

## Appendix A: Draft 2016-2017 Annual Action Plan Public Comments and Agency Responses

The drafts of the 2016-2017 Annual Action Plan (“Draft Plan”) was made available on March 3, 2016 for a 30 day public comment period ending April 4, 2016. The State of Montana held a public hearing on the Draft Plan on March 25, 2016, and recorded a [transcript](#) of all comments received at the hearing. All comments received in writing and at the hearing were considered, and the State of Montana’s responses to each comment are provided below.

### ***Comments Received and Responses Thereto***

**Homeword, Inc.**

**Andrea Davis, Executive Director**

**Heather McMilan, Housing Development Director**

#### ***Comment #1:***

We support any efforts to work with the right agencies within the State of Montana to allow the utilization of alternate project delivery methods that are approved by other HOME jurisdictions and other State funded projects. HomeWord would support the effort on the contractor procurement and working with the Department of Labor as a group to look at different delivery models. I know it’s a Montana hiccup on why we can’t do HOME projects the way they are done in other states, and we’re exploring some delivery methods that we’re really excited about and would like to at least open the door and do any policy work or have a group discussion about how to approach making changes, if necessary, to make that easier.

#### ***Response to Comment #1:***

Commerce is committed to working with our local government and non-profit partners to find innovative ways to administer the HOME program in the State of Montana. While the alternative delivery method of Construction Manager At Risk is allowed under Montana state law and under federal law for architecture and engineering services, the HUD regulations governing procurement for HOME and CDBG funded construction projects over \$150,000 requires a sealed bid method with public solicitation and a firm-fixed-price contract, with the bid being awarded only to the lowest responsible bidder. (See 2 CFR §200.51(a), 200.101(b)(1), 200.319(a)(1)-(7), 200.320(c), 200.320(d)(5); 24 CFR § 92.505(a), and 570.502.) Commerce staff will continue to research HUD regulations and other state programs to determine if there is a legal way to allow for CMAR in HOME and CDBG-funded projects in Montana.

#### ***Comment #2:***

In both instances, competitive and non-competitive processes, we urge MDOC to allow CHDOs to apply directly for State HOME funds. CHDOs are allowed certain advantages within the HOME Program due to the requirement to meet a high set of criteria. These allowances within the HOME Program structure are intended to allow CHDOs the ability to meet their core mission of providing their services to those in need. With the diverse nature of rural and urban local governments, the capacity to undertake a HOME application and compliance is potentially over-burdensome and underfunded. This could impact the ability to get a project done. The local jurisdiction is and can be still involved, but should not be required to be the applicant for any CHDO developed and/or owner projects or activities.

#### ***Response to Comment #2:***

When the State distributes HUD assistance under HOME or CDBG to a unit of general local government, it is authorized to exercise HUD’s responsibilities to receive public notices, requests for release of funds, and certifications from recipients; accept objections thereto; and approve the local government’s certification

and request for release of funds. (24 C.F.R. §§ 58.4(b)(2); 58.18(a)(2).) The Department proposed to limit eligible HOME entities to local governments to streamline and localize the environmental process, allowing for substantive environmental review and decision-making at the local and state level per HUD regulations. (See 24 C.F.R. §§ 58.2(a)(5)(i), 58.2(a)(7)(i), 58.4(a).) In addition, it is important from a community development perspective for a local government to be aware of, support, and plan for a variety of housing types within its jurisdiction.

Commerce agrees with the commenter that CHDOs are capable partners with a strong record of planning, developing, and managing affordable housing projects and activities. The intent of the proposed change was to provide a start-up process that is as streamlined as possible for grantees and supported by local governments. However, Commerce acknowledges that other concerns, such as those regarding the capacity of the eligible entity, are important as well. Therefore, in response to widespread concern with this proposal, Commerce has removed the proposed eligibility requirement that HOME funds must be awarded to a unit of local government. Instead, the State of Montana will continue to encourage a collaborative process between local governments and eligible entities in HOME funded projects.

