HOME Monitoring Series

Rental Programs

Tuesday, April 29, 2021

Les Warner: Thanks, Paul. So today is our sixth session. It hopefully doesn't feel like, you know, your 12th or 14th session. And today we're going to be talking about rental housing. And really today we'll be talking about the first part of now reviewing, determining whether it's a project that is eligible, whether it's an appropriate risk for the PJ to take, and then all of the underwriting and related requirements that go with that.

So we've got a lot of ground to cover. We've got a great team today. We've got Kris Richmond, is going to be the other trainer. We've also got Monte Franke is helping us answer questions. And then, as you just heard, Paul is our host today. So we've got the full team assembled.

So as you can see from this chart, we've now moved into -- on Tuesdays, we're doing sessions related to home ownership. And then our Thursday sessions -- and this is the first of the three related to rental, are going to be happening on Thursdays. So today we're going to be looking at 7-27. And then in two weeks we're going to be talking about really the, sort of the other half of rental, which is that long-term compliance and those responsibilities during the affordability period. And so, there's a separate exhibit for that. And that 7-30.

So today we're going to be talking about when HUD's monitoring your rental housing program, what it is they're looking for and talking through those regulations and requirements that are part of rental housing. And so, as I mentioned, we're going to essentially be walking through 7-29, which are all the questions that HUD will be using as part of their review of your program. So really helpful to be on the front end as you plan for compliance, to be thinking about what is there going to be looking at? What do I need to have in place as part of that?

So we're going to be not only talking about the requirements, but also revisiting some of those policies and procedures that you need to have in place that perhaps you need to take another look at and make sure that they fully describe how you are implementing your program.

And then on each of these will be talking about the documentation that would be expected to be in the file to be able to demonstrate that you've followed the regulations, that you followed, implemented your policies and procedures. And that's really one of the keys here on making sure then that as you kind of -- we'll be talking about self-monitoring -- as you check on your system, making sure that, yeah, all the documentation is in place and that you're actually following the process that you put in place.

And it's always -- it's like a little bit about some of the program design considerations, you know, enhancements that you might do to your policies and procedures, things that you need to make decisions about as you determine, how am I going to target my rental housing program? And, you know, what are some of the tools for decision points that I'm going to make throughout that process?

And at the end of this session, then, again, we'll as always talk a little bit about preparing for that HUD monitoring.

So as part of the compliance requirements we're talking about, you know, the PJ is responsible as the grantee from HUD, but they're implementing rental projects in conjunction with -- sometimes with subrecipients and state recipients, sometimes using a contractor to help implement their program. And it probably is more with rental than some of the other activities, we will also see projects that the PJ is going to be funding directly to other partners, such as CHDOs, such as owner-developer sponsors that are going to be implementing that.

So we'll be talking about some of the requirements of program oversight in this section. But also keep in mind, there are separate exhibits specific to oversight of partners and that's 7-34, 35, and 36. So you know, as in many of these areas, there are a couple of different exhibits that include some of the information related to implementing a rental program.

So we're just going to kind of quickly do a poll again just to try to get a feel for the folks that are participating in today's session. So Paul's working on opening up the poll. And when it opens up, which it looks like it's open now, if you can go ahead and click on which one of these choices on length of time experience, and then hit the submit button, that'll give us a quick snapshot of the folks participating in the call today.

Paul: The polls will be closing in about 15 seconds, so make sure you set that submit button once you've selected your answer.

Les Warner: Great. All right. And the results are in. So as would be expected from the mix we've seen before, you know, we've got a good chunk of folks that are less than one year and then kind of split evenly across one to five and five or more years. So you know, we're going to be -- just sort of a reminder on this. We're not teaching the regulations. We're going to be calling them out as we go through on this.

But for those of you that are newer and as we're talking about a requirement, are not really familiar with that, again, we're going to route you to ebuilding home and some other guidance material. And so, some of you may need to do some refresher on some of this, but know that we're not going to be teaching the regulations themselves.

Okay, so let's go ahead and move into kind of a quick overview of all of the regulatory requirements that apply to rental housing. And then we will spend time on going through the questions from the exhibit and talking about the implications of those.

So the regulations for rental housing within the HOME, final rule, which is part 92, are at 92.252. And this is where it spells out, you know, things like the fact that all of our occupants of HOME assisted units have to be income eligible. So they have to have incomes that are at or below 80 percent of area median income. Also, we have requirements about these need to be affordable rents, that we're making sure this is affordable housing. And so, our projects need to follow the high and low home rents that are provided by HUD. And then this is also where things like our program rule or project rule, spelling out requirements about who can occupy units and how rents will be structured, either initially or over the life of the project. And then of course, the affordability period.

So based on that particular activity that you are doing and the amount of HOME funds invested is going to determine what that affordability period might be. So it could be 5, 10, or 15 years or in the example of rental housing that's new construction, this is where we have a 20-year affordability period. So that has a big impact on the PJ's oversight responsibilities, how long those go on for now.

But keep in mind, that's sort of the first of our requirements. We have things like site and neighborhood standards when we are doing new construction. The regulations go into the types, the ways that you can assist the projects with forms of assistance, putting in place the subsidy limits and cost allocation. We have a minimum HOME per unit investment. That's not usually a problem to meet that requirement.

Also defining what those eligible costs are, activities and fees that are prohibited. And then, under the project -- and so, those are program requirements. We also have a project-by-project requirements such as the maximum per-unit investment, all of our requirements about underwriting. And we're going to be talking quite a bit about underwriting in this section. Of course, property standards are going to apply. And then we have some specific language about tenant protections that are also part of that.

Then, of course, we have an overlay of administrative requirements. So talking about commitment of funding and the setup of projects within IDIF. Also, we have some language about that day-to-day responsibility for that PJ. And those kind of relate to some of what we talked about, not only in the other sections, we talked about oversight for subrecipients and other partners, but it's really on that implementing the project and making sure you have adequate oversight of that.

We will talk a bit about written agreements and the fact that much of this needs to be captured within those written agreements. And, of course, we have recordkeeping requirements. Our documentation is kind of the key to being able to demonstrate that we have a program that's been run in compliance with all of the program requirements.

And, of course, for our projects that are utilizing our CHDO set-aside funds, then we have an additional set of requirements about qualifying CHDOs, what's eligible as a CHDO set-aside activity and some of the other ways that you're able to support a CHDO-funded activity.

There are also, of course -- so we talk about our HOME rules, but we also have this overlay of other federal requirements. So you know, it's sort of unavoidable. At the point we put in a dollar of HOME funds into a project, we have federalized that project. And so, we're also triggering all these other federal requirements. And so, we've got a listing of these.

And then, of course, we've been talking earlier in this series about 2 CFR Part 200, which are our financial management requirements, but also include things like procurement, audit requirements, all of those. So it's -- we're looking at for compliance, t's not just the HOME rule, but it's also we have other federal requirements that are going to apply to these projects.

So as I showed before, this exhibit we're going to be covering today for rental is Exhibit 7-29. There's a lot of questions in this. And I will mention that we are, as we go through these, we're not necessarily covering the questions in the exact same order that you would find them if you were reading through the exhibit. We've kind of rearranged these a little bit to follow a little more closely sort of the life cycle of projects and how you as a PJ are probably more likely to work your way through the project and be documenting compliance.

So we're going to kind of divide and conquer on what we're dealing with today. So under the regulatory requirements, you really have sort of three different buckets here and we have our project review and selection. So these are things that you are -- steps that you are completing prior to making that commitment of, yeah, this is a project that I want to fund. So things like that project description and schedules, completing all of your underwriting, looking at all the costs, doing your subsidy analysis as part of that.

And then, of course, if we have new construction, site and neighborhood standards. And then environmental review is one of those things that has to be done upfront before we can take any choice limiting actions. So we're going to be dealing with those first as part of our project review and selection and then move into the regulatory requirements that are related to those written agreement. So what needs to be in those agreements?

And then, we'll be mentioning about, you know, we have CHDO provisions that are specific when we are using CHDO set aside funding. We'll also then be talking about project implementation and some of the things about, you know, how the HOME funds are designated. So units and rent schedules, who can live in what units, the property standard, but also that production schedule. So that completion deadline, milestones that hopefully you have set in place, so you're going to be able to track the process on that and things like tenant selection and VAWA lease requirements.

