HOME Monitoring Series

Long-Term Rental Compliance

Thursday, May 13, 2021

Les Warner: Thanks, Paul. So welcome, everyone. This is -- believe it or not, this is our 10th and final installment of our HOME Program Monitoring Series. So just as sort of a quick reminder of how this is working, Kris Richmond and I will be the trainers for today. And we also are lucky to have Monte Franke along with us, and he is helping out with monitoring questions and trying to respond to questions as they come in.

So this is the overview of the series itself. And so we started with four introductory, this understanding monitoring with sort of an introduction overall to the monitoring process. But then we had three sessions, program oversight, the CHDO session, and the oversight of partners and written agreements, which are really program-wide sessions.

And I would encourage folks, if you've not participated in each one of those, that those are posted and that would be part of kind of having a full understanding of what the monitoring requirements are that might apply to a rental project.

On the 29th of April, we did our first installment on rental. So that session, which was looking at Exhibit 7-29, was covering the funding decisions, the underwriting all the way through for rental projects through project completion. And so we won't be talking about today that aspect of rental projects.

Today we're going to be focusing on, once that project has been completed and we're starting that long-term affordability period, what all the requirements are and actions that the PJ and its partners need to be -- to complete. And we're going to be focusing on exhibit 7-30.

So for those of you that are working directly with rental projects, if you didn't participate in our first rental session, I would really recommend you go back and listen to that posted recording. It takes a couple of weeks usually for the postings to go up on the HUD Exchange.

I checked today, and it looked like seven of those are already posted. And so we have three more to go before all ten of those are available for you. So I would encourage you to make use of those resources for this overall series.

For today we're going to be focusing, as I mentioned, on the period once those projects have been completed, construction's done, the project is placed in service, and then we're looking at that project and the requirements throughout that period of affordability.

So the things we're going to be looking at today, specifically 7-30, which is the Guide for Review of Rental Project Compliance and/or Policies and Procedures. And we -- certainly, as we've been going through this entire series, I've talked a lot about the regulations but also what portions of that need to be captured and detailed within policies and procedures. And that's kind of the other half of the compliance question is having a process in place on how you're going to implement this and how you're going to demonstrate compliance.

So we'll be talking as we go through about what the requirements and regulations are, what the documentation that would need to be in place, and, as I mentioned, calling out some of those things that need to be captured and incorporated within your policies and procedures.

And then we'll be closing, as we've done in each one of these, thinking about what the PJ could do as part of a self-assessment process and getting prepared for that HUD monitoring.

So we want to start by taking a quick poll just to get a feel for who we have participating in today's session. So Paul's just opened up the poll. If you can go ahead and log in, vote, and hit the submit button and let us know whether you've worked with long-term rental compliance for less than a year, one to five years, or five or more years. If you can go ahead and vote, please, and then hit the submit button.

Paul: The poll is closing. Make sure you hit that submit button once you've selected your answers, so that way your response can be recorded.

Les Warner: Great. And the results are in. So it's pretty much an even split between folks with less than a year, one to five, and five or more years.

So that kind of leads me into my sort of next comment here is that, as we go through this, we're going to be focusing on the monitoring exhibit. We're going to be briefly calling out the regulations and then talking about documentation and compliance issues. But we are not going to be able to take the time to teach the regulations and go into a great deal of detail on that.

We're making the presumption that folks already have that background. This is a little bit more of an advanced topic-specific course. So some of you who are newer, this is going to be useful for you. But I think you may need to go back and learn a little bit more about some of the regulatory requirements. And we'll, again, recommend that you, on the HUD Exchange, utilize the E-building HOME Training.

There are around 20 hours available there. After you take the first couple of overarching sessions, then there are specific sections on both rental and the long-term compliance. And so it will cover in really good detail the topics that we're going to be talking about and kind of help you clarify what those requirements are and how you would be implementing them. So I really encourage folks to follow up on that.

So the regulatory provisions we're going to be working with today and we sort of have a list of specifics for long-term rental and then some other HOME requirements that during that affordability come into play. So we have some very specifics at 92.252, which lay out affordable rents, income targeting, so who can actually occupy those units, and defining what that affordability period would be.

We're going to be taking a look at tenant protections, talking about income eligibility, and what that process needs to be in the documentation and then about compliance with the ongoing property standards, which just, as a reminder, we have property standards for projects as they are completed, and then we have a separate standard of property standards for our ongoing affordability period.

And there is -- as part of the materials, there is a sort of a handout or a little quick guide about property standards which may be useful for you.

And then for other requirements that are also going to apply during that time period, affirmative marketing, the types of inspections and oversight that the PJ's responsible for and then things like fees and record retention during that affordability period.

So this is just a quick view visual of the monitoring handout or exhibit itself. And this particular one includes 49 questions. So a lot of detail that is part of the HUD review when they are utilizing this to look at your program.

So depending on how HUD has planned the specific monitoring visit, they might be looking at all 49 questions, but they also might be focusing on some portion of this and so selecting portions of this that they would be working through. So, of course, our goal here is to understand what all the exhibit questions are and what documentation needs to be in those files so that you are well prepared and would hopefully not have compliance issues as part of that.

I'll just mention that, as we go through this, we're not going to be following -- if you were to look at the exhibit, itself, we're not going to be following in the same order as the questions appear in the exhibit. We kind of rearranged them a little bit, which I hope makes it a little more easy to follow along as part of the training.

So we've essentially divided it into categories. First, we're going to talk about the regulatory requirements. And we've kind of divided that into project completion, lease up, talking about during the occupancy and maintaining unit mix, talking a bit about property standards and conditions, and then some of the administrative requirements on that.

And then at the -- later in this session, we'll also be talking about the PJ decisions, program design decisions, some of the systems that you need to have in place and choices that the PJ could make as part of how they are going to administer their program.

So let's jump into the long-term rental housing requirements. So, first off, the question about who's responsible for long term compliance on it. So the PJ or a partner working on their behalf. So that could be a contractor who has been competitively procured. It might be a state recipient or a subrecipient. But in either of those cases, the PJ then still has an oversight responsibility for those partners that are working on their behalf.

If that's the situation, then we just want to note that there are exhibits 7-34, 35 and 36, which talk about having appropriate oversight for contractors, state recipients, and subrecipients. And there was a separate or were separate webinars as part of this series. We would recommend that you go back and revisit those, if those are applicable for the way your program is actually being implemented.

Keep in mind that, if you are working with partners, that you need to have a written agreement in place with that partner which describes the scope of their responsibilities. PJ, of course, has to maintain oversight on that.

Just a reminder that, if we have a contracted partner, that the contractors always have to be procured. So a couple of other related exhibits, we mentioned already, exhibit 34, 35, and 36. There also is a separate procurement exhibit in making sure that contractors have been appropriately procured.

So the format that we're going to utilize as part of our session today is, in each of these topic areas, we're going to be calling out what those regulatory requirements are, and these are coming directly from the monitoring exhibit for long-term rental compliance. And you'll notice on the slides as we go along, there will will be a mark on the top right-hand corner, which will reference you back to the specific question within the monitoring exhibit so you can cross-reference. We did mention these are not in the exact same order as the exhibit actually handles them.

We will be talking in each of these cases about what the documentation would need to look like. That would be as part of demonstrating that compliance, including things that would need to be captured within your policies and procedures and in the file documentation.

