: Change the name of the *Project Planning* criterion to *Project Planning and Need*

Adopted.

CLARIFICATION: Applications must receive at least 100 out of 200 points for the Financial Management criterion in order to be ranked

Adopted.

ADDITIONAL COMMENTS RECEIVED

➤ Request to change of status for entitlement cities to allow them to become qualified entities under the single Family Noncompetitive Program.

Not adopted.

➤ **American Dream Downpayment Initiative:** MDOC granted the three entitlement cities of Billings, Great Falls, and Missoula a portion of the American Dream Downpayment Initiative (ADDI) funds the state received. The ADDI program has since sunsetted; however, the three entitlement cities are beginning to recapture some of the ADDI funds initially invested in homes that are now being resold. If an entitlement city wishes to retain those recaptured ADDI funds to use on future homebuyer activities, rather than returning those funds to MDOC, the city will need to complete a management plan, in the format acceptable to and subject to approval by MDOC; execute a contract with MDOC; and follow policies adopted by MDOC. Any entitlement city that elects to participate in reuse of ADDI funds can continue to do so as long as there is a valid

contract between it and MDOC. Once a valid contract no longer exists, the recaptured ADDI funds would need to be returned to MDOC.

The HOME program submitted a request to HUD to allow the entitlement cities to retain any recaptured ADDI funds and incorporate the funds into their normal operations without oversight from the state HOME program. The HOME program was not successful.

- Comments regarding **Soft Costs** were received. The HOME Program reiterates that it can only reimburse soft costs if those costs are directly tied to an address of the project or individual being assisted. These costs must be reasonable and necessary costs associated with the financing or development (or both) of new construction, rehabilitation (including homeowner rehabilitation), or acquisition of housing (including homebuyer assistance) assisted with HOME Funds. According to HUD regulations, if costs are incurred for an activity that ultimately does not receive HOME assistance, the HOME Program cannot reimburse the Grantee for those costs.

Costs related to a TBRA program are NEVER project-related soft costs. Costs associated with administering or providing TBRA assistance cannot be reimbursed by the HOME Program.

Indirect costs are NOT project-related soft costs (i.e. an approved cost allocation plan cannot be used to determine project-related soft costs). Indirect costs cannot be reimbursed by the HOME Program.

- Comments were received regarding the issues associated with the **prepayment of HOME-funded deferred payment loans** before the period of affordability on the property expires. The HOME Program understands the concerns Grantees have regarding prepayment; however, to date, all guidance the Montana HOME Program has received from HUD states that all other affordability requirements remain in place if the repayment of HOME funds is not due to sale of the property or foreclosure. Until the Montana HOME Program receives definitive guidance to the contrary from HUD, it will continue to strongly recommend that Grantees not allow prepayment of the HOME funds.