Effective Affordable Rental Housing Programs Including Combining CDBG-DRCDBG-MIT with LIHTCs, 8/27/20

Bonnie Newcomb: Thank you and hello, everyone, and thanks for joining us for today's webinar on Effective Affordable Rental Housing Programs including Combining CDBG-DR with Low Income Housing Tax Credits. My name is Bonnie Newcomb and I'm a CPD specialist in HUD's disaster recovery division.

Today's webinar is the second in a series of eight webinars. And in today's webinar we will outline the [inaudible] CDBG-DR and CDBG mitigation requirements for multifamily housing, as well as how to piggyback CDBG-DR and CDBG mitigation funds with other funding sources such as low income housing tax credits. From today's webinar participants will learn effective strategies for combining and leveraging funding sources for their rental housing programs, and gain a better understanding of affordable rental housing programs of the CDBG-DR and CDBG mitigation context in general.

Multifamily rental development will likely be a component of any disaster recovery effort where there was a significant loss of rental property. Today's agenda will cover things for grantees to consider when developing their rental housing programs, from program design considerations and construction periods, to program funding considerations. We will also go over smaller versus larger multifamily rental property program designs and considerations, as well as rehabilitation and construction considerations.

Next we will cover the use of low income housing tax credits, and how to piggyback and leverage funds using CDBG-DR funds with those funds. We will also hear about the experience of the state of New Jersey and their fund for restoration of multifamily housing programs. And lastly we will discuss CDBG mitigation grant funds and how they are used to protect community assets. At the end of the webinar we'll have time for our question and answer session as well.

So once again my name is Bonnie Newcomb. And today we also have Jim Beachler from ICF presenting. Jim is a real estate finance professional experienced in all aspects of the housing and community development industry. The experience includes more than 35 years of project management, loan processing, and finance, with 14 years of experience in the implementation of community developed block grant disaster recovery, finance, housing, rehabilitation, and construction initiatives.

We also have Laura Shea and Rosy Dafonseca from the New Jersey Housing and Mortgage Finance Agency presenting on today's webinar. Laura Shea is chief of legal and regulatory affairs at the New Jersey Housing and Mortgage Finance Agency, where she oversees five divisions.

Prior to joining the New Jersey Housing and Mortgage Finance Agency, Ms. Shea served for four years as an assistant commissioner for the New Jersey Department of Community Affairs Sandy recovery. For the previous 15 years, Ms. Shea was involved in affordable housing issues as a New Jersey deputy attorney general assigned to the New Jersey Housing and Mortgage

Finance Agency, and through various positions with the agency including senior director of the single family division.

Rosy Dafonseca is a loan manager in the multifamily supportive housing and lending division at the New Jersey Housing and Mortgage Finance Agency. She has over 20 years of experience in real estate and the lending field. She has extensive experience in performing financial analysis of multifamily housing development mortgage applications and developing financial feasibility strategies in order to maximize the number of alternative solutions available for a project's financing. She is knowledgeable in the requirements, regulations, and underwriting criteria for funding sources such as low income housing tax credits, HOME funds, CDBG-DR, and other federal, state, and private funding sources.

I'm now gonna hand over the presentation to Jim Beachler from ICF to talk about rental program design considerations.

Jim Beachler: Thank you, Bonnie. I first wanna start out talking about program design considerations. And starting with the basics, the structure of the community development block grant disaster recovery funds are housed in the CDBG program, the very basic rules. And in particular the eligible activities and national objectives have to be considered by grantees as they develop and implement their programs.

In addition to those basics, you need to layer on the applicable federal register notices, or notice or notices that may be applicable to the funds that have been allocated by congress for a particular disaster. One of those requirements is the leverage of CDBG-DR funds. And in addition to that, the affordability provisions that are specified in the federal register's notices need to be adhered to. Some of the notices of recent times have varied from those in the initial days of the CDBG-DR funding for disasters. And it's important to recognize that.

And one final point that I'll make on this aspect of it is, it's possible to combine on individual projects CDBG-DR funds with regular block grant funds. However it's very important to be careful in how those are utilized and make sure that there is not any conflict with eligible uses for construction related activities that might otherwise be problematic for the CDBG program.

Some additional design considerations, PHAs, public housing authorities, may either compete for CDBG-DR resources, or depending upon the grantee, a separate set aside can be utilized in assisting public housing authorities properties that may have been damaged as a result of one of the disaster events and storms related activities. In designing a program, it's important to look at the characteristics of the properties in a particular market area, smaller rental properties as compared to larger multifamily complexes, or a combination of both small and larger rental properties. And we'll talk about each of those respective categories in greater detail. Also of importance is looking at the priorities of a particular grantee as the program is developed, taking into consideration both where the rental housing has been developed in the past, as well as fitting the priorities for future development and sustainable communities.

Additional design considerations is whether you set up a program with a grant or a loan. And the difference between the two, a straight grant is often simpler to implement from a grantee's standpoint, as well as for the development community that a grantee is working with, versus a somewhat more complex loan structure. However there are some definite advantages from a grantee standpoint if a loan structure is set up, in that it can generate additional resources for the grantee for use for other CDBG-DR eligible activities that may be fundable with the additional program income.

As far as payment options if it is a loan, there are alternative ways to structure that, including a portion of annual cash flow, alternatively a required monthly payment, and in addition there can be some full forgiveness provisions depending upon the desire of the grantee as specified in their action plan and as approved by HUD in the review of that action plan and plans to implement their program. Once again there's the benefit of the cash flow payment and program income. A grantee needs to account for that with staff resources servicing loans for the duration of the affordability period.

