HOME Homebuyer Program Policies & Procedures
Office Hours Session
June 27, 2019
Transcript

0:00:11 Sandy Patel: Good afternoon everybody and thank you for joining today's office hour webinar for HOME, homebuyer program policy and procedures. My name is Sandy Patel, I am with TDA, a technical assistant provider for HUD. I will be serving as your host today. I'm going to run through some technical instructions on how to ask questions and things like that, before I hand it off to our wonderful presenters. This webinar audio is broadcasted through your computer speakers. Only use the dial-in number if you're unable to use the computer audio. Note that the conference line number has been updated since the original calendar invite. You should be using the telephone line 415-655-0002, access code is 921-887-188. Please close the email and all other programs on your computer and turn off your cell phones, or you can mute them, and give your undivided attention to our presenters today. If you have any technical problems, you can email me at spatel@tdainc.org or you can send a chat message to the host and it will come directly to me and I can help you with any issues that you might be experiencing. All participants will be muted during the webinar. Questions can only be asked in writing using the Q&A tool.

0:01:50 SP: You can ask written questions at any point during the presentation, and the panelists will collect those and answer them when we stop for questions. To ask a written question, use the Q&A tool. It is located on the right-hand side of your screen. You can see a screenshot of what it looks like up on the screen. If you do not see it, click on the triangle and it will expand the box. Please ask questions to all panelists, then just type your question in the box and click send. Again, those you can do at any point during your presentation. Questions will be answered verbally, some simple questions may be answered in writing through the Q&A tool. We may not be able to get to all the questions. If you are a PJ please contact your HUD field office. Other program participants, contact your PJs. With that I'm going to hand it off to Stephen Lathom with TDA consulting.

0:03:02 Stephen Lathom: Thank you Sandy, and good afternoon everyone. I'm going to pull up the presentation slides here and we'll get going. So again, today, we're doing an office hours webinar, this is a follow up to the webinar we did on Tuesday around CPD 18-09, covering the requirement for Homebuyer Program Policies and Procedures in the HOME program. As I was... As things were on Monday, I'm happy to be joined by Monte Franke, the Principal at the Franke Consulting Group, who, if you've been around the HOME program for any length of time, you've heard from before. So, it's always great to be working with Monte. The program obviously is run by HUD's Office of Affordable Housing Programs, and so they're the ones that have sponsored the webinar today. And a couple of things to note, we do have available for download via a Google Drive link the slides for today's webinar just like we did earlier in the week. We also have the option for you to download CPD Notice 18-09 and the Homebuyer Policies' checklist that we released on Tuesday as well.

0:04:14 SL: So, you can use the Google Drive link that is in the chat box. If for some reason you don't see the chat on the right-hand side, at the bottom of your screen, there's some little bubbles that you can turn various things on. And there's one that looks like a cartoon bubble, where somebody's talking in a comic strip or something, and that will open or close the chat. So, just a couple of things there. For those of you who can hear me right now, the slide doesn't matter. But we did have some confusion as a result of having to update the conference line due to some backend technical issues. So, if you're watching and cannot hear us, hopefully you're reading, and you can see that you can use this updated conference line to access the webinar. So, we just want to leave that up for a moment. So while we leave that up for a second, I'll just see if Monte has anything he wants to say.

0:05:20 Monte Franke: Hi everybody, long time no talk to, huh? I guess it's been a couple of days since we've spoken, and I look forward to answering your questions today. Thanks Steve.

0:05:31 SL: Yeah, thank you Monte. So, we'll let Sandy continue to handle any of the questions around some of the technical difficulties that inevitably come up with this type of modality, and we'll go ahead and move on. So, the goals from today's webinar is really the office hours is designed to just give us a chance to go back and review some key points from Tuesday's webinar, mostly to talk about things where we saw various constellations of questions and issues that came in through that webinar, through the evaluations that you filled out after, etcetera. So we want to try to address as many of those unanswered questions from earlier in the week as possible, as well as, get back to additional Q&A that may come in today. Again, just as a reminder to everybody, of course, both this webinar and the one from Tuesday are being recorded and we will be posting the slides and the transcripts and the recording to the HUD Exchange here over the next couple of weeks.