And then we'll finish up talking about our program design and kind of all the way through this we'll be calling out in places that, you know, your policies and procedures need to include a description of some of these key areas.

Let's go ahead and just jump into the rental program requirements on this. And as always, the way we're going to approach this, kind of following with the way the monitoring exhibits are set up, we're going to be calling out the requirements that we're talking about and then talking about what documentation would we expect to see in that file to be able to demonstrate that you were meeting that requirement.

And then in some cases, any additional sort of documentation that would need to be in place as part of that compliance review. And that won't be in all cases, but we'll be calling that out in a few cases as we move along. So we're going to start with the project review and that project selection phase, which is really critical phase in determining which of these projects are eligible, are an appropriate risk. And we go through a lot of our compliance things as we are documenting that decision and sizing the level of our home investment.

So our first requirement here, question two in the exhibit, is a requirement that you be able to identify the address or legal description for that property. We need to have a schedule and a timetable. So keep in mind that we have a requirement that construction is expected to start within 12 months.

So you know, things like environmental review and being able to get site control and other things are going to relate to, does this project -- before we fund it, are we -- do we have a basis for saying that, yeah, we believe it's reasonable that this project can start within 12 months. And of course, we have a requirement of the project completion within four years. So as part of that, having that timetable and schedule is part of our upfront requirement.

So the documentation we would expect to see, that written agreement needs to clearly call out that property address. And there are times when this is a little tricky. Maybe we have property that's being re-platted. A lot of times our project name, particularly for rental housing, might be a working name that won't be the same as what's on the sign when the project is completed. So having a good property address will certainly help somebody coming along later who needs to monitor that project here in the affordability period to know where is it.

Also, that project schedule, not only is it a requirement, and so it needs to be documented within this, but that's really going to be an important tool for you to be able to track that project and determine, does it appear that it is on schedule for that construction start within 12 months looking at project completion? So all that documentation is really important, not only for the regulation, to meet the regulation, but also as a tool for you in implementing and providing oversight.

The next area, and we have three different questions, one, two and five on the exhibit relate to project underwriting. And so, we have requirements in the guidance of 92.250 that lays out needing to have -- the PJ's required to have underwriting policies and procedures. And this is laying out a process that you will implement for each project to evaluate whether it meets your standards, whether it's an appropriate project for you to be funding, and also the process that you're going to go through in determining if I'm going to fund this project. What's the amount that I'm going to fund, which becomes really critical.

So as part of that policy, you'll be laying out -- and we'll be talking more about this in some additional questions here, is about the market demand for that proposed project. And so. that may vary based on the size, the type of rental housing that's being developed or rehabilitated. And so that would be clearly called out within your policies and procedures.

We're also going to be talking about that need to go valuate the developer capacity. And that's not only having the skills and appropriate staff, but also making sure that they have the financial strength to be able to complete that project.

And then spending some time talking about project financing. So we not only need to be able to size the level of HOME investment, but we also need to make sure that all those other funds that are needed to be able to complete that project are firmly committed in place. So the CPD Notice

15-09 is sort of your go-to in describing the requirements for committing of HOME funds and completing that underwriting process.

So as part of our project underwriting, we're going to need to be able to document the process that was completed to determine that the HOME subsidy amount is appropriate for that project, that it is within our limitations, describing the form of assistance that's being provided. So it might be a loan or a grant, might be an equity investment into that project. And then our cost allocation process. So essentially, HOME is a housing production program and our level of investment is based on affordable units that is being created. So dollars allocated need to line up with an equivalent level of units designated as long-term affordable units.

But let's look at the specific requirements. So as part of your underwriting, you're required on a project-by-project basis to determine whether there is a market demand to support that project in its location. That's not really just for today as you're thinking about building it, but you're going to have an affordability period. So thinking about over the projected lifetime of this project and affordability period, do we believe that it's reasonable that there is an appropriate market demand?

So that's also looking at, you know, following your policies and procedures about how you're going to make that market assessment. So if we were doing larger scale or rental development, probably I would think that we're going to see a professionally done market study for that project. But your policies and procedures might define that for a smaller scale rental project that we are simply collecting some information about maybe current occupancy or occupancy of existing units within that neighborhood to be able to have an appropriate assessment in place.

So you're going to have to follow your policies and procedures and that file would then reflect that you followed that process, evaluated the information that was available. And so, again, there's further guidance in CPD Notice 15-09, which talks about the underwriting process and specifically on that evaluation of market demand.

So all of that needs to be noted within the file. And so, as we'll talk through some of these sometimes the challenge for the PJ is to make sure that you have a process, a checklist, some way to capture what you've done internally. So it might be that you're reviewing market information, but you need to then have a review sheet where you are responding to. Yes, I reviewed this based on these factors. And this is the reason we've determined that there's an appropriate market demand. So you're able to demonstrate that you have completed that market assessment policy that you have adopted as part of your policies and procedures.

So we need to know that it's either performed by qualified staff. In some cases, you may be hiring an independent expert to be able to do that. And as we talked about looking at that local market, including trends. So you know, if we're seeing that -- we're seeing population loss over time in that market area, then that demand over time may not be there. Also, considering what's the competition in that area? And as part of that, trying to think about what's the real market for this project?

So we want to make sure if we build it, that not only will we be able to lease it, but over time it's going to remain as a stable project. The requirement here is also to make sure that that market assessment is less than 12 months prior to the commitment of HOME dollars, since obviously markets can change over time.

As part of our developer capacity and experience, we also need to consider the capacity of that developer to actually carry out that proposed project. So the requirement is that we have to have done that assessment on a project-by-project basis, and it's going to be based on the specific project that is being proposed. So the level of capacity and experience for a large-scale multifamily new construction development might be significantly more than the capacity would be looking for, for maybe purchase and rehab of a small rental property. So it really needs to be in a case-by-case basis.

So first off, the PJ needs to have policies and procedures. You're going to get tired of us saying that -- that would describe that process that you're going to utilize and what standards you would use as part of that. So that will describe the process that you will use for that. And it may be, you know, sort of tiered based on size and complexity that you would have different standards for different types of projects.

So as part of that you'd be capturing, what do we know about their current capacity, key staff, the experience that they have? It might be as part of a track record that they have with other projects they've handled, but then also looking at the financial side of things and financial statements audits, making sure that they have liquidity of assets to be able to complete that project if there are some bumps in the road along the way.

And so, all of that needs to be captured within your file. So again, having a process, having some kind of checklist and notation that you're going through that evaluation. So you're creating a paper trail that when HUD is looking at this, these questions on their exhibit, will have a basis within your documentation in the file, to be able to say, yes, I can see that they followed their policies and procedures. I have some indication of the basis of how they made that decision.

Sometimes we go out and talk to PJs and we can we can tell from the conversation that they've actually gone through a very sophisticated process as they make these decisions. But we don't see anything in the file. And that's part of the point of this series, is to make sure that there's a connection between what's the requirement, what do I need to capture in that file to be able to adequately demonstrate that I've met those requirements.

So for project financing, first and foremost, we need to make sure that all of the sources for that project have been committed. We have firm commitments in place. Just as a reminder for folks that are newer to be able to complete that underwriting and make the final determination of the level of HOME assistance. You can't do that until all of the sources are firmly in place. And so sometimes we might be making a tentative commitment and then having to finalize our underwriting once all of those other sources are in place.

We also need to make sure that the costs that we are going to cover using our HOME funds are all eligible costs. And we've talked to some of the other sessions about things like a line-item budget as part of your written agreement, so you've clearly called out these are the things I'm going to pay for. I've determined that these are all eligible. And then tracking as funds were being drawn to make sure that what you were reimbursing for was one of these eligible costs within the project.

We also have to be able to demonstrate that costs are reasonable. And so, particularly in rental housing, where we're providing funding to the CHDO to a developer, we may not have procurement in place. And so, the PJ will have to have done an evaluation of what the cost is that they are paying for it, whether that's reasonable. That might be -- we had some questions about this the other day -- that might be doing a cost estimation, using some tools in that way. It might be looking at comparable projects within your portfolio.

But a basis of evaluation that those costs are reasonable. And one of our keys here is that with our subsidy layering analysis, we're making sure that we are only putting in the amount of HOME funds that are needed for that project to be able to be completed, for it to be sustainable. So that needs to be captured as part of this process. So to be able to do that, our documentation would reflect what all of the -- you know, what our final budget is for that project, what all the sources are of funding, that they've all been firm commitments, and then how they're going to be used.

