HOME Monitoring Series

Community Housing Development Organizations (CHDOs)

Tuesday, April 20, 2021

Monte Franke: Monte Franke here again. I will be delivering this session with you, along with Les Warner again. And this session is on monitoring the CHDO portion of your program. It's the third in the series of 10 that we'll be doing.

CHDOs are one of the more challenging parts of the program. It's also something that I've put a lot of my time into. In fact, I worked on drafting the part of the statute that became the CHDO statute within the HOME program back in the late '80s. And I've written a lot of the materials and done a lot of the training since then.

I believe very strongly in the fact that the HOME program was created to build the capacity of the affordable housing delivery system, not just to build units. And that building up CHDOs is one of the purposes of the statute and the goals that Congress set out. And we have been working ever since to try to make this part of the program work.

I know there's a range of challenges you have. Today's training will focus on how HUD monitors, in other words, looking at specifics within the regulations that apply to CHDOs and how they will monitor PJs for their implementation of those things.

Les, do you want to say hello again?

Les Warner: I could do that. Hello, everybody. Glad to be back. And I don't know that we need to go through any more introductions. So, Monte, take it away. And, Monte, I'm taking it then from what you were talking about, your history, that anything that we don't like about the CHDO set-aside, we could probably blame on you, couldn't we?

Monte Franke: Yeah. I'm happy to shoulder all that, Les.

Les Warner: Okay.

Monte Franke: So this is, as I said, the third in the series of 10 that we're going to be covering that's built around the CPD Monitoring Handbook, the Chapter 7 of it that was written -- rewritten in 2019 to update the monitoring as a result of the 2013 rule changes and subsequent rule changes. And so we're working through all the exhibits with you.

Last week we did the overarching understanding monitoring and what PJs and HUD are supposed to do with monitoring. And we also -- Les and I covered last Thursday program oversight, financial management, and match.

Today is CHDOs. Thursday will be oversight of program partners, meaning state recipients, subrecipients, and contractors and the written agreements that relate to them.

Starting next week, we will go into parallel tracks on homeowner and rental activities, as you see there. For the subsequent three weeks, the homebuyer track will be on Tuesdays, the rental track on Thursdays.

With all those, we will have covered the entire set of monitoring guides that HUD will use when it comes on site to do in-depth monitoring of PJ's.

Our objective today is to introduce you to the specific monitoring guide that pertains to CHDOs. That's exhibit 7-32, and remember, I said it's Chapter 7 of the CPD Monitoring Handbook. We will give you the links for that, and you can -- there will also be a link in the resources section at the end of this.

You can also, if you want to look at it at any time during this training, if you look up to the top of your WebEx screen, you'll see the tabs. We're on the HOME monitoring slides tab now. To the right there are a couple more materials there, including the 7-32 CHDO monitoring exhibit. And you're welcome to look at that, if you need to, during this session. But, hopefully, you'll access it after the session as you begin to look at your materials.

The other things I'll mention that are on the tabs right now is the -- one of them is the PJ self-assessment tool which we introduced last week to you, which is generally a set of questions to help you prepare for HUD monitoring.

We've also included a property standards tool that we did, all of the CHDO activities or development activities that are subject to these property standards. We're not going to be specifically addressing the property standards today because they will be covered under the specific activities, homebuyer development, homeowner rehab, rental development, and so forth. But it is there for you to look at, if you want to, because all CHDO activities are subject to these requirements.

And then, as I mentioned, the last tab will be the exhibit itself that HUD uses. And you're welcome to access that and use that yourself as you prepare.

With that, I'll also mention our other objectives are to make sure that you've -- that you understand all the monitoring requirements that HUD will be looking at, the regulatory requirements that underlie them. We're going to cover them in three areas, CHDO eligibility, I should say, the organization's eligibility, the project's eligibility for the set-aside, and special assistance that Les will cover a little later in the session.

We want to help you identify strategies that will help you enhance your use of any CHDO funds. As I mentioned, we recognize and acknowledge that it's one of the challenging parts of the HOME program. And we'll try to share some things that go beyond the regulations, some thoughts that you might want to take into consideration as you work on this portion of your program.

And then we'll also, as usual, recommend steps for preparing for HUD monitoring.

We like to just get a sense -- there's over 400 of you on the webinar. So you can't introduce yourselves, but we want to get a sense of how much experience you have. Medora [ph] is going to put up the poll on the right-hand side of your screen. It should be up in just a few seconds.

And we'll ask you to give us an idea of just how much experience you have with the CHDO portion of the HOME program.

I think I see her putting it up now. So if you can select which one applies to you and be sure to hit the submit button on the lower right so that your -- what you've selected has -- can be counted. And Medora will give you a few seconds to answer this. It's a quick one, and then we'll get on with the presentation.

I want to remind you that while you're -- while we're waiting for the results, that we do know that there's always a lot of new people. On this right now, we're showing more than a quarter of you are saying you have less than one year with CHDO activities.

So I want you to -- to remind you and encourage you to use the Q&A box to post questions. Keep in mind that we can't train everything about CHDOs in this session. It's about the HUD monitoring of the CHDO requirements. We'll try to slip in as many items to help you understand the requirements, but I'm sure there will be a lot of questions you'll have that we can't answer today.

As I talk in the first part of this session, Les will monitor those questions. He may answer them directly. He might interrupt me or save them to talk about it at the end of my part of the presentation. Or we might have to save them for later.

All of your questions will be recorded, and we will be talking to HUD about your questions to get a sense of where follow-up guidance might be needed, generally. You won't be identified individually to HUD but rather a summary of those. So please use the Q&A box to post those questions.

If you have any technical issues with the presentation, hearing or seeing things, you can get to Medora through the chat box, as she mentioned.

Okay. It looks like we -- okay. It looks like we have -- almost everybody has responded, and, again, there's a range of experiences, as usual. So I'm going to go ahead and go into the requirements and get started.

I always think -- yes?

Les Warner: One request that we've had -- and it's always a challenge for us, since we have so many acronyms, we just need to try every time we hit one of those to spell them out for folks, as much as possible. And if Monte uses something that you don't know the acronym to, you can type it into the Q&A box and I'll try to field those for you.

Monte Franke: Okay. Yeah. It's a good reminder. Always those of us who work for HUD have to -- we're required to use acronyms wherever possible, and as a result, we sometimes speak in our own jargon and are not understandable to other people.

I'll be using, obviously, the acronym CHDO for Community Housing Development Organization, as it's defined in the statute and rule. I'll be using PJ for participating jurisdiction, which is the state or local government that receives a direct allocation of funds from HUD.

I might mention the statute at times and refer to it as NAA, the National Affordable Act of 1990. We might mention IDIS at somewhere in the session, the Integrated Disbursement and Information System that HUD uses to disperse funds and also collect information on all your projects.

We'll probably use the acronym LI for Low Income, which is at 80 percent of area median. And I think those are the key things that I'll be mentioning. But, as Les said, please ding us if we happen to use one that we haven't explained to you.

Okay. The anchors, there are four of them for the CHDO requirements that are in the final rule, and these were updated in 2013. So for some of you who have been in the program for more than five years, you will be aware that there -- that some of what we're discussing wasn't originally in the rule but is now in the rule.

And so, hopefully, we'll bring everybody up to date so that they're current. There were some changes that had impacts on how PJs funded CHDOs, and some PJs are still struggling with making those changes.

The first anchor that I want to talk about is the set-aside itself. The statute and the rule both set aside 15 percent of each PJ's annual allocation of HOME funds for CHDO eligible projects.

We will mention in a little bit that the -- we're under a temporary suspension of that set-aside requirement due to the COVID suspensions and waivers, but the slides have been written assuming the regular program is operating so that they have an adequate shelf life.

