

ANNUAL AGREEMENT FOR THE EXECUTION OF THE HOME INVESTMENT PARTNERSHIPS PROGRAM

This Agreement, made and entered into this 20th day of December, 2021 and between the **City of Concord**, a municipal corporation organized and existing under the laws of the State of North Carolina, and serving as the lead entity of the Cabarrus/Iredell/Rowan HOME Consortium (hereinafter "City"), and **Rowan County**, a body politic and incorporated under the laws of the State of North Carolina (hereinafter "Agency") has been designated to receive **\$178,220** in project funds and **\$10,693** for administrative costs; and

WITNESSETH:

WHEREAS, the City has entered into an Agreement to receive funds for a Home Investment Partnerships Program (hereinafter "Funding Agreement") with the U.S. Department of Housing and Urban Development (hereinafter "HUD"); and

WHEREAS, it is the purpose of this agreement to effect a specified portion of the program approved by the Funding Agreement in accordance with the policies expressed by and declared in Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (hereinafter "Act"); and

WHEREAS, pursuant to said purpose the Agency is undertaking certain activities and desires to engage the City to render certain assistance in such undertakings.

NOW, THEREFORE, for valuable consideration and mutual promises exchanged between the parties hereto, it is agreed as follows:

A. SCOPE OF SERVICES:

1. The services to be performed pursuant to this Agreement (hereinafter "Project"), shall be those specified in the Scope of Services (attached hereto as **Attachment A**), and under the Project Title(s), **Owner-Occupied Rehabilitation**, in the Action Plan submitted by the City and approved by HUD as that Action Plan now reads or as it may later be modified in accordance with regulations promulgated by HUD.
2. The City may, from time to time, request changes in the scope of service of the Agency to be performed hereunder. Such changes, including any increase or decrease in the amount of the Agency's compensation, which is mutually agreed upon by and between the City and the Agency, shall be incorporated in written amendments to the Agreement.

B. DURATION OF AGREEMENT:

This Agreement shall be effective as of the **6th day of January 2021**, and shall remain in effect during the period of affordability required by the Act under 24 CFR Part 92.252 or 92.254.

C. TERMS AND CONDITIONS:

1. The Agency shall enforce this agreement through a promissory note and deed of trust on all real properties receiving an investment of HOME funds which require compliance with all applicable HOME Program requirements. This Agreement shall be considered breached if the Agency

materially fails to comply with any term in this Agreement and shall result in the termination of this Agreement and the recapture of all HOME funds disbursed to the Agency.

2. The Agency shall assume responsibility for managing the day-to-day operations of its HOME program to assure compliance with program requirements outlined in 24 CFR Part 92 and for taking appropriate action when performance problems arise.
3. The Agency shall take full responsibility for ensuring that housing projects assisted with HOME funds meet the affordability and resale requirements of 24 CFR 92.252 or 92.254 as applicable, and shall repay its award of HOME funds in full to the City if the housing does not meet the affordability requirements for the specified time period.
4. The Agency shall retain as program income all repayment, interest, and other return on the investment of HOME funds in a separate local account for use to fund additional eligible HOME activities of the Agency's choosing and agrees to invest all returns on HOME investments in other eligible activities before drawing down additional HOME funds from the City of Concord.
5. The Agency shall request disbursement of HOME funds only after local match funds have been expended to complete each project.
6. The Agency shall submit a fully executed Project Completion Report to the City no later than 10 days following occupancy of each completed housing unit.
7. The Agency shall require all owners of housing assisted with HOME funds to maintain the housing in compliance with applicable Housing Quality Standards and local housing code requirements for the duration of the agreement.
8. The Agency shall, where applicable, review the activities of owners of rental housing assisted with HOME funds to assure compliance with the requirements set out in 24 CFR Part 92 not less than annually. Each review must include an annual onsite inspection to determine compliance with housing codes and the HOME Program requirements. These inspections shall be conducted for each unit in a period during the project's period of affordability.
9. The City shall hold the Agency responsible for complying with the provisions of this agreement even when the Agency designates a third party or parties to undertake any part of the program. The Agency shall not pass on their administrative responsibility to insure compliance with all applicable regulations. All third parties must be bound in writing to the same provisions as required in this agreement.
10. None of the following or their immediate family members, during the tenure of the subject person for one year thereafter, shall have any direct or indirect financial interest in any contract, subcontract or the proceeds thereof for work to be performed in connection with the program assisted under this agreement: Employees, agents, or officials of the Agency, including members of the governing body, who exercise any function or responsibility with respect to the program. The same prohibition shall be incorporated in all such contracts and subcontracts.
11. The assistance provided under this agreement shall not be used by the Agency to pay a third party to lobby the United States government for funding approval, approval of applications for additional assistance, or any other approval or concurrence of HUD required under this agreement. However, HOME funds may be used to pay reasonable fees for bona fide technical, consultant, managerial or