0:06:36 SL: So those are our goals for today, I'm going to move on next and acknowledge one of the limitations. There were a whole series of questions that came in that really are related to some of the topics we talked about but are really themselves completely separate topics. So we're going to talk in just a minute a little bit about some resources for you for income determination, resale recapture and some other issues. But we just want to acknowledge that some of the questions that came in earlier this week are really kind of separate topics that are too expansive and/or too technical to address in this webinar. They're really kind of outside of the scope. We want to give you a few resources for those, and we also want everybody to understand that we very clearly shared that feedback and the demand for more training on these topics with HUD, and so that's going to go into their kind of planning and thinking about additional TA opportunities.

0:07:32 SL: So we're going to kind of hit on those for a few minutes, just pointing out some of those things and some resources that are available to you, even though we can't necessarily get into all the detailed questions that we know people still have. The first of those is, there is a whole series of questions around issues related to really just income determination and not necessarily the whole discussion we had about income for underwriting versus income for eligibility, but really the overall income eligibility process. So just about a year ago, HUD sponsored a webinar called "Determining Income for the HOME Program". That was done by another one of the TA providers, ICF, many of you have come across them as well. So, that was held last June. That recording is available on the HUD Exchange, so we've given you the web address for that, but knowing that you may not be able to write it down very quickly. Also, if you're going to the HUD Exchange first in the upper portion of the toolbar or the intro to the HUD Exchange page, you can click on "Trainings", and then there's a search box, and if you type in "determining income for the HOME program" and then click the search button, it will take you right to that training, and you can listen to the recording, you can download the additional resources that they had available, everything there.

0:08:57 SL: So, if some of your questions are around the mechanics of doing the income eligibility process, doing the income determination to make sure that someone falls below the 80% AMI limit, it comes with all units in the HOME program. That's going to be the resource for you to go back and look at. Also, just as a quick reminder, tomorrow, June 28, is when the 2019 HOME income and rent limits that were released earlier this month go into effect. So if you're not aware that there are new HOME and income limits that were published for 2019, please go back after this session and go to the HUD Exchange and look those up, those become effective tomorrow. The other... Another big constellation of issues was around questions related to resale and recapture. And again, that is a really extensive topic, and the best resource for that is to go and read CPD notice 12-003. Again, we've given you the link to that, we've given you a link to a quick summary chart of some of the key differences between resale and recapture, and to find those on the HUD Exchange; when you first get to the main page of the HUD Exchange at hudexchage.info, you click first on "Resources", you can scroll down to browse the resource library, and if you type in "CPD 12-003" and click the search button, this will be the first result that comes up.

0:10:36 SL: We also want to note from our follow up conversation with HUD after Tuesday's webinar, HUD is planning to revise and update this notice. When that happens, there will be a national webinar similar to the series that we did this week to roll out those changes and to walk through those. But HUD recognizes that there is a need and demand among the HOME program partners, particularly the PJs, to kind of better understand and improve what you're doing there. So, we want you to go back and look at CPD 12-003 and talk to your field offices as appropriate. Remember that resale recapture is one of the things that your HUD field office is supposed to specifically approve on an annual basis from your annual action plan. So, approval of the action plan itself is not deemed to be approval of your resale recapture policy. Your resale recapture policy has to be specifically approved by HUD. So each year you've got an opportunity to tweak that if need be, and also to work through with your field office if you have any particular questions or concerns about that. Monte, is there anything you want to add about resale recapture?

0:11:57 MF: No Steve, I think you covered it. It's one of those that we could just go down the rabbit hole on them, and this isn't the webinar to do that. There's so much to talk about on that, but not today, unfortunately.

0:12:09 SL: Okay, sure, well, I'm going to pass the ball over to you and let you handle a few slides now.

0:12:15 MF: Okay, go take a break, Steve. Hi, everybody. There were a couple of other questions that came up that were issues related to HOME rules that weren't specific to the PJ Homebuyer Policies. A couple of the questions came in on home ownership value limits and how they applied. I think people were listening to a discussion of figuring out how much a household could afford in terms of the mortgage and was wondering about the connection between the home ownership price and value limits and those mortgage amounts that are determined by this. These are two separate issues. The home ownership price and value limits still apply. They are on the HOME website. We show you on... The link on the screen, as well as pointing where the program limits are on the right-hand side of that HUD Exchange webpage for HOME. And you should go check the limits that apply to your properties. I would like to say that the price limit applies to home ownership purchases and it is a regulatory requirement. So in the same way that you would not want to income qualify or underwrite a buyer that has been, can't or won't income qualify, you wouldn't want to be processing and underwriting a loan on a property, because that exceeds the price limit, it could not qualify for the program. It's a regulatory thing and a statutory limitation that we can't provide an exception to.