An additional design consideration is sizing the amount of CDBG-DR funds that would be allocated to an individual project. And that may vary depending upon the structure of a program for smaller properties, small number of units, versus larger properties that may be priorities for a particular grantee. And to date many grantees have fixed an amount available per unit. Alternatively there is gap financing with the parameters set forth in the action plan of a grantee. Regardless of the structure of a grant or a loan amount, the assistance, the federal assistance that is put forward for a particular project to make feasible has to be determined to be reasonable and necessary for the amount of funds that are provided for a particular project.

Some aspects of small rental properties that are important to consider. Typically smaller rental properties are in the one to four unit category, which primarily comes from how those properties are financed in the real estate market today. One to four units are considered residential in the finance industry, whereas the larger properties are considered commercial. Needless to say, for these properties as well as all rental properties financed with CDBG-DR funds, an environmental review needs to be completed.

Frequently for properties elevation requirements come into play depending upon where the property is in relationship to the flood plain. And those requirements would be specified in the federal register notice, but typically it's above the certainly usually three feet above the flood plain for the -- in order to utilize the federal funds. There are some complexities in the financing of duplexes, particularly when you have multi-unit structures with upstairs and downstairs rental units. And so they have to be considered as the feasibility of individual projects are implemented. For the smaller properties, the prevailing wage rates per the Davis-Bacon provisions are not applicable for expenditure of the CDBG-DR funds.

For the larger rental properties, categorized here in this presentation as five units and above, they are considered commercial properties in the finance industry. Some lenders and housing finance agencies will have a minimum of 15 units plus. And oftentimes the minimum for financing, depending upon the lender and/or the housing finance agency, may be a larger number, referenced here as 50 plus, but it depends on the housing finance agency and lender, depending upon what communities they're working in.

Also required is the mandated environmental review per the CDBG-DR program. And that may be in addition to what a lender may require in the financing of the properties, which could include both a phase one and a phase two environmental report, depending upon what the circumstances of the individual property. And in contrast to the smaller properties, the Davis-Bacon prevailing wage rates are applicable for units that are eight units and above, or properties that are eight units and above. In addition to that, broadband is applicable to the construction and/or rehabilitation, substantial rehabilitation of properties in any one that is in this category.

Rehabilitation and construction considerations that have to be incorporated into your plans include making sure that construction costs are market based. The policies and procedures of a grantee need to incorporate cost verification, including the categories of profit overhead in general conditions of a general contractor. The general conditions being the cost associated for construction contractor in setting up the job in particular on a larger construction site. There may be a trailer and related activities. And the overhead for general contractors being the work that is affiliated with putting together the project and administering a project, including the payroll that might be included in the Davis-Bacon wage rates for the workers on the sites.

In addition to the upfront cost verification, if there is a change order, it's important to have a policy and a process for the evaluation of change orders that might occur as a result of activities that are uncovered in the construction process. As far as best practice goes, third party verification is considered a best practice for the cost estimation and related work. It could be an architect, it could be a cost estimator. And depending upon the staff capabilities and experience, could be incorporated on staff. But typically a best practice is to have a professional qualified in that area. Many of the housing finance agencies will have professionals on staff that handle that function and make sure that it's market based as costs are evaluated.

Lead based paint remediation is another important construction consideration, construction and rehabilitation consideration. And both lead and asbestos assessments must be conducted for properties that were built before 1978. The remediation work needs to be incorporated in the rehab specs for a particular project. And any remediation of lead needs to be conducted by a certified lead contractor, one that's certified within the state and market area to do that type of business. In addition, it's important to recognize that the firm that completed a lead based paint assessment cannot be the firm that does that remediation work. It has to be a separate and distinct party that completes that work. And finally the properties must be brought up to applicable local codes. And the contractor and/or owner/developer needs to take that into consideration, meeting any local building code requirement that otherwise may be required.

Another rehabilitation and construction consideration that has to be taken into account is the green building program requirements. And that needs to be an industry recognized standard that has achieved a certification. The specific programs that have been qualified for CDBG-DR funded activities include Energy Star, Enterprise Green Community, LEED, the ICC requirements, the National Green Building Standards, as well as EPA, and other requirements that might be submitted depending upon the grantee to HUD and deemed accessible in a review of the action plan of a particular grantee. And not required, but green building standards are recommended for CDBG mitigation grant fund activities.

For properties that are not substantially damaged, and typically substantially damaged is defined is 75 percent of the replacement cost of a property. The utilization of the HUD CPD green building retrofit checklist can be used to meet that standard. There is a link in the back of this presentation to an overview of green building standards that was utilized at a prior CDBG-DR problem solving clinic that can provide additional information for those of you that are interested in this topic in a much greater detail.

Additionally broadband is required for all substantial properties. And the citation here is the one that I mentioned, 75 percent of replacement cost of a property and for properties that are five units or more. And this requirement was implemented for all grantees beginning in 2016. And depending upon specific circumstances, a grantee can request a waiver based upon project location, the location of a project, if it's determined to be not feasible, if the cost of such an activity would be a financial burden, an unnecessary financial burden to the project, or if it's proven to be infeasible in a substantial rehabilitation property where it just from a construction standpoint or rehabilitation standpoint ends up being problematic. One thing I wanted to mention on the prior slide that I neglected to was for energy -- for the older and also the rehab activities, you can -- it's encouraged that Energy Star labeled, water sensed, and related requirements can be part of the green building activity.