The set-aside projects -- the set aside is used to fund development projects done by CHDOs, and a commitment can be made to a CHDO for a specific project. There was an old term in the rule -- in the statute and the rule that talked about a reservation for CHDOs. That's no longer operational. Commitments to CHDOs are made for specific projects that the CHDO is going to do not before a project's been identified.

The second thing that is an anchor in the CHDO framework is the role of the CHDO, the role the CHDO in developing the project and owning and operating the project. The rule now has in 92.300(a), which is the main CHDO part of the HOME rule -- by the way, 92 is Part 92 of the Book 24 of the Code of Federal Regulations. The Code of Federal Regulations, there's a book for each agency. Book 24 is the HUD book and Part 92 is the chapter with the HOME rule in it. And so when you see 92 dot something, it's part of the HOME rule.

But these -- 92.300(a) defines what projects are eligible for the set-aside, and they are projects that are owned, developed, or sponsored by the CHDO. And I'll be talking about those roles a little bit later.

The third anchor is that the CHDO itself has to be eligible, a nonprofit that meets the definition of a community housing development organization as it's contained in 92.2 of the rule. 92.2 is the definition section. And so if you go in and look up community housing development organizations in the definitions, you will see about 9 or 10 items listed that a nonprofit needs to be in order to be qualified as a CHDO.

And then the last anchor -- and this is something Les will be talking about a little later in the program -- is some special forms of assistance or optional forms of assistance that PJs can choose to give to CHDOs. And in particular, that we're going to talk about CHDO operating expenses, CHDO predevelopment loans, and the reuse of CHDO proceeds from for sale projects. As I said, we'll get into those in more detail later.

Let me dig into the set-aside a little bit. The set-aside, as I mentioned, is 15 percent of the -- of a PJ's annual allocation. So every year HUD automatically puts 15 percent of the money that's in your award into a separate pot for the CHDO set-aside. And that's for projects, as I said, that are owned, developed, or sponsored by the CHDO and the CHDO meets the definition of CHDO in the rule.

What's eligible from the set-aside? They're basically development projects and, to summarize, they're rental housing development and homebuyer development projects. And so it can include the acquisition, rehab, or new construction of rental housing. And for homebuyer properties, it would likely be the rehabilitation or new construction of homebuyer properties and sale to low-income eligible homebuyers.

As I mentioned, the set-aside is currently on suspension for a few of the years. It's actually year 2017 to 2020 program years due to the COVID pandemic. If you need to look at reallocating some of those funds to meet pandemic housing needs, should keep in mind that the set-aside -- the funds have been set aside in that pot and you'll have to work with HUD to move them, if you do not intend to use them.

And you also have to declare your use of them under those waivers and suspensions memos that came out. For those of you who have not seen them, if you go to the hudexchange.info HOME landing -- HOME program landing page, you'll see a box of policy guidance things, including an orange colored COVID-19 memos link. And click on that, and it'll take you to the links.

Many of you have already elected to use some of those waivers. You had to notify HUD you're going to do it. And the waivers currently only run through September 30th, although some of them expire actually in June of this year. So you'll need to move on it if you intend to take advantage of those current waivers.

CHDO project requirements. I said that they had to be owned, developed, and sponsored -- or sponsored by a CHDO. Those words come from the statute, and HUD further defined them in 2013 in the rule, as I mentioned, and we'll be going through those roll requirements in greater detail.

The -- as a PJ, you commit funds to specific CHDO projects that meet the definition of commitment. I will remind you that we're currently under a suspension of the 24-month commitment deadline that's the Annual Appropriations Act has put in. And so for years -- the deadlines that occur in -- the commitment deadlines in 2018 to 2023 are currently suspended, but they're suspended year by year by the Congress as it appropriates funds.

So don't consider the commitment suspension permanent. There is still in the rule a requirement for PJs to commit their CHDO money, as well as our other project money, within 24 months of receipt of their award from HUD. And the PJ also has to determine the form of assistance it's going to provide to the CHDO, as it does with all projects.

CHDO eligibility. There are, as I mentioned, about 10 different items in the definition section of the rule on what a CHDO needs to be. We've grouped them into four categories that we think makes sense. That is legal and organizational status, board structure and independence, relationship to the low-income community, and staff experience and capacity.

I've got a few slides on those coming up. So I won't comment on them much now. But just keep in mind that the CHDO must meet these requirements and must meet them every time you award them funds from the CHDO set-aside.

Then the last thing that I mentioned as an anchor is that there are some special forms of assistance that PJs can choose to give CHDOs that other developers and recipients of funds are not eligible for.

Those include up to 5 percent of the annual allocation may be used for CHDO operating expenses. The current COVID waiver allows that to be actually doubled up to 10 percent but only through June 30th of this year.

The second thing that is a form of special assistance that's only available to CHDOs is that up to 10 percent of the funds that a PJ allocates to CHDO projects may be used for predevelopment loans. They fall into two categories. Les will be commenting on them. The important thing here is that these are potentially forgivable loans if the project doesn't go forward. So it's a way to provide some up-front project planning assistance to CHDOs as they try to pull projects together.

The third thing that Les will talk about then is the ability for the PJ to allow a CHDO to retain net sales proceeds from homebuyer projects and reuse them for other HOME or other low-income housing activities. And that usually is money that has to be returned to the PJ as program income, but the PJ has the option of leaving them with the CHDO.

Les, as I said, will spend more time on these with you in a little bit when I finally shut up.

The other thing that I wanted to mention is that this monitoring exhibit that we're going to be talking about over the next few minutes, exhibit 7-32, two is a -- there's a lot of detailed questions in it. It's relatively short. There's only 33 questions. It's a lot shorter than many of the other guides we'll be talking about in the series. But it gets into a lot of details.

It focuses -- really there are two sections. One focuses on CHDO eligibility. The second one -- the second section focuses on project eligibility. And toward the end, there's a few things on special assistance. So we will walk through them.

As we have mentioned to you previously, we tend to not go question by question, and we always put the link up here at the upper right that I've just circled now to let you know which exhibit question we are talking about or which cluster of exhibit questions we're talking about. So you'll see the reference in the upper right-hand part of your slide. And, again, it is available to you in one of the tabs up at the top of your WebEx page.

Now, what -- the order of discussion of topics today, we're going to cover the regulatory requirements first, and I just sort of did a brief overview of them. From there, we're going to go into these three areas, and we're going to talk about the monitoring exhibit questions that pertain to CHDO eligibility, to project eligibility, and to special assistance.

And then we'll talk about some program design considerations that go beyond the regulatory requirements, that talk about things you may want to consider as you work with CHDOs, the things that are more the challenges beyond what just regulatory compliance would require.

So it's a similar structure to what we've introduced you to with the previous sessions, and will continue to be the organizing framework for this series.

I'm going to start with monitoring the CHDO eligibility. Remember that we use a little bit of color coding in this webinar series. We're going to identify -- for each area we discuss, we're going to go back and link you to the regulatory requirements. That will be in that orange or burnt orange kind of requirement heading you'll see on some of the pages.

We will talk about the documentation that's required for each. As you know, in the federal system, it has to be documented, or it didn't happen. And the key thing with monitoring is that you've got to be looking at records and at files to determine whether something that's happened in the past was, in fact -- did, in fact, end up being in compliance -- in full compliance with the rule. So those will be in green. The documentation heading will be be in green.

If there is something that we have to -- say is beyond the documentation, it's sort of an overarching compliance review question, that'll be in a blue heading labeled compliance review. So, again, that's a standard form of color coding that we use to label the topics.

So let's go ahead and get started with the CHODO qualification issues. The first category that I mentioned I would cover would be -- was legal status. CHDOs have to be nonprofits that meet certain requirements.

They have to be organized under their state and local laws. They have to be a nonprofit as defined that they don't have any net earnings that are near to the benefit of a member, so that profits can be made but stay within the organization for use for the charitable purpose.