0:14:09 MF: So please make sure that you first have met all the regulatory requirements before you go into these underwriting steps covered by the policy. I'd also like to point out that the income limits that HUD publishes now, some of you remember the old reference, the 203b limits, they were replaced. And HUD now does the calculations and posts them on the website for you. And as a result of the 2013 rule changes, they publish more than one limit for each of your jurisdictions. They publish separate limits for existing homes and for newly constructed homes. They also publish it for one, two, three, and four-unit properties to be able to deal with things like duplexes and triple-deckers, that can be done under home ownership, but most of you were only going to need the one unit column. And you'll notice that there would be one-unit limit for existing homes and then one on the right for newly constructed. I think Steve has highlighted Birmingham, Alabama, and obviously that only applies to that jurisdiction, but you can find the ones that apply to you. Please make certain that your properties do adhere to those limits that are published by HUD and updated annually.

0:15:37 SL: Hey, Monte, I could...

0:15:38 MF: The other topic... Oh, go ahead Steve.

0:15:39 SL: Can I jump in for a second?

0:15:41 MF: Sure.

0:15:41 SL: Maybe if you could back up the slide? We had two questions come in. So, the first question is about the home ownership value limit and the purchase price, is that the... Is the limit based on the contract price or the appraisal? And really, what we're talking about here is the actual... The price at which the house sells, so the contract... If it turns out that you're close to the limit and somebody is buying a house for $175,000 and the limit is 177, if the bank's appraisal comes back and happens to say it was maybe worth 180, the sales price itself was still the 175. As long as that's within the limit, we're okay. So it's based on the actual sales price. If there turns out to be a minor discrepancy between that and the later appraisal, that's not going to be a regulatory problem. The other question that came in said that when we talk about the purchase price, that then are we talking about the sales price plus the closing cost or just the sales price? And so again, we're talking exclusively about the purchase price of the home itself. If there are closing costs that drive the total investment needed by the buyer as it were in an unassisted venture over that, that's not a problem. This is the sales price of the unit itself, and then closing cost and prepaid expenses would be normal above and beyond that. So those are the two...

0:17:11 MF: Okay.

0:17:11 SL: Questions that came in Monte, I just wanted to hit those while we were talking about this topic.

0:17:13 MF: Okay. Sure, thanks. We might as well do them as they come up. The other topic that came up in several of the questions related to property standards, most of you know that HUD changed the property standards with the 2013 final rule and those property standards require PJs to have written property standards for their program. Those written property standards cover several different categories, new construction, rehabilitation, existing homes, manufactured housing. And a PJ is supposed to have written standards for each of those things that they do. We happened to put up on the screen here just the one for existing standard housing and 92251C3, but there are a number of different areas where the housing you may be doing come up with slightly different standards. The uniform thing across all the different categories though are that they have to have... You have to have written standards and you have to have procedures for inspecting the home properties to document their compliance. Now beyond that, the requirements will vary, whether you're doing new rehab, existing or manufactured housing in your Homebuyer program.

0:18:45 MF: But you'll need to make certain that your standards are updated and comply with the requirements in 92251. The other part of the question that was coming up had to do with UPCS, which is referenced the Uniform Physical Condition Standards of HUD, which are referenced several times in the new property standards, and HUD said that they... In the rule that they will be issuing a list of minimum deficiencies that must be addressed, and that list will be drawn from UPCS. HUD has not issued that list yet. They continue to work on that list, but it's going to be a minimum set of things that must be addressed. Some of you have gone ahead and integrated UPCS standards into your existing inspection standards, and that's sort of a safe way of doing it, because the list that HUD extracts from UPCS will be a subset of the total set of things that are in UPCS. But I just wanted to mention that we are still awaiting that list and nonetheless, you are supposed to have your property standards updated across all the other things that are there and watch for future HUD guidance on that. Steve, do you want to make any other comment on that?