For occupied properties there may be instances where some of the units have been damaged and need to be repaired, and there is some occupancy of the particular property. The provisions of the Uniform Relocation Act will be applicable. In those circumstances it's suggested that you effectively communicate with the CPD representatives that a grantee is working with. Very important to have knowledgeable staff implementing these requirements, and that they're effectively communicated to the applicants for grant funds, and that those same requirements are effectively communicated to the tenants that may be occupying the property during a rehabilitation and/or need to be relocated because of the rehabilitation or construction activity. So it's very important to make sure that that level of communication between all parties is effectuated.

The other point as far as URA related activity, Section 414 of the Stafford Act is applicable for all displaced tenants. In recent years there has been a HUD waiver available, provided that a particular project is commenced one year after the presidentially declared disaster. And that provision is defined as one year from the date that a grantee requests a release of funds from HUD. So from one year thereafter, if it's after that year period, and a waiver is obtained, then that could be the way that program is administered. Otherwise displaced tenants would qualify for a URA replacement housing allowance. And that payment amount varies depending upon whether a tenant is low income or not. But needless to say, it allows for up to 42 months of assistance, as well as moving and related costs for the tenant.

Previously briefly mentioned the Davis-Bacon prevailing wage rate for eight units and above. Very important that the appropriate costs are incorporated into the construction budget so that the contractor and the owner are on the same page as what the costs are, and that the workers working on the site are paid the prevailing wage rates applicable to a particular market. And the program administration, you need to have effective implementation and monitoring of the payment of prevailing wage rates. That includes review of payrolls and statements of compliance at the site, making sure the appropriate project signage is included on site, and other pertinent requirements.

In addition to the Davis-Bacon wage rates, it's important to have a Section 3 plan in place for the construction related activities, including the work opportunity -- work and training opportunities for residents of the defined Section 3 market area that would be applicable depending on where the grantee is located and how the Section 3 area is defined to meet the circumstances of a state, be it rural, urban, and related kinds of locations. It would include PHA residents, low and very low income residents, in metro and non-metro areas.

The construction and rehabilitation process needs to be actively managed, including inspections. And that means keeping a schedule to monitor the construction, to identify the responsible parties, and the requirements that need to be implemented for each draw request. That's particularly in those grantees where there's a large number of projects to manage. It's important to specify for the owners, developers, and/or contractor and related parties, when draws will be done, and the specific way that they will be implemented. They need to be either on an AIA form or similar form that articulates the appropriate cost. And the backup documentation needs to be included with those payment requests.

As far as change orders during the construction period, needless to say, a best planned project oftentimes takes twists and turns. And it needs to be effectively managed so that if there are unforeseen conditions that arise during the course of the rehab or the construction, there's a process to address those, including an evaluation of any additional costs that may be deemed appropriate for a particular project. Oftentimes, and I think the team from New Jersey will vouch for the fact that sometimes things happen, and it's unforeseen, and you have to monitor the construction in order to make sure they get to the point where the project is completed and ready for occupation, with all the permits and related documentation that's needed to occupy a property. And finally on this slide, the closeout process needs to be specified so that owners and contractors know what information needs to be submitted in order for final payments and closing out of a particular grant is specified.

One final thing on the program design consideration, depending upon the circumstances in the community, many grantees set aside specified amounts of funds for special needs initiatives to address populations that otherwise were damaged and/or wanna be assisted as part of the rebuilding process of a community. I think the folks from New Jersey will talk to their efforts in this special needs set aside for their properties. And the particular circumstances need to be properly accounted for in the underwriting of a project. And typically that requires unique analysis to understand the population and the needs of the population, and effectively set up the properties for the long haul, so that they operate effectively.

Multiple resource transactions, the leverage requirements include a whole array of different funds. And that can include private sector lender or housing finance agency funds, insurance proceeds, HOME funds, national housing trust funds, and related kinds of resources from state and local participants. Leverage is encouraged. Needless to say, they have to be properly accounted for in a duplication of benefits analysis to affirm once again that the disaster recovery resources, the CDBG-DR resources, are deemed reasonable and necessary to complete the project.

Additional underwriting considerations, the minimum affordability period per recent HUD notices for rehabilitation, eight plus units it's 15 years, or new construction properties of five units and above it equates to a 20 year affordability period. The notices clarify the affordability periods and amended alternative requirements, and can be reviewed for additional detail. The definition of affordable rents that many grantees have chosen include HOME fund rents, Section 8 existing fair market rents, or low income housing tax credit maximum rents.

One of the importance of choosing a specified category of rents has to do with the operating period of a project, to the extent that you can utilize one of the three here just as a possible suggestion. The changing of the rents during the operating period is provided by an external party in the case of the HOME and the Section 8 existing market rents. That would come from HUD through their publications. And the low income housing tax credit maximums could be derived through IRS publications and/or through the state housing finance agency administering the low income housing tax credit. So it's important to design for ease of execution for the operating period for both the grantee, as well as the owners of those properties.

Also included in the underwriting related issues to consider is looking at the maximum rent that might be attributable based upon one of those categories versus what the market rent is. So the market rent may potentially be less than or quite frankly it might be quite higher than depending upon the circumstances. But to the extent that it is lower, that has to be taken into consideration so that the properties is properly structured from an underwriting standpoint, and proves to be financially feasible over the 15 or 20 year period of time of affordability.

One of the provisions of the DR, the community development, the block grant DR monies, is that once a tenant is qualified as an eligible tenant, their income may increase. It's not necessary, unlike some other HUD finance programs such as the HOME program, where annual evaluation of a tenant's income is required. In the CDBG-DR initiatives, the tenants once qualified, is qualified as an LMI until such as they end up moving from the property.