They have to meet one of the IRS exemption categories, generally 501(c)3 or (c)4. Or they can be a local affiliate of a national nonprofit under Section 905 of the Internal Revenue Code. But they have to have -- either them or their national parent needs to be recognized as a nonprofit by the IRS, and they have to have, as one of their stated purposes for the organization, to be the provision of affordable housing.

Obviously, the documentation that we're looking at will be things like their charter, their bylaws, their articles of incorporation, their 501(c)3 designation. Those kind of legal documents should be submitted by them to the PJ and the PJ have copies of those in their records to be able to back this up.

Now, I moved to the category of independence. Independence is a word that we've sort of used to collect a number of different things. What I'm going to stress in these next slides is, first of all, the CHDO needs to be independent of governmental entities. And, secondly, I'll talk about independence from for-profit entities.

The notion here, the concept here is that CHDOs are by definition of the statute and the rules, supposed to be independent community-based organizations, and so, therefore, they can be sponsored or created by a governmental entity or a for-profit but within certain limitations to make certain that that sponsoring entity does not control the organization.

So for the governmental entities, a governmental entity can sponsor or help create a CHDO, but the governmental entity cannot appoint more than one-third of the board. Those board members that are appointed by the governmental entity may not appoint the remaining board members, and no more than one-third of the board may be what we define to be public officials or employees of the PJ.

Now, there's often some question -- oftentimes questions about officers or employees and public officials and how those terms are interpreted. And I just want to say that a public official includes any individual who's elected or an appointed member of any governmental entity. That could include a city council member, a member of the local Zoning Board, a member of the local Housing Authority Board.

Governmental employees includes anyone who is employed by a governmental entity on a full- or part-time basis, even if that individual's job is not related to housing. And governmental employee also includes anyone appointed by a governmental entity to a position for which they're compensated for their services.

So those things are all important ways of making certain that governmental entities do not exert too much control over an individual CHDO.

In addition, whether or not the CHDO was created by a governmental entity, no person who is an officer or employee of the CHDO may also be an officer or employee of a governmental entity.

So the first bullet that you're looking at is -- applies to the situation where a governmental entity helped create the CHDO. The second bullet applies to all CHDOs, that they can't have officers --

and by officers, I mean things like the CEO, COO, CFO, those sort of senior level executives of the CHDO. I'm not talking about the board in this instance or employees. The CHDO officers and employees cannot also be governmental officers or employees.

And, again, this kind of wording that we're looking for to prevent this is documented in charters, the articles, the bylaws, to give us a sense of how they were created and who controls the board positions. But we'd also need to look at the board composition itself, collect a board roster or something equivalent and declarations, if any of those are, in fact, affiliated with governmental entities.

There's a similar issue -- it's handled just a little bit differently under the rule --- with for-profit entities that sponsor the creation of a CHDO, and it is permissible for a for-profit to sponsor the creation of a CHDO. But the CHDO needs to be independent from it. And there is a further limitation that, if the for-profit entity is a housing development or management firm, that they may not -- that there's further limitations on the CHDO officers and employees and their relationship with the for-profit entity.

So I want you to recognize that we can have for-profits sponsoring organizations like -- that become CHDOs, but they really have to be independent. The for-profit may not appoint more than one-third of the board or board members. And those appointed board members cannot appoint the remaining board members to that, similar to the governmental entity thing.

If the for-profit is a housing development or management company, they really cannot sponsor the creation of a CHDO. Obviously, the purpose or intent here is to prevent CHDOs from being created merely as fronts of developers who want access to the set-aside.

And then, further, no CHDO officers or employees can be officers of a for-profit entity, and the CHDO needs to be free to contract for goods and services.

Now that I've said all these limitations on governmental entity sponsors and for-profit entities sponsors, most CHDOs that we work with don't come from this angle. They are created by their community or by citizens who want to see things improved in a particular neighborhood or community. And so many of your CHDOs won't have any issues at all with these particular requirements.

If you do run into them -- that situation, I would urge you to seek some guidance from your local HUD office to make certain that you are not authorizing a CHDO that would not be eligible.

Again, the documentation here that you're looking for is -- would run to the articles and the bylaws, as well as disclaimers or disclosures that they -- whether or not they are controlled by any such outside entity.

The third area then that I mentioned was accountability to the low-income community. The objective of the CHDO part of the statute is to support organizations that are, in fact, community-based and are directly responsive to low -- the low-income communities that they serve.

Community is used in a "small c" sort of sense here. It's whatever the service area is of that particular CHDO becomes their community. It's not -- it's not necessarily just a single jurisdiction base or an entire jurisdiction, but it's the -- it's their service area who they serve.

There are three ways that the CHDO needs to be accountable to its low-income community. I've got him labeled here as history, board, and input. The important thing to keep in mind is that we're looking for organizations that can demonstrate that they are truly of their community and accountable to their community.

For history, the organization has to have at least a year of serving the community, and if it's a brand-new organization, then it was sponsored by a local community-based parent organization, a local church, community group, neighborhood association, things like that that have been working in the community but this organization itself, as a subsidiary or underlying entity, is using their parent organization's prior experience in serving the community to qualify.

And, obviously, you need some sort of statement of showing that they have been serving the community. Serving the community, by the way, does not mean they necessarily have been developing housing. It could be a range of things that they've been doing because this qualification criteria is just showing that they have -- they are not brand new to the community and they are -- have some connection and some prior history of serving the community.

The board has specific requirements to ensure that there's low-income representation. At least one-third of the board must be low-income community resident or a resident of a low-income neighborhood or an elected representative of a low-income neighborhood organization.

This always ends up being a challenging area for PJs to determine. A lot of board members qualify under the second one. They live in the low-income neighborhood, the neighborhoods that you've designated as low income under your consolidated plan, your CDBG low mod neighborhoods or other designations, your low-income housing tax credit qualified areas.

There's a range of ways to identify your low-income neighborhoods. People who live in the low-income neighborhood are presumed to count as low income without having to collect their income.

Others who may not qualify on that basis would have to show that they're -- that they have an income that makes them low income below 80 percent of area median income, or they would have to be an elected representative of the low-income neighborhood organization representing that organization on the CHDO board.

And, again, there should be a limitation or requirement for at least one-third of the board to be low income under the bylaws or the charter or articles of incorporation that establish the CHDO. And a lot of nonprofits have to amend their bylaws in order to meet this requirement when they become CHDOs.

The last thing then is low-income input. Low-income input refers to a formal process that the CHDO has to get input from low-income -- potential low-income beneficiaries on the affordable housing project decisions that it selects and develops. There can be a range of processes that are used.

Some have it built into their bylaws or articles of incorporation where there's low-income committees or advisory groups that are established to provide that input. Some CHDOs have established by a formal board resolution a process or a community meeting structure or a committee structure or some other kind of process through which low-income people in the community have input into what the CHDO chooses to do. All three of those things have to be in place to meet this requirement.

The fourth and final area is the capacity. Capacity of the CHDO falls into two key topics. One is for standards of financial management and accountability, and the other one is for staff capacity.

For the financial management standards, I'm going to refer back to 2 CFR 200 again. I introduced that last week as the uniform administrative requirements for federal grants that all federal money is subject to, and the HOME rule statute overlays that and relies on parts of that to set the basic standards. That's Book 2 of the Code of Federal Regulations, Part 200.

And the two financial management sections that I mentioned last Thursday were the financial management systems requirements in 200.302 and the internal controls requirements in 200.303. I don't have time to go back into those topics today, and I covered them last week.

But, essentially, the CHDO has to be able to certify that it can meet those federal standards that are in those sections, which is usually becomes evident either through an independent audit or a certification from the CPS or other qualified person to certify to the PJ that the CHDO can, in fact, manage the federal funds consistent with those standards that are in 200.302 and 303.