And then in some, but not all, we'll be talking about compliance reviews. So we'll be talking about -- so as part of determining compliance, how would this documentation be analyzed to determine whether this was acceptable or not?

All right. So here's our sort of map of what we're covering here. We're going to start with project completion and lease up. We mentioned that the earlier session was looking at rental projects through project completion. And so this is essentially the handoff to the start of that affordability period and getting those units rented up for income eligible folks.

So project completion. Our requirement is that the PJ needs to enter that project completion data within 120 days of the final project draw. And so the documentation that's going to be in place is showing how they met the project completion. So that would be things like the final inspection, certificate of occupancy. As part of that we'll mention in another slide or two what some of those specific requirements are for defining project completion, particularly for rental projects.

And so the review and the compliance determination on this is going to be based on, does that documentation demonstrate that project completion on this was handled within 120 days of that final draw and that the IDIS information that has been entered matches the information that's within that written agreement, within the files.

And we'll mention that things that are included in that are things like making sure that the activity type, property type, the designation of numbers of units. Starting later in the year, Section 3 labor hour reporting is going to be part of that project completion information. And so important that all of that data has been included and it matches correctly with the documentation that's in place.

So one of the requirements, hopefully you recall, is that we have a requirement that within 18 months of project completion -- and so that's what sort of starts the clock ticking -- we need to have our HOME-assisted units be occupied. So we need to make sure that we've got eligible tenants who are in those units within 18 months after project completion.

This is going to be tracked based on the beneficiary information that gets entered into IDIS. So part of our challenge is collecting that information in a timely way and getting it entered. If the PJ fails to meet this 18-month requirement, then HOME funds have to be repaid for those unoccupied units.

So documentation here, of course, we have a set number, a specific number of HOME-assisted units. So for each of those units, we would need to see that we have documentation that each of those units are occupied. So that would include things like the beneficiary information, household size, the race, and demographic information all having been inputted into IDIS.

So important that the PJ is monitoring and tracking that, making sure that that information is getting into the system on a timely basis and then understanding that in the absence, if you've missed that deadline, then the other documentation that we need to be in place would be documenting that those funds were repaid for each of those HOME units that did not meet that deadline.

Obviously, our goal is to make sure we can demonstrate full occupancy within that deadline and avoid having to do repayment.

So we mentioned affirmative marketing is part of our requirement. And so depending on our project, all projects will fall under the PJ's affirmative marketing plan. In cases where we have a project with five or more HOME units, there's going to be a property-specific affirmative marketing plan.

And so the documentation that needs to be in place is evidence that the PJ or its partners or the developer owner in this case have implemented that affirmative marketing plan.

And so we would have evidence of whatever was within your affirmative marketing plan and the steps that were going to be taken, things like placing ads, fliers, the community outreach that was being done. You would be collecting evidence of that -- those activities that have been done that would be captured within your documentation.

So that compliance review is looking to see that does that documentation line up with what the PJ's policies were on that that were conveyed in the written agreement?

All right. So let's talk about tenant selection of policies and criteria that are part of this.

So the requirement is that the project owner must have written tenant selection policies and criteria, and they have to meet the HOME standards, which we're going to be going through in a subsequent slide as part of this.

So as part of that, the policies need to address who can rent the unit, so calling out the income restrictions, targeting that may be done, nondiscriminatory process that will be part of that. And then we have VAWA protections as part of that also.

So VAWA requires that the owner is going to provide tenants with a notice of occupancy rights under VAWA, and that would be issued at the time that the tenant is either notified that they have been accepted to move into a unit or rejected as tenant. And it simply outlines that covered victims, covered under VAWA, that you can't be discriminated against. And it also describes the protections and limits that are going to be in place, including confidentiality.

So that would be included up front as part of your policies and procedures. So within that, our tenant selection specific requirements, and those are found at 92.253(d), lays out the income restrictions, so occupancy restrictions on who can occupy units. If the PJ has adopted preferences within their con plan and written agreement, those would be reflected as part of the requirements, making sure that we are not bothering folks that have a certificate or voucher from being able to occupy a unit, and then language about how that waiting list and selection of tenants is going to be handled.

There is a requirement that owners follow a timely process of providing written notice to rejected applicants. And then we mentioned before the VAWA protections that are found at 92.357 or 359. I'm sorry. If you're unfamiliar with those, I would recommend that you take a look at those specific requirements.

So the documentation that needs to be in place, the project files would show that there was a tenant selection policy that included all of the required elements. And then the file documentation in place would show how that was being followed as they were determining who that next tenant would be, who was accepted, who was rejected. That would all be documented within those files.

And as part of this sort of linkage, the written agreement, the con plan would lay out any preferences that were in place that were going to apply for this project. And keep in mind, we may have some project-specific requirements that have been as part of the funding decision on that particular project.

We also know that we have some lease requirements. Our HOME-funded units are required to be permanent affordable housing, and so as part of that, we need to make sure that there is -- generally, we're going to see that there's going to be a lease of at least a one-year period executed between the owner and the tenant. It could be shorter than that if it's documented as being mutually agreeable with both parties.

We've mentioned about the VAWA lease provisions need to be included as part of an addendum to that, and that's applicable for any commitments that were made after December 16th of 2016, so much of what you're probably going to be looking at at this point.

And then you'll recall that we have some prohibited lease provisions. Those are detailed at 92.253(b).

So our documentation on this would be seeing that we have leases in each of our tenant files, that it meets the requirements as far as the term of that lease, that it includes the VAWA language as part of that. And then, of course, also, that it does not include any of the prohibited lease terms.

So that documentation might include some of you are using a lease addendum, which is simply attached and becomes part of each of the leases and essentially cancels out or corrects if we have any of the prohibited lease provisions within the standard lease that is being used as part of that. So one way or another, either we have a lease itself that complies or we have documentation of an addendum that corrects them.

All right. So we're going to move forward into talking about occupancy and maintaining that unit mix. So over the life of the project during its affordability period, we have a series of requirements that are going to apply, and we will need to have appropriate documentation in place.

So, first off, we're going to talk about at initial occupancy, and then as we move along, we will also then be talking about that ongoing occupancy and the ongoing documentation that needs to be done.

So to have an eligible HOME unit placed in service, we need to have an eligible tenant. So making sure that we have a tenant household that meets our income limits, that we are following whatever our definition. So either Part Section A or the IRS 1040 income definitions would need to be part of that.

And a requirement also is that we have at least two months of source documentation in each file. We're capturing income for all of our household members, and as part of that, we are taking the current income and then projecting it forward for 12 months. So we're not taking a backward look and calculating everything that was earned in the last 12 months. We're taking current income and projecting forward.

We also have a requirement that that income determination to be valid needs to be no older than six months at the time that that lease is signed and that we have to be consistent. We have to use the same income definition for each of those tenants as we are making that eligibility determination.

So the documentation we expect to then find in each of those files, and this would be something that HUD would be sampling as they were going through their compliance review, is to make sure that each of those files has documentation for all household members showing that they have followed the income definition and calculated it correctly to determine that they are at 80 percent or below or, depending on the unit designation, they might need to be at 60 percent or below, 50 percent or below. And so following whatever those restrictions would be.

So that documentation is going to include things like worksheets and, as we mentioned, the two months of source documentation.