I wanna talk for a couple minutes before turning it over to the folks from New Jersey about the use of low income housing tax credits and disaster recovery funds in the so-called piggyback transactions where the combination of resources are used. The low income housing tax credit program is an excellent source of leverage for DR funds. Critical to that utilization is a partnership with the tax credit allocation agency in a particular state. And the source of credits can be from an allocation to the state which currently is $2.70 per capita to the state, as well as from the so-called 4 percent credit that may be available to developer owner that comes from tax exempt bond cap that's attributable to an individual project.

Effectively utilized with many of the grantees are the tax exempt bond finance transactions. In certain instances there have been a separate allocation from congress that could be used particularly in Hurricane Katrina and Rita, there were so-called go zone credits that were outside of the normal allocation. And also of note is the possibility that congress allocates additional tax exempt bond cap to a particular state that may be used to finance properties in the market area.

The tax credits translate into equity proceeds. They pay for project cost and are based from a pricing standpoint on local market conditions, as well as the project structure, strength of the developer, etc.

Currently the average price in the market is somewhere in the range of 90 cents on a dollar. So using a -- and that's per tax credit. So to the extent for instance using an example where there's $100,000 of tax credits allocated, they would be available each year for 10 years, so 10 times 100,000 would be a million dollars' worth of credits. At 90 cents on the dollar. That would translate into $900,000 that would be available to repair and/or construct a property in CDBG-DR funded project.

Some important considerations, using low income housing tax credits is how the request for proposal process works for a grantee, as well as for the state housing finance agency. Needless to say, housing finance agencies have been partners with grantees across the country in the disaster recovery efforts. However it's important that the timing is coordinated. Sometimes it is different, the respective request for proposal processes implemented by the allocating agency as well as the grantee. To date there are I believe 24 states and territories that prioritize disaster recovery in their qualified action plans, the so-called QAPs of a respective state.

As far as underwriting options go, they include utilization of the grantee staff, coordination with the housing finance agency staff that otherwise underwrites all of their tax credit and/or tax exempt and other financings, or alternatively contracting out to a third party. And one of the complexities of syndicated low income housing tax credits has to do with how reserves are set, operating reserves, reserve for replacement requirements. And all of these considerations require close coordination with the state tax credit allocation agency staff that are implementing the tax credit programs. These requirements might be different for, needless to say, the larger properties than they are for small properties that are funded with disaster recovery dollars.

Asset management and long term affordability provisions, the properties financed are -- need to be effectively operated for a 15 or 20 year operating period at a minimum. Some tax credit deals require 30 year and/or longer in certain states, 15 years minimum for eight or more units, a 20 year period for new construction, as mentioned earlier in the presentation. And once again this is very important to communicate to the owners and appropriately documented in written agreements with the owners and/or developers of the property. The HUD notice specifies a recorded deed covenant or similar mechanism be utilized in the implementation and utilization of the DR funds.

Low income housing tax credits don't by themselves trigger cross cutting federal requirements, unless the tax credit agency requires it on their own. But when CDBG-DR funds are used, you must comply with the relevant cross cutting requirements including environmental and the prevailing wage rates previously mentioned. And needless to say, there's some costs associated with the monitoring of those requirements that need to be incorporated by all parties associated with that.

The property managers and owners are key to effectively implement the applicable requirements during the compliance period. Asset management staff of grantee have to monitor those provisions. It's not as simple as completing a project and closing the books on it. It's once funded, it has to be monitored for the 15 or 20 year plus period of the CDBG-DR compliance area. Oftentimes this ties in directly with the housing finance agency staff who monitor their tax credit projects and/or bond finance transactions. But the importance of all this is that the grantee otherwise may run the risk of having to repay the grant funds if an effective asset management plan is not put in place and utilized for the long haul.

So before turning over to Rosy and Laura, I wanted to just reference a few high level takeaways. The experience of grantees in the implementation of the CDBG-DR programs is there is much to be learned from folks. And for those that are new grantees and new staff, it's important to tie into those that have learned in their programs what you can and swap information. The program design, there's some key decisions that you really have to take into consideration, careful consideration, in setting up a grant program. And in turn the construction period needs to be effectively managed, as well as the operating period for the longer term. So with that, I will turn it over to Laura Shea.

Laura Shea: Thanks, Jim. I appreciate that. Good afternoon, everyone. I'm glad that there's so many attendees on this call, as this can be a very complicated process to go through. As Jim mentioned, I'm currently the chief of legal and regulatory affairs with the HMFA. In a prior life, right after Superstorm Sandy hit, I moved over to the Department of Community Affairs, which was the grantee for the state of New Jersey for the Sandy fund. So I had experience on both the grantee side and with the agency who was the subrecipient of those funds. And again as Jim had mentioned, I'm working in tandem today with Rosy, who is our loan manager in our multifamily and supportive lending division, which was the division that really oversaw the activity on the fund for the restoration of multifamily housing. That was our biggest program here.

I'd like to just give a general overview of the HMFA and the role in the recovery from Superstorm Sand, and then turn the presentation over to Rosy who will give you some real detail and some personal experience about how our program actually operated. And then I'm gonna circle back at the end with some of the points that Jim had raised about some of the nuances of the federal requirements that are incredibly important to learn early in the process. It will make your lives tremendously easier as time goes on. And I'm saying this at this point, we're just about eight years from the anniversary of Superstorm Sandy. The storm him on October 29th of 2012. And eight years later we are still -- HMFA is almost done, but there are still recovery efforts underway here in New Jersey.