The other topics then for capacity runs to the staff. HUD has clarified this capacity and experience issue, and a lot of changes were made with the 2013 rule to make it clear that a CHDO has to have directly paid staff. It can't just be a CHDO that uses the staff of other organizations, including its parent, because the purpose of the CHDO part of the statute, as I mentioned earlier, was to build the capacity of the community-based nonprofit sector to do development. And HUD's concluded that it's not possible to build capacity if you don't actually have staff in the organization.

So a shell entity as a CHDO would no longer be acceptable. They have to have directly paid staff that have the actual experience or relevant experience to be able to do the oversight of the project.

The exception to that is for a brand-new CHDO, only in its first year acting as a CHDO, it can use paid consultants to meet the requirement for the initial award. But, ultimately, it too has to have the directly paid staff that are capable of doing the project. And this requirement cannot be met by either the board or volunteers or donated labor.

It actually has to be paid employees. They can be either under a W-2 or a 1099 employment contract. That documentation should be in the file along with resumes or experience that --

statements on the staff to show that they had the experience to do that kind of activity that the CHDO is going to do.

Once all those things have been reviewed, then HUD comes to the sort of overarching question of, has the CHDO met all of the requirements of 92.2? And so this we call the compliance review. Once all the details have been reviewed, does the CHDO meet those requirements?

I should mention that 732 is set up to -- basically, to have the CPD -- Community Planning and Development representative who's doing the HUD monitoring to look at up to five individual CHDOs and CHDO projects and see if these -- those individual CHDOs comply. And if they don't, then HUD looks further into, why doesn't this organization comply? Are the PJ's policies and procedures with regard to CHDO qualification, are they adequate, or was this just a unique case where the CHDO didn't meet something when it originally did?

They will be looking further into this issue if any of the CHDO's files that they review do not support qualification as a CHDO. So that is what HUD looks at when they look at CHDO qualification.

I'm going to pause for a moment and ask Medora to post this poll just to -- as a bit of a knowledge check, just to make sure you're still awake, because I know this is very dry stuff.

When HUD monitors the eligibility of a CHDO, which documents will they review? Charter or articles of incorporation, nonprofit bylaws, residency and income of members of the board of directors, or, D, all of the above?

The poll is just up now. Thanks, Medora. And make sure you hit submit in the lower right when you've made your selection. And this should only take a minute or so to do, just to see if you've been following along.

Medora: Monte, are you able to see the poll? I'm having a little bit of a connection issue on my end.

Monte Franke: I can see the poll.

Medora: Okay. Great. Thank you.

Les Warner: Monte, are you seeing the poll or just the slide? I don't see the poll.

Monte Franke: Oh, no. That's it. What I'm seeing is the last poll. I'm sorry. I'm not seeing it.

Medora: Not to worry. Give me just two seconds. My Wi-Fi is reconnecting.

Monte Franke: Okay. Okay. Yeah. I looked over and I saw there was a poll up but it was the last one. If we're having trouble connecting, it's not a big deal. I'll go ahead and -- oh, there it came.

Medora: Yeah. Sorry about that. Thank you.

Monte Franke: Okay. Thanks, Medora. Okay. Can you go ahead and give us a quick answer and hit the submit button in the lower right, and we'll end this real quick and move on?

It looks like most of you have voted that it's all of the above, and, of course, that's the obvious answer. So thanks for just letting me know you were still awake on that end of the webinar.

And what I'm going to do is I'm going to move on as Medora wraps -- closes that one out and talk about project eligibility.

Okay. On the CHDO project eligibility, I'm going to start with something that should be very familiar to you, and that is that there's always a written agreement required. I think in the previous sections we talked about that the four cornerstones of HUD management of programs are really the regulations, policies and procedures, written agreements, and IDIS.

And everybody in the HOME program that receives funds receives a written agreement. I mentioned at the beginning that the written agreement for CHDO needs to be for a specific local project that meets all the project requirements, including financing secured, budget and schedule approved, underwritings completed, and it's expected to begin construction within 12 months. Those are the standard project requirements.

I mentioned that the eligible set-aside activities were for acquisition and/or development of rental or homebuyer housing. I should note that some activities that are eligible under HOME are not eligible for the set-aside. Those are the things that we call programs or subrecipient activities like tenant-based rental assistance, that's TBRA, down payment assistance only programs, that's the DPA, and homeowner rehab.

These are programs. They're not really development projects. They're only providing funding or financing for things, and so those aren't considered eligible. Those are a category of activities that a nonprofit might be doing for you as a subrecipient but not as a CHDO.

CHDO has to qualify at the time of commitment. Each time you award set-aside funds to the CHDO, you must update their documentation. Some of you do it as a checklist with backup documentation or an application that they fill out. But you want to have all that documentation that meets all the requirements that I just discussed.

The project, as I mentioned earlier, has to meet developer requirements. And the one new thing that I want to mention here is that there's a limitation on the amount of funds that can be used for a down payment assistance only from the set-aside.

I'm going to have to pause for a moment to comment that, since CHDO set-aside money is for development projects, HUD assumes and requires the CHDOs to use the bulk of the HOME set-aside funds for development purposes. So of the funds that you award to the CHDO, most of those funds need to be used for acquisition, construction, rehabilitation projects, soft costs, the development budget costs, and spent on the project first.

Some of that is passed through to the buyer when they buy into the second mortgage, but it has to be expended first for the project.

So the regulatory thing that they added in 2013 was that only 10 percent of the money that you spend on a CHDO development project, only 10 percent -- equivalent of 10 percent of those development funds can be used for down payment assistance only. In other words, bringing in those HOME funds -- those set-aside funds at the closing to assist the buyer.

I know that's a little bit of a tough concept, but the notion here is that you really are about funding the development of the project and some of those funds will pass through to the buyer. They're just spent first on those costs of development, and then they become part of the mortgage passed through to the ultimate buyer. Those DPA, down payment assistance amounts that come in fresh at the end, they can come from the HOME side, from project money, but not from the set-aside or at least they can't be more than 10 percent of the development funds.

So the written agreement has to have these requirements in it, that it defines the role the CHDO will play. It defines that they're going to get -- that they won't use more than 10 percent for DPA only and that the bulk of the funds will be used for development.

And, also, the written agreement is required to specify either the sales price or the method by which the price will be determined and also if net proceeds are going to be returned to the PJ. And Les will talk about that when he gets to his section.

So that's the way that rental -- or I'm sorry -- that homebuyer projects work. Just going back, these are all things that apply to the homebuyer project role, and the CHDO is the owner and developer. They arrange the financing. They control the construction. They own the project during development, and then they sell to the homebuyer within those limits that I described.

On the rental side, the roles are much broader. There's four potential roles: owner, developer, sponsor under the turnkey method; or sponsor under the affiliate method. And the agreement has to identify that they'll meet one of these requirements.

Under owner, they are -- this permits them to actually buy a project without doing any development, to buy an existing rental project, for example, or if they own a project and they want to hire somebody to do some rehab or whatever, they can hire and oversee the entity or individual that they've hired to actually run the development side of the project.

Developer then is really inclusive of the owner role that I just described, as well as actually directly overseeing the development of the project. And in both these cases, we're talking about the CHDO being a fee simple full owner or having a long-term lease that exceeds the period of affordability. And so they are a sole owner and operator of the project.

The sponsor methods get us into situations where the CHDO won't be the owner for the full development and occupancy period. The turnkey method, essentially, is a method by which the CHDO identifies another nonprofit that it's going to pass the project to after it's developed.

For example, the CHDO develops a project and then conveys it to a service provider who works with the special population that have been designated as a priority for that project. And this is permissible.

The nonprofit is identified up front in the agreement, and at the end of the development process, the programs -- the project is conveyed to them and they assume all responsibilities of the CHDO in meeting the requirement. There's technically a requirement that, if that second nonprofit, the succeeding nonprofit fails, the CHDO has to step back in.