So as part of that, with the uses, we'd be thinking about for our HOME funds, that they are all eligible. That's all going to be captured within our written agreement. But we need to make sure before we make that commitment that those are all in place.

As part of that, we also have to evaluate how that project is going to operate, whether it's going to be sustainable. So for at least the period of affordability. So if I've got a 20-year affordability period, I need to have operating performance. So we're projecting what's the cash coming in, what are all of our expenses, and be able to document that there's going to be adequate net cash flow on this project to be able to support all of those project costs, including things like reserves and maintenance, those sorts of things.

So as part of that, all of that documentation gets captured in the file. That would include your subsidy layering analysis, all of the, you know, written cost estimates that are part of that process. I think for most PJs you would have probably a whole process and an underwriting document or checklist that you're using as part of that and where you are checking each one of these compliance areas. And that may well be the documentation that your file is going to include to be able to demonstrate that you completed all of your underwriting, your subsidy layering as you described your standards to be within your policies and procedures.

So for underwriting, we also will have some additional things that may need to be included in them. So the HOME regulations, that 92.212 allow you to pay for some pre-award costs. Now, that's a decision that the PJ will make as to whether they're going to allow that. Costs are allowed to go back to up to 24 months before that commitment. And the regulations clearly call out some specific costs. And essentially these are costs that are not going to have physical impact, but things like architectural engineering, some of our planning services as part of this.

And so, the PJ would need to be able to show that it's following its own program requirements on this, that it's also following the HOME requirements at 92.212. And also, the written agreement itself would have called out that the PJ was allowing and what specific reimbursements they were agreeing to as part of that.

We also could have projects where refinancing was part of the project. And so, we have some very specific rules with refinancing. It has to be part of an overall project of rehabilitation, it's necessary to maintain or create new affordable unit. That triggers and affordability period of at least 15 years on that. And they would need to follow the PJ's rule. So I think probably most PJs within their policies and procedures will call out specifically what their PJ policies are going to be on when they will allow for refinancing and what their criteria would be as part of that. So that -- the copy of that needs to be included, and then be able to demonstrate that you followed those specific requirements.

We also have requirements about our per-unit subsidy as part of our HOME rules. So we have a minimum of a thousand dollars per HOME unit. So we could have a project where we needed to be able to demonstrate by looking at the average of our HOME investment per unit that we were meeting that. Usually that's not really the issue.

But we also have a maximum per-unit home subsidy, and so we would need to be able to demonstrate that we were within those requirements. So as part of that, we'd have to have a development budget of sources and uses and be able to show the calculation.

So in most cases, again, the PJ is going to have a, you know, an underwriting document or checklist that they're using, which will lead that staff person through each of these critical questions. And they would be looking at, okay, are the -- is my per-unit at least a thousand dollars? Yes, my average is filled in. So yes, I can show documentation that I've considered that requirement. So all of that needs to be captured and be available so that as HUD is reviewing these program requirements, that the file is able to demonstrate that a PJ understood and considered those requirements, and it's been correctly done.

You know, we sometimes see where we have what would be referred to as accidental compliance, that you can see that, yes, the project, in fact, is within these subsidy levels. But there's nothing in the file to demonstrate that the PJ actually reviewed that and checked that. So you need to make sure there's a system to demonstrate that the PJ actually is reviewing and following those requirements as they make decisions on projects that they're going to fund.

So we also have HOME requirements about the eligible forms of assistance. So these could be interest-bearing or non-interest-bearing loans, which is probably the most typical thing that we would see for our rental projects. They might be deferred payment loans. We sometimes see grants and then there are other forms. There are equity investment. But there are also some language within the regulation that says if you have some other form of assistance than what is on this list, then there needs to be a HUD approval in writing.

So that documentation needs to reflect either one of these allowable forms of assistance that are called out within the regulations or that approval letter from HUD signing off on use of some alternative type of assistance for that project.

Cost allocation. Cost allocation is essentially when we have projects that are not 100 percent HOME funded, then we need to make sure that essentially for the investment of HOME funds that's being made, that we're getting a fair share of the units as long-term affordable units. So the guidance for this is the CPD notice 16-15. And that notice specifically provides a number of methodologies and sample forms that could be used as part of this.

So for any of our multifamily projects where we have both HOME and non-HOME units noncommunist [sic], that process needs to have been completed. And so, the documentation is going to show what's the overall budget, what are all the sources and uses, and then have a copy of that cost allocation analysis that's been completed to be able to document that the amounts that are being provided with HOME-eligible costs are within those subsidy limits and that the cost allocation was following one of the prescribed allowable methodologies that are listed in CPD 16-15.

Keep in mind, if you're using a pro-rata method on this, then that documentation is also going to have to include the plans and specs to show that the PJ actually went through that process of determining about comparability of units.

So site and neighborhood standards. This only applies when we have new construction of rental housing. For other rental projects it does not apply. But in the case where we have new construction now, the PJ is required to have policies and procedures, the standard for site and neighborhood standards. So as you're making a decision about where you're going to place new units that you're going to pay for, to construct, then we need to have gone through this review of, is this an appropriate location?

And so, when this is triggered, so when we have new construction of rental, that file needs to contain not only your site and neighborhood standards, but documentation that that review has been completed. So you have looked at the site, you've compared that to your site and neighborhood standards. And, you know, you've completed that review and documented that, yeah, I've looked through all of these factors. I have found this site to be appropriate. And that's the basis for being acceptable as a project that you would fund. That would need to be in the files for all new construction of rental housing.

So environmental review. I mean, this is another federal funding requirement, but the requirement is that the PJ has to conduct an environmental review before committing HOME funds. Now, some of you are probably using a written agreement which has a conditional commitment, which is allowing for that conditional commitment to be made prior to the environmental review being completed. But your commitment is not final until that environmental review has been completed.

So we need to have this documentation. The documentation, in most cases, that's going to be the determination of exemption from environmental review or categorical exclusion as part of that.

And probably will be a release of funds from HUD, I would think on most of your projects. In some cases, you're also going to be doing a project where it is in a flood hazard zone. And so there would also need to be documentation of the flood insurance policy for that property. Really key step here.

All right, so that's the front-end decisions on am I going to fund this project or not? And what's my level of assistance? What will my terms and conditions be?

And that's going to all be captured then within that written agreement. And that's going to be key to our commitment, meeting our commitment of funds requirements. So for us to -- for the PJ to have a commitment of funds, they need to have a written agreement in place that includes all of the HOME requirements, ensures that we have an enforcement tool in place. So we'll be able to enforce that with the developer. And then it also needs to lay out enough detail so that we've defined what would compliance be, what is that that we paid for. And so, the PJ is going to use that over the life of the project.

That written agreement's going to be legally binding. And that's our official trigger then for our four-year project completion deadline, that we talked earlier about having a timeline in place and that evaluation. For that -- part of that is not only the construction being able to start within 12 months, but it's also meeting that four-year project completion deadline.

So HUD's always going to be looking at your written agreements. It's really a key to compliance. That's kind of the go-to spot of, okay, what were the terms and conditions of this project? And so, we need to make sure that those written agreements are correct and in place.

So as far as the specific requirements, the PJ is required to execute that written agreement after you've completed your project review your underwriting, and that has to be in place before you're able to disburse any of their HOME funds. They need to be signed and dated, fully executed. So all parties would have to have signed off. If you're a PJ, that it requires maybe a programmatic signature and a signature by legal. It's not fully executed until all of that has been signed and dated.

So the files are going to need to include the written agreement. It's going to include any amendments that are made over time. HUD will be making sure that it's signed and dated. And they'll actually be comparing between what you have set up in IDIS versus the written agreement that they're going to see in the file. We need to make sure those dates are the same or that IDIS data is after the actual fully executed written agreements.

So a lot of required provisions within a written agreement. We're not going to go into training those, but, you know, the use of funds, your affordability, period, calling out things like property standards, laying out, you know, which are the HOME units, what's the affordability going to be? What are the income requirements? All of that needs to be captured within that written agreement.

And that would be something -- there was a separate session we did on written agreements. I would just reference to back to that session. Those are recorded. So if you missed that, I would recommend that you go back and listen to that.