Across the board New Jersey received a little over $4 billion in CDBG funding -- CDBG-DR, excuse me, funding. And pursuant to the original action plan and some subsequent amendments, approximately $870 million was allocated to rental housing programs. Of that $870 million, the HMFA was allocated approximately 743 million of those dollars. So we had a big chunk that went into our -- again I'll reference it as FRM, it's the fund for the restoration of multifamily housing. We did all large projects. We did not undertake any project under 25 units in this program. We did have a $30 million set aside within that program specifically for public housing authorities, which I'll talk about in a little more detail, that presented some unique challenges at least here in the state of New Jersey.

We also had a separate program with an allocation of $60 million called the Sandy Special Needs Program, that was dedicated specifically to the funding of special needs projects. And we were able to tie that on some level with the FRM program, but we also had projects that were funded solely out of the special needs program. And again, Rosy can speak more to that in a little bit. And then we had a Sandy Homebuyer Assistance program that really was more an incentive for renters to purchase homes in the most impacted counties. But our focus today will really remain on the FRM and the Sandy Special Needs.

Just for purposes of full disclosure, in 2013 when the original action plan for our grant was approved, we were under a two year spend clock. So the marching orders that we were given were that all of the funds that we were allocated had to be expended within two years of that first drawdown. So we knew that we had to move quickly and effectively to get these dollars out to our community. And based upon the time frame, what we chose to do in New Jersey was really model the FRM program to our other subsidy programs that we use in our multifamily division, so that our development community was aware of the application process and our agency requirements. And then we layered in the federal requirements on the Sandy money. But it was a way -- we didn't try and reinvent the wheel. It was a way to get developers aware of the fact that we had these subsidy dollars coming in, and get them interested and ready to go as quickly as possible.

And Rosy and I will talk a little bit more about some of the experience about learning those requirements and really teaching the development community about those requirements as well. Because they are creatures of habit and they know how to do things a certain way. And it was challenging on some level to get them, the development community, to understand why they had to without question comply with some of the federal requirements. And that's a very important piece that the developers have to understand.

So again, for background purposes, the FRM program virtually funded new construction. We did not have -- and Rosy will correct me if I'm speaking out of turn -- but we had very few of our affordable projects that were damaged by the storm based upon where the storm hit in the state. So our perspective is really focused on new construction of projects, not so much rehabilitation of any of those developments. And we were constrained by the action plan to fund within nine counties in the state. HUD came in and did their assessment and identified nine counties that they deemed to be most impacted. So pursuant to the action plan, the monies that we were allocated had to be utilized on projects within those nine counties.

As Jim had mentioned about the use of federal low income housing tax credits, this agency is also the allocating entity for the state of New Jersey for the tax credit program, which made our lives very easy in that we developed the QAP and have control over when the funding rounds are offered to the development community. So when we knew that we were going to be getting the DR funding coming in to build this affordable housing, our agency board approved a special round of 9 percent tax credits so that we could take in -- we don't have a priority in our qualified allocation plan for disaster recovery. But knowing that these monies were coming in, we held a special round for developers to come in to apply for 9 percent tax credits.

But again, based upon the criteria of the DR funding, primarily they had to be in the nine counties, and be able to comply with the other requirements, the green requirements, Davis-Bacon, whatever the circumstance may be. So that is unique maybe to New Jersey. I'm not sure how many of you are -- have capacity to control the tax credits. But it definitely helped streamline our process so that, as I said, we tried to keep our multifamily process in place, our tax credit process in place, and layer in the requirements of the subsidy, so that we could get the dollars out as quickly as possible.

Again as Jim had mentioned, the 9 percent tax credits generate in equity about 70 percent of the development costs on our projects. So the award of 9 percent tax credits, coupled with agency financing, coupled with the DR money, allowed us to really leverage the DR funding as much as possible, so that we could help as many developers and create as many affordable units as possible with these dollars. I think to date we're at about 6,800 units created as program comes to a close.

Again, we have a statutory requirement that we cannot make grants to developers. So all of our funding was offered in the form of a cash flow loan. We were very cognizant about the complications of program income. And it was best suited to the development community to allow them to use the DR funding as a subsidy source, so that they were eligible to qualify for an agency mortgage and the tax credits, and that the debt service wouldn’t be such that it would make the project infeasible. So again, utilizing the existing framework that we had, we tried to get as many developers interested and willing to create these affordable housing developments throughout the nine counties.

I'm gonna turn it over at this point to Rosy, to let her talk a little bit about the process of the application and what our multifamily staff did in reviewing and confirming the underwriting. Another point that Jim had mentioned, this agency was able to really utilize all divisions that currently exist. So we have our multifamily staff, our tax credit staff, our technical services division, really the folks are our engineers, and our architects. So they reviewed all the plans. They were able to do the inspections. We were able to really fulfill the requirements of the program with existing staff. So we didn't have to go out and hire anyone else.

But Rosy, if you want to walk folks through what the application process looked like and how we handled it, I think that would be --

Rosy Dafonseca: Thank you, Laura. As Laura mentioned, my name is Rosy Dafonseca. And I'm a loan manager of the multifamily and supportive housing lending division here at the New Jersey Housing and Mortgage Finance Agency. NJHMFA's multifamily division is comprised of individuals who specialize in finance, mortgage lending, real estate development, and community planning and development. Our goal is to finance safe, decent, quality, affordable housing units for families, seniors, and special needs individuals. The CDBG funds allowed us to achieve this goal in an efficient and accelerated manner.