other such services, other than actual solicitations, provided these services are eligible as a program cost.

12. The Agency shall reimburse the City for any amount of HOME funds determined by HUD to have been improperly expended, and the City shall retain the right to recover any questioned costs or overpayments from the Agency.
13. Upon termination, the Agency shall remit any unexpended balance of advanced payments on account of the Grant as well as such other portions of such payments previously received as determined by the City to be due and the action of the City in accepting any such amount shall not constitute a waiver of any claim which the City may otherwise have.
14. The Agency shall allow the City to carry out monitoring and evaluation activities as determined necessary by the City and HUD.
15. In the event of termination, all property and finished or unfinished documents, data, studies, and reports purchased or prepared by the Agency under this Agreement shall, at the option of the City, become the property of the City.
16. The Agency is required to have fifty percent (50%) of its funds obligated by March 1, 2022 and one hundred percent (100%) by October 1, 2022. If funds are not obligated by these dates, the Consortium may recapture the unobligated funds.

Funds must be 100% drawn down by July 1, 2024. If all funds are not drawn by this date, the balance will be recaptured by the Consortium and reallocated. All member governments and Community Housing Development Organizations (CHDOs) will have the opportunity to apply for recaptured funds via a competitive application process. Applicants that can expend the money in the shortest amount of time will rank highest.

In the event the draw down deadline is not met due to an extenuating circumstance, the deadline may be extended upon approval by the full consortium.

17. The Agency shall comply with all labor standards, nondiscrimination and equal opportunity responsibilities outlined in Title 24.
18. The Agency shall conduct all environmental reviews, including but not limited to environmental assessments, environmental impact statements or other required environmental studies, pursuant to 24 CFR 58 et seq., in a timely manner. Agency shall also comply with all applicable environmental laws, including but not limited to all laws governing environmental impacts, environmental policy, sedimentation, erosion control wetlands, water quality, storm water quality, floodplain management, air pollution, resource conservation and recovery, hazardous or toxic materials of any kind or any other environmental or nuisance ordinance, statute or rule listed in 24 CFR 58.5 and 58.6. Environmental reviews requiring public comment shall be presented to the City for inspection no less than 15 days prior to advertising, as required by 24 CFR 58.56. In the event that the City, the U.S. Department of Housing and Urban Development, U.S. Environmental Protection Agency, N.C. Dept. of Environment and Natural Resources, U.S. Army Corps of Engineers or any other governmental body having jurisdiction finds that any environmental review was not properly conducted or is in any way inadequate, the Agency shall fully indemnify and save harmless the City, its agents, officers, and employees, to the maximum extent allowed by law, from and against all charges that arise in any manner from, in connection with, or out of this contract as a

result of the acts or omissions of the Agency, its contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable in regard to the environmental reviews described above and in 24 CFR 58.5 and 58.6. The Agency shall not be liable for damage or injury caused solely by the negligence of the City its agents, officers, or employees. In performing its duties under this section, the Agency shall at its sole expense defend the City of Concord, its agents, officers, and employees with legal counsel reasonably acceptable to City. As used in this subsection, "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, interest, reasonable attorney's fees, and amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section shall remain in force for a period of one year from the completion date of Work despite termination of this Agreement (whether by expiration of the term or otherwise) and termination of the services of the Agency under this Agreement.