0:20:12 SL: No, not too... Well, I think two things. One, again, the regulatory language we have up is about acquisition of standard housing. We do want to be... So this is what we would generically in a lay standpoint often refer to as a DPA-only program. One thing to note is the rule really does not accommodate in a straight DPA situation, the house has to meet these standards by the time that it's purchased. It can't be purchased to have been rehab-ed by the low-income buyer that's not... That doesn't fit within the regulation. That came up in our conversation with HUD the other day. Another thing to touch on, is we just had a question come in that says kind of sub-recipient that runs the Homebuyer Program, inspect the homes to be acquired versus the PJ. And the starting point answer to that is yes, as we know a sub-recipient steps into the shoes of the PJ to administer a portion of the program on its behalf, and so yes, that inspection responsibility of the PJ can be pushed down to the sub-recipient. Somebody who the sub-recipient... Is an employee of the sub-recipient or a procured contractor of the sub-recipient can be doing that inspection. The exception is going to be if that sub-recipient is also the first mortgage lender.

0:21:32 SL: We talked about that the other day, so when the sub-recipient happens to also be a first mortgage lender for the buyer, then in that situation, the PJ itself still has to do the inspection. But in most cases where a PJ has funded a non-profit sub-recipient, for example, to run the down payment assistance program for them, then yes, that inspection responsibility can be pushed down to the sub-recipient. And then, I think we just saw another question come in to kind of follow up on the point I made about 203Ks being allowed in a straight DPA program. And so again, no, the HOME rule says that if we're acquiring standard housing where we're only providing acquisition assistance, that it has to be... The property has to meet the appropriate PJ Property standard at the time that we're committing the funds and at the time that they're purchasing the house. And so the notion that we're going to help somebody buy a substandard house that will be fixed up after the fact does not fit within the current structure of the HOME rule. The reality is, what I see is that 203k, it's... On paper, it's a much better program that it tends to actually happen in practice. We know there are a few folks out there that are able to use it regularly and successfully, but it's more of a niche product. But that doesn't really fit within the property standards. And another question that just came in... Oh, go ahead.

0:23:06 MF: Steve I just wanted to sort of restate it a slightly different way. The...

0:23:11 SL: Sure.

0:23:12 MF: If a property does need rehabilitation, it's treated as a rehabilitation property under 92251B, and has to meet the rehabilitation standards. It isn't that the project becomes ineligible, it just can't be considered acquisition of existing standard housing, and it shifts that other category and has a more extensive set of rehab requirements.

0:23:36 SL: Right, right. Another question talks about the timing here. So it says... The question was, 90 days before commitment of HOME, does that mean set up and IDIS and funds drawn, or 90 days before the closing date. So the commitment of HOME funds, in HUD 's view, is actually when we enter into the written agreement to provide HOME assistance, the HOME written agreement, which in the case of a down payment assistance project is often supplemented by a note and a mortgage to secure that assistance. The commitment is the date we enter into that written agreement, and until we've entered into the written agreement we are not supposed to be putting these projects into IDIS. And so the closing sometimes may happen a few days later, but the commitment is a written agreement that is a pre-requirement to putting the project in IDIS. So make sure that we understand the timing of that.

0:24:37 MF: Steve, I also see that we got a question on certified HOME inspectors in relation to these property standards inspections. Do you want to comment on that?

0:24:47 SL: Yeah, so as a buyer, if I want to get a HOME inspection, that's a great thing. Actually, I think most of HUD's counsel urges buyers to get HOME inspections from a third-party professional. I did that the last time I bought a home. That said, that is not an acceptable replacement for the PJ's inspection responsibility. The PJ needs to be inspecting to its own standard. The HOME inspector is using some sort of a standard that is not... Not necessarily a standard that we know what that is. It may be that the PJ has contracted with somebody who is in fact a, also a HOME inspector. And that would be permissible because that person now is under contract to the PJ and is acting on the PJ's behalf. But a HOME inspection that is obtained by the buyer is, while is an important consumer information piece for buyers to have, is not the same thing and it's not an acceptable substitute. Similarly, one of the things that we regularly had before was people saying, "Well, the bank had the house appraised and the appraiser did an inspection. As long as it passed that, isn't this enough?" And that's never been enough. It's always been the PJ's responsibility to ensure that the house being purchased through a DPA program meets its appropriate standards.

0:26:17 MF: Okay, thanks, Steve. We probably should move on because otherwise we'll be stuck here on property standards all day.

0:26:23 SL: Yeah, yeah.