The multifamily division plays an important role in reviewing the project's capital stack or funding sources, and what uses these funds will be utilized for. So a developer needs multiple sources of capital to fund an affordable housing development. It's important to align the requirements associated with all the different funding sources that we underwrite to. With CDBG funds, NJHFMA was involved in creating guidelines for the program, which allowed us to be specific to NJHFMA's goals and requirements, in conjunction with the goals and requirements of the CDBG program.

In terms of the application submission process, we wanted to make sure it mirrored our regular application process in order to avoid any confusion that may make the process less efficient or possible. Since the funds were so well-received within the development community, we did come up with deadline dates for the submission of applications for the CDBG tranches that we offered, specifically for those projects that were applying for the CDBG funds in conjunction with our competitive 9 percent tax credits, since the percent 9 tax credits round had its own application submission date.

We created specific checklists for use of the CDBG finance projects that were able to be specifically listed with certain documentation that we require that pertained only to that project.t So those were some of the things that we did in order to make the program more efficient and user friendly to the developers that we service.

The next slide goes into the types of financing that we offered with the program. So it was important for us to be able to provide an array of financing options that could be used with the CDBG funds. Of course our most popular one that we've mentioned several times today is our 9 percent or 4 percent tax credits. So as many of you are aware, financing is made available through the sales tax exempt or taxable bonds. And the tax exempt bonds are eligible for 4 percent tax credits which are noncompetitive. And the taxable bonds can be used with 9 percent tax credits which are competitive.

So the tax credit program was created as an incentive to developers and investors to create more affordable housing. And the benefits of the program have helped to generate affordable housing. The use of CDBG funds in concert with the 4 percent and 9 percent low income housing tax credit program was integral in increasing the number of affordable housing units that New Jersey was able to provide. We also provide multifamily revenue bonds where we offer construction only, construction impermanent, and permanent only financing options to our developers. And then outside of that we have bond financing which we call our conduit bonds program. And in this program borrowers will secure credit enhancement and HMFA would issue the bonds on a pass through basis on behalf of the borrower.

For the CDBG funds, we also have standalone CDBG funds. So there were two standalone options that our developers were able to take advantage of. The first was our public housing authority set aside. And the public housing authority properties were seeking FRM funds to repair units that were made uninhabitable or that sustained direct damage as a result of Superstorm. Sandy. And so those units were given highest priority for this funding set aside. Also as Laura had mentioned, we had our Sandy Special Needs Housing Fund program which was also a set aside. And this provided capital subsidies to develop permanent supportive housing to special needs populations in the state of New Jersey.

Now on slide 37 we go into more detail regarding our Sandy Special Needs Housing program. If I could just take a moment just to go over the specifics of the program. This program was eligible to types of projects that included new construction, moderate, and substantial rehabilitation. The maximum subsidy per project could not exceed $2.5 million. And the maximum subsidy for mixed occupancy was not to exceed $170,000 per unit. It was available to projects receiving 9 percent or 4 percent tax credits. And the total allocation was $60 million.

This program was able to be used on special needs only projects where the entire project serviced a specific special needs population, and was also able to be integrated into our larger multifamily projects, where a certain number of units were set aside for a special needs population. Those units that were set aside were able to utilize the Sandy special needs housing funds. This provided not only additional capital funds that are always desperately needed in multifamily projects, but it also was an important incentive to create a project that not only provided housing units to low income households, but also worked to integrate special needs individuals into the housing community.

Going back to the last slide, we also wanted to touch on the agency mortgage requirement that we had with the program. We were very adamant that in the event any permanent mortgage debt is needed for any project funded by CDBG, the first mortgage loan must be an agency provided permanent mortgage loan. It was important for NJHSMA to have a role in monitoring the project's long term financing. So that was an important requirement that we had. We also were very adamant that the terms shall equal the agency mortgage's financing and/or the low income housing tax credit requirements, whichever was applicable. And the term also could not exceed the affordable housing period.

The next slide, slide 33, we go into the maximum subsidy loan amount in the program. So the program was so popular with our developers, we really wanted to make sure the funds were able to fund as many units in different projects as possible. So this is what led to us establishing maximum subsidy loan amounts. So for 9 percent tax credit use, you were maxed at $170,000 per unit. And a project maximum of $5 million was established. We also wanted to ensure the project's feasibility within the program, which is why we were able to offer various types of loan options for the CDBG financing. So we provided construction only, permanent only, or construction and permanent loans.

In the same manner we also wanted to be diverse in the housing populations that the program was offered to. So we offered it to family projects, as well as senior projects, and as we mentioned before supportive housing and special needs units were also able to take advantage of the CDBG program. So in conclusion, NJHFMA's commitment to establishing a streamlined application process, along with our attention to our guidelines and requirements of the CDBG program, and how to best integrate them with our own state regulations and requirements, led to a successful roll out of the program to the development community. And it also assisted our multifamily financing staff in being able to be productive in assisting the applicants in obtaining the financing commitments that were required for the CDBG funds.

I'll now turn it back to Laura. And she can go over some of the additional requirements that we had for projects that were utilizing the CDBG funds.

Laura Shea: Thanks, Rosy. And Jim, if you would advance I think to slide 34, maybe 35. There we go. And I know -- I don't wanna take too much time here, but Jim had pointed out, and as we said, we've modeled the FRM program after our existing process. We at the agency had an established protocol for environmental reviews that we had started to use when the DR money came in, but then soon realized that the environmental review process under the DR circumstance is different than what we had required of developers early on. So we had to make some tweaks to our process there.

