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

For Colorado NAHRO 2014
OneCPD Resource Exchange: 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 Definition
§92.2
- Staff Capacity
- CHDO/Parent Relationship

CHDO Set-aside
§92.300
- CHDO Reservations
- Certification
- Own, Develop, Sponsor

Program Administration
§92.500
- Expenditure Deadline
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

<table>
<thead>
<tr>
<th>Type of Activity &amp; Form of Assistance</th>
<th>Provisions that <strong>DO</strong> Apply</th>
<th>Provisions that <strong>DO NOT</strong> Apply</th>
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<tbody>
<tr>
<td><strong>Owner-Occupied Rehabilitation</strong></td>
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<tr>
<td>• Assistance Provided as Grant or Forgivable Loan</td>
<td>Subsidy Layering, if applicable</td>
<td>Underwriting Analysis Market Analysis Evaluation of Developer</td>
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<tr>
<td>• Assistance Provided as Amortizing Loan</td>
<td>Underwriting Analysis Subsidy Layering, if applicable</td>
<td>Market Analysis Evaluation of Developer</td>
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<tr>
<td>• Downpayment Assistance Only</td>
<td>Underwriting Analysis Subsidy Layering, if applicable</td>
<td>Market Analysis Evaluation of Developer</td>
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<tr>
<td><strong>Homebuyer and Rental Projects Involving Development</strong></td>
<td>Underwriting Analysis Market Analysis &amp; Plan Evaluation of Developer Subsidy Layering, if applicable</td>
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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

- Resale & Recapture Provisions
- Forms of Homeownership
- Homeownership Value Limit
- Underwriting, Responsible Lending & Refinancing
- Conversion of Unsold Units to Rental Housing
- Housing Counseling

For Colorado NAHRO 2014
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. ________________________________________________________________?
3. ________________________________________________________________?
4. ________________________________________________________________?
5. ________________________________________________________________?
6. ________________________________________________________________?