**Cascade County**

**Joe Briggs, Cascade County Commission Chairman**

**Jane Weber, Cascade County Commissioner**

**Jim Larson, Cascade County Commissioner**

***Comment #3:***

We believe the HOME funds should continue to be cycled through Certified Housing Development Organizations and Human Resource Development Councils. The counties do not have the time or the administrative capacity to manage the process; and this proposal imposes additional bureaucratic work for our rural areas wishing to access the program. Therefore, we request you continue to allow CHDO and HRDC to be the grantees of these funds, rather than requiring funds to go through local government entities.

***Response to Comment #3:***

Please see Response to Comment #2.

***Comment #4:***

The Annual Action Plan proposes a limit of \$30,000 per unit [for HOME program funds]. We support the initiative to raise that limit to \$40,000 in high costs areas throughout the state and where a disabled individual is within the family.

***Response to Comment #4:***

The HOME program historically only allowed \$30,000 per benefited household, but the 2015 Annual Action Plan increased this amount to \$40,000. In addition to this change, the 2016 Annual Action Plan allows greater flexibility in the HOME program regulations by determining the total HOME grant award for each applicant through underwriting criteria and subsidy limit determinations within the HOME maximum unit subsidy limit as established by HUD.

***Comment #5:***

We support the proposed amendment to the Annual Action Plan allowing more flexibility regarding lead paint inspections in homes built prior to 1980. The proposed change will permit more homes for potential HOME assisted financing.

***Response to Comment #5:***

As proposed in the draft Plan, Commerce has modified all lead-based paint requirements to reflect the minimum requirements for lead-based paint established by HUD.

**GL Development**  
**Gene Leuwer**

***Comment #6:***

I support the plan you have proposed and the goals for the Federal funds covered by the plan.

***Response to Comment #6:***

Thank you for your comment.

***Comment #7:***

I encourage you to consider some small changes that may make the HOME and HTF programs more user friendly to local projects. Some local governments may be reticent to use the funds on behalf of CHDO's if the cost of sponsoring those grants is not recoverable. If local governments are required as grantees for CHDO's and other non-profits it may be worth allowing more than one, or several, open grants at a time for each applicant.

***Response to Comment #7:***

See Response to Comment #2.

***Comment #8:***

My sense is that some smaller government entities may not have familiarity or capacity with HOME or CDBG grants. Some mechanism to increase State capacity to support local governments who are not familiar with HOME processes and requirements may be useful.

***Response to Comment #8:***

Commerce will continue to encourage a collaborative process between local governments and eligible non-profit and for-profit entities who are considering applying for HOME or CDBG funding. The goal of this collaboration will be to build capacity, support planned community development, and increase public and private partnerships to carry out successful projects. Commerce will continue to provide training to all eligible entities to help educate and promote coordination and partnerships between all entities on HOME and CDBG funded projects.

***Comment #9:***

For HOME and HTF projects, it may be worth some mechanism for project sponsors and developers to recover costs incurred and to be able to be paid for time and effort in project development costs.

***Response to Comment #9:***

The HOME Program is reviewing current state guidance and limitations on HOME-eligible costs to further allow for greater flexibility to be used for documented, HOME-eligible costs associated with specific projects that provide affordable housing.

**NeighborWorks**  
**Sheila Rice, Executive Director**

***Comment #10:***

The amount of HOME funding [for downpayment and closing cost assistance] has been reduced to \$500,000; only one-sixth of the total HOME grant. Although this may seem like enough given the program income coming in from the payoff of deferred mortgages, there needs to be a way to increase the amount if there is a need for more funding in the program.

**Response to Comment #10:**

In response to the comment, Commerce has increased the allocation of HOME program funds for homebuyer assistance to \$600,000, but anticipates that a significant amount of program income will be available to assist eligible households. Please note that if this increased allocation of funds is not utilized, the State will have to process an amendment to the 2016-2017 Annual Action Plan to use the funds for other eligible purposes.

**Comment #11:**

The maximum amount of the per homeowner award should be increased to \$40,000 reflect the higher cost of housing, which has increased dramatically since the recovery started and are now above the pre-recession levels.

**Response to Comment #11:**

See Response to Comment #4.

**Comment #12:**

The HOME funds should not be funneled through unit of local governments, in particular the non-competitive HOME funds. To do so, adds another layer of administration and costs 15% of the HOME funds or \$405,000, which could be better used in direct assistance to homebuyers or other HOME projects. CHDO set-aside must go to Community Housing Development Organizations, not to local governments.