So as part of the compliance review, HUD or a PJ, in reviewing a -- the project files, are going to be looking at each one of those files, going through that documentation, making sure that it is fully documented and that they can, following their definition of income, reach the same calculation as what has been defined in that file. And that would be following the current income requirements that were in place at the time that that determination of eligibility was put in place.

So that was at an initial occupancy, so as the project is renting a unit to a tenant. We also have a requirement that during that period of affordability, we have an annual recertification for our tenant household income. So as they are renewing leases, we would be recertifying to determine that they remain eligible and that we are charging them the correct rent utility calculations as part of that.

So as part of this, we have some options when we are not talking about an initial occupancy. We can use -- do our normal with two months source documentation, but you also have the option to use self-certification or demonstrate eligibility for another government program.

Keep in mind that part of this requirement also is that every sixth year of the affordability period, not the every sixth year for a tenant but for the affordability period for the project, all units would have to be recertified using that two months source documentation and then, of course, following the specific definition and income that has been selected.

So when we're looking at the file and determining compliance, and this is what HUD will be doing as part of this, the files are going to need to demonstrate that that annual income recertification was done for all years after initial occupancy, that they're following the correct limit, calculating based on the correct definition, and then keeping in mind that, when it is the sixth year of that affordability period, the standard is more restrictive. And so it would need to be the two months of source documentation as a minimum standard on that.

So that compliance review is going to be looking at each one of those files, making sure that that documentation in place is correct and it follows those standards as part of that. And so that would be one of the sort of checks that a PJ would be doing over time as part of its monitoring of partners, of individual project, sampling files and making sure that that documentation was in place.

So for initial rents, we know that our rents are not -- they are limited to the high HOME rent limit, but we also have a project and a program rule. So if we have five or more HOME units and there's a set aside that 20 percent of those units have to charge a rent that can't exceed the low home rent.

But we also have a requirement that that maximum home rent, we are just backing out of that, essentially, the utilities that the tenant themselves is responsible for. And that needs to follow the PJ's approved utility schedule. And there is a HOME flier that specifically lays out either the HUD utility schedule model for several other models that are acceptable. So that's our requirement as part of that, and that needs to be done as part of your initial review and approval. The PJ is doing that and on an annual basis.

So within our file, we need to show that the PJ has actually reviewed and approved that rent schedule for initial rent limits for folks moving in, that they have approved tenant leases or, as I mentioned, might be implementing a addendum that would be used to make sure that our leases were going to be compliant. And then we also need to have the PJ reviewing and approving the utility allowance schedule as part of that. So that documentation needs to be in place to demonstrate that process.

So that compliance review is going to be looking unit by unit at files to make sure that the rent that is being charged as they execute that lease follows with what that approved rent schedule would be. And that would include reporting that in a rent and occupancy report, making sure that the utilities that were being adjusted as determining what that tenant rent would be, that they're also following that utilities schedule as part of that. So really critical step as part of this.

Over time, throughout that, the occupancy of that unit, the PJ will then have to make sure that they're using those annually updated rent levels and utility allowances. So the PJ is reviewing, approving those, and that the owner is putting that in place.

Owners are also required, as part of this process, to provide, at a minimum, an annual rent and occupancy report. I think a lot of PJs are requiring something more often than that. I think most folks are probably doing at least every six months requiring that. And then as the PJ is receiving those rent schedules and approving those, the documentation, you need to have that in place. I would also want to have documentation of the review of those rent and occupancy reports.

So we're trying to make sure that the owner is charging the correct rents, that they are deducting appropriate utility allowances to determine what that actual tenant rent is going to be for each of those units.

So within the documentation, those rent and utility allowance schedules, we would be comparing that to tenant leases to make sure that what's being reported in the rent and occupancy report actually is lining up with what we're seeing within those files and that they are following the annually approved rent schedules and utility allowances that the PJ has put in place.

So, again, that compliance review is going to be on a file-by-file basis, making a determination of whether the appropriate rent has been included in that lease. So did they follow the current rent schedule? Are they making the appropriate deductions to calculate out what utilities the tenant is responsible for and then determining what the actual tenant rent would be that is reflected within that lease?

HUD would be sampling that. The PJ, in doing a review for its own program, would be doing that same sort of sampling to make sure that that was being done correctly.

Let's talk a little bit about maintaining that unit mix within the property. So we mentioned this requirement that for under our project rule that, if we have five or more HOME units, that then we have 20 percent designated for very low-income households or at or below 50 percent of area median income.

And so for all of our HOME units, we know that we have a maximum income of 80 percent or below. And then over time, as incomes change, owners are required to make adjustments in tenant rents. Now, we are not, as part of this training, able to go into the details of those adjustments. And, again, I would refer you. There's a lot of detail, and this was covered really well within the E-building HOME Training. And I would suggest that, if you're not familiar with that, you look to that.

Based on whether your project has been designated as fixed or floating units, the adjustments are going to be a bit different. And so the PJ needs to be ensuring that they are following these appropriate requirements.

Just a note, you'll see here we have within the HOME rules recognition that some of our projects are going to overlap or have units that have both HOME funds and low-income housing tax credit funds. And there are some specific rules about when HOME defers to the low-income housing tax credit rules. And so in those cases where we have a combination, how over income tenants and households are treated is going to be different because of those specific requirements.

So in looking at our unit mix requirements, we would be looking at tenant leases and also looking at the rent roll, the reporting of rent and occupancy that's being provided. We talked about at least annually that is being provided.

And those are going to, as part of that compliance review, look to see that, when we had units that were vacated, whether the property manager made the choice to do the correct designation for who then was going to occupy that unit and how that would be designated. We'd also be looking to see that, when we have an out of compliance, we have a household that's gone over income, either over income for a low HOME unit or over income overall for -- so they've exceeded 80 percent area median income, we need to see that the appropriate actions were taken to bring that unit back into compliance at their earliest opportunity.

So be looking to make sure that, based on their compliance, that they were taking appropriate actions. And that would be reflected as those leases are renewed. We would be comparing that to what we're seeing in that annual rent and occupancy report that the owner is going to be filing with a PJ on at least an annual basis.

Let's move into talking about property standards and conditions as part of this. So our ongoing property standards I mentioned are different than our property standards at completion for that property. So throughout that affordability period, the PJ is responsible to ensure that that property continues to meet those ongoing property standards, and that applies throughout that period of affordability. So we might have a 20-year affordability period. You might have adopted a longer HOME affordability period. So that documentation, that ongoing responsibility will be in place.

Now, keep in mind we typically have an overlay of state and local requirements that may apply and might be more stringent, or we're following the PJ's property standards that they've put in place. That would be based on the UPCS inspectable items which we are awaiting to have issued by the HOME program.

Also, keep in mind, as part of your standards, you may have laid out health and safety standards that have to be addressed immediately. And then, of course, properties that were constructed prior to 1978 are falling under the lead safe housing rule.

And so depending on whether they include lead-based paint, we also may have ongoing lead-based paint maintenance rules that are going to apply. You could find those at 24 CFR 35.935 would be the reference for that.

So the owner has to maintain those units. They are going to be certifying to the PJ on an annual basis that those units continue to meet that, and then, of course, the PJ, as part of their oversight, is going to be verifying when they're doing their onsite reviews that what has been reported actually lines up, that these units continue to meet those standards.