The sponsor affiliate role then gets at -- mostly at tax credit projects. It's about the situation where the CHDO itself is not going to be the owner of the project. It might be owned by a wholly owned subsidiary of the CHDO, and that's permissible or in a tax credit kind of setting where there's a limited partnership or a limited liability corporation that will own. These are permissible only if the CHDO is the sole general partner in a limited partnership or the sole managing member in an LLC.

So in other words, the joint ventures of the past where a CHDO would joint venture with a for-profit developer to develop a tax credit project is no longer permissible for the set-aside. It's permissible under general HOME funds, but not for using the set-aside for that purpose.

The affiliate role has a couple of additional details that I need to mention that are required. It's -- essentially, there has to be limits on the removal or replacement of that CHDO, and there has to be -- that the funds are not provided to the CHDO but are provided directly to the entity that will own.

So the CHDO is sponsoring, but the funds aren't flowing through them. The agreement must specify these things. You can enter into the agreement with the CHDO to authorize the project, but, ultimately, the funds flow direct to the ownership entity, the LP or the LLC. And those things also have to be covered in the agreement, and they are covered in the monitoring questions, as you see question 22, 23.

Medora, you think we can try another one?

Medora: Yeah.

Monte Franke: This one is the CHDO can develop homebuyer housing without owning the property. Is it true or false? It should only take a few seconds.

There we go. It should be up. True or false? Be sure to hit the submit button in the lower right.

Okay. Les, I'm trying to move the presentation over to you. And while we're doing that, do you have any questions that have come in that you want to discuss for the whole audience? Les?

Les Warner: Yeah. We've had a huge number of questions that have come in during your section of this. I don't know that we have time to go back over those. I think one of the key things here is that a lot of the questions, as you might expect, are related to what the actual requirements are.

And so we'll talk at the end of the second half about some of the resources, and I think we'll recommend that folks turn to some of those additional resources.

Monte Franke: Okay.

Les Warner: I'm going to suggest that probably folks need a few minutes break. I have that it's 2:02, and I'm going to suggest that we take a five-minute quick break just to use restrooms, get something to drink, and then we will jump into the balance of this session.

Monte Franke: Okay.

Les Warner: The last knowledge check question about the CHDO developing homebuyer housing without owning the property, and that answer was false. They are required to own the property during development. I'm sorry. I just forgot to answer that when I was handing off to you.

Les Warner: Perfect. So we're going to start back on the balance of this session. We're going to switch gears here. I'm Les Warner. I'm going to be doing the speaking, and we're going to switch.

And Monte is going to be trying to answer the flow of questions coming in. And I'll just say we have -- because this is a very large audience and we have a lot of questions coming in, which is great, and we're going to do our best to answer as many of those as we can. And there have been some questions about, will I be able to see all the questions and answers later?

That's not something that we're able to do on this. But what will happen is that the question and answers will go to HUD. And with some of that, I think the hope is that there may be FAQs that would be issued that would help with some of the frequently asked questions that are coming up in this session.

So we're going to switch a little bit and talk about the CHDO special assistance. So, hopefully, you recall that one of the things that's written into the CHDO rules and requirements is this option to be able to provide a couple of forms of assistance that the PJ could provide to the CHDO.

Now, keep in mind, these are optional. So some of you will be saying, well, we don't -- we have chosen not to do any of these, and so I don't have to worry about that. We will be talking, when we get to the program design portion of this, that there are some reasons to reconsider, reevaluate whether these are necessary or how those are being provided.

So let's just move on ahead. So the first thing that we're going to be talking about is the ability for the PJ to provide capacity building and operating assistance. And so we've had a lot of questions about, how do I -- what do I do if I don't have a CHDO or if I have a CHDO that doesn't have capacity?

Well, one of the ways that the PJ can help to keep CHDOs and help to keep them stable and with the appropriate amount -- level of capacity is through providing them capacity building and operating assistance. And so it's the PJ's option to be able to use up to 5 percent of the overall HOME allocation for CHDO operating expenses.

Now, keep in mind, these are not project specific funding, but this is for the overall operation for that CHDO to keep them afloat, to help them gain or hold on to staff, get them appropriate training.

There is, within the regulations themselves, this sort of additional capacity building option, but it's limited only to PJs within their -- that are new PJs within their first two years as a PJ. So I would think probably for most folks participating in this webinar, that probably isn't you.

So what can be covered with this would be any of their operating costs. So salaries, education, the costs overall for the organization itself, insurance, and equipment. So you need to be able to document, of course, that these costs are related to the operation of the CHDO. Again, they're always going to need to evaluate that these are reasonable costs and be able to demonstrate that.

These are not project costs. They're not soft and hard costs for projects. This is for the overall operation of the CHDO. And we will talk about ways to do predevelopment funding to be able to help with some project specific costs, but this is for the overall capacity and retention of that CHDO.

So there is an expectation, and this is kind of important. There is an expectation that when we're providing the operating assistance, that it's going to result in capacity in projects. This is a housing production program. So either this would be provided for a CHDO that has an existing project, or there's an expectation that within 24 months, that this funding is going to help them to be able to then come in and be applying for a actual project.

So we've had some PJs that kind of got into the habit from early on on simply providing operating assistance to all of their CHDOs. Well, that's fine if they have existing projects, if they continue to apply for funding for CHDO set-aside funds, but it's not this sort of we're just going to provide you ongoing assistance. So as part of our documentation, will we be also looking at this requirement.

And there are limits in place that -- about how much can be provided, and it's either $50,000 or 50 percent of their overall operating costs. Now, I will mention that currently, as part of the COVID waivers, that we happen to have in place an expansion of this that allows for up to 10 percent of the HOME allocation to be used for CHDO operating expenses. And this is kind of in light of the -- perhaps the risk for CHDOs and being sustainable during this time period. That's for fiscal year '19 and fiscal year '20. And that came out in an April 10th waiver information on this.

It also waives that expectation of the project funding within 24 months. So if you were -- when we get to documentation, if you were operating under this waiver, first off, you would have to have documentation that you requested to use that waiver. And there's the standard form that's being used for that.

And that would be in your file so that, when HUD is evaluating, are you within this 10 -- or 5 percent, are you meeting this 24-month requirement, that you would be able to demonstrate that this happened to be funded while I had a specific waiver that was in place. And so the rules are going to apply -- are going to be slightly different for that time period.

So the documentation that you would need to have in those files would be to show that they were eligible operating costs. So we have HOME eligibility requirements that we talked about last week, but also we have this overlay of 2 CFR Part 200, which defines what are eligible uses of our HOME funds.

So we'd have to know that the funds were eligible. As always, we need to know that they are reasonable, and there's always going to be the question of, okay. So this is CHDO operating assistance. We need to make sure that they are costs that are related to the CHDO and within those confines.

So you may -- and I -- the last bullet on the last slide, I didn't really mention. But the written agreement needs to really spell out what you expect those funds to be used for. And in some cases, the PJ will be really specific on that. And so as part of the documentation then, we would expect that you would have documentation that would line up with what was in that written agreement.

So we need to make sure that the amount of funds that are provided are no greater than either 50 percent of their operating budget or $50,000. Many of you who are providing operating assistance have set limits that are lower than that. And so, again, if you've got some particular program design decisions you've made, you need to make sure that you are consistent with that.

The written agreement would be part of the documentation fully executed by both the PJ and the CHDO. And then, again, we have this expectation that, if we are providing funds to a CHDO that doesn't currently have a project, that there would be -- within 24 months there would be a -- they would be coming for funding. And so there's an expectation that these funds are being used in support of them being able to have an eligible project in the near future.

So that language within that written agreement would call out that expectation that with these funds, there is this expectation that you are actively working on putting together a project and that we're going to be as the PJ reviewing that in the next year or so. And so we've got a 24-month window, and that would need to be called out within the written agreement.

So that which we've been talking about was support for the CHDO itself, for their operating costs, and we talked about it not being project specific.

So here is where we also have an option to be able to support the CHDO specifically for costs that are related to putting together an eligible project.