19. The Agency shall ensure that the City has sufficient time to review and comment on all environmental reviews as defined in paragraph 18, environmental assessments and environmental impact statements that may have an impact on Agency's program(s). The Agency and City depending on the length and complexity of the assessment or impact statement shall determine "sufficient time".
20. The Agency shall hold the City harmless for not certifying a project for the release of funds, or for failing to approve an environmental assessment, or not make a "finding of no significant impact" if the City did not certify a project because the City did not complete an environmental review (as defined in paragraph 18 above) or because the City was unable to make the certification in good faith.

D. FUNDING AND PAYMENT:

1. The City will provide the Agency with funds received from HUD for the Project in accordance with the approved budget for the Project (hereinafter "Project Budget") or the actual cost of the Project, whichever is less. The payment procedure under this Agreement shall be in accordance with the following method: Payment shall be on a reimbursement basis, and upon receipt by the City of a Requisition Form, (which shall be provided by the City) which shall reflect expenditures and incurred expenses by budget line item. The Agency shall also provide support documentation such as invoices for all expenditures included on the Requisition Form.
2. Requests for funds shall be made on a reimbursement basis and shall be received by the City within thirty (30) days of the date the expenditure was made. Checks will be distributed by mail on Fridays. Requests for checks must be received by 5:00 PM the preceding Friday so as to be processed for the next check run.
3. Payments under this Agreement are limited to those HOME funds specified in the Project Budget, but in no event will the total compensation and reimbursement, if any, to be paid hereunder exceed the maximum sum of the agency's total allocation.
4. The Agency may contribute all or a portion of their annual allocation to a Community Housing Development Organization (CHDO) participating in the Consortium's HOME program. A letter of endorsement from the City/County Manager or Board Chairman must accompany the annual application in which the contribution and resulting allocation reduction is addressed. In doing so,

the Agency will forfeit a percentage of their administration allocation. The amount allocated to the Agency for administration costs will be six percent (6%) of the HOME funds retained for use by the member agency. No administration costs will be provided for the portion the agency allocates to the CHDO. The forfeited portion of administrative funds will be retained by the lead agency (the City) to offset administration costs.

5. The Agency may use their allocation of HOME Program administrative funds to pay for costs relating to (a) oversight, coordination and general management of HOME project(s); (b) staff and overhead costs; (c) public information costs; (d) cost of fair housing; and (e) costs of complying with Federal requirements, per 24 CFR 92.207. Program administration includes, but is not limited to, the following types of assignments: Developing systems and schedules for ensuring compliance with program requirements; developing agreements with entities receiving HOME funds; monitoring HOME-assisted housing for progress and compliance with program requirements; preparing reports and other documents related to the program and projects; providing local officials and citizens with information about the program; preparing program budgets and schedules; outreach activities; monitoring program activities to assure compliance with program requirements; coordinating resolution of monitoring findings; and managing or supervising persons whose primary responsibilities are with regard to the program. Also included are, travel costs incurred for business in carrying out the program; administrative services performed under third party contracts or agreements (such as legal or accounting services); and other costs for goods and services required for administration of the program.
6. The Agency may use HOME program funds to pay for project-related soft costs, which are costs related to the development or financing of HOME-assisted housing. These costs must be reasonable and necessary costs that are associated with the financing or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HOME funds. These soft costs must be consistent with the requirements of 24 CFR 92.206 and specifically 24 CFR 92.206 (d) (6). However, in no event will the project-related soft costs exceed ten percent (10%) of the Agency's total HOME funds identified in Attachment B of this agreement.

Project related soft costs include such things as work specification preparation; loan processing; construction inspections and oversight; professional services required to prepare plans, drawings, or specifications of a project; costs to process and settle the financing for a project, such as a private lender origination fees, credit reports, fees for title evidence, recordation and filing or legal documents, building permits, attorney's fees, private appraisal fees, fees for independent cost estimates, builders or developers fees, and impact fees that are charged for all projects within a jurisdiction; pre-purchase homebuyer counseling for a HOME-assisted homebuyer; and, costs associated with a project-specific environmental review.

7. The Agency shall certify that the match requirement of 24 CFR 92.218-222, when applicable, will be adhered to, and that non-federal funds in the sum of not less than twenty-five percent of project costs shall be expended. The Agency shall expend non-federal funds as matching contribution in an amount not less than twenty-five percent (25%) of the total HOME funds requested for each eligible dwelling unit. Certification of match expenditures will be provided on a dwelling unit-by-dwelling unit basis and documented to the lead entity no less than quarterly. This procedure will be followed until the total amount of match funds has been met.