You'll note here in the file, we have the link for the property standards tool that we mentioned earlier that may be helpful for you.

So our requirements as part of this, the PJ needs to be inspecting properties to make sure that they continue to meet that. So our requirements at this point are within 12 months of project completion. And then as long as that came out acceptably, essentially, then we could go to a three-year cycle throughout that period of affordability.

And knowing that you will be following your monitoring policies and procedures, which will probably have, hopefully have a protocol of when there are issues that are found during those inspections, we may have a protocol of more frequent monitoring visits until we are sure that those issues have been resolved.

Part of those policies and procedures would include language about the sample size. So if you've got one to four units, 100 percent of those units need to be monitored or inspected, but then for larger projects, then a standard for that.

So also included in that would be a reinspection within 12 months to verify any deficiencies that needed to be corrected. If we have health and safety deficiencies, we need to have -- the PJ needs to ensure that those are corrected immediately.

And then for non-hazardous deficiencies, the PJ's policies and procedures would set what that standard would be. Typically, it's going to be the third-party inspector. It might be photographs to be able to verify that those corrective actions have been completed.

So are documentation for those ongoing property standards. It's going to be copies of our inspection reports and then all the follow up documentation of when deficiencies were found, verifying that that corrective action has been done, whatever the required evidence of that, whether that was a reinspection and sign off, whether it was photo documentation of that, that would all need to be captured within that file.

And, of course, we're getting our annual certification from the owners, which our onsite sampling is trying to verify that that was an accurate reflection of the condition of those units.

So our compliance review is going to be looking at those specific records and making sure that our property standards have been met as part of our process.

Kris, do we have questions that we ought to be addressing at this point?

Kris Richmond: We have lots of questions that have been coming in. Lots of questions about leases that we've been trying to answer. I know Monte's been answering a ton of questions about income and what to do with income.

So I was just in the middle of typing an answer. People were asking, well, do we have to increase somebody's rent if they go over 80 percent? And the answer to that is, yes. It does have to be increased to 30 percent of their adjusted income.

We also had some questions about the sixth year of looking at source documentation, and they were a little confused about that. And so we tried to clarify that the sixth -- every sixth year is the year of affordability. It's not the year of tenancy. So every sixth year of the affordability period, everybody has to have source documentation reviewed, even if they had their house -- even if their eligibility is determined by a government assistance program. Everybody has to have source documentation.

Monte, what other questions have come in?

Les Warner: Monte, you might be on mute, if you're speaking.

Kris Richmond: Might be on mute.

Monte Franke: Yes. I was trying to get to the button to unmute myself. It was hidden on my screen.

There have been a lot of questions come in on tenant selection procedures and waiting lists. And you're required -- 92.253 requires you to approve the tenant selection procedures. They can vary. There's not one prescribed way to do tenant selection. You are expected to require waiting lists. And the overarching issue is the fair housing issue of ensuring fair access. So there's not a predetermined way, but the PJ needs to prove those things as reasonable.

In terms of household members, there's lots of questions about household members, and a lot of this inevitably goes into a great amount of detail. And a lot of PJs defer to guidance that comes out in the 4350.3 Handbook and the general procedures for Section 8 and housing choice vouchers, which has a lot more guidance on making judgment calls on some of the issues as to who's a household member and when you include a certain person's income. So I just urge you to go to those -- that handbook for the guidance on those kinds of issues.

I see there's a lot of issues coming in on leases as well as the issue of of files and records to be maintained. I hope we're responding to them as fast as we can.

Kris Richmond: Yeah. And then, Les, since we have a couple minutes, maybe you can just expand upon -- people are asking about the every three years for the inspections because they are used to the older rule and maybe just talk about what some PJs are doing to get everything in alignment together with the time period.

Les Warner: Well, so the 2013 update, essentially, to the HOME Final Rule changed what the schedule was, essentially. It had been based on size of project and number of HOME units on the frequency.

And so you've got a little bit of relief with the 2013 rule to allow you to then go to a three-year frequency after that initial monitoring had been done and as long as it came out -- it was found to be acceptable, so without issues.

So one of the options for the PJ was to adopt that schedule for its earlier projects within your portfolio. But that would be something that is going to be laid out by the PJ within its monitoring plan.

I mean, a PJ could certainly, if you have the capacity to be able to do that, stick with a more aggressive plan. But it's no -- with the rule change, it did change from this tiered approach based on the number of HOME units to this every three-year process, which helped a little bit on capacity on that.

I would just mention that, as part of your monitoring policies and procedures, the recommendation is that you lay out some protocols. So if you have projects that you have findings as part of that or concerns, that you have some protocol of maybe you will keep that project on a more frequent time schedule until a number of cycles have been completed and found to be free of ongoing compliance issues. But that would be laid out within your monitoring plan and those policies and procedures of how -- what steps you're going to take and what protocol you're going to follow as part of that.

Monte Franke: Yeah. And, Les, the -- there have been a couple of questions specifically about the sampling of units and inspections and things of that nature. And it's up to the PJ to establish that as part of their monitoring plan.

Again, the purpose of the plan is to ensure equal treatment across properties, to have -- to disclose, to be transparent, and to ensure the properties are treated equally. So you need to develop -- if you're going to use the sampling methodology to deal with larger projects, you should have that as part of your monitoring plan.

Les Warner: Great. Kris, I stole some of your -- a couple of your slides. So I'm going to --

Kris Richmond: That's okay.

Les Warner: -- hand it off to you.

Kris Richmond: So I pick up here on financial condition?

Les Warner: Yeah.

Kris Richmond: And I was typing away as you were still talking. So we haven't done this slide yet; right? Is that correct?

Les Warner: Yeah. That's correct.

Kris Richmond: Okay. All right. So I'll -- if we did, I'll give you my version of it.

All right. So we're talking about financial conditions now. So HOME-assisted housing has to provide housing for low-income residents for the whole duration of the affordability period. And if the project fails financially and you're unable to fulfill this requirement, the PJ's on the hook for repaying the HOME funds. So it's really important for us to make sure that the financial condition of this property is going to be solid and viable during that period of affordability.

So you want to be looking for financial red flags. Those are some of the earliest warning signs the property might be headed for trouble. PJs can take steps early to mitigate problems and avoid larger issues later on.

So for projects with 10 or more units, the PJ has to assess the project's financial conditions, and they do this annually. And they're doing this to determine the continued financial viability of the project.

And so what is the documentation of that? What would we need to do? Well, the owner's annual financial report, as described in the written agreement, this is what would cover that. And the PJ has a lot of discretion to decide what it needs to do to conduct this financial review.

So maybe they're going to look at the profit and loss statement. This could be used to determine if the income is sufficient to pay for the expenses, or maybe they're going to collect some other documents, maybe the collection rate or what are the vacancies and concessions or we want to see what the administrative expenses are or perhaps the utility expenses or the repair and maintenance costs. So these are all different documents that could be collected to be reviewed.

And then the compliance review is just to determine was this review conducted and if there were issues or red flags, is the PJ following up on any of these issues?

Let's dig into administration of long-term compliance. So if the PJ wants to use a contractor to administer rental compliance functions, the contractor had to be procured with the PJ, and they have to follow the federal procurement requirements. And these are found at 2 CFR 200. We've mentioned this a couple of times when we've been in the other activity sections. Whenever the PJ is administering a -- is using a contractor, they have to follow these requirements. So you want to be looking starting around 200.317, 318, 319 we're talking about competition, and 320 is different methods to be followed.