We know that for us to be able to make a commitment of funds, as Monte mentioned, we no longer have a reservation. We actually need to be able to have a full application that identifies the project, identifies the site, and is laying out what that project is with enough details that the commitments are in place, that we can do the underwriting, and eligibility review for that project.

So in some cases, what's going to hold that CHDO back in being able to put together a full application for funding is having the funds to be able to do some of that predevelopment work. So CHDO regulations allow for funding to be provided, and that's up to 10 percent of the set-aside funds. So if we had $1 million as our CHDO set-aside, then up to 10 percent of that could be provided as predevelopment loans to CHDO.

Now, some of you are probably saying, well, we don't do this. And that's fine. As we mentioned, all of these are optional for the PJ. But part of our monitoring and evaluation from time to time is also rethinking about, is this still working without predevelopment loans, or do we perhaps need to consider doing these in the future?

So these predevelopment loans are to cover costs that are related to putting together that eligible project. That might be things like gaining site control, getting an option in place that's going to have costs. It might be doing things like a market study or other things to determine whether this is actually a viable project and that the CHDO should move forward with that.

So when the PJ is providing the funds, they are going to -- these are going to be provided as a loan. And so repayment is going to be expected either from the permanent financing on this project. It might be rolled into essentially the PJ's larger commitment for the project itself.

But if this project does not go forward, this is the one case where the CHDO could actually be forgiven. We don't hear forgiveness a lot in the HOME program, but this is where they've used the predevelopment funds and they've determined that that project's not viable. So maybe they used the funds and they did a market study, and the market study came back saying that there really isn't an adequate demand for this kind of housing. It's not going to be a viable project.

And so based on that, you've done your due diligence, and you're not going forward. So we could have a forgiveness of a loan. And then, of course, we're going to have documentation in place.

As we mentioned with the operating funds, we're going to expect that there be a written agreement in place. And as I mentioned, many PJs will be very, very specific about the use of those funds.

So eligible uses of those funds would include consulting. It might be legal, engineering, architectural fees. That's also where we would include things like that market study on this. So we're really trying to figure out, is this a feasible project, trying to pull together a team, get site control in place?

Now, keep in mind that, if we have not gone through, which we typically at this point would not, we would not have gone through our environmental review and release of funds. We're going to be limited to no impact on this -- a potential site. So that written agreement would lay out what the uses were for to make sure that they were within eligible costs and that there was a repayment expectation on this. And also it might well spell out the circumstances of when the PJ would be forgiven on this.

So we're going to be talking in the next session on Thursday specifically about written agreements.

So the documentation that we would expect to have in place. Well, generally, our written agreement is going to call out what was the planned use of the predevelopment funding. And so we would expect that there would be documentation of how those funds were used to achieve whatever that step in that process might be. So maybe it's we're going to get a market study, and so we have a market study in place, depending on what the criteria was for why we provided that -- the funds in the form of a loan.

And some PJs may also have this as a tiered approach where, first, you can use funds for, let's say, a market study. If that comes back supporting the project, then your written agreement would say, they then could proceed with getting an option on the property for site control, going through architectural plans, specs, those sorts of things. A lot of times pre-engineering and things would be part of that.

So, again, that written agreement needs to be as part of your documentation showing that they have followed the criteria that you have put in place.

If we had a project that was determined not to be feasible after they had gone through this process, then we would also expect to see that documentation in place on why -- what the basis was for waiving the repayment for those loan funds.

All right. So we're going to switch gears here and really talk about program design considerations. And these are essentially the areas where the PJ themselves is making decisions about how they want to run their program, how they want to target the use of funds.

And so that's kind of -- one of the aspects of monitoring is not only making sure that you're following your program design considerations, but I think we've talked about -- in the first session about part of monitoring is also evaluation. And so as part of this monitoring process and pre-monitoring for our HUD visit would be kind of looking at are our program design considerations, are they working? Do we want to continue to operate our program in the same way? Or might we want to make some tweaks to how we're doing this?

So because we talked about this flexibility of being able to not only decide what kind of projects that we want to fund, but where or how our funds are going to be invested in these projects, what kind of additional support we might need to provide to those CHDOs, it's a very strategic use of those set-aside funds.

And so over time, that may very much change. I know I did some work a number of years ago with a PJ that had a couple of CHDOs that had continued to produce units -- homebuyer units for sale in the specific neighborhood they were working in, even though the units that had already been completed still had not sold. And at some point it becomes appropriate to evaluate, should we keep doing the same thing we've been doing, or is it time to do something a little bit different?

So that mix between homebuyer and rental, who the target audience is, where -- what's happening in that local market and the demographics. And so as part of the -- our monitoring, part of our evaluation process then is looking at our program design and determining, are these things still valid? Do we need to continue to do the same thing, or might we need to change things?

So part of that monitoring is then looking at that current portfolio, those currently -- projects that are within their affordability period or are maybe in some stage of development and determining whether that's working well, whether we have some patterns of risk of failure or potential repayment, and that that becomes part of our decision-making process on how we want to move forward.

Also, when we talk about some of these ways that we can support CHDOs, because we need to make sure that we -- our CHDOs remain intact and viable. And so looking at that existing portfolio becomes an important function of our overall monitoring process.

So as part of our way to determine the needs for CHDO and the capacity, we'd be looking at whether they might need operating assistance to either enhance the capacity -- and maybe that's to add some staff or get some additional training. Maybe they're at a point where their operating levels are not supporting maintaining those existing staff that have good capacity. And so that's part of our evaluation.

Also, looking at whether predevelopment loans are actually needed. And you may be in a market where, previously, predevelopment loans were not needed. Now, you feel they are. Or you've been providing predevelopment loans and you determine that most of your organizations either have access to other funds or have the capacity and the financial liquidity to be able to get those projects in place without you using some part of your allocation for that.

So that's, again, one of the things that we'd be looking at. And then as part of that, the PJ would be then looking at what's its process, and as it determines who should be selected for use of future funding and the roles and commitment requirements that are in place.

So we're going to -- we talked quite a bit throughout this series about policies and procedures. And again, this is where a lot of these sort of adjustments and evaluations then go back to changing our policies and procedures a bit to kind of fine tune our process, just to make sure that with those limited funds, that we are making the best use of our funds.

We mentioned earlier about this reoccurring commitment of operating funds to CHDOs might not be productive. Maybe we only need to provide operating assistance when the CHDO needs additional training. Maybe they're going to shift from doing homebuyer projects, and they're now going to add into the mix some rental projects. Maybe they need some other team members. They need some additional training. And so strategically using those funds.

Also, as Monte spent some time and I think probably a number of you had some questions about in the roles for the CHDO and whether based on CHDO staffing, whether you actually are going to have the capacity to -- for the CHDO to actually be in the driver's seat for these projects. And so that might be part of our strategic use of these funds.

So in talking about our policies and procedures, so that kind of scans -- they kind of are the implementation plan from the initiation of the use of our funds all the way through the end of that affordability period. So it's our process of doing qualification of CHDOs at the time of commitment.

And I will just mention we had a number of questions about the timing on that. And so I think, as Monte mentioned, prior to the 2013 rule update, many folks had been doing simply an annual recertification of all of the CHDOs. The rule change specified in 2013 that we need to be recertifying at the point each time that we are going to provide funding. And part of that is that our recertification is not only looking to see that they have appropriate board configuration, that they are organized under state and local law appropriately, but also that they have the capacity for the proposed project.

So for each project that comes through the door, if they are applying for a homebuyer acquisition, rehab, resale project versus new construction of rental housing, they probably need some different capacity as part of that. And so our certification is specific to qualifying them for the proposed project they are seeking funding for.

So that's at the time of commitment, but we also talked about the requirement for having the CHDO continue in place, not just through the development period but through that affordability period. And so the PJ would also have to have a recertification process in place. That's -- all of it needs to be detailed within your policies and procedures.