**Response to Comment #12:**

See Response to Comment #2.

**AWARE, Inc.  
Michael O'Neil**

**Comment #13:**

I'd like to just begin with some encouragement and comment about the consolidated plan process. I would ask that the Consolidated Plan take steps kind of going back to some older methods to make the process as transparent and understandable to all citizens of Montana, particularly highlighting proposed changes in programs in easily understood language; stating the rationale for a proposed change and some potential impacts of those changes highlighted. You could show cross-out, now that you've adopted a new template. Or a better format is, in advance of the hearing, a memo or something that would go out along with the announcements highlighting. I have about 25 years in the field; I found it difficult to track the changes. Without highlighting, it makes me anxious that I have to read every word carefully.

24 CFR 91.115 indicates one of the primary purposes of the consolidated plan process is to encourage participation by low and moderate-income persons, potential beneficiaries of the CP programs, including persons with disabilities. The State is expected to, and I quote, "take whatever actions are appropriate to encourage participation of all of its citizens." In presenting changes without highlighting them – And it's a simple making any proposed changes be easily identified in consolidated plan documents and make it understandable to everyone as to their impact. I think it's the least we can do to encourage citizen participation for all citizens of Montana.

**Response to Comment #13:**

Commerce appreciates your comment and the specific proposal for increasing public participation in the consolidated planning process. During the switch to the new econ-planning suite process and format, there was no simple or understandable way to highlight specific changes in the document. Now that the Consolidated Plan and Annual Action Plans are into the new electronic format, Commerce will be able to more clearly and succinctly identify changes to the document on an annual basis. For the proposed amendments to the 2015-2016 Annual Action Plan, Commerce did use a strikethrough (for deleted

language) and underline (for added language) technique to assist those reading and understanding the proposed amendment as suggested by the commenter.

**Comment #14:**

In addition, I would encourage the more informal processes that allow us to make good public policy and be collaborators and partners in making public policy. A major topic at the Governor's Housing & Construction Key Industry Network was the ability to collaborate with industries and stakeholders on making public policy. The Housing Coordinating Team is an excellent venue for making those changes, among a whole variety of other things, including e-mails and making contact with folks being impacted.

**Response to Comment #14:**

Commerce is part of the Housing Coordinating Team, which is an important venue to discuss collaboration and policy. In fact, as part of the 2015-2020 Consolidated Plan process, Commerce merged the Housing Coordinating Team email listserv with the existing CDBG and HOME listservs to create a consolidated planning process listserv that receives all notices and information regarding opportunities for public comment and engagement concerning the consolidated planning process. Commerce encourages its partners to continue working with other organizations and individuals that benefit from HUD programs to solicit comment and improve the programs.

**Comment #15:**

The community housing development organization is an innovative piece of the HOME program. When the program was developed originally in, I think, 1991, the community housing development organization (CHDO) structure was intended to create flexibility in better meeting housing needs. And one of the primary things made available was that a CHDO could directly apply for funds.

Overall, if I'm reading the Consolidated Plan Annual Action Plan change correctly, it would require that all applications to the HOME program be submitted on behalf of CHDOs by local government. I believe this just generally would impact all housing activities. I believe that this would place an additional burden and potential barrier in making application. Local governments at times have not been our allies to actually open up community living opportunities for people with disabilities. It would be a significant time and cost burden to get the local government to sponsor your application. In the implementation of the project during the project stages, it adds additional administrative burden. I can't imagine local government is going to want to do this for free; they would probably take any administration fee. And so, again, CHDOs, where in Montana we provide no support for CHDO administrative activity, would lose all or part of that administrative funding that would come through the funding. And also, the barrier – I think it actually makes it less clear and less transparent for the HOME program to administer the actual project, the processing of invoices and things like that, and the accounting for program funds. Then finally, it adds that administrative burden in the compliance period, which is upwards of 20 years in some cases, where you would have to go through – again, through the local government to be submitting that annual paperwork. It would undermine the ability to get housing, homebuyer assistance out across the state in an efficient, effective fashion.