So the documentation of this, again, is copies of the solicitation and the bids that are received, that this is actually documented in the policies and procedures of what the bid process is going to be, and then the bidder that was chosen, why were they chosen for that?

And HUD is going to be using these other exhibits. Let me find my blue color here. HUD is going to be using these other Exhibits 7-34 and 74-3, the guide to procurement, whenever this situation happens to be able to review that.

And just to remind you that 2 CFR 200 was updated in August, and it was modified and recategorized, the procurement section once.

All right. So for fees, so PJs don't have to rely solely on their administrative funds to pay for the cost of ongoing monitoring. So PJs can charge annual compliance monitoring fees, if it was in your original project underwriting and if that amount is based on the average actual cost of monitoring the project.

And the owners can also charge for certain fees, as long as they are reasonable and customary and customary meaning every property in that area also charges for that particular fee. That's what we mean by customary.

So an example might be an application fee, maybe parking -- there's a fee for parking in that entire neighborhood. It would not be allowed if only that HOME project is charging for those fees. So we need to make sure that it's customary for that area and it's also a reasonable cost.

And then this last one here, I'm going to underline this optional and tenant has to opt in. So fees for services. We always want to be careful with fees for services with the HOME program. It is allowed, if these fees are optional and the tenant can opt in. So tenancy living in that unit cannot be based upon paying fees for service. It has to be voluntary.

An example of this might be transportation or meals. So as long as these services are optional, then those types of fees for services would also be allowed.

And then the documentation, if these are allowed, again, it would be in the underwriting to -- and documentation to ensure that the fees were viewed to be customary and that they were eligible.

All right. Records retention, this is also not a new slide. You've seen this in all the other ones. In the HOME program, we have to retain our records. They have to retain for certain time periods. So for our rental project records, it's five years after project completion, and project completion is that what's been set up in IDIS. It's the final draw. So we want to make sure we have those for five years after project completion.

And then tenant income verifications and project rent and inspection records, we want to make sure we have these for the most recent five years of that period. And then we want to continue keeping five years of records until five years after the period of affordability.

And then for our written agreements, again, this is five years after it terminates. But if you recall, written agreements have to be in place for the entire period of affordability. So in reality, it's really five years after the end of the affordability period for you to retain your written agreements.

And then we just need to make sure that these records are being retained for that amount of time.

So let's do a knowledge check. This is going to come up as a poll. So during the affordability period, can a tenant's rent exceed the HOME rent limit? And if so, when is this allowed?

So go ahead and choose the answer that you think is correct. And we will go through these different answers. So after you pick the answer that you think is correct, please push the submit button.

Paul: We will be closing the poll soon. So make sure you select your answer, and hit that submit button.

Kris Richmond: All right. The majority of you got the correct answer. So I'm going to circle this. The correct answer is C. Yes. The rent must be adjusted when and if the tenant's income increases over 80 percent of area median income. And where do we remember we talked about this?

So if we go back to slide 35 -- I'm going to try to do that, try to get us back to slide 35. Oh, I guess I'm the presenter now. Thank you, Paul. It looks like it's changing slide numbers. Get us back to 35.

So the adjustment depends on whether it's -- how much of an adjustment, how much can you go over for the payment really depends on whether you're in a fixed or floating unit. So remember for your projects you have either fixed or floating. You never have both.

So if you are in a fixed unit, our fixed units or HOME units are always the HOME units. If you have unit number one, two, and three, unit one, two, and three are your home units for the entire period of affordability. So in your fixed unit, your tenant would pay the lesser of the 30 percent of adjusted income or the amount payable under state or local laws, and there's no cap.

So you could go -- they could be paying more than market rent. And the reason we want them to have no cap, they can pay more than market rent, is because we want to give them an incentive to move out.

Somebody had asked in the questions, well, can we give somebody a notice that they need to vacate if they're over income? And the answer to that is no. No. No. Never. We never displace anybody, but we might want to make it uncomfortable for them to live there. And if they're paying higher than market rent for their fixed HOME unit and there's a unit across the hall that's market rent that has a lot of other nice amenities, they would be incentivized to move.

And then if we look at our floating units, if you have projects with floating units, then the tenant pays the lesser of their 30 percent of their adjusted income or the amount payable under state and local laws. And this is capped at market rent. So it's never going to go over market rent because, remember, we can float our HOME units around our projects.

So maybe the first year our HOME units are one, two, and three, and maybe in year three, our units are numbers one, two, and five. So we always have the same number of home units, but in floating our actual addresses of the units within that property will float around.

Okay. So let's go back to 47. Okay. So good job, everybody. Correct answer is C, and I just put see slide 35 if need to go back for more information about that.

All right. So we have finished reviewing all the elements that the PJs are required to monitor in the rental housing portfolio. These are the minimum requirements that HUD requires PJs to follow.

So let's shift our attention now and let's look at some steps that PJs can take to enhance their long term-rental monitoring. And these steps that we're going to go through or suggest the next couple of slides, these are optional. They're not required. But since you're all here for the training, it appears that you're all looking to find ways to improve the monitoring performance of your community.

So earlier we talked about long-term monitoring being addressed in the policies and procedures, and it should be related to the risk assessments and the monitoring and the inspections. And we talked a lot about risk assessment and monitoring plans in our very first session that we were all together, the understanding monitoring. So if you missed that, you can go back and listen to that. It is recorded. It's available now. So you can go do that.

We talked about onsite monitoring. We talked about desk monitoring and the owners' annual reports. These were the rent and occupancy reports, the certificate of suitability for occupancy. That's something the owner has to sign every year. We also talked about the financial report. So those are all things that are required. But let's talk about how we can enhance our monitoring.

So why would a PJ want to try to do more? Well, you really want to be able to identify any properties that might be in trouble, and we want to intervene before any of your properties fail, because, remember, if your project fails during the affordability period, you the PJ are going to have to repay the HOME funds. And nobody wants to stay in front of their mayor or their town council and tell them that we're going to have to repay HOME money. So nobody wants to do that.

So we want to try to make sure that we identify any problems as soon as possible, and we want to make sure that our monitoring is not only sufficient but are there things that we can do more to try to prevent a failed property.

So when should we try to take some additional steps, and what can we do? Well, you want to be strategic. Many PJs are going to struggle with staffing to keep up with the regular monitoring. So taking on additional steps may not seem feasible.

If there's a concern at a property, we want to make sure we're following up and following up as soon as possible. A couple examples here might be maybe when you got those financial reports, you're seeing increased vacancies and declining revenue. So that might be when you want to follow up. Maybe you're hearing that there's a lot of layoffs at a local employer that's near your HOME property. That would be another time you'd want to try to follow up.

You want to be proactive. So taking a little extra time at the first signs of a problem may save you hours of work if the property starts to fail. So early intervention can save the PJ both time and money.

So we have a couple different suggestions on the slide that I think are really helpful. So the first one about assessing the property management staff and looking at their expertise and their experience managing affordable housing. So you the PJ, you can ask for a management plan. You can ask for this management plan on a regular basis.

And for new staff that are working in the property management, you can also ask for their qualifications. And you might also want to include in your written agreement a requirement that owners find new managers if there are extreme situations or if the project is starting to get into trouble.