So use of funds, calling out again that address, the specific amount of HOME funds. And that's where we're going to capture things like number of units, specifically what we're paying for, that project schedule, and then the all-important project budget and calling out how the HOME funds are being used for that project, what those other sources and uses are for that project.

With the affordability requirements, calling out that term of the affordability period. And of course, HUD will, as part of their check, be making sure that that lines up with what the minimum affordability period would be for the type of project that you are completing.

Then within that, calling out what the initial rents are, what your process is going to be for rent increases. And really key here is clearly laying out the specific number and the designation for HOME units. So we see a lot of these where folks have gone to a pretty good chart to be able to clarify what units -- because, of course, this written agreement is also what property managers and other folks are going to be using over time.

We need to designate whether these are fixed or floating. That's very important as part of long-term compliance. And then calling out, identifying the specific HOME units, because we're also going to be looking as part of our compliance to make sure that we have occupancy of those units. The affordability requirements would also include your enforcement methodology. So we're generally going to see a land covenant in place as part of this. So we need to make sure that those securing documents are also in place as part of that.

We also have a number of questions within our checklist about essentially how we're going to determine who's going to be able to occupy those units, how we're going to market this property so that folks that are least likely to know about the availability will -- there'll be some outreach specifically to them. And then also our property standards over time.

So you know, in some of our projects, we will have preferences in place. We know that we have a requirement about income eligibility at 80 percent or below as a minimum. We also have our project and our program rule. But you as a PJ may have set some preferences. Beyond that, you may have been more restrictive on income or rents. All of that needs to be captured as part of this.

And our affirmative marketing then is looking at the process that the PJ has followed to get the word out about the availability pf these units. So the PJ itself is going to have an affirmative marketing plan in place, which would apply to all projects, but when we have projects that have five or more HOME units, then there would be a project property-specific affirmative marketing plan, and that needs to be captured in the file.

Property standards are, as we mentioned, a requirement as part of that written agreement. And we mentioned before, there's a link here for a property standards tool that will kind of walk you through what the property standard requirements are.

So other federal requirements that need to be captured within our written agreement. We have, you know, nondiscrimination, we have URA relocation requirements, Davis-Bacon and complex interest. We talked a little bit about VAWA in our earlier projects. And in some of these cases, there will be some rather specific -- so it might be that we have a project that includes relocation. And so, we might have, as part of our written agreement, also a URA relocation plan that has been reviewed and approved, and that becomes part of that enforceable written agreement that they must follow that adopted relocation plan.

Record keeping. So our written agreement needs to call out the fact that our project records need to be retained for five years after project completion. So if we have a 20-year affordability period and we're holding our project records for five years after that, so we've got 25 years of records that we're going to be holding onto.

Written agreements, we need to have those in place until five years after. And then reporting. So we have some minimum reporting requirements. We know that HOME requires that you're going to be -- the PJ's going to be reviewing and approving rent and utilities schedules. Also, that our owners are going to be required to certify on the property conditions on an annual basis. But most PJs will also have specific requirements about how often rent and occupancy reports. It needs to be annually, but many PJs will require that more often.

And then for projects that have 10 or more HOME units, there is a requirement for financial reporting, and the PJ would have policies and procedures about what their specific requirements would be. Many PJs have adopted that across the board, not just for 10 or more units. So that would be called out within the written agreement.

That written agreement also needs to include remedies for a breach of that agreement. So it lays out what the -- the actions the PJ would take and what that might include. So that might be things like we have the ability to require the property manager be switched out, the repayment terms of HOME funds. In some cases, we might have language about approval before change of ownership during that affordability period. That would need to be spelled out within that written agreement. And there is a checklist requirement that HUD -- they're using that part of it -- would be reviewing that agreement.

Also, language about the disbursement of funds, about fees that are eligible. And so, we know that HOME allows for some fees, such as, you know, laundry room, parking fees when that's customary in that market. But we also have a prohibition on some fees. So that needs to be called out within the written agreement and that will be part of the review.

So for our CHDO projects, we have additional written agreement requirements because we're documenting that this is an organization that is eligible for the use of the CHDO set-aside funds. And also, that the project itself is going to be eligible. And so, we have a series of questions within the Exhibit 7-29 that relate to specifically when it is a CHDO set-aside project.

So property ownership is defined as part of that of being not only during the development period, but also throughout the affordability period. The CHDO's responsibilities on oversight. And that's going to -- part of this is going to depend on the role that they are serving in.

And then particularly in the case where the CHDO is a sponsor. I think Monte talked about this in our CHDO session. And I would suggest for more details, you might go to our monitoring section on CHDOs and also to eBuilding Home. But when we have a limited partnership or an LLC, the CHDO has to be essentially in charge. And there would be specific language about removal of the CHDO and replacement with another CHDO during that affordability period.

Some special cases or some special instances where language is a bit different is when we're providing the CHDO, one of their sources of assistance. So if we're providing operating assistance to the CHDO or we are providing predevelopment loans as part of that, then that would have to be called out specifically in a separate agreement defining what the use of funds would be, defining the terms of that and the repayment on that. So there are questions on this checklist specifically about those CHDO agreements.

So let's talk a little bit about project implementation. And then I think at that point we're going to think about taking a break here, probably a much-needed break, but I'll let [inaudible].

Kris Richmond: Les, do you want to take a break and then I can start from this section here?

Les Warner: Okay. Yeah, that would be fine.

Kris Richmond: Okay, how many minutes do you want to do?

Les Warner: Well, let's just do -- well, since it's kind of an oddball time, if we can come back at 2:05, I think that will handle this pretty well. So we're going to take a short break.

Kris Richmond: Great. And I'll pick us up at project implementation.

Les Warner: Okay.

Kris Richmond: All right, thanks, everybody. 2:05, we will start talking again.

Thanks, everybody. We are going to continue now with project implementation. So Les did a really nice job going over the requirements for the written agreement. And remember that documentation is the actual written agreement. And now we're going to talk about a different project requirement that the PJ has to make sure are implemented correctly.

Some of these will have already have been established before making a project commitment and would have already been included in that written agreement. We'll go over some of these other requirements.

So the first one we can talk about is unit designation. So as you recall, this has to be in the written agreement. But there's other areas in the exhibit where this comes up. And just to remind folks, these questions are -- that at the top of the screen here in this white question Q with a 12, 53-55, that's where later on you can go back and look in the exhibit. People were asking, is there a checklist? Well, the exhibit is actually a checklist so you can go back and find these specific questions.

But let's talk about the unit designation. So a PJ has to have -- they have to identify whether their rental project is going to have fixed or floating units. You would never have both. You choose one or the other. And remember fixed units is when you always have the exact same unit numbers. Floating is you have five HOME-assisted units, and those addresses will float throughout that project.

So those do have to be identified, whether you're doing fixed or floating at project commitment. And then if it's floating, these have to be comparable units. And by comparable, we mean same size, the same number of features, the same number of bedrooms. That's what we mean by comparable. And you could have floating units, you know, a certain number that are two-bedrooms, a certain number that are three-bedroom. But you would identify all that in your written agreement and up front.

You also want to designate whether if you're working in a project where you may have market units. Which ones are going to be your HOME units? Which ones are your market units? If you have five or more HOME-assisted units, then 20 percent of those units have to be occupied by tenants or at or below 50 percent. And those tenants would be qualified to live in your low HOME unit. So you need to identify whether you have high or low HOME units. That needs to be done before occupancy.

And then the documentation. Again, this is all going to be in the written agreement. And so, again, you're choosing whether this project can be fixed or floating. If it's floating, you're looking for the comparability. You're going to be checking those plans in the work write-ups to make sure that those are comparable units. And then the documentation of the individual unit designation, which ones are going to be the high units, which are going to be the low units. This can be identified with the owners initial rent schedule. So the owner would send you a rent schedule, they would identify which units are high or low, and then the PJ would approve that. So you want to have documentation of that in your files as well.

So as you're aware, there are a number of requirements for the rent for HOME-assisted projects. And the underwriting that's done during that project review will have projected rents for the project. So during the implementation, the PJ needs to ensure that the actual rent schedule is compliant.

So Les spend some time going through what's review during underwriting. Now we're looking at now the project is in place, are they actually renting the units at the rents that were approved? So rents cannot exceed the high HOME rent limits? And if you have low HOME units, they also cannot exceed the low HOME rent limits. These limits are published by HUD. They are available on the HUD exchange.

