



# **2013 HOME PROGRAM FINAL RULE**

## **OVERVIEW**

# Agenda

- New HOME Final Rule Background
- General Program & Administrative Changes
- CHDO Requirements
- Underwriting, Subsidy Layering, and Project Evaluation
- Rental Projects
- Homeownership Projects
- Property Standards
- Wrap Up

# Information Sources

OneCPD Resource Exchange: [www.onecpd.info](http://www.onecpd.info)

- Section by Section Summary
- 2013 Regulation Changes
- Consolidated HOME Rule – as revised
- Summary of effective dates
- Webinars
- Frequently Asked Questions
- Additional material in process – check web site



# **New HOME Final Rule Background**

# Background: Goals Objectives of the Revised Regulation

- Clarify existing regulatory requirements
- Establish new requirements that:
  - Enhance accountability and performance
  - Achieve more timely production of housing
  - Improve monitoring and oversight
  - Incorporate best practices as required procedures
  - Address CHDO capacity/performance issues
- Achieve alignment with other federal housing programs, where possible



# **General Program & Administrative Changes**

# General Program & Administrative Changes: Highlights

- Effective Dates
- Definitions
- Program/Project Timeframes & Deadlines
- Written Agreements
- Policies and Procedures
- Income Determination
- Eligible Costs
- Match

# Definition – §92.2 Commitment

Funding counts as a “commitment” for a project consisting of new construction or rehabilitation only when:

- All necessary financing has been secured
- A budget and production schedule has been established
- Underwriting and subsidy layering is completed
- Construction is expected to start within 12 months



# Preliminary Fund Award ≠ Commitment

Funding process can provide for a preliminary award of HOME funds for a proposed project:

- Contingent on obtaining financing, final underwriting and subsidy layering, environmental review, construction start 12+ months off, etc.
- **HOWEVER:**
- **Preliminary awards are not commitments!!**

# Definition - §92.2 Project Completion

- A project is “complete” when:
  - All construction work complete and property standards met
  - Final drawdown of HOME funds disbursed
  - Project completion information (beneficiary data) entered into IDIS
- Exception for rental, only:
  - Project can be completed in IDIS with units marked vacant
  - Beneficiary data must be entered at later date

# New Deadline Requirements

- Project Deadlines:
  - 4 year project completion deadline (one year extension?)
  - 9 month deadline for sale of homebuyer units
  - 18 month rental occupancy deadline
- 5 year CHDO expenditure deadline

# Written Agreements – §92.504(c)

- New rule revises the written agreement requirements to make them a more effective compliance, management and enforcement tool for PJs
- PJs must update written agreement templates to reflect all of the new rule requirements (not just those revisions in §92.504(c))

# Written Policies & Procedures

## Required now:

- Project underwriting & subsidy layering (§92.250)
- Homebuyer underwriting (§92.254(f))

## By 7/24/14:

- Risk-based monitoring (§92.504(a))

## By 1/24/15

- Rehabilitation standards (§92.251(b))
- Ongoing inspection procedures (§92.504(d)(1)(ii))

# Income Eligibility Determination §92.203

- Income determination provisions revised to require that PJs must:
  - Examine at least 2 months of source documentation
  - Count income of ALL adult household members
  - Use single definition of income for each HOME program its administers, or for each rental project
- Rule eliminates Census Long Form as allowable annual income definition

# Eligible Costs

- Tenant-Based Rental Assistance: cost of unit inspections and income determinations are eligible project-related soft costs (§92.209(a))
- Project Pre-Development Costs: PJs may reimburse developers for pre-development soft costs incurred up to 24 months before commitment of HOME funds (§92.206(d)(1))
  - Eligible pre-development costs are those necessary to develop and prepare plans, drawings, specs or work write-ups, etc.
  - Written agreement must specifically permit reimbursement