You also want to be -- if you have any issues, you want to increase the frequency of the owner reporting. You want to ask the owners for more information, or maybe you want to even ask for the same information more often.

So, for example, maybe the vacancy rate is increasing and the property is losing revenue. You don't want to wait a full year for that next financial report. You might want the owner to report to you, what are they doing to try to reverse this vacancy decline?

We also may need to increase our onsite inspections. This would make sense if the owner fails to submit that certification that they have to submit every year, that the property is in suitable condition for tenants. So if you didn't get that, I would go as soon ais possible to do an inspection. If you have found a lot of deficiencies or if there's a lot of complaints, you want to go do more inspections. And if you're concerned about the management staff deferring maintenance, that's another time you want to try to go and do some more inspections.

You want to be taking the pulse of the neighborhood and seeing if there's any changes that might affect the marketability of this property. So you really need to be alert to any changes such as layoffs at maybe a large employer. Is there an increase in crime in the area? Are there are problems at the local schools? So these are all different things that might alert you that you might need to do a little more monitoring.

And then you always want to try to do, if you have time, what we call drive-by instruction. We already know that we have the schedule where you have to go inside and do inspections of the units. But more often you could actually just drive by, and this is a good way for you to look for any red flags for maintenance or physical deterioration. This could be a sign of either poor management or maybe there's a potential loss of revenue, so the management is now deferring maintenance for cost reasons.

So these are all just some simple tips that we think might be helpful for you to enhance your monitoring.

So for administrative issues, most PJs understand how important monitoring is for their HOME portfolio, but sometimes PJs feel pressured to produce new units and that long-term monitoring is short-shifted. So smart PJs are going to create administrative structures and staffing that are going to result in effective long-term monitoring.

So in your policies and procedures, you want to make sure you're including risk assessments in your monitoring plans and make sure you're identifying what your goals and objectives are for your administrative structure. You want to make sure there's a clear handoff between the staff, the development staff. We met a couple of weeks ago about development of rental. So that staff is handing it over to your monitoring staff, making sure that they understand the whole project. Who's the point of contact? Who's the management team, the property managers?

And then remember in that written agreement, it should also identify the number of HOME units, the addresses of the HOME units, the types of properties. Were they one-bedroom, two-bedroom, three-bedroom? All that's really helpful, and that should all be part of that handoff as well as in the written agreement.

We want to make sure that our staff is sufficiently trained, that we actually have the right number of staff. Maybe we need to contract this out if we don't have enough staff, and we need to make sure the staff that are doing this have the proper qualifications. So do they understand the HOME rule? Do understand what property standards are? So we want to make sure we have the right makeup of staff.

And then we always want to ensure that we have good communication between the PJ and the owner because, if we see any issues, we want to be able to address those with the owner and make sure that we have proper communication that's going on as well.

So let's talk about how to get ready for HUD monitoring. This is very similar to what we've been going over in the other sessions that you've joined us before.

So this is another screenshot of the CPD Monitoring Handbook, Exhibit 7-30, which is used for long-term rental project compliance. So HUD may be monitoring several aspects of a PJ's HOME program, depending on the HUD's risk analysis and monitoring plan. But, again, this webinar we really tried to focus on rental long-term compliance. So there's another copy of what that looks like.

And so the first step is to assemble all the documents required for review. So HUD uses Exhibit 7-24. This is one of the exhibits that they pull out, and it gives them a long laundry list of documents or things they should ask for before they come to monitor. And most of those we've put onto the slide already.

We've talked extensively about the policies and procedures. We've talked a lot about written agreements and the eligibility documentation, owner reports. So owner reports are going to be really helpful. Income limits and rents, you want to have documentation that when the rents were raised, that if the HOME rents went up, that there's documentation that the PJ sent notification to the owners to say, hey, the rents have gone up. You have our approval to increase those rents. So should be some documentation about that.

Any past monitoring results, because we want to make sure that we are not continuing to make the same mistake. So if there was anything identified in our monitoring the past times with HUD, that we've collected those and we're making steps to improve those.

Any citizen input, if anything was identified as an issue and needed to the address, that we actually address that. So all sorts of different things that we want to assemble together.

And then we have our self-assessment. So if you've been with us at the other sessions, we actually put together a self-assessment tool. So there's some really good helpful steps to go through here. We've already talked about document assembly, your policies and procedures. If you haven't looked at this tool yet, it is available to you on the link from the training. It'll also be posted up again as well. So lots of really good information in here for self-assessment.

But you want to be pulling your policies and procedures. You want to review those to make sure they're compliant and they're complete. You want to be doing a document review. And when you do that document review, I would be using the exhibit.

So I -- when I used to go and do monitoring for PJs, we used to do this thing called a wellness where we would come out and do a monitoring before HUD came and we would let you know everything that's going great and everything that's not going so great. And you would fix it all before HUD can monitor, and I would use the monitoring exhibit.

And so this is what you can do for yourself as well. Pull out that Exhibit 7-30. Take a look at all those documents you've assembled, and go through and see, if you were the HUD person, would you pass that HUD monitoring visit? So you want to do that on your own as well.

And then this slide really shows the elements of the self-assessment, covered in the self-assessment tool as well. We've talked about a lot of these. Oh, here's the link of where you can find this handout.

And then also for monitoring and evaluation, again, you're looking at your PJ monitoring, any responses to prior monitoring, any staff changes. Do you find that your staff maybe doesn't have the proper skillset? Is there any other training we can get for them or things they need to be updated on?

And then changes to program design. So long-term monitoring is a one way for you to identify things that might need to change for your program or for projects that might be having problems. So if you are reviewing properties and you're seeing a lot of properties that are having problems with long-term viability, you might want to review your underwriting requirements. It might need adjustments to maybe operating reserves or changing your loan to value requirements in order to improve the long-term viability of your portfolio.

Maybe during this long-term monitoring, you're also finding properties are having difficulty keeping them fully occupied. So maybe you the PJ want to review market assessment policies to ensure that the decisions you're making are based on the information available about the marketability of that project in the neighborhood.

Maybe during your long-term monitoring, you're finding owners are charging the wrong rents, or they're failing to determine the tenant income accurately or annually. So you want to be able to review your program design to see if these rental management teams have the right experience, or do you need to try to provide some training to them?

So as you do long-term monitoring and you find issues, these are ways that you can bring this back to your own management team and say, hey, I think we need to make some changes to our rental development program because we're starting to see some issues on the back end.

So that's how you can try to help. We try to think of training or monitoring as a circular type of process rather than a linear process because, as you find any issues, you want to bring that back and make any changes to your programs.

All right. As always, we always have lots of resources and tools to show you. So this is a screenshot of showing you where you can find the HUD exhibits or I call them checklists sometimes. They are available on HUD Clips. You can also get to them from the HUD Exchange.

So the green box shows the pre-monitoring checklist. That's the one that I said that HUD will download in advance and try to figure out what all the documents they need to collect. And then when they're doing their actual monitoring, they'll use this red box one, this 7-30, and that's the one where we had all the questions that drove this whole webinar today.

This is a page from the HUD Exchange, and so this is about middle of the page of the HOME program page. You can see there's these tiles here. So we have monitoring. We have rental housing tile, and then we have a monitoring tile. When you click on the rental housing, this is what the page looks like. Lots of of really awesome resources and tools and guidance that you might find helpful to you.