If you have projects with five or more HOME-assisted units, as I said, the low HOME unit would apply. That's that the project rule where 20 percent of those units have to have tenants with incomes at or below 50 percent. If you have SRO units -- so SRO stands for single room occupancy, you have to follow certain requirements.

So if you have a project with single room occupancy units that do not have either sanitary, you know, bathrooms or kitchens or food preparation areas, or maybe it has one of those and not both. Maybe it has bathrooms, but not kitchen area or it has kitchens, but not bathroom in that particular unit, the rent cannot exceed 75 percent of the fair market rent for a zero-bedroom unit. So if you are working with single room occupancy, you want to make sure that your owners are charging the correct rent.

And then, our rent, our HOME rent always includes utilities. So if a tenant is paying for their own utilities, we need to make sure that we are subtracting the utility allowance. And the owner has to use a HUD utility model or another model that's based on utility types. That was the question that came in. Somebody asked, well, can we use the state utility model? And Monte gave a really good answer. So well, it depends. Depends on where that utility model for the state came from. So just to repeat that your owners have to be using a HUD utility model or another model based on utility type.

And then the PJ always has to review and approve the initial rent. They also need to review and approve rents that are increased as well. So sometimes -- we'll talk in a couple of weeks, we'll get together again and do a long-term compliance. But just to mention, some owners think, oh, the new home renter, we can increase our rent. So that's not the way it's supposed to be. The PJ is supposed to improve the rent increases and notify the owners that the home rents have changed. And we are allowing you to increase your rents because the homeowners have changed.

Because you might be in a market area where maybe the tenants really can't sustain a rent increase. So it's really up to the PJ to review and approve not only initial project rents, but also rents that continue.

Monte also put in a really helpful -- let's see if I can type it here -- a helpful guide in case people needed more information about the utilities allowance and those are found at HOME Fire volume 13, number 2. I'm going to put that on the screen there so you can see it. If you need more information about the utility allowances, you want to check at the HOME Fire volume 13, number 2.

All right, so what documentation? How am I going to show evidence that I've been checking this? You're going to have a copy of that schedule and that's going to be in the file and you're going to be checking it against the rent limits that are published by HUD and for unit type, because it'll say, here's the high home rent for a two-bedroom, here's the high home rent for a one-bedroom. So it does list by bedroom type, the low, the high, the fair market rent.

Also, again, if your tenant's paying utilities, please make sure that that utility allowance was subtracted to determine that maximum rent. And then while on site, COVID will eventually end, and we really will eventually get to be able to go on site and do onsite monitoring, so as the PJ, we can go onsite to these properties. You need to verify that the schedule that the owner submitted to you is consistent with the rent information that's in the tenant leases.

And as I mentioned, in a couple of weeks, so, next Thursday we did TBRA, and the Thursday after that, we will be doing the long-term rental compliance and we'll go more into what happens when a tenant is over income, how do we how do we handle that, what's the documentation that needs to be in for that? So we'll talk about that in a couple of weeks.

So the written agreement documents the length of the period of affordability and the actual period of affordability starts at project completion, and this is the date that's in IDIS. That came up a lot during the first half of this session as well. I think Monte just copying and pasting answers in there. So I'll repeat it. The actual period of affordability starts with the project completion date, and this is the date that's in the IDIS system.

So for our requirements, the PJ is determining this point of affordability. This is based on the types of activity, we're talking about rental and the amount of home investment. So if you're doing rental rehab, it could be 5, 10, 15 years, depending on the amount of funding per unit. If you are doing new construction, we have an automatic 20-year affordability period.

So the different ways that these are secured: you may have a deed or a land use restriction. You might have a covenant running with the land. Those are the two most typical ones that we see. And then there are -- if you have another mechanism you want to use, it does need to be submitted to HUD and they do need to approve it in writing before you're able to implement that.

So again, our written agreement, so important to use for our documentation, and it's going to be identifying that affordability period. You want to make sure you're checking that it's correct, that it's -- the time period is actually correct and in there. And then looking at that deed or land use restriction, making sure all those proper provisions are in there. And the requirements that apply during the period of affordability, again, like I said, we're going to discuss those on May 13th.

So property standards. We have property standards for new construction, property standards for rehab, and we have property standards for acquisition. And there's also property standards for what needs to be maintained during the affordability period. So I do want to alert you that we have a handout. This is -- see if I can go to the first page so you can see it.

This is the Property Standards for HOME-Assisted unit. This does not replace the regulations, but we wanted to have it as a companion document. We're not going to go through all of these, but it does list the property standards found in 92.251, and what the documentation is. So we thought this might be helpful during this training to refer to as well as afterwards, if you want to go back and do a quick look, because the regulations are going to tell you what the requirement is, but it's not going to tell you what the documentation is. So this is a helpful tool for you to go back and look at.

So the first one we're talking about is new construction. And so during this process, at project completion, the new construction, the project has to meet all the standards for newly constructed properties. And like I said here, you have to meet your state and local codes and standards. If there are no state and local codes, has to be an international residential code or an international building code. They have to have -- they have to be accessible, disaster mitigation if applicable, and then broadband infrastructure. And I have a couple of slides in a couple of minutes that cover broadband and disaster mitigation. So we'll hold on that for a couple of minutes.

So your documentation. You're looking at the scope of work and you need to make sure that scope of work in the construction contract is sufficient in order for you to perform inspections and make sure that they are meeting the required standards. During the progress inspections there should be inspection notes, there should be some type of inspection checklist that has signatures.

Who did the inspections? When were the inspections done? Were there any deficiencies? How were those identified? How were those addressed? So we want to make sure that those are all in that file as well.

And then for the final inspection, it needs to show evidence that the property did meet all applicable standards at completion.

All right, so the next area of property standard is rehabilitation. So we scroll down here, we can see that the PJ has to adopt written rehab standards. And so written rehab standards are a document that details your methods and materials that have to be followed for rehabilitation. So we want to make sure that you have in your written rehab standards, there were some changes with the 2013 rules, so if you have not updated those for a long time, you want to make sure that you are including your state and local codes, your health and safety, lead-based paint need to be identified in there, accessibility, as well as disaster mitigation.

You also have to be sure that we are addressing any useful life of major systems. So major systems, what do we mean by that? Well, that's your structural support, your roofing, weatherproofing, your plumbing, electrical, heating, air conditioning. You kind of get the point. That's our major systems. So you need to be reviewing the life of your major systems. If they are not going to last during that period of affordability, they need to be replaced during rehab or there needs to be sufficient reserves put into the reserves account for the underwriting to make sure that can be covered. So that kind of review needs to be included as well. We need to make sure that our projects are going to be sustainable.

And then upon project completion, the project has to meet the PJ's rehab standard. So our documentation again, system looks very similar to what we just looked at for new construction, that scope of work. We need to make sure that's ensuring compliance for all of our requirements. The initial inspection, this is where the rehab specialist goes out and they identify what are the deficiencies, what needs to be rehabilitated or what needs to be replaced in order for us to be able to meet our standards? Because this is a HOME project and all of our HOME units have to meet the standards of project completion.

Progress inspections, same thing. What was -- how often did they go? Usually you see a lot of progress inspections also at payment time. So when there's payment requests come in, your inspector usually goes out and does a inspection tied to that. So you want to make sure that they are making progress with the work that's being done, it's meeting the quality that you expect. It's meeting your standards. And then this final inspection also needs to show that's meeting all the standards.

And then if you have a project with 26 or more total units, not HOME-assisted units, the total units. So if you have a project with 26 or more total units, you do need to conduct a capital needs assessment. So if you have that size of a project, your capital needs assessment would also be identified in your file. And capital, it's funding, like what are the needs, kind of the funding need for this project? What's the useful life of all of these items in your project? So almost like a financial analysis of the project during the life of the project. So you can see during underwriting, are we going to have enough funding to keep this project sustainable and feasible during the period of affordability?

All right, the last property standard we're going to talk about is properties that are acquired. And so, we're looking -- we call that acquisition. And if you are acquiring a property that was newly constructed and it was constructed within 12 months of commitment, then you need to be following the new construction standards. If you are using your HOME funds for acquisition of a property that was rehabilitated within the last 12 months of commitment or there was no work that was done, it's in standard condition, then you need to be following the rehabilitation standard.