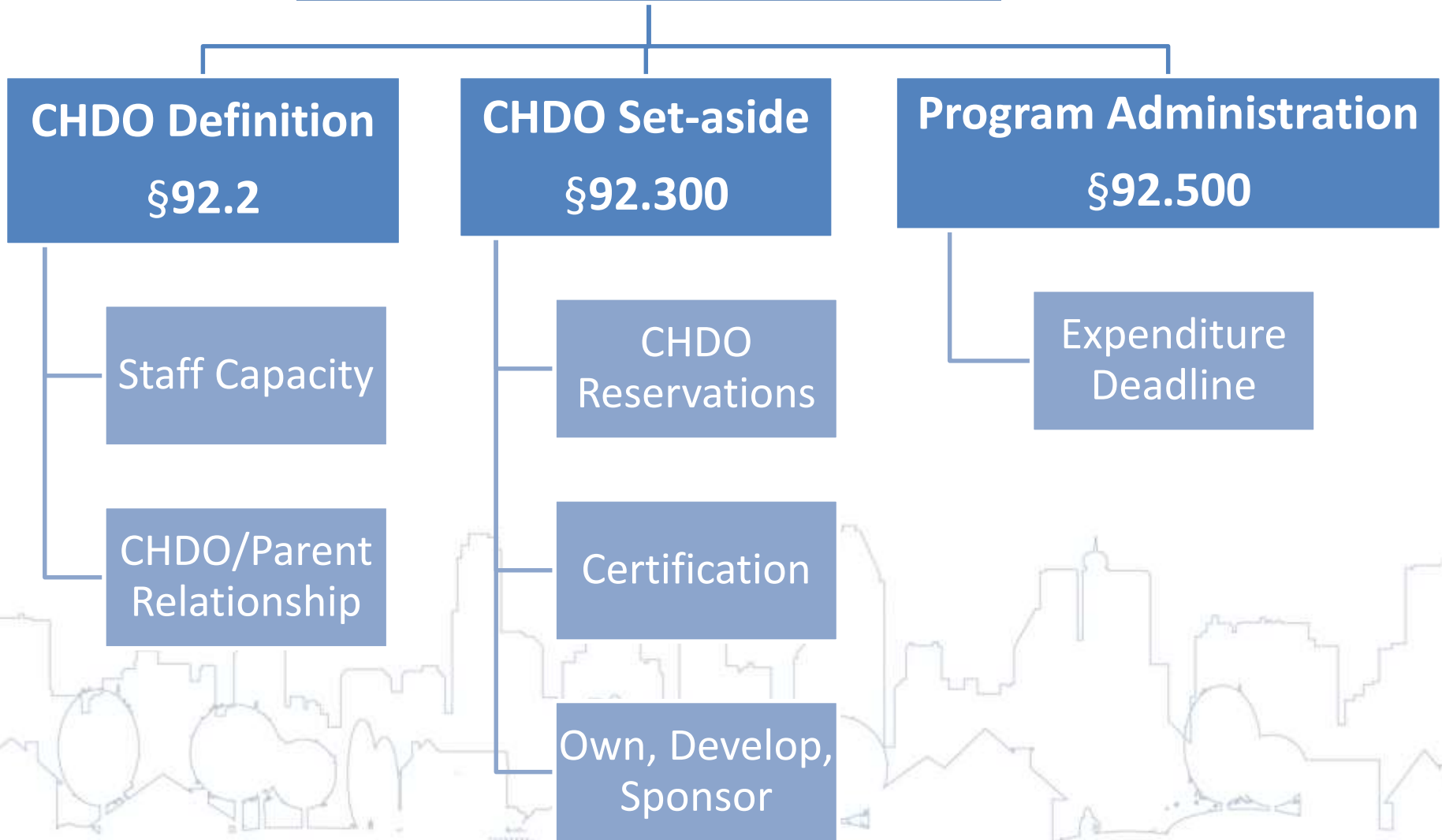


# CHDO Changes

More CHDO details covered at separate session




# CHDO Changes



# CHDO Changes

- CHDOs must be independent and have demonstrated staff capacity appropriate to CHDO's role
- CHDO Commitments: Project Specific
- CHDO Expenditures: Separate Deadline
- CHDO Role: Owner, Developer, Sponsor



# **Underwriting, Subsidy Layering, and Project Evaluation**

# Underwriting, Subsidy Layering, and Project Evaluation

Ensure long-term sustainable projects by establishing guidelines for:

- Subsidy layering and underwriting guidelines
- Market assessment
- Developer capacity and fiscal soundness
- Marketing plan

Applies to rental projects and homebuyer development projects

Certify compliance in IDIS at project set-up

# Evaluating Projects

## Homeowner rehabilitation projects:

- Underwriting applies only if HOME funds provided as amortizing loans
- Subsidy layering applies when more than one form of public funds is used
- Developer capacity and market assessment requirements do not apply