If the Agency has excess match they may elect to contribute such excess to another Consortium member's match liability. The contribution must be from nonfederal sources and permanent in

nature. The terms of the contribution shall be outlined in a written agreement between the two members. A copy of the executed agreement shall be submitted to the City.

E. BUDGET CHANGES AND INELIGIBLE EXPENSES:

1. Except for changes made in accordance with subsection (2) below, any and all alterations in the approved use of budgeted funds shall be subject to prior review by the City.
2. Funds may be shifted between line items of the Project without prior approval of the City only to the extent that such action does not exceed ten percent (10%) of the line item total from which the funds are being removed or to which the funds are being added.
3. A report of fund shifts not requiring prior approval by the City shall be reported in writing to the Planning & Development/Consortium Manager within three (3) days after its effective date.
4. Any costs and expenses not covered by the Project Budget, and; hence, eligible for payment from Grant funds, shall be borne entirely by the Agency.

F. RECORD AND REPORTS:

1. The Agency shall maintain and shall make available at reasonable times and places to the City such records and accounts, including property, personnel, and financial records, as are deemed necessary by the City and/or State and Federal agencies in order to assure a proper accounting for all Project funds.
2. The Agency shall provide any duly authorized City representative, representative of HUD and the Comptroller General of the United States, at all reasonable times, access to and the right to inspect, copy, monitor, and examine all of the books, papers, records, and other documents relating to the HOME funds and the fulfillment of this agreement for a period of three years following the completion of all close-out procedures respecting HOME funds, and the final settlement and conclusion of all issues arising out of the HOME loan.
3. The Agency shall provide quarterly reports to the City that denotes accomplishments, beneficiaries, problems encountered and changes in work schedule and any other information needed by the City to complete the Consolidated Annual Performance Evaluation Report and other reports required by HUD. This quarterly report shall also include an accounting of all program income received and/or expended during the quarter and year to date.
4. The Agency shall provide an Annual Audit Report to the City of Concord performed in compliance with Office of Management and Budget Circular A-133.

G. FINANCIAL ACCOUNTING:

1. The Agency shall establish and maintain fiscal and accounting records in accordance with generally accepted accounting principles and practices.
2. The Agency shall not commingle accounts to an extent that prevents the accounting and auditing of the funds provided hereunder; provided, however, the Agency may supplement the funds provided hereunder from other fund sources.

3. Funds provided hereunder are exclusively for the purposes of this agreement under the terms and conditions of the agreement, and the Agency shall not temporarily or permanently shift such funds to other programs or utilize for other purposes for any reason.

H. INSURANCE AND LIABILITY:

The Agency's chief financial officer or insurer shall ensure that all persons handling funds received or disbursed under this Agreement are covered by fidelity insurance in an amount consistent with sound fiscal practice.

Work to be performed as provided herein shall be done by the Agency as an Independent Contractor. The City shall not be liable for claims for damages or losses arising out of the performance of this Agreement by the Agency, its employees, officers or agents and the Agency shall indemnify and hold harmless the City, its officers, agents and employees from all such claims arising under this agreement.

I. RESIDENT ECONOMIC OPPORTUNITY:

1. The Agency shall take affirmative action to ensure that residents of the project area are given maximum opportunity for training, employment and business opportunities.
2. When qualified applicants are available, preference shall be given to residents of the project area in filling all training, business opportunities and jobs generated by the Program even where employment results outside the geographic boundary of the project area.

J. PUBLICITY:

The Agency shall make every effort in its publicity and in other ways, to fully inform the public concerning the Project. Any publicity given to the Project must recognize the Cabarrus/Iredell/Rowan HOME Consortium as the sponsor and the Project being funded by HUD through the HOME Investment Partnership Program. The City will, in all publicity originated by it concerning the Project, recognize the Agency as the entity responsible for carrying out the Project.