So it needs to be meeting either the new construction standards or the rehabilitation standards, depending on the type of building that you're acquiring. So was it newly constructed or was it newly rehabbed or standard condition will determine which property standards you do need to meet.

The documentation, we're going to be looking at our approved building plans. There may be a certificate of occupancy if it was recently constructed or rehabilitated. We want to look in the file to make sure those are in there. And again, for acquisition, there does need to be an inspection and there is a time period for this inspection, cannot be done any earlier than 90 days before the home commitment. So we want to be checking the date of that inspection, making sure their signature is on that inspection, and that it is going to be meeting either our new construction or our rehabilitation standards at acquisition.

All right, we did mention that there are disaster mitigation and broadband requirements. So if you are working in an area, or the property's in an area that is in a disaster area, prone to disasters, maybe hurricanes or floods, fires, there are disaster mitigation requirements that must be in place. So if you're working in one of those areas, you make sure that those are being addressed.

Broadband, remember broadband, this is allowing for high-speed Internet access. That's what we mean by the term broadband. So if you have new construction or substantial rehab that has -- if you have new construction, then broadband infrastructure is required, if you're doing substantial rehab with more than four units, then broadband infrastructure is also required. And this is for broadband for all projects that were committed after January 19, 2017.

So you do want to be checking in your files for the disaster. You want to be making sure that these disaster mitigations are being written into the specifications, that during the inspection that these were actually identified in meeting the standard. And then for the broadband, again, this is evidenced within inspection. It would be in specifications first, but then also in the inspections that this infrastructure was installed and that it's meeting all of the requirements. And again, for broadband, this is required for projects committed after January 19, 2017.

All right, so we do have project completion deadlines. Projects must be completed within four years from date of commitment. Most PJs have a shorter time period because they do not want to bump up against this four-year time period.

So if you are working for a PJ or you have a project with a PJ, and you're like, oh, my gosh, I never knew we could have four years. Well, they probably set up their own local policy of two years or two and a half years because they want to have a little wiggle room. They don't want to run into this four-year project issue.

So what do we mean by project completion? Well, project completion is when the construction is complete, that project is meeting the property standards depending on whether you're doing rehab or new construction or acquisition. The final draws are disbursed from IDIS and that project is marked as complete in IDIS. There are allowances for a one-year extension.

This has to be submitted in writing to HUD. The PJ would submit this in writing. They need to identify what the status is, why these obstacles are here, and what the steps are being taken to overcome these obstacles. The PJ needs to show that there's proof of adequate funding to complete this project. They need to show a schedule and milestones of how they're going to meet those milestones, as well as a copy of a written agreement and any amendments. And this must be submitted in writing to the PJ before the end of the four-year completion deadline.

But like I said, most PJs have set their programs up and their projects that there's a two or three-year deadline so that they don't really have to bump into this. But if you do, there is an avenue for pursuing that. It has to be done before the four-year completion deadline comes up.

So how is this all documented? Well, they need to be checking for final completion that this inspection, final inspection was conducted and there were not any deficiencies, that it did meet all of the property standards. Your town may have a certificate of occupancy. There might be some other type of notice that's issued by your community that it's able to be habitable.

We have to show that the construction is meeting all of our property standards. Again, the completion data, you have to check your IDIS and check the date and make sure that it was entered in IDIS within 120 days of your final draw. And then, if for some reason the project failed to meet the four-year completion deadline, there has to be copies of all the documents that you sent in writing to HUD requesting that extension. And hopefully you got HUD approval, so you want that documentation of that HUD approval in your file as well. And if for some reason that HUD denied it or the project was terminated, there has to be evidence in the file of repayment to the PJ's local HOME investment fund.

All right, tenant selection policy. So the owner has to have tenant selection policy, they have to adopt these, they have to be in writing, and they have to have criteria that covers all of these items below here. So we want to make sure that their units are being occupied by very low, that's at or below 80 percent [inaudible] income -- let me start -- very low is at or below 50 percent. And low income is at or below 80 percent households. So depending on the mix of units, you need to make sure that those are being occupied by very low and low-income households.

We need to make sure if there's any tenant preferences or limited on eligibility, that those are identified in the consolidated plan and they're also identified in the written agreement. We want to make sure that we're not excluding any applicants who may have other rental assistance. Maybe they have a Section 8 voucher, maybe they have health insurance voucher, or maybe they even have a home tenant [inaudible] assistance voucher.

So in those written policies that the owner has, we want to make sure they're not excluding any of those applicants. If the tenant -- if the landlord or owner is saying that they have a waiting list and that's how they are going to keep track of people who want to live in these units, there has to be an actual waiting list and in there -- in the waiting list policy we would like to see a chronological selection from the waiting list.

We also want to have policies by the owner of how and why they would reject an application and what type of written notice is being provided to applicants about rejection.

And then we also need to see compliance with the violence against women act. That's what VAWA means. I have a slide in a couple slides. We'll talk a little more about VAWA.

But for the tenant selection policy, how is it going to be documented? What is HUD looking for? In that consolidated plan, if you were agreeing to the owner to have limits on eligibility or tenant preferences, those need to be identified in the consolidated plan. That written agreement would also identify what those preferences are for the owner.

Selection policy. Again, this was listed on the prior page. But are they using a waiting list? Are they using preferences? How is that being selected?

And then, any applications that were rejected or approved? While we're on site, we want to actually look at rejected applications and approved applications. We also want to ask how these policies are being implemented as well.

So I mentioned VAWA. So VAWA, if you're unaware, is the Violence Against Women Act, and the PJ has to convey to the owner all the applicable VAWA requirements. And this has to be done for the entire duration of the affordability period.

So what are we talking about for VAWA? A very short update on VAWA, so you might want to do a little more review about this, but just in general, there has to be notice requirements. So VAWA is providing basic protections such as no eviction or termination of the lease to survivors of domestic violence in HOME-assisted units.

We also need to have the owner provide, if needed, a bifurcation of a lease. And a bifurcation of a lease means that we can remove a household member or we're removing a lawful occupant from the lease. So that's what we mean by bifurcation of lease. So that has to be allowed by the owner as well.

And then, obligations under an emergency transfer plan. So this is where the person who is surviving domestic violence would be able to transfer to a safe unit and the tenant will define what they consider safe. So all of these requirements need to be part of the agreement that you have with the owner and they need to be following these during that entire period of affordability.

So this would all be in that written agreement. Again, this is for projects that we're committed after December 16, 2016. And when you're onsite, you know, we know that there's [inaudible], but I would ask the owner how -- can I see your policy on how this is being implemented? Have you had to implement this yet? What are any obstacles that you're encountering with this?

So there are certain items that must be reviewed for HOME-assisted [inaudible] units, for leases. So 92.253(b) provides all the tenant protections. We have of those on the next slide. They cannot be identified in the lease. And then, like I said, for projects that were committed after December 16, 2016, the leases also have to have the VAWA lease addendum. And so, we're going to be looking at the leases.

When I worked as a monitor, I would ask my owners to send me a copy of the lease. So I would actually review the lease, I'd compare it against the prohibited provisions and make sure none of those prohibited provisions were in the lease. And then when I went onsite, I'd ask to see the lease, too, to make sure it was the exact same. So you want to be checking that. And for your projects after the end of 2016, making sure those VAWA amendments are in there as well.

There are a lot of PJs that often require owners to use an addendum or a boilerplate lease to help them meet their HOME requirements, so that -- we see that quite often, boilerplates.

So these are the prohibited lease terms. I'm not going to go over all these, but if you wanted to go back and look at them, this is where they're located, 92.253(b). And they are really set in place to help protect our tenants.

All right, so I know it's been a little while since we went through all the written agreement requirements, but let's do a really quick knowledge check. Paul is going to set this up as a poll. So which provisions are not required in a written agreement with an owner, developer, or a sponsor? So we're looking for the provision that's not required. So take a look at the answers there. Pick the one that you think is the right answer and then push submit.

Paul: All right People are answering the poll now. We will be closing the poll shortly, so make sure that you hit the submit button once you've selected your answer. In about 20 seconds, the poll will close, so make sure that you have hit that submit button, so that way your answer can be recorded.

Kris Richmond: All right. Oh, my gosh, everybody -- almost everybody that answered got this right. I only had six people who did not get it right. Great job, everybody. All right. So the correct answer is B, documentation of support from community members. Because we're looking at the written agreement. So we definitely need the affordability requirement.