## Direct homebuyer assistance only projects:

- Market analysis and developer capacity requirements do not apply

# Applicability of Subsidy Layering and Underwriting Requirements

Type of Activity & Form of Assistance	Provisions that <u>DO</u> Apply	Provisions that <u>DO NOT</u> Apply
OWNER-OCCUPIED REHABILITATION		
<ul style="list-style-type: none"> <li>Assistance Provided as Grant or Forgivable Loan</li> </ul>	Subsidy Layering, if applicable	Underwriting Analysis Market Analysis Evaluation of Developer
<ul style="list-style-type: none"> <li>Assistance Provided as Amortizing Loan</li> </ul>	Underwriting Analysis Subsidy Layering, if applicable	Market Analysis Evaluation of Developer
HOMEBUYER ASSISTANCE		
<ul style="list-style-type: none"> <li>Downpayment Assistance Only</li> </ul>	Underwriting Analysis Subsidy Layering, if applicable	Market Analysis Evaluation of Developer
HOMEBUYER AND RENTAL PROJECTS INVOLVING DEVELOPMENT	Underwriting Analysis Market Analysis & Plan Evaluation of Developer Subsidy Layering, if applicable	

# Subsidy Layering & Underwriting

## §92.250 (b)

Subsidy layering & underwriting guidelines must:

- Ensure amount of HOME funds invested no more than necessary to provide quality, financially viable affordable housing
- Determine reasonable level of profit/return to owner/developer for size, type, complexity of project
- Examine Sources and Uses for cost reasonableness
- Verify financial commitments are firm

# Neighborhood Market Assessment

PJs must:

- Develop policies and procedures to assess and document current neighborhood market need for projects
- Conduct assessment and determine need for each project, including reviewing neighborhood market data before entering into legally binding agreement



# Developer Capacity & Fiscal Soundness

PJ must establish guidelines for examining developer's capacity and fiscal soundness including:

- Experience, current staff capacity
  - Capacity assessment varies by project size, scope, complexity and type of development entity
- Sufficient financial resources
  - Liquidity
  - Net worth



# Rental Projects

# Rental Projects - Development

- Capital Needs Assessment required when rehabbing projects with 26 or more total units (Effective 1/24/15)
- Refinancing is eligible cost only when rehabilitation is primary HOME activity
- Refinancing permissible only if rehab cost > debt refinanced
- PJ's Refinancing Guidelines must describe conditions under which refinancing is permissible
- HOME funds cannot be used to refinance loans made or insured by Federal programs

# Rental Projects

HOME rental units must achieve initial occupancy within 18 months of project completion

- For units not leased within 6 months, PJ must report on current marketing efforts and, if appropriate, submit an enhanced marketing plan to HUD
- If a unit has no initial occupancy within 18 months, PJ must repay HOME funds invested in that unit

# HOME Rents – §92.252

- Clarifies that PJs may designate more than 20% of HOME units as Low HOME Rent units
- Requires PJ to annually review and approve rents for each HOME-assisted rental project
  - Ensures compliance with HOME rent limits
  - Prohibits undue rent increases from previous years

# HUD Utility Schedule §92.252(d)

- Rule will require (1/24/15) PJs to determine individual utility allowance for each rental project, by:
  - Using HUD Utility Schedule Model, or
  - Determining utility allowance for a project based on the specific utilities used at the project
- Utility allowances for each project must be updated annually

# Inspections – §92.504(d)

- PJs must have inspection procedures (92.251(f)(5))
- Required inspections:
  - At construction completion, and within 12 months of completion, and at least every 3 years thereafter
  - Projects found to have health/safety issues: PJ must adopt a more frequent inspection schedule for problem properties
- Owner must certify annually units are suitable for occupancy

# Ongoing Property Standards §92.251(f)

- Standards must require that housing be free of health and safety defects
- PJs must identify life-threatening deficiencies that owner must correct immediately; must have procedures to ensure owner addresses deficiencies in a timely manner
- PJs' inspection procedures must state how frequently each property will be inspected, consistent with §92.504(d)
  - TBRA units must be inspected annually
  - HOME-assisted rental projects must be inspected at least once every 3 years during affordability period