K. SUSPENSION OR TERMINATION FOR CAUSE:

1. The City, upon written notice to the Agency, may suspend or terminate payment of Grant funds to the Agency in whole or in part for cause which shall include, but not limited to, the following:
 - (a) Ineffective or improper use of Grant funds;
 - (b) Failure to comply with the terms and conditions of this agreement;
 - (c) Submission to the City of reports which are incorrect or incomplete in any material respect;
 - (d) Suspension of the Grant from HUD to the City in whole or part for any reason.
2. The City, upon written notice to the Agency, may also withhold payment of any unearned portion of the Grant if the Agency is unable or unwilling to accept any additional conditions that may be provided by law, by executive order, by regulations or by other policy announced by HUD.
3. If the City withholds payment, it shall advise the Agency in writing what action must be taken as a condition of precedent to the resumption of payment.

L. ASSIGNABILITY:

This agreement is expressly non-assignable without the prior written consent and approval of the City; nor may the Project be continued by a successor to the Agency herein named without the prior written consent of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement.

M. DOCUMENTS OF INCORPORATION:

This Agreement is expressly made subject to all Attachments hereto, to all of the attachments, provisions, requirements, federal, state, and local laws and the Cabarrus/Iredell/Rowan HOME Consortium Joint Cooperation Agreement and of the Funding Agreement between the City and HUD and to any and all requirements, whether federal, state or local, verbal or written, placed upon the City as lead entity of the Cabarrus/Iredell/Rowan HOME Consortium. All of the foregoing are hereby made a part of this Agreement and incorporated herein by reference. Examples of documents incorporated herein by reference include, but are not limited to, those set forth in **Attachment "C."**

N. MISCELLANEOUS PROVISIONS:

1. The singular of any term used in this Agreement shall include the plural, and the masculine shall include the plural, and the masculine shall include the feminine, and vice versa.
2. A signed copy of this Agreement shall be considered as an original.
3. All notices under this agreement shall be addressed to the following unless otherwise notified:

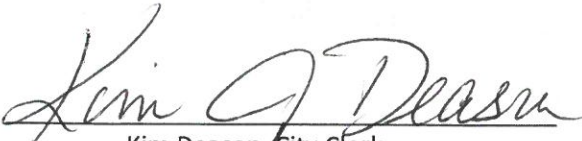
CITY OF CONCORD

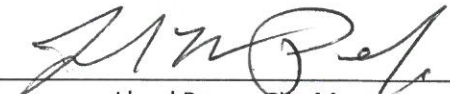
Attn: Pepper Bego
Federal Program Coordinator/Consortium Manager
Business and Neighborhood Services
P.O. Box 308
Concord, N.C. 28027-0308

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed on its behalf and attested; and the Agency has caused the same to be duly executed and attested on its behalf.

ATTEST:

CITY OF CONCORD



Kim Deason, City Clerk

By: 
Lloyd Payne, City Manager

(Corporate Seal)



APPROVED AS TO FORM


Valerie Kolczynski, City Attorney

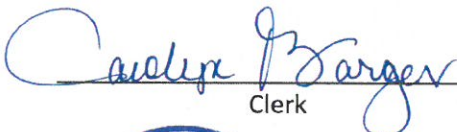
This instrument has been pre-audited in the manner required by the "Local Government Budget and Fiscal Control Act."


Pam Hinson, Finance Director


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ATTEST:

ROWAN COUNTY


Clerk

By:  
County Manager

11/30/2021



APPROVED AS TO FORM


Jay Weiss (Nov 22, 2021 08:31 EST)

County Attorney

This instrument has been pre-audited in the manner required by the "Local Government Budget and Fiscal Control Act."


Jim Hovden (Nov 29, 2021 10:22 EST)
Finance Director

Attachment A

Project Description

The 2020-21 HOME program allocation will be used to provide housing rehabilitation assistance to five (5) households within Rowan County limits, excluding the Salisbury and Kannapolis entitlement areas (see attached program service area map). Individuals or families whose incomes are 80% or less of the area median income are eligible for assistance. The program will be administered by Salisbury Community Development Corporation (SCDC), a 501(c)3 non-profit HUD-certified housing agency, under contract with Rowan County.