Please maintain the current ability for CHDOs to directly apply for housing assistance without going through an intermediary local government.

**Response to Comment #15:**

See Response to Comment #2.

**Comment #16:**

Another comment I would like to make is specific to a change related to the homebuyer assistance, the proposal they would place a limit of \$30,000 per purchase on homebuyer assistance. We've had the

ability and we've worked – AWARE has worked alongside NeighborWorks to promote home ownership for people with disabilities, and there has been allowance in the NeighborWorks Montana program, for example, that allowed for upwards of \$40,000 of homebuyer assistance to go to families with a family member with a disability living in the household. That has opened – has been, in many cases, the difference in making home ownership possible or not. It allows individuals and families with disabilities to have housing that better meets their needs, and at a much lower cost to themselves and sometimes to other government programs. We would ask that you would not cap at \$30,000 and leave that flexibility for higher needs for people with disabilities and for high-cost areas.

***Response to Comment #16:***

See Response to Comment #4.

**District XI Human Rights Council  
Ruth Burke, Financial Officer**

***Comment #17:***

I agree that participants of the process should receive highlights of the changes and we should not have to look for the needle in the haystack and have to read the whole document to find the changes.

***Response to Comment #17:***

See Response to Comment #13.

***Comment #18:***

I agree that requiring that a CHDO apply for HOME funds through a local government is a barrier. District XI HRC administers HOME homebuyer funds in three counties. If we have each local jurisdiction sponsor the homebuyer program, this would create jurisdictional gaps in services, where, for example, you may be able to get assistance in Stevensville but not Hamilton.

This is an unnecessary restriction that would have a negative effect on the program administration and a disparate effect on our borrowers and unnecessary bureaucracy.

***Response to Comment #18:***

See Response to Comment #2.

**NeighborWorks Montana  
Maureen Rude, Executive Director**

***Comment #19:***

My first comment is related and is similar to the other comments, and it relates specifically to the Annual Action Plan, and that is the section where local governments would have to be the applicant for this homebuyer assistance. We work right now with 31 different jurisdictions, and we have six more cued up who would like to be part of our program. So having to have individual contracts on the part of Department of Commerce with each of those local governments and everything have to flow through them would be a burden not only for us, but on your staff, and I think it would be very difficult to achieve.

I had some work done on our actual loan volume, and we've had loans in nine counties, just in the counties – I didn't even have them divide up into the individuals cities – that we have separate agreements within those counties. We've been really successful at making that program work, as have our partner organizations who administer the program in their areas.

***Response to Comment #19:***

See Response to Comment #2.

**Comment #20:**

My second comment is also reflected in Michael's comments, but that is, in both the Amendment and the Action Plan, there's a limit of \$30,000 per unit. We encourage that limit to be raised. Right now, we do \$25,000 and then \$40,000 in high-cost areas or for households with a family member with a disability. And we don't go up to that limit unless we need to, because we do our calculations, and we only give them the amount that they need. So maybe similar to what you're doing in terms of how much entities can apply for, maybe rather than having a hard limit, it's about serving them with how much they really need in order to achieve home ownership rather than having a dollar limit. So I urge you to consider that.

**Response to Comment #20:**

See Response to Comment #4.

**Comment #21:**

And then lastly, I want to comment in a positive manner about the changes made in the Amendment on the lead-based paint. We've had a lot of heartache over that and a lot of discussion. But I also think there's some opportunity there, perhaps, in working with some other entities, including a private contractor who is willing to work with us on some kind of application to the EPA or some other entity to try to obtain some funding to pay for that testing, and they're willing to reduce their charges for doing the testing. And I think that there is some opportunities to work with the private sector on that.

**Response to Comment #21:**

See Response to Comment #5.

**Comment #22:**

And then I concur with the changing the ceiling or lifting the ceiling on the total amount for CHDOs. Thank you.

**Response to Comment #22:**

See Response to Comment #4.

**District IX Human Rights Development Council  
Tracy Menuez, Community Development Director**

**Comment #23**

Thank you for showing changes in the Amendment. It's very helpful.

**Response to Comment #23:**

See Response to Comment #13.