And so many of you, I think, probably need to go back, revisit that, make sure that you've thought through that process and that that is clearly spelled out within your policies and procedures.

Also, as part of that, making sure that your written agreements contain the appropriate language. And we specifically talked about the role that the CHDO is in and, depending on the type of project, those requirements are rather specific. So making sure that the written agreements have adequate language in place to make sure that that is handled.

As part of that, I'll just mention, when we talked about certifying the CHDO, that includes not only looking at how they are organized and articles of incorporation, bylaws, but also a lot of questions about, how do we do income certification, if that's the way we are qualifying board members as the LMI representative? How are we handling the count on that cap of one-third represented -- representation of government entities?

But also, as part of that, there is a requirement that the CHDO has a formal process for low-income input, evidence of prior history of serving the community. So all of that needs to be reflected within your policies and procedures, the way you are going to be able to go through that evaluation process in certifying them.

There was an old checklist in place with CPD-97-11. That is outdated. We're hoping that there will be a revised CHDO checklist that would be made available as a sample document. But each PJ is going to need to follow the regulations in the 2013 rule and have some kind of a process and checklist that you're using to make sure that you have that appropriate documentation in place.

Monte talked about staff capacity and full- and part-time employees, evaluating whether that was adequate based on the proposed project. And so, again, that needs to be part of your process to make sure that you have adequate capacity in place.

And then I'll just mention the last bullet in our process then is CHDO proceeds. So you may recall that money that is retained by the CHDO is not considered program income and has some different rules. But there is a requirement about it being reused either for other HOME eligible activities or other uses that support affordable housing. And so the PJ does have a requirement of monitoring the use of those CHDO proceeds, and that would need to be included in your policies and procedures.

So things that you need to think about, I think we kind of talk through these, the certification, the application process, that review process that you're going to undertake to make sure that this is a certified organization. It's an eligible use of funds, that it's appropriate.

So as part of that, having a checklist in place for your certification process, for CHDOs, having some standard list of documents that you would expect to have in place for each of those files.

I mentioned things like on the low-income representation with the board, a lot of you need a little bit more process on, how am I going to determine which of these board members actually are the low-income representatives, and what documentation do I expect to be submitted?

So all those things are things that are captured within your policy and procedures, and so all of that needs to be kind of planned for up front so that you're going to be sure that you have that in place. And that may include things like what reporting that you're going to require to be provided by that CHDO on an ongoing basis.

Are you going to require that financial reports are going to be provided to you? And what's your process on then looking at those, evaluating those? And that might include things like your CHDO proceeds.

So effective practices on this. Kind of looking at what the risk factors would be for this. Also, making sure that you have some performance standards in place as part of that written agreement. So that may be things like deadlines for specific tasks within this, production targets. Oftentimes, we're going to see within that written agreement that there will be specific milestones throughout the implementation process and reporting on that so that the PJ, at any given time, kind of knows what the status of that project is.

And then, again, that monitoring of CHDO proceeds. And that might be including a requirement that, when they apply for funds, that they're reporting to you about the status of any CHDO proceeds that they are maintaining as part of their request for new funding.

Let's talk a little bit about preparing for the HUD monitoring. So we've been focused today on 7-32, which is the monitoring exhibit that is specific to CHDOs. So this is something I would want to be familiar with.

This is kind of the guide of, okay. This is what HUD's going to be looking at, and so I want to make sure that my systems, my policies and procedures, my checklist that I might have for files are going to position me for them to be able to find the documentation for each of these things that I have a process for decision making that is going to follow each of these required steps.

And so I always have used those as a really good starting point to think about some of the systems, policies, and procedures in place.

So in preparing for HUD, part of it is assembling, looking at documents. So HUD's going to want to look at IDIS reports. I would want to know what those IDIS reports look like in advance. Taking a look at the written agreement template and making sure that those require -- had all the required elements.

Thinking about past monitoring and so issues that HUD has identified in the past, they are also going to be likely to revisit to make sure that those corrective actions have been successful.

Also, looking at things like citizen input, the process that you've utilized for your CHDO selection and also that certification. And, specifically, we've been talking about our policies and procedures, how all of that is is laid out so that you have an adequate process in place.

HUD's going to want to look at your policies or procedures. As we mentioned, also, when there is a finding of some kind, HUD's going to be looking back to the policies and procedures to try to determine, is this something that someone simply didn't follow your policy and procedure appropriately, or is it that your policy and procedure really isn't adequate to prevent the noncompliance from occurring?

So once the documents have been assembled, the suggestion is that the PJ go through a self-assessment process. We've mentioned that there is a standard tool, sample tool that we have provided as part of this series. And so for each of these activities then, looking at the policies and procedures that would be specific and in this case to CHDO, we've talked about some of the details that would be included in that.

And then as part of that, a document review on determining, so, when I pull out a file for a specific project, my policies and procedures might say, okay. Before I fund this, I'm going to have recertified the CHDO. Here are the specific documents that would be in place. I want to look at that documentation and see, is that actually happening? Are there things that are missing that are stuck in somebody's desk or making sure that that is all in place and our system continues to operate appropriately?

And then thinking about past monitoring questions or things that, as part of your self-assessment, are identified. So that sort of random pulling of files and making sure that what your planned process was is actually working is important as early as possible, but, also, I think in that preparation for the HUD monitoring can be really useful for you.

So in the pre-monitoring self-assessment, steps in this on the regulatory end of things, looking at your policies and procedures, how you are making decisions to make sure that your projects are going to be in compliance, following that paper trail then of all of that being captured within written agreements, making sure that the documents are in place.

And then thinking about the regulatory limit. So we talked about maximums on operating assistance. What your CHDO set-aside is, what the maximum is for predevelopment loans. And so making sure that, as you are working through your process, that you are staying within those regulatory limits, that you've got policies and procedures that walk you through, and checking before you make those decisions so that you're going to be safely within those thresholds.

And then, of course, all the eligibility documentation for not only the CHDO itself but also for the activity, for the roles in that needs to be part of that process.

You'll see on the screen is the link for that self-assessment handout. And keep in mind that, as part of that self-assessment, you're going to have to incorporate in those program design elements that aren't part of the regs themselves but they're a decision that you as the PJ have done.

So then looking at your program performance, specifically looking at IDIS, since that's going to be sort of the official version of where your program currently stands? Sometimes in that review of IDIS documents, you would realize, wait a minute. That doesn't look current and making sure that the entry of information has been -- the reporting is actually getting into IDIS in a timely manner. That would be very important to fix that prior to that HUD monitoring visit.

And then comparing where am I with my production goals versus what I laid out within my con plan and my action plan, because that's going to be part of HUD's evaluation of your program.

The PJ itself has an ongoing responsibility for monitoring not only itself but also its subrecipients, developers, CHDOs. And so making sure that those systems not only are being used, but that you've got good documentation of that oversight happening, including when you identify weaknesses or noncompliance, that those responses have been followed up on and you've got documentation in them.

HUD may be asking you about citizens' comments, media reports, and evaluation about your staff skills and training. And sometimes you might, as part of that self-assessment, be saying, we've identified we need -- maybe we need more staff, we need more training, and be able to demonstrate to HUD that you're actively working on addressing that. And then thinking about changes to the program that may need to be made based on what you're seeing as part of that evaluation process, as part of your monitoring.

Let's talk about some of the resources and tools. So first off, this is the link for the HUD monitoring -- the CPD Monitoring Handbook. Specifically, today we're talking about 7-32, which is the exhibit that's specific to CHDOs. But keep in mind then, based on the activity that the CHDO is undertaking, we will have activity specific requirements for some of your projects.

We also mentioned about the financial requirements 2 CFR Part 200. So we have a number of these exhibits that will apply for our use of our CHDO funds.

Also, on the HUD Exchange -- and I know that we've got quite a few folks that are relatively new to the HOME program. So the HUD Exchange is an online resource which has a lot of HOME specific resources. So this is the HOME landing page. And if you kind of scroll down that page, you'll get to these HOME topics.