The Davis-Bacon requirements were also something that we had to educate the developers on as to what the requirements were and how they had to document certain aspects of the projects as they were unfolding. These were relatively new concepts to the development community. And word of advice, that if any grantee is getting money and standing up any kind of program like this, really try and find out what those requirements are in relation to your program. Because trying to go back after the fact and change course or find documentation, it's just so much harder after you have already started. And Jim, if you would advance to slide 35. We have some other requirements here.

One thing specific to New Jersey that I will point out, the second bullet, it says compliant with the Housing Resource Center requirements. That's an agency specific requirement. We have a database and a website on our website that lists any unit of affordable housing that's available in the state. And we required our developers to post the Sandy units on that website, again making sure that once -- you need to meet your national objective, but you wanna make sure that the appropriate populations are aware of the fact that these developments are coming online. So that was one way that we thought that we would be able to statewide get the word out to folks that as these developments were finished and the units were posted, we were able to market and again get the word out to them equally and from north to south as far as that's concerned. And Jim, if you would go to slide 36.

The other thing that we undertook was making sure that developers held a priority for Sandy impacted tenants. Because so much of the rental stock had been damaged from the storm, we wanted to make sure that people who were impacted by the storm were eligible to have access to these affordable units. So we required in the marketing plan submitted by the developers that for the first 90 days of rent up, there were some criteria associated with it, but that if an applicant came in and they could prove that they had been impacted by the storm, they were given a priority for a unit in one of those developments.

So again, it's New Jersey specific, but I think there are some things that grantees need to think about before you launch into these programs just to make sure that you are helping truly the people that are impacted most by the disaster that you're dealing with. And Jim, I think I'm gonna turn it back to you now for a wrap up and then Q and A.

Jim Beachler: Thank you, Laura. Before we go to the Q and A, I wanted to talk about the CDBG mitigation grant funds, the MIT grant funds, and how they may be used in conjunction with community assets such as multifamily properties and/or other areas of the community. First of all, the CDBG-MIT activities need to meet the definition of a mitigation activity as specified in the federal register notice. And the grantees are required to address their current and future needs in their mitigation needs assessment. So it's a comprehensive evaluation of the community and what areas may be addressed. There are CDBG eligible activities pursuant that must be met or alternatively a waiver obtained. Similar to the disaster recovery funds, it must meet a national objective as specified in the CDBG-MIT notices and definition of covered projects.

The mitigation funds, CDBG mitigation funds, must be used for strategic and high impact activities that mitigate disaster risks in the future. In particular investments in resilience and preparation that can be implemented by a community, the focus is on repetitive loss of property and critical infrastructure, so that repeat storms are addressed in ways that damage to properties already repaired can be avoided. One of the things with the CDBG mitigation funds, HUD has identified most impacted and distressed areas of communities in which up to 50 percent of the mitigation funds must be spent in those particular areas. Potential connection to rental housing in communities include addressing storm and sanitary sewer problems that may be evident in a community, pumping stations, and related types of infrastructure issues.

The mitigation funds, the CDBG-MIT funds, must meet a national objective. Those that tie into housing include low and moderate income housing, as well as urgent need mitigation that potentially could be utilized addressing current and future risks that might be evident in a community. The utilization of these funds require a holistic assessment of the potential risks in a community, and long term efficiency and fiscally sustainable projects, so that they last for the long haul. And ultimately the intent of these funds is that money spent today saves substantial public resources by proactively investing in the communities for the future benefit of the -- and the minimization of the federal funds that -- federal and/or other governmental funds that otherwise might have to be used to address continuing risks in the community. And with that, I will turn it back to Chantel.

Chantel: Thanks, Jim. At this time we can turn it over to Kelly to facilitate our Q and A session. Kelly?

Kelly: Thank you. Can you guys hear me?

Chantel: Yes.

Kelly: I wanted to thank Jim and the folks from New Jersey for that great presentation. There's a lot to talk about when it comes to rental housing, and particularly when you get into the details of the financing, and layering the financing, and when all the different requirements sort of come in and out of the deal, so to speak, sort of the art of the deal, whoever's heard of that before. But Jim probably could talk for days to give more specifics, but we're limited on time. Surprisingly we don't have a bunch of questions in the question box. We have one that I tried to get more information -- oh here we go, it did come in.

And Jim, I'm not sure if this is something you can answer or our HUD folks. I'm just reading the response back to me now. We did have a question about like sort of what's considered new construction. And then I could tell there was maybe more to the story there. But I think this is a good example, especially in disaster recovery situations, which is that the building initially was partially completed. The walls were up, but no roof. Interior was incomplete, so no certificate of use, certificate of occupancy, or final inspection. When you input CDBG-DR into the mix, would that be considered new construction? Sounds like a foundation was there and some existing construction had taken place. And that may be up to sort of local codes and standards. It sounds like new construction to me.

Jim Beachler: Yeah. This is Jim. I would weigh in, Kelly, with the same response. The categories typically would be rehabilitation, reconstruction, and that would be the reconstruction of existing property. And then third would be new construction. And since from the description of it, the property was not in operation, had not received a certificate of occupancy from the local municipality, at least from my first take on it in thinking it would be a new construction activity. I don't know whether folks from HUD wanna weigh in on that. But that would be my assessment anyways.

Kelly: Right. Devil's always in the details. And best for the person to ask. If it's still unclear, definitely check with your HUD DR rep if you are using disaster recovery funds for that particular project. One other distinction I wanna draw there too, Jim, you hit on earlier. I know you and I have run into this with some projects we worked on together. The distinction between new construction, rehab, or reconstruction, is laid out in, as you mentioned earlier Jim, the regular CDBG regulations. And then on top of that of course comes the disaster recovery federal register notice or notices plural, depending on the year of your storm and your allocation.