All Rowan County homeowners in the non-entitlement areas of Rowan County will be encouraged to apply for assistance. Applications will be accepted on a first-come-first-served basis. Applicants must meet program and HUD income guidelines to be eligible. Qualified owner-occupied homes will be inspected to determine feasibility for the program and to assess needed improvements related to livability, health and safety, and energy efficiency. Priorities include repairs that address immediate needs, such as leaking roofs or inadequate systems, to ensure a safe living environment, in addition to improvements that will reduce ongoing utility costs and keep the home affordable over the longer term.

For all eligible projects, a work write-up will be prepared by a qualified rehabilitation specialist and the work will be competitively bid. Section 8 contractors and women/minority-owned firms will be encouraged to bid on projects. Homes built prior to 1978 will be assessed for lead-based hazards, and where indicated by positive test results, lead abatement or removal will be completed only by certified lead abatement contractors.

The funding is provided by Rowan County at zero percent (0%) interest which will be forgiven at a rate of 12.5% per year, or eight (8) years from the loan closing date. No payments will be due as long as the owner continues to own and occupy the home as their primary residence. The homeowner may not sell, refinance, rent or change the ownership status of the home until the grant is forgiven unless repayment of the remaining balance is made.

Attachment B

SECTION III

PROJECT BUDGET AND FUNDING

III (a) Budget

Show all funding sources for the project or projects you plan to undertake. Be sure to include program income.

Project Revenue

	Source	Amount
HOME funds being requested		\$178,220
HOME funds from prior year(s)		
HOME Program Income		
Other Federal Funds		
State/Local Funds (list)		
Bank Loans (CICCAR)		
Other Cash Contributions	Property Donation	\$34,000
Other local loans		
Private Grants	2018 Urgent Repair Program	\$10,555
Total Funds Available*		\$222,775

* This total should be the same as your "Total Development Costs" total in the **Estimated Costs** table on page 7.

Provide the details of all loans and/or grants, other than HOME, listed above for the project.

ATTACHMENT C

CERTIFICATIONS

The following are made a part of this contract:

1. Office of Management and Budget Circular A-87 as applied to cost principles for State and local governments;
2. 24 CFR Part 85 as applied to Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments;
3. Title VI of the Civil Rights Act of 1964;
4. Title VIII of the Civil Rights Act of 1968, known as the Fair Housing Act;
5. Drug Free Workplace Act;
6. Provisions of 24 Code of Federal Regulations Part 92.357 as related to debarred, suspended or intelligible contractors;
7. National Historic Preservation Act of 1966;
8. 24 Code of Regulations Part 92 containing regulations for the HOME Investment Partnerships Program;
9. Furthering fair housing; and Executive Order 11063;
10. Section 109 of the Housing and Community Development Act of 1974 (the Act), as amended; and regulations issued pursuant thereto regarding prohibited discriminatory actions;
11. Requirements as set forth in 24 CFR Part 92.354;
12. The National Environmental Policy Act, as related to environmental standards and regulations contained in 24 CFR Part 58;
13. Section 202(a) of the Flood Disaster Protection Act of 1973, as amended, relating to the National Flood Insurance Program in accordance with 44 CFR Parts 59 – 79 and 24 CFR Part 92.358;
14. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD implementing regulations in 24 CFR Part 92.353;
15. Executive Order 11246, as amended by Executive Order 112086 and regulations issued pursuant thereto (41 CFR Chapter 60), relating to employment and contracting opportunities;
16. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act and implementing regulations contained in 24 CFR Part 35, Subpart B and 24 CFR 92.355 prohibiting the use of lead-based paint in residential structures;
17. The prohibition against employing, awarding of contracts to, or engaging the services of any contractor or subcontractor debarred, suspended or ineligible for federal funds under 24 CFR Part 24 and 24 CFR Part 92.537;
18. The conflict of interest provisions contained in 24 CFR Part 85.36 and 24 CFR Part 92.356 in the procurement of supplies, equipment, construction and services;
19. Executive Order 12372 Concerning intergovernmental review of federal programs including implementing regulations contained in 24 CFR Part 52;

20. Section 3 of the Housing and Urban Development Act of 1968, as amended, concerning Affirmative Action in the provision of training employment and business opportunities;
21. Americans with Disabilities Act (ADA).