And so by clicking on any one of these topics -- in this case, we're showing -- highlighting the HOME CHDO -- you're able to not only pull up regulatory examples on this, but also where there are frequently asked questions that have been issued, guidebooks, training. So this can be a really useful go to.

And I will say, based on some of the questions that we're getting, a lot of you are working to get up to speed. We're -- Monte and I are talking about specific regulations. And a lot of you are saying, we need to know a little bit more about the specifics.

So in this series, we're talking about monitoring specifically and kind of following the exhibits. But some of you also may need to spend some time getting up to speed on these.

One of the really strong resources for this is the Building HOME Online Training. So as we will be mentioning repeatedly in each one of these sessions, this is an important resource for you. There is specifically a CHDO section on this that would take you through a self-paced training into a great deal of detail. And I think for a lot of the questions that folks have had, this would give you the level of specifics and, essentially, have the time to be able to go into more details, which I think would be helpful for a lot of folks.

So we provide the link here. And there are a few initial modules with sort of overarching HOME rules that you're required to go through first, and then you're essentially opened up to the menu of all the other sections of that training. And so I would highly recommend that for folks that are newer or having some questions about some of the specific requirements that we've been talking about today,

Some other resources that are available, there is a CHDO training opportunities that are available on the HUD Exchange. There's also the self-assessment tool that we've been mentioning as sort of the basic, and then you would be looking 00 adding sort of to that your program design elements of that as your starting point on completing a self-assessment.

Monte mentioned earlier the property standards tool. And, again, there's a link here for this.

You do have the ability to request technical assistance for your program in preparing for HUD monitoring. And so that's an online request that's made on the HUD Exchange, and we have included the linkage there also for that.

And, again, I would also say -- and I think that you'll hear us say this a lot, that working with your local HUD office, with the HUD rep that's been assigned to your program, asking questions, asking for guidance as you go along, rather than waiting to see, well, I wonder if this will be identified as an issue when we get to the monitoring. That's probably not going to be a great strategy for you.

So, Monte, before we go into the last couple of slides on wrap-up and kind of talk about the upcoming sessions, are there questions that we should -- that we have time to try to address or revisit?

Monte Franke: Les, I see what you say about keeping busy with questions. Answering the questions, I felt like I worked harder than the first part of the presentation.

Les Warner: Yes. Yes. I was happy when I took over as speaker.

Monte Franke: And part of the frustration is you got that almost Twitter-like limit on how much you can say within an answer. And so how do you give a complete bureaucratic answer within that character limit that WebEx has? There's a couple of them that I'll comment on, though.

One of them we got -- we've gotten several of the standard questions of, are there sample written agreements?

And the answer is, unfortunately, there isn't at this time. Historically, HUD has been reluctant to provide sample written agreement templates because of the variation across states and localities in terms of legal requirements and also lawyer preferences.

We did actually have a sample that we had used in a training that we tested that will ultimately hopefully become a CHDO toolkit on the website. But that is undergoing review, and it's not yet available.

There are written agreement checklists available online that tell you what's -- what needs to be there, but we're not at the point where we're going to be able to deliver that. And we hear you and we are conveying that message to HUD.

Another question that I got that I couldn't answer within the limits of the WebEx, at least one person was asking questions about scattered site projects.

And a project is defined as a set -- one or more buildings under common ownership, financing, and management. That's in 92.2, and it anticipates that there could be cases where, for example, a

CHDO might acquire several houses, rehab them, and sell them in a neighborhood revitalization project that they're doing.

And so that could be permissible, and as long as the CHDO own them as part of the project under the development phase, ultimately, they would sell those projects to individual buyers at the end. So the common ownership, financing and management definition really runs to the period during which the CHDO is in control of the project, that they have to have that.

But the question then came up whether scattered site projects, whether the individual sites need to be identified in the written agreement. And that's an issue that we struggle with, Les, because HUD wants specific projects. And, yes. There's a project identified of three houses, but say only one or two of them is identified and one or two to be named later.

And so it's one of those that we have to approach very carefully and confer with our HUD reps to make sure. I have seen agreements that have been done that identified what had to be done without a specific site identified for each one of the buildings. That doesn't technically comply with the rule as written, but it certainly reflects the reality and the intent.

So I just have to urge you to sort of work with your rep on that one. It's a tough issue from a regulatory standpoint.

I also -- go ahead.

Les Warner: We had a number of questions that I answered on the same thing and about, would there be a separate review and a separate CHDO certification by address?

And it really does go back to, what's the project? And you could have -- and this was sort of related. You could have a CHDO that was applying for a project which maybe was scattered site homebuyer, but also applying for a -- for funding for a rental development. So those are two separate projects, probably.

Monte Franke: Right.

Les Warner: And so you would be doing two separate reviews and two separate certifications because the capacity issue -- this is a separate funding decision, and so the capacity requirements also might be different for those two projects.

Monte Franke: Yeah. Yeah. We can get very deep into some issues with that. So I would just urge people to seek some guidance as they do those more complicated ones.

Another set of questions were coming in about the COVID suspensions and waivers that I mentioned. And we're not covering those here. I just urge people, again, to go back to the hudexchange.info HOME landing page. Hudexchange.info/home will take you there. And under the policy guidance box, just scroll down just a little bit. You'll see a policy guidance box. You'll see the COVID-19 waivers guidance listed in orange. And just click on that and read those.

You -- as a PJ, you were supposed to have told HUD if you were going to take advantage of any of those. And if you haven't yet, the time is running out to do it, and there's some time deadlines on each of them. So we're not giving that guidance in this session. We urge you to read those. There was that last April, and then there was an update in December when they were all extended. And most of the extensions are to September 30th, but a few of them are even shorter than that.

And they -- and the suspensions pertain to particular fiscal and program year monies, and they aren't all the same. So there's no general way that we can give you an overview here. You're going to have to read those particular memos to understand what the options are for you. They were put there just to give you the ability to respond to the pandemic crisis with whatever housing you need. And, of course, soon we will be hearing what HUD expects us to do with the HOME money has now become available.

Les Warner: And I think, Monte, I was trying to point out to folks that, if you actually were operating under one of those waivers, that that documentation would -- you'd want that as part of your files so that a number of years later, perhaps, when you're being monitored on that, that you'd have the appropriate documentation to be able to show this is why I'm not within the exact same limits that the regulations call for because I was operating under the waiver.

Monte Franke: Right. Right. And then the other thing is there were several questions that came in that got into the weeds on the sponsor affiliate issues.

And, again, I'm going to urge people to go back and read very carefully hose 92.300(a). It's two through six is the set of roles, and five is the one that runs to the affiliate issues. It's very prescriptive on especially tax credit deals, the LPs and LLCs where the CHDO has to be in full control.

And much of what we did prior to 2013 is no longer permissible in those kinds of projects. And I would urge you to read that very carefully and not commit to the same sort of joint ventures that you have in the past. But it's a legal issue, and seek guidance from your HUD office and make sure your lawyers read it carefully.

Les Warner: Very important guidance. All right. So in the last couple of minutes that we have here, just want to remind folks that Thursday this week we're going to be doing -- I think it's Monte and I again, are going to be going through talking about oversight of your program partners and then the all-important written agreements and so covering three different exhibits. And I think that would be an important session for folks to participate in.

And then next week, as Monte mentioned, we're going to be essentially running two separate tracks for the next three weeks. So a homeowner track and then a rental track. So Tuesdays on homeowner related topics and Thursdays being our rental truck. So a lot of sessions but covering a lot of important information for folks.

So with that, I think we'll thank everybody for participating. A large group. Hopefully, we were able to get to your question, but if not, we hope that the resources that we provided will get you what is needed or that you work with your local HUD rep to seek those answers. Thanks, everybody, and we hope to see you again on Thursday.

(END)