So you have to look to both of those, and as Jim said, you go with the more stricter requirements that apply to your particular grant. But I do wanna let folks know that those distinctions may or may not be the same as some of the distinctions that are used for the purposes of something like environmental review. So just keep that in mind as well when you're looking at sites and trying to figure out about reconstruction in particular, or significant amounts of repair or rehab. Make sure you're also considering your environmental regulations and what may be required to comply with those. So just a heads up there.

And I think, Jim, one other point, I know we see a good bit [inaudible] -- yeah, in this case I'm getting a little more information. The walls were destroyed because of the hurricane. So only the foundation remains. And then [inaudible] okay, this is a good one, Jim. So one question, if you qualify a resident to occupy a rental unit at lease up, do they remain eligible until they move regardless of increase in income? CDBG treats this a little differently than some of the other housing programs. In other words, are you recertifying incomes, do folks have to move if their income goes up after they move in?

Jim Beachler: Provided -- as I understand the rule, provided that the tenant is the same that was initially qualified as an eligible tenant. Their income, unlike the HOME program where there's an annual recertification of a tenant's income, in a disaster recovery context that tenant still qualifies as an eligible tenant. Now when they move from the property, the owner of the development is required to rent to a likewise LMI tenant, or whatever the eligibility. It could be a low income tenant. But otherwise they would not have to recertify on an annual basis the income of the tenant.

Kelly: A layer on top of that of course with layered financing comes layered, and sometimes not always synchronistic requirements, right. So if you're layering in CDBG-DR, tax credits, HOME programs, something like that, remember that you do have to consider all those different factors, and you're gonna go with the more stringent requirements that may or may not apply. HOME has fairly stringent requirements over and above what CDBG traditionally requires.

And then let's see, should DOB analysis be conducted on each unit in a project, or the overall project, or both? It's a great question. So when they're going to [inaudible] the project -- yeah, New Jersey or Jim in there?

Michaela: Hey, it's Michaela [ph] from HUD. And I can jump in and take that or you can too. But I was just gonna remind all of our grantees and everyone else that's listening, your DOB analysis do need to be conducted on an individual basis. So just make sure you guys remember that requirement. And that would still apply here in this case too. Do you guys have anything else that you wanna add?

Kelly: I don't think so. Jim, do you have any suggestions?

Jim Beachler: No. I mean I think you would have to look at the overall project cost, all of the sources and uses, and make sure that each one of those sources is taken into consideration in the reasonable and necessary analysis for DOB. That would be the main point.

Michaela: Yes. Exactly, exactly. Thanks, Jim.

Kelly: And we have -- and Michaela, you may end up being the star of the show for this one -- we have a DOB webinar planned in this series. So if you are receiving the HUD Exchange listserv notices, and have seen the various follow on webinars that we've got planned over the next six weeks or so, DOB is one of those if you'd like to get more detail.

One other quick -- I think we have time for just this one other one. We did get a bunch in here at the end. Someone asked if there's a chart of some kind that would outline the different funding sources, and the income requirements of the tenant, and whether or not there's an annual review of tenant income for those different sources. I'm picturing, Jim, something that [inaudible] different possible layering sources and what the income requirements and long term, you know, kind of certification and documentation requirements are.

There are a few documents on the HUD Exchange that do that with selective programs. I don't think we've got one -- Michaela, correct me if I'm wrong -- I don't know that we've got one that incorporate CDBG-DR and some of the other rental housing sources. I don't know that we've come that far. That's something that could be put together.

Michaela: Yeah. [inaudible] currently do. But that is a really good point. And that's maybe something we can look into for supplemental material to go along with this presentation.

Kelly: Yeah. Wouldn't be too hard to do. I know we've got a HOME and CDBG comparison. So perhaps adding CDBG-DR and a little bit about the tax credit programs wouldn't be a major leap.

Jim, are you aware of anything outside of the HUD Exchange in your network or world that might be out there, or website, or association [inaudible]

Jim Beachler: I am not. And as Michaela mentioned, I think it could be a useful thing to put together. And in particular where this -- you could put something together for federal resources, so you also have to take into account that if some state or local resources have different requirements that would have to be incorporated also. But that could be a footnote to this kind of presentation.

Kelly: Yeah. That's a great point. There's also the National Housing Trust Fund, which we didn't really mention. It's similar to HOME, but not completely the same. There are often state trust funds, state bond financing, local trust funds, local bond financing, and a variety of other sources as well. So that's a really good point. We tried on this webinar to hone in on some of the most common, and particularly to highlight the New Jersey -- New Jersey's great programs and the success they've had with those.

So you've got some contact information for the presenters. We've also tried to provide you with some resources there on the last few slides. And another reminder of the series of webinars that we have coming up. And hopefully you'll be able to participate in those. Any final closing remarks, Michaela, from HUD?

Michaela: No. Thank you all so much for your time just presenting for us today. You guys covered some really great material. And thank you again for everyone that joined us on the webinar. We really appreciate your participation. And please feel free to send us any emails for any other webinars, or material, training content, that you guys really wanna see. And that'll help us in the future as we plan for more trainings like this. So thank you, everyone. And I'll turn it back to ICF.

Kelly: Great. Chantel, I think we wrapped everything up. I just wanted to -- as I sit here and think about the storm that hit last night, I think we all would just like to say our thoughts and prayers are with the folks in Louisiana, and Texas, and Arkansas, and the other areas that are going to have to deal with some of the issues that we've all dealt with before or perhaps repeatedly. So I know everyone probably feels the same way. They're in our hearts right now and thinking of them. Thank you all.

(END)