Note: After this webinar but prior to the publication of this transcript, FHA Mortgagee Letter 2019-06, the topic of discussion in the highlighted paragraphs below was rescinded via FHA Mortgagee Letter 2019-12. Those interested in the specific issue should continue to follow any further FHA guidance on the topic.

0:26:26 MF: *The other topic that was raised in a couple of questions on Tuesday, Steve, was the FHA Mortgagee Letter 2019-06, which was issued and then was suspended and implementation was delayed. A lot of comments and concerns came from state FHAs and other lenders about what it means. This is an FHA requirement, it's not a HOME requirement. We're not able to really give much guidance right now because the implementation's been delayed. We don't know whether there will be any changes before it proceeds, but for most PJs, this should not be a major issue. The thing that they... If this goes into effect that will be required is that the lenders are going to need a letter from you that certifies that this is, that these funds that you're providing, the assistance that you're providing to the buyer are the government funds and you're acting in a governmental capacity in doing it. We've not seen a format for that yet, but I'm assuming that when and if this is implemented, there will be a fairly standard letter or language or verbiage that will be used, and the PJs will just have to sign that to acknowledge it. And I don't see it changing things for many of the PJs except potentially some state FHAs and others who are also direct loan originators, and I know they're still working on that issue.*

0:28:06 MF: *The other thing that we wanted to mention was that if you do have questions about FHA lending, the HUD office of affordable housing programs refers you to the FHA HOME ownership centers to ask those questions, because it's not really an area that the HOME program staff can answer. It's got to be answered by FHA staff, so we've provided you a link, both a phone number a a web link, to get to those HOME ownership questions and get them answered.* Okay, that's sort of a set of topics that came up in your questions on Tuesday that are not directly related to the CPD-18-09 or the webinar topics that we're taking up, but they are related at HOME ownership types of questions, and we hope that we were able to give you a little bit of guidance on those things, but we really want to move on to the topics of the webinar now and talk about, again, some of the questions you had and some additional clarifications we can provide on the requirement for PJs to have homebuyer program policies. And in particular, we are looking to go in in a little more depth into some of the buyer underwriting issues, responsible lending issues, and counseling requirements. And then we'll wrap up with some next steps. At this point, I'm going to hand the ball back to Steve and let him take on the buyer underwriting questions.

0:29:47 SL: Thank you, Monte. So, I think around the issues of underwriting, one of the first sets of questions... Did I go the wrong way on this slide, Monte? No. Slide 13. The next slide here is, we had a constellation of questions...

0:30:08 MF: Steve, Steve, I think that was supposed to be my slide and that slide I handed off... Our numbers changed on the slides, and I was looking at the number. Sorry, I can do this one real quick.

0:30:18 SL: Sure.

0:30:18 MF: Before I hand it back to you, if you can give it back to me.

0:30:20 SL: No worries.

0:30:21 MF: Sorry about that, folks. Just as an overview, before Steve gets into the buyer underwriting, I wanted to... I did want to cover a few questions about the general requirement for program policies and respond to some of the things that you guys brought up. In 92.254(f), it requires to have these policies, and HUD says what the policies have to address, namely those three areas that we'll be talking about, but it does not specify a format. It does not specify how it's published, it does not specify how it's approved. So we were getting questions about the format or framework and the contents and the process and where it needs to be published. I think the simplest way to say it is, HUD leaves it to you to decide the format, the publication format, and an approach that you want to take. There isn't a regulatory requirement. However, as I discussed yesterday, it's important for transparency and for fair treatment that you have these standards and that these be available to all program participants, both your buyers and your program partners in whatever role they're in. You do want to make certain that everybody is aware of the standards that you're going to apply to all homebuyer assistance.

0:31:56 MF: Some of you asked whether it needed to be in the written agreements with your lending partners or other various parties, and the answer is, you want everybody who's working with you to know and follow the standards that you set. So yes, they should be there, but whether that's sufficient or whether you want to do some other way of making these standards available to other participants in the program and the political powers and things like that, it's up for you to decide. Some of the questions have run to a mix of who your partners are, whether they're sub-recipients, lending partners, developers, and to what extent you can work with them to allow them to do different kinds of lending in different programs, for example, have different standards for a DPA program that you would for a development project, or can habitat do something different than another non-profit would do, or things like that.