We also have -- we've been talking about this a lot, this self-paced online training. As Les mentioned, it's anywhere from 20 to 24 hours long, so much longer than this two-hour webinar that we're having today. You do have to take the first three modules in order for you to then hop into an activity module. But I think those first three modules are very helpful for you to have this general base and understanding of what HOME really is. And then you can hop into module six for rental housing activity or module seven, which is the long-term compliance.

And I know people had asked, well, can you give us more scenarios? What do we do if someone's over income? How do we know what's the next unit to rent to somebody?

There's a lot of really good examples in module seven for a long-term compliance. So you might want to check that out for further information.

We also have some additional resources here. These first two, these were done a while ago. So I want to point you out that they were done pre-HOME rule change. They're great guidebooks because they have a lot of really good information in them, but there were some rule changes that were made in 2013 that are not reflected in these guidebooks.

So if you have them, they're really good for trying to figure out what to do when somebody is over income. That stuff has not changed. But you see that is still has three definitions of income, and you know that HOME only has two definitions of income now. So there are some new rule changes. So you can use these documents, but just be careful and know that's not reflective of some of the major changes from the HOME rule in 2013.

And then the two different assessment tools that we've been showing you today, the self-assessment tool and the property standards tool, there's the links for that.

We also -- if you ever need any help with your HOME programs, whether it be monitoring or maybe you're setting up a new program or maybe you need help with your policies and procedures, maybe you need some help with some written agreement, there are technical assistance funds available through HUD. So you can request TA on the HUD Exchange.

So you can go to that link, and you can put in your information and what you need assistance with. And that will go through a review process to determine if HUD feels like that's something that should be funded to provide assistance to you. But it is available. So we just want to alert people to that because it's not really readily utilized.

Les and Monte, other questions that have come in?

Monte Franke: Yeah. Kris, can you go back to that slide, the compliance -- the two compliance guides you were talking about? Just --

Kris Richmond: Yeah.

Monte Franke: I just wanted to make certain that people understand that, even though these haven't been made current, I know you said this, but I'm going to re-emphasize it and maybe because we spent so much time on developing those guides back 10 years or so.

But they -- in terms of the things that you do and tenant selection, the fair housing stuff, the income stuff, so part five, except for part five changes since 2012, the -- all that stuff is valuable.

It doesn't have the new inspection cycle, the every three years. It doesn't have VAWA. It doesn't have the financial monitoring.

But there is so much good detail in there and giving you guidance on how to handle individual cases and individual tenants that I would urge you to use it and to emphasize that there is a version that's available for the property owners as well. So I would not -- I don't want to discount those just because we haven't been able to update it for the 2013 rule.

Kris Richmond: Thanks, Monte. Really helpful. Other questions or things that we should expand on? Go ahead.

Monte Franke: Go ahead, Les.

Les Warner: Go ahead, Monte. Okay.

Monte Franke: Okay.

Les Warner: So I would really echo what Monty said on those two guides. That was one of the comments I was going to make. Really helpful. Very user friendly. We've had a lot of questions about project-based subsidies.

And I'll just make the quick reminder that project-based subsidies, there is the flexibility to be able to charge the contract rent for that subsidy even when it exceeds the HOME rent. But there are some specific rules that relate to that. It's only in combination with a low HOME unit, and that's with a household at 50 percent and below who is not paying more than 30 percent of their household income.

So in some cases -- and we had questions, well, what if all my units are -- have a project-based subsidy?

If you want to utilize the flexibility of charging the contract rent that exceeds that low HOME rent, it can only be done in combination with a low HOME unit. So you might want to amend your HOME agreement and designate additional units as low HOME units.

Kris Richmond: And, Les, doesn't the entire property need to be low HOME units? You can't even have high HOME units; right, if you have project-based?

Les Warner: Well, if -- so if -- yeah. If they're going to take advantage of all the project-based subsidy and wanting to exceed that, any time they're going to exceed the HOME rent, it can only be done in combination with low HOME units. So in that case, yeah. Then they would want to say, okay. Let's make all of our units low HOME units, which they certainly -- the rule sets a minimum of 20 percent, but it does not set a maximum. So you certainly could do that.

There also were some questions about the review of files, tenant files and whether that had to be done annually or whether it was being done when they were on site.

So the requirement for annual oversight would be looking at your rent occupancy reports, your owner certification, approving the rent schedules, the utilities schedules. And then we have this onsite frequency requirement, which is when you would typically be looking at those tenant files.

There are many PJs who also are then, based on those rent and occupancy rolls, requesting that files be scanned and sent to them. And so you could potentially do the tenant file review virtually rather than doing it when you're on site.

Monte Franke: Les, I think it was a good point to stress that the monitoring is really supposed to be annual, and we shouldn't just focus on the onsite stuff but the remote monitoring as well. And I'm glad you did.

The other question that came up -- questions that came up were around the financial monitoring that was added in the 2013 rule. It is for projects of 10 or more units. It's not based on assisted units but projects with 10 or more units, which, according to HUD, take into account about 75 percent of the rental projects assisted with HOME.

HUD added this as a best practice, as a way of saying, you're responsible for this project and you may have to repay the funds if it fails. And projects don't just fail because of noncompliance with rents or an over income tenant. They fail financially, and you need to keep an eye on them.

However, HUD has not issued any standards or guidance or minimum because they're leaving it to the PJs to determine what's appropriate, given their projects and the financial concerns that they have.

So I want people to sort of take the approach to this of saying, I need to do this to protect us and to protect our investment, not how do I meet a minimum HUD requirement?

Les Warner: And I would note that there are certainly a number of PJs who have said, this is not only a good idea when it's required, but some of these smaller projects I have the same concerns. And have -- also, I've heard folks say, it's probably easier to have one rule that we're just going to apply across the board rather than trying to figure out, okay. Does this project trigger this versus another?

But our whole goal here is to, as early as possible, identify when there are trends that are happening that are leading this project into financial difficulty, which could cause them to not complete the affordability period and trigger repayment of funds. So it's a really important aspect of trying to keep track of what's happening and predict where you need to intercede and try to help stabilize.

Monte Franke: Yeah. Technical assistance always trumps enforcement. It's a lot easier to go in early and assist and correct it before it becomes an enforcement issue.

There were a lot of enforcement questions that came up today. People -- how do I enforce this or that or whatever? And it goes back to those -- the written agreement and the covenants or land use restriction agreements that you've recorded against the property that give you the right to enforce the requirements. But most of those things are legal remedies, and you could end up in court or taking legal action in order to enforce. And that's not a win situation.

You want to have a better relationship with your owners and try to intervene before it goes to that point because very few of those situations come out satisfactory where you can save both the property and the investment in its entirety. So I would urge you to think about your monitoring as something that's more proactive and more technical assistance oriented than got you with just some of that compliance enforcement after the fact.

Les Warner: I would just add one little thing to that. In particularly multi-family, where these are oftentimes a competitive process and some of the folks who have existing projects are also coming back to you for funding for new projects. So being able to tie the resolution of existing monitoring issues to that developer, owner, CHDO being able to receive funding for a new project can be really helpful in that enforcement motivation to really be responsive to resolving those issues.

Monte Franke: Good point.

Les Warner: Kris, I think that's all that -- from my end that probably makes sense to try to cover here.