**Comment #24**

We strongly encourage the Department to reconsider the requirement in the Consolidated Plan that the CHDO applications be submitted by a unit of local government. We're going through that on a project right now, and I can attest that it's definitely added a layer of burden between the two organizations. And, you know, with the current CHDO guidance for administrative funds, it's an unfunded burden as well. The application already requires that we work with the local government as far as support. A lot of the communities we work in are very small; they don't have staff for this. And really, the administrative requirements now flow both to the county or city and to the organization. SO from the audit perspective, those are some big obstacles to overcome. And I think they could stop a lot of projects in small communities.

**Response to Comment #24:**

See Response to Comment #2.

**Comment #25:**

We also are supportive of removal of the cap; we think that's great.

**Response to Comment #25:**

See Response to Comment #4.

**Comment #26:**

We would like to continue working with the Department to continue exploring how we can utilize HOME funds under a resale method that we could use in community land trusts. Because I think that HOME is a great opportunity for community land trust projects, and we'd like to figure out how to make those work.

**Response to Comment #26:**

Commerce will continue to research and collaborate with our partners on opportunities to provide affordable housing through the community land trust model.

**Comment #27:**

Under the noncompetitive program, we'd echo the same sentiment regarding the local government requirements that have already been stated. You know, we work under incredibly tight time frames, and adding another layer to that process can certainly – it's difficult, when we're working with our lenders and our realtors, to get them familiar enough with the process. So we would definitely encourage you to not add another layer beyond what's already in place. I think that the relationships are working quite well as they are.

**Response to Comment #27:**

See Response to Comment #2.

**Comment #28:**

We would also support removing that cap for those high-cost areas and for disabled families.

**Response to Comment #28:**

See Response to Comment #4.

**Comment #29:**

And we'd also encourage, you know, consideration of allowing for conventional mortgages. Some of the communities we work in, it's very difficult to secure FHA or rural development, and so allowing for some other types of mortgages would be very helpful.

**Response to Comment #29:**

The commenter is referring to a requirement contained in the current HOME guidelines dated March 2013. Commerce is currently in the process of a comprehensive update to the HOME guidelines, and this limitation on conventional mortgages is one of the issues being considered for modification. Commerce encourages you to review and comment on the proposed new HOME guidelines later this summer.

**City of Missoula and Missoula County**  
**Nancy Harte, Senior Grants Administrator**

**Comment #30:**

A number of groups have weighed in about that requirement that CHDOs apply through local government. We generally are more supportive of the CHDOs' point that having CHDO applicants come through the local government slows things down. I think one of the main reasons for putting this new policy into place was so that there would be better communication with the local governments to know what projects are going on in their communities, and I think that's a laudable goal. I understand the



motive, and I think it's a good motive and something that ought to be done so that local governments are kept into the loop.

Certainly, for an entitlement and PJ city like Missoula, it's a little bit easier because we do have staff that regularly deal with HOME programs. And I could see this being quite a burden for smaller communities, and certainly for projects that cross jurisdictions, multiple counties and multiple cities and that kind of thing. And I think it's particularly exacerbated by the fact that there is no administration funding attached to this. And the other concern that we have was whether that would, would limit the number of applications that could come from a community. For example, if there is a CHDO in Missoula County, more than one CHDO that wants to apply currently, those CHDOs can apply on their own, and then the County can apply on its own as well. I'd hate to see it constricted so that there's only one application allowed from a county, because different counties have different needs, and some counties have greater needs than others in terms of the need for affordable housing.

***Response to Comment #30:***

See Response to Comment #2.

**District XI Human Rights Council  
Ruth Burke, Financial Officer**

***Comment #31:***

On the limit of \$30,000 per unit, I encourage a higher limit. Sixty percent of our homebuyers in the last three years were over \$30,000. The borrowers are limited in the program to borrowing only as much as needed. Limiting the maximum to \$30,000 will make working with lower-income borrowers even more difficult than it currently is.

***Response to Comment #31:***

See Response to Comment #4.

**HomeWord, Inc.  
Andrea Davis, Executive Director**

***Comment #32:***

I want to support comment provided by all the testimonials today. I don't want to repeat.

***Response to Comment #32:***

Thank you for participating in this public process. See previous Responses to Comments.