How long is that going to be, what the rent are, how many high and low HOME units we have. We definitely need the property standards and we certainly have to have the reporting and recordkeeping requirements, like keeping the records? Where are they being kept? How long are they being kept? How often do I need to report? How often do I need to send my rent review schedule to you so that you can check from your office to do that kind of desk review? So the correct answer, what does not need to be in a written agreement is documentation of support from community members.

Now, I would like to see this documentation of support from community members in my project file. It wouldn't be in my written agreement, but I would love to have in my project file. When we were trying to do project selection and we'll talk a little bit about that more when we get into program design. But it's great to have that kind of feedback that's not in your written agreement. Good job, everybody.

All right. So we've covered specific requirements that HUD imposes on rental projects, but to run an efficient and compliant program, PJs really need to make a lot of decisions about how they design and operate their programs that go beyond the requirements. So sometimes the decisions are made within the context of what's required and sometimes they're bigger picture decisions. So now we're going to talk about some of these decisions to help you understand the non-required elements of running the program and how the choices -- and some of the choices that the PJ can make. And less and Monte, feel free to add in here as we start to go through these different sections.

So the PJ had to do a -- has to have a comprehensive set of policies and procedures. You've heard Les say that numerous times today. You've heard Monte say that over the last couple of weeks we've been together, but so important to have policies and procedures. And so, in these policies and procedures, not only do we have to have the regulations, and those are all the different ones we discussed. But also, your program design. How much money are you putting into these programs?

And we had somebody write in to say, hey, we run a landlord program where we will pay for 50 percent of the cost and we make the landlord come up with the other 50 percent of the cost. Can we actually do that? Well, yes. That's how your program is designed. If you're able to meet your goals that way, if you're able to make sure that these projects are underwritten properly and they're able to be sustainable. And what I mean sustainable is, they're not going to fail financially during that 5, 10, 15 or 20-year affordability period.

So you want to have in your program design what's going to work to meet your needs? What are your objectives and the objectives that this community had is that they wanted to have, you know, they were looking for match. That was one way for them to get the match.

We're also -- you want to be looking at your administrative structure and your staffing. So do you actually have -- if you're doing rental, you're going to need to have underwriters. And if you don't have underwriters on staff, is there staff that has the capacity to learn underwriting or is this something you might need to be contracting out? You also want to be looking at your own rental programs and the compliance. So are you starting to see any problems? Maybe some of your landlords aren't using the proper lease terms or maybe they're not -- they think they can all of a sudden change the rent instead of waiting for you, the PJ, to let them know the rents need to be changed.

So do you need to be providing updates to your landlords? Do you need to require them to dial in? We're all so used to Zoom now, so maybe you can do an evening call once a year and require them to participate in that, to give them any updates, or is there a newsletter or something you can send out to help remind them about some of these requirements?

So that helps when you do that self-assessment to determine any compliance issues and then think about what needs to be changed. How can we push out any changes? How can we make our programs more compliant as efficiently as we can? Because we all know the monitoring that we're doing, we're not using our rental dollars to do monitoring. We're using our admin dollars. And those are really, you know, few and far between. So we want to make sure we're as efficient as possible.

If your goals have changed, have you changed your program design? Have you changed your RFP policy? We had somebody writing in, well, we really want to prioritize something over something else. Can we do that even though we have an RFP? Absolutely. You can give extra points to things because it is your program. You're setting it up the way you want to, so if you -- and you have identified the need for housing for larger families and you want to prioritize projects that are coming in with three and four bedrooms, then absolutely do that. Don't just keep funding the one and two-bedroom projects that are coming in.

And then just to let you know, when HUD comes to monitor, if they find problems, they're going to first look in your policies and procedures and they're going to look in your program designs to see was this a one-time mistake or are your policies and procedures deficient? Do they not have all these items identified? If you had a new staff person and they didn't have sufficient policies and procedures to follow, maybe they didn't even know that that section actually had to happen.

So you need to make sure policies and procedures are fully compliant or are up to the standards that are needed. I would go through these exhibits and see if your policy procedures can stand that test. So if they're asking for, are the proper rents being charged? Well, do we have in our policies and procedures communication to our owners about what the rents need to be and that these will be identified in the written agreement. So use that to go through and help yourself in your projects.

Right. So one of the most important decisions the PJ needs to make is to decide who the program is going to serve. So are you trying to serve people that are at or below 80 percent? People that are 50 percent? You will have some projects that have to do both of those.

But are you working with some nonprofits that are working with even lower income level, that are below 30 percent, maybe people who are formerly homeless. Maybe we have veterans that are homeless. So are we having any deeper targeting? And if we are, we're going to need to put more HOME funds into that project than we might normally do at the project review process. Because you have lower incomes, you're not going to have this much -- they're not going to have the ability to pay for higher rent. So these are all things to take a look at.

You also want to be looking at, in your policy are you going to have any preferences? Are there any target neighborhoods? Where I started my career in community development, we had a couple of different target neighborhoods. And we had some different programs for different target areas, because we had some areas that needed a lot more help than others, so we really tried to incentivize developers to come in to some of our hardest hit neighborhoods. So we had targeted neighborhoods, but we set out the design of our programs to attract development in those harder hit areas.

And what kind of development you want to do? Are you trying to do new construction? Do you want to do rehab? What's going to work best? What's going to attract your developers as well as tenants to come and live in these units?

And then if your policy states something, is it actually being followed? So if you put different policies together, you do want to make sure that those are actually being followed.

And then how are your projects being selected? So do you have a once a year or twice a year RFP process, a request for proposals, that's what RFP is. Or do you have a rolling application, where any time during the year a developer can come in and say, we have this project, can we submit this? So that -- those are two different ways that PJs set that up.

What about the level of readiness? Are you doing a lot of handholding and a lot of -- spending a lot of staff time fixing things or sending things back, or are you seeing projects that are ready to go? So they're bankable, they have all of their commitments from other sources together, they have all their specs written in there, they're ready to go. So what's your readiness like?

What about any cost issues? Are you finding projects that have a lot of gap? Are you having projects that seem to have sufficient funds? You want to be looking at that. And then the developer experience and the capacity is so important. I mean, this is one of the requirements that has to be reviewed, the financial capabilities of the developer.

We had somebody submit a question that we looked at their audit statements and it did not look very stable, and we decided not to fund that project. Well, that's a good review process for you to do. You do want to be checking the experience and the capacity. And this is rental housing and rental housing is complex.

So if you have a developer who's never done a rental housing before, they've only done single family, you may want to make sure that they have a consultant working with them or somebody who's going to have that experience. We want to make sure that we're reviewing all these different things, that these are also being part of our program design and then in turn being put into our policies and procedures.

So we want to look at program operations. So here's some policies that the PJ should consider putting into place if they haven't already. And the PJ should review its operations to see if the program is working the way it's intended. So program operations, are you the PJ running the program, do you have a contractor? If your state or subrecipients, so who's administering that program and how is that working for you? Is that working okay, or do you think you need to chance your model?

Coordinating with other programs. So are you able to work with projects that have a lot of funding? So are you able to fund projects with your CDBG program in addition to your HOME or maybe [inaudible] of care? Are you able to use publicly owned land? So different ways to look at coordinating with other programs.

What about project completion? Do you have a retainage policy? This is where you might be holding back a certain percentage of the payment for the developer. Maybe you're holding back from every draw 15 or 20 percent. That could be a significant amount by the time you get to the end. But you do want them to come back with that punch list and fix everything at the end. You need to make it worth their while. So do you have a retainage policy in place? And if so, are you getting the intended effect that you want?

So what about your developers? Do you have a big enough pool for your developers? Do you need to do marketing? If you don't have enough developers coming to you with good projects and the developers you have, are they coming with projects that are going to meet the goals and the needs that you have in your community?

What about your underwriting? How is this being conducted? Are you able to determine the minimum number of HOME units? Are you meeting that? Are you trying to get more HOME units? Are your underwriting standards generous enough to ensure the property viability? We need to make sure this property is viable through the entire affordability period. So we need to make sure that the underwriting is being done and it's sufficient and that we are controlling costs as well. We want to be checking that.