Kris Richmond: Okay.

Monte Franke: There's just one that I saw that came in about written agreements prior to 2013 and the new HOME rule.

A lot of the requirements were -- that were added in 2013 were added to commitments made after the effective date. However, a lot of your agreements were written to say that -- to comply with part 92, as it may be amended, and that gives you the right to enforce new restrictions that are in fact imposed on a project. So you'll need to look back at those earlier agreements to see if you have the right to enforce the new ones and whether you need to.

Les Warner: And there was a piece of guidance issued at the time of a HOME applicability chart, which I think, if you search for that under the HUD Exchange, which lays out for each of those provisions which one -- because the 2013 rule provided some flexibility on some things. And in some of those cases, that flexibility only applies to projects that are committed under the new rule.

And some of those flexibilities could be applied to existing projects within the portfolio, such as the frequency of the onsite visits. So that's a really -- that's kind of the one place to go to that is helpful on reminding you of, what can I apply to my existing portfolio that may have been funded prior to 2013? And it's called a HOME applicability chart, and I think if you research that, it will pop up for you.

Kris Richmond: So we do have some questions coming in about what if we can't get the property owner to do what we want them to do? And, for example, was about the project-based subsidy where they're charging higher than the HOME rent and they're not low HOME units. They're high HOME units.

In my experience, you may need to have your legal staff send a letter to the owner, and you may need to ask for the HOME funds back. Sometimes that's enough to get them to to change their ways, to go back in following the HOME rules.

Monte or Les, do you guys have any other suggestions on what to do if you can't get the property owner to do what you need to do?

Les Warner: I think it goes back to enforcing your agreement at that point.

Monte Franke: Yeah. There's -- and one of the questions just came in about a note mortgage being paid off before the affordability period ends.

These are independent issues in HUD's mind. The covenants are enforceable for the period of affordability. And so somebody who says, oh, I'll pay you off and you go away, technically, that's not what's permitted under the rule. You're supposed to continue to enforce.

In the end, when nothing else has been able to be resolved, getting the money back and repaying HUD is -- may end up being the solution. But it's not what HUD wants. It's not what we want. We want to keep the units affordable, if we can.

Another question that just came in was about the extended affordability periods. A lot of PJs chose longer than the 5 to 20 years that were imposed by the HOME rule. And HUD has taken the position that if you establish a period of affordability that's longer, that's what is enforceable. And to reduce that period of affordability, you would have to have review and approval from HUD.

The statute and the rule talk about the period of affordability not being less than those 5 to 20-year periods. So if you say a 40-year period, you've just made it a 40-year HOME affordability period, unless you have separately stated the HOME affordability period from any extended local use restrictions that may go longer.

So if you are in the position of having established an affordability period that exceeds the HUD minimums, you should get in touch with your CPD representative and begin the process of figuring out what they will need to see to be able to ensure that, if you reduce the period, it still meets all HOME rules and requirements.

Les Warner: I would also mention we just got a question which I felt was good to mention, a question about, if we have both state and a local PJ that have HOME funds in the project, are they both required to do separate compliance reviews, or can they partner?

So the requirement that you as a PJ, you have to -- you're responsible for your funds to have a compliance process and complete that. Now, that can be done in conjunction with another

HOME funding entity. So it could be done jointly, but you need to have someone that is acting on behalf of you, the PJ, and that might be this other partner who's going to be doing that.

So -- and we certainly see where we have some state and local PJs that work together as part of compliance. Sometimes that is also just something more informal about I'm going to share as I notice things on a project that I know that you also have funds in that we let each other know about, hey, you may want to take a look at this. Here's something that we've just learned about a project that we both have funding in. But each PJ does individually have a oversight responsibility. They need to be able to document, to meet the compliance requirements.

Kris, anything else here?

Paul: It looks like Kris's audio disconnected for a minute and it should be coming back soon but [inaudible] while we wait.

Kris Richmond: Can you hear me?

Monte Franke: I will mention --

Les Warner: Yeah. There you are.

Kris Richmond: Okay. Yeah. I'm still here. Go ahead.

Monte Franke: Okay. I was just going to mention there were some utility allowance questions. And, again, we're going to refer you to the HOME Flier Volume 13 Number 2 available on the HOME landing page. And it gives you the options that you have and to clarify that we're -- that the 2013 rule no longer permits the PHA use existing housing utility allowance schedule. But there are alternatives in that HOME flier that you should look at and make certain that you're complying with one of those.

Kris Richmond: Yeah. And, Les, somebody was asking about the low-income housing tax credit guidebooks. Do you remember, do we have a current one?

Les Warner: We -- there has not been one issued. There was some -- there was a draft and there may be a possibility of one being issued in the future but there is not currently a home and tax credit guide.

Kris Richmond: Okay. Because I did see a lot of questions of people asking about tax credits. We know that people are struggling with that. We -- this is our last training, but we are providing some recommendations based upon what we've heard from all of you over the last couple weeks of what you think you need. And I think that's one thing that we're going to try to bring to HUD that people are really looking for some more guidance on projects that include tax credits as well.

So, Monte or Les, anything else before we wrap up?

Les Warner: No. I think we can probably close for today, but I really encourage folks to use -- all of these sessions are being posted. And really what we've -- what -- the goal of this is to have you be well prepared, have been able to evaluate and address potential compliance issues. And knowing these monitoring exhibits, making sure that your systems, your policies and procedures have you adequately covered and prepared is really going to be the key to success.

So using the self-assessment tool and kind of working through that process should help you to be better prepared for a future monitoring visit.

Kris Richmond: Great. Monte, anything else before we close?

Monte Franke: No. I -- just the comment of that I know you had -- those who participated had lots of questions and went into rules and issues that would have been covered in a more general HOME training. And I hope someday we'll be able to be back and doing a more detailed training in the HOME rules. And please understand that this was only supposed to be on preparing you for HUD monitoring and not to be those other trainings. But we've -- I've heard -- I've reviewed every question and Q&A that's come in, and the range of questions you have are are substantial. And we will be sharing all those questions with HUD, not to identify you by name but to identify the topics that you raised. And that will help us to identify a lot of the training needs.

HOME is a complicated program that has a lot of detailed rules that are imposed by statute and regulation. And we have to keep working to get it right. I've been trying now for -- I'm approaching three decades on this program, and I'm still trying to get it right. So I encourage you not to give up and to stick with it and we'll all do the best we can. Thanks for attending.

Kris Richmond: Great. Thanks, Monte. Thanks, Les. Thanks, everybody, for joining us. If you were with us for all 10 sessions, I wish we could give you a standing ovation for that. So thanks, everybody. A lot of time and effort went into putting these materials together.

If you have colleagues that missed these sessions, please point them in the direction of where they're posted on the HUD Exchange so hopefully they can be shared for the months to come. So thanks, everybody. Glad you were with us. You should be receiving at some point in the future a -- some type of evaluation. It will be an electronic evaluation. So please fill that out. That's really helpful for all of us to hear what could go better, what else you need information on. So please take a couple minutes to fill it out when that comes.

And thanks, everybody, again. And hopefully we'll all -- it would be great if we could see everybody in person. I know it's maybe sometime next year we'll be able to do that. But thanks again, and please reach out if you need assistance. Thanks, everybody. Bye.

Les Warner: Thanks. Bye-bye.

(END)