# Fees: Permitted & Prohibited

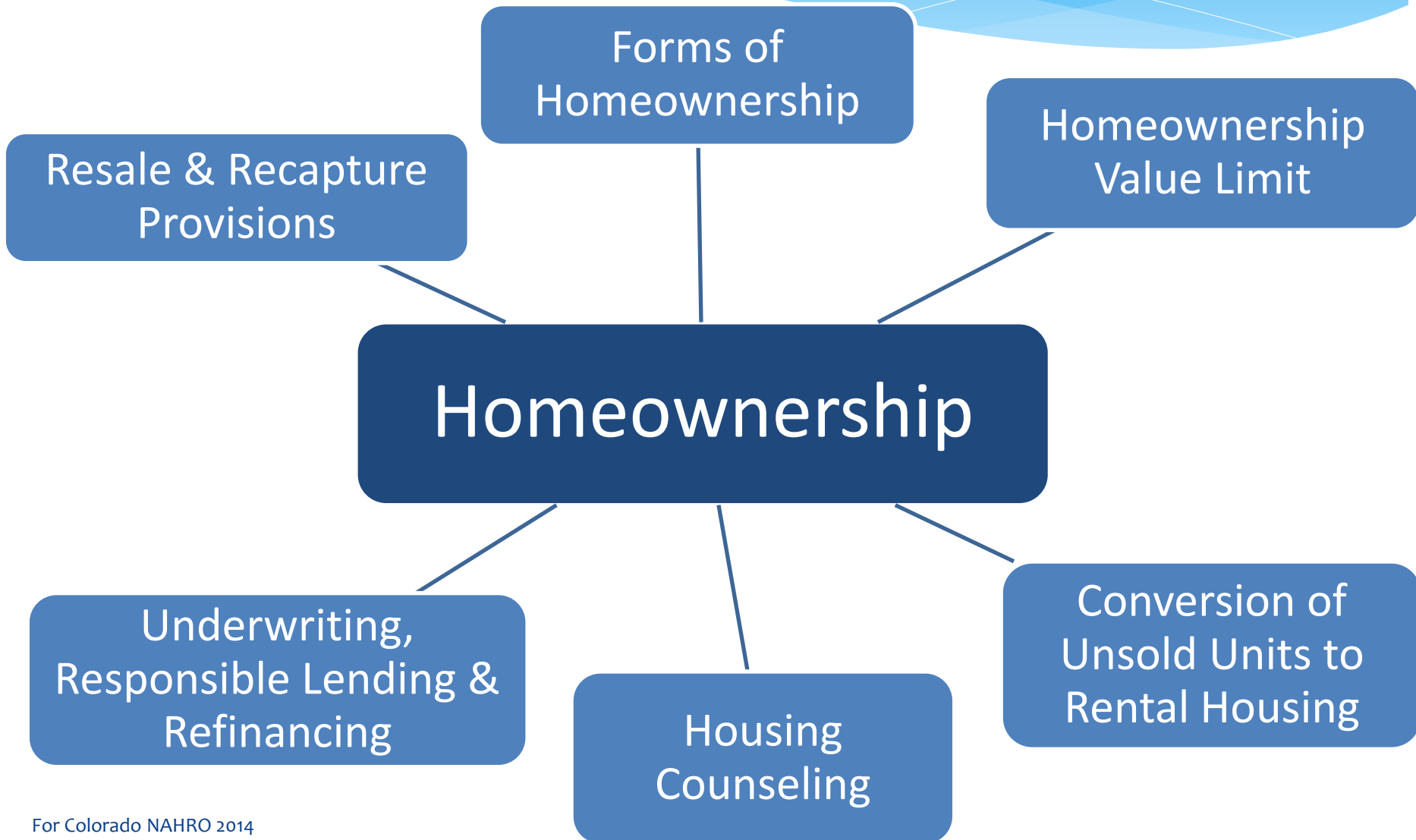
## §92.214

- Monitoring fees now permitted
  - PJs may charge reasonable rental monitoring fees based on average staff time and materials costs
  - Monitoring fees must be included in underwriting
  - Projects where HOME \$\$ committed after 8/23/13
- Expands list of fees that cannot be charged to program beneficiaries to cover admin costs
  - Prohibits project owners from charging fees not customarily charged in rental housing



# Homeownership Projects

# KEY HOMEOWNERSHIP CHANGES



# Homeownership Value Limits

## §92.254(a)(2)(iii)

- HOME statute requires initial purchase price/after rehab value not to exceed 95% of area median purchase price
- New rule eliminates use of 203(b) in HOME
- HUD published two 95% of median purchase price/after rehab value data sets:
  - Newly constructed housing
  - Existing housing
- PJs may continue to calculate own limits as under pre-2013 rule



# Property Standards

**Rule changes §92.251 effective: January 24, 2015**

# HOME Program Property Standards

## §92.251

- Rule includes significant revisions to property standards in §92.251.
- Effective Date: January 24, 2015
- New requirements for HOME-assisted projects involving:
  - New Construction
  - Rehabilitation
  - Acquisition of Standard Housing
  - Manufactured Housing

More information in separate session

# Wrap Up

Questions? Discussion?

Implementation Plans, Assignments, Schedules

1. \_\_\_\_\_ ?
2. \_\_\_\_\_ ?
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