What about refinancing? Are you going to allow refinancing? In what circumstances? We want to make sure those are in your policies. What about CHDO preferences? Are you requiring your CHDO to just submit the same way as all your other developers, or are you doing a separate RFP for your CHDOs? Are you giving different scoring advantage for your CHDOs? Are you getting the quality of proposals that you're looking from for your CHDOs, or are there ways to increase that or to make that better?

What about the quality of the development? Are you getting the quality that you want? Are you getting the preferences that you want or the local building policies? And maybe you want to have visibility or energy standards? Are you meeting those? And are the invoice approvals tied to inspections, meeting the quality of work that you also want? Do you have a change order policy?

These are all different things that you want to look at and see if they need to be expanded upon or added to.

And then what about your record retention? Who's keeping the records? How long are they being kept for? Are you meeting those standards? Do you need to keep them longer or do you have some type of disposal policy in place after you meet your recordkeeping requirements?

All right. Now, we're going to talk a little bit about preparing for HUD. This is very similar to the other sessions that we've done over the last couple of weeks, but it's really the same type of process to prepare for HUD.

So HUD, when they come to monitor you may be looking at various aspects of your program. But today, like we said, we are focusing on 7-29. This is a very long checklist or exhibit. It's 53 pages long. So if you've been working at home like I have since March of 2020, you do not want to push print when you open it up. So just be aware it's very long, has 92 questions in it. So look at the efile. There's some great questions in here. And like I said at the top of all the slides we put the question -- what the questions numbers were as well.

But this is the handbook from the CPD monitoring handbook, exhibit 7-29. And I sometimes call it Checklist 7-29. But it's one in the same. Exhibit, checklist, it's all the same thing. But this is what I would use. I would pull this up and I would start to go through my files and I would start to go through my policies and procedures.

So the first thing you want to do is pull together your material. So what are your materials? You want to pull your policies and procedures together. You want to get your underwriting guidelines, your rehab standards, affirmative marketing, all these things that we've been talking about for the last hour and 50 minutes. You want to pull all this stuff together.

You want to make sure you have not only the current limit for new projects, but also maybe the last couple of years of limits. If you're pulling out older files, you're checking to make sure they're compliant. You want to look at any past monitoring results just to make sure you're not still continuing to make the same mistakes. So that's really helpful to see, you know, HUD saw that this was an issue two years ago. Oh, yeah, we fixed that. Oh, yeah. I can see that fix is still being implemented and being operationalized the way we want it to now.

So want to be checking against that. Any citizen input, both good and bad, you want to have copies of that. If there was valid citizen complaints, how are those addressed? Did we need to make any program changes?

And then this exhibit 7-24, this is the pre-monitoring exhibit checklist that HUD uses, so it lists all of these materials that they should be pulling and asking for when they come on site. And then you also want to be looking at your HOME activities report and also have your consolidated plan, your action plan available.

So once you've assembled all these items, you do want to conduct a self-assessment. And so as I was saying, take that exhibit and go through your policies and procedures, go through a couple of files. Do that documentation review, answer those questions. So this self-assessment is a really integral part of your own monitoring plan. And if you're not quite sure, what does she mean by monitoring plan? Well, Monte and I have spent a lot of time talking about the monitoring plan, risk-based analysis and self-assessment in the first module that we all did together.

So the understanding monitoring was the first webinar. It is available. It's been recorded. It's available for you to access and to listen to if you missed out about how to do a monitoring plan and how to do a self-assessment. We do have a self-assessment tool here as well. This is the same self-assessment tool we've been referring to for the last couple of sessions. You see here, we have document assembly. It goes through all the different sections of the document assembly. It has the required provisions for your written agreement. It also mentions the IDIS reports that you want to be pulling to take a look at.

And we also have fears about our citizen feedback, staff training. So important, do you have staff that maybe is not able to do the work you want to be doing? What kind of training needs to be done? Maybe you can do some type of reorganization. Maybe there's some really sharp people in the next group over from where you are and you want to get some of those in, maybe you can do some kind of reorganization. Or maybe you need to do some new hiring to get your staff up to speed.

So we also have your production versus your consolidated plan goal. You really want to be looking at, what did you say you wanted to do and what are you actually doing? So helping with the program performance review can really give you a starting point for where do we need to make some changes? Where do we need to maybe do a new program design? Or maybe we need to tighten things up a little bit. You want to look at that.

Your monitoring and evaluation. Again, looking at your monitoring you've been doing, your prior responses to monitoring, staff changes, changes to programs. So has there been any major changes? Are those working out the way you intended to or do we need to make even further changes?

So I do want to show you real quickly. Again, this is all found on the HUD exchange. They are housed at HUD clips and we have the link there. But you can also get to these from the HUD exchange. These are the exhibits. This is the one that we've been talking about all day, 7-29. And then 7-24 is really for HUD. It's a pre-monitoring checklist, but I always think it's great to have the same tools that HUD has while they're coming to monitor you.

This is the rental housing page. When you go to the HUD exchange, you can go about halfway down on the HOME program page and you'll see these tiles. And when you click on rental housing, this is what pops up over here. And you can see there's policy guidelines, there's guidance and tools. Somebody asked about, is there a underwriting template? Absolutely. It's right there under the tool section, so go click on that tool section and you can find a multifamily underwriting template.

There's also been trainings on how do you use that multifamily underwriting template and that's found right there in that video and training materials section. So if you're not familiar with this, go and play. Click on these little tiles and get to these other sections to find some of these resources for you.

There was a little bit of discussion about online HOME training. This is different than the HOME webinars that Les and I used to do. So it's about 23 hours of training and you have to take the first three sessions, which are building blocks like Administrative and CHDO and can't remember the other one, but there's another one -- before you can get into rental and our HOME buyer, some of the other ones, but really robust training. It's much more in-depth than the webinars that we used to do.

And then here some additional resources, some notices that we've talked about during the time we've had together. There's also the link if you weren't able to download the self-assessment or the property standards tool as well.

And if you ever need any assistance, whether it's with monitoring or any parts of your HOME program, there is technical assistance funds available. So you should reach out to HUD to request that. You can click on this link, it's from the HUD exchange, and you can request technical assistance for your HOME program.

So I know we only have a few minutes left. This is a lot of information, but is there any key questions that we should review?

Les Warner: Well, we've had a boatload of questions and Monte and I have really worked to try to get people answers. One thing I'll mention: a couple of people were asking about, we've made a number of references to prior sessions and suggested that people go back. We've provided that link, but the only session so far that is posted is the first session. Because we essentially asked them to put a rush on that one. So usually, the posting can take up to two weeks.

All of the sessions will be posted on the HUD exchange. So you could just go to the HUD exchange and type in -- called monitoring training. And it will take you to that page and you'll see that session one is posted. All the rest of them will be posted over time. They're just not there yet.

Monte Franke: Kris, first of all, I want to congratulate you and Les for getting through this session within the two hours, because that was a real slog and I appreciate how you moved quickly through it.

We did have a lot of questions. And I am -- I think a lot of them we will actually will come back to some of the occupancy ones when we get to that last session on long-term rental compliance.

For people who were asking questions about the -- some of the underwriting issues like reasonable return to the developers and so forth. Again, I'm going to urge you to go back to the HUD notice on that, CPD 15-11, which gives you guidance on underwriting.

For those who are asking written agreement questions, look at CPD 15-09.

And for those of you who are asking questions about the regulatory agreements. That's really something that you need to work out with your own legal staff and how you intend to control it, because the requirements vary so much state by state, and so, but you do need to have that regulatory agreement separate from the written agreement. But it's developed locally with your legal counsel.

Kris Richmond: Thanks, Monte. It's really helpful. And these resources are also identified here on slide 79 as well.

All right. So just to remind folks, we got through rental today. So next Tuesday, if you want to join us, Monte and I are doing down payment assistance; that what we mean by homebuyer assistance.

And then that Thursday, Monte and Les are going to be doing tenant-based rental assistance.

And then the following week of May 11th, we're going to be doing homeowner rehab. And then we will pick back up rental and we'll review these questions that came in today to make sure that we're talking about the things that came in when we get to the long-term rental compliance on May 13th.

So I want to thank everybody. I know this is a lot of information. Really appreciate your engagement, asking questions and being here with us today. Really important material for us to get through in order for you to have the most compliant programs that you can. So thanks, Monte and Les for joining me today. And thanks everybody for coming as well. We will see you next week. Thanks.

Les Warner: Thanks, everybody.

(END)