0:33:03 MF: First, I want to be clear that you are, as a PJ, I know I'm talking to the PJs, you are responsible for these program policies and standards, and that all your program participants follow them. The extent to which you allow one of your partners to come up with a particular standard, you're still responsible for approving it. For example, a sub-recipient that's running a DPA program might take your general standards and come up with some more specific guidelines that apply to the DPA program. Remember that a sub-recipient is a part of your administrative team. They're actually part of your administrative structure. How you share duties, with them is up to you, but ultimately you are responsible, and if they do something that you haven't approved or is not in compliance with the rules, HUD will hold you accountable for it.

0:33:56 MF: And that's for sub-recipients and for the state as state recipients. But on the other hand, other parties that you might be working with, like lending partners and developers, they're not part, they're not sub-recipients, they're not part of your administrative team, they're acting in their own interests, and you need to specify what standards they must need and not leave it to them to decide. Lenders that are originating the first mortgage are protecting their financial interest, not yours, so you want to specify what they must apply on your behalf. Similarly, developers are motivated to get their property sold and don't have the long run risk and exposure that a PJ has. So you PJs, I want to impose the requirements to protect you and ensure that your homebuyers are getting into projects, or I should say homes, that they will be able to sustain home-ownership in over the long term.

0:34:53 MF: I guess my ultimate message here is the PJs, the policies we've been discussing in Tuesday and today are there not only as a regulatory requirement, but really is a way to protect both your buyers and your long-term interests in the assistance you're providing. You have every right and responsibility to set your own standards about what you believe your buyers need to receive, and that they are treated fairly and only put into home-ownership opportunities where they have a reasonable chance of success. If you have those as written standards that all your partners and participants have to comply with it, it'll be a more open situation and less stressful on individual deals.

0:35:42 MF: The one last thing that I want to comment on, and it's not on the slide, is this; I had several questions come in talking about the opportunity to get samples or ideas from other PJs and things of that nature, and I just wanted to endorse the notion of peer sharing. In the past, we've worked with some regional PJ groups where their head, they've gotten together and shared their documents and their policies, and together have worked through issues and come up with approaches that are fairly standard. And we would encourage you to do that since this is something that's left to the PJs to develop. Working together means that you can learn from each other, not each have to reinvent the wheel for these policies, so would encourage you to reach out to your peer PJs in your area and have discussions about this and hopefully share some of the policies and get to better results. Now Steve, I can finally hand it back to you.

0:36:51 SL: Sure, thank you Monte. And before we advance to the next slide, I see one question that I want to go back and just reiterate, I think a point that you made. This question says, "Where did we say that the policies and procedures have to be published and approved by HUD?" And I want to be clear, I don't think that's what we did say or not what we're trying to say. HUD has a general expectation that you have written policies and procedures. That's part of what they will monitor you on the notion of having written policies and procedures does implicitly expect that we've made those available to our partners, to the recipients of our assistance so that people know what the rules of the road are. The specific manner in which those are published, whether you have a guide book that anybody could walk into the office and get, or whether it's on your website, or whether you put it in administrative rules, that will vary from PJ to PJ. The other point to make is that the policies and procedures around underwriting are not something that HUD specifically approves. So we had a lot of people asking, does HUD have to sign off on these? They don't per se, they will monitor.

0:38:02 SL: The one thing that is a related point that we did touch on is your resale recapture policy is one area that HUD does have to specifically approve on an annual basis, but that's not about underwriting per se. So I just wanted to make sure we didn't inadvertently leave somebody with the wrong impression based on that question that came in. Okay. So, as Monte said, the next constellation of questions really kind of were around various underwriting issues, and one of the first things that several people kind of ask about were, "Well, how do we go about determining what a reasonable assistance level is when we're trying to say like, 'Hey, in no case do we give more than 30,000 or 40,000 or 10,000 to any given buyer.'" And when we work with PJ's, what we really suggest is that what you really need to think about is two key issues, who are the buyers that we're trying to serve, how much purchasing power do they have, and what are the houses that we're trying to help them buy.

0:39:06 SL: And so, in effect, when we determine how much assistance we're providing, if the target profile of my buyer who I want to be able to serve in a lower... Sort of the lower end of who I want to probably serve is people making, say, $30,000 a year that can afford a $90,000 mortgage or more. And the typical home that we're trying to help somebody buy in my community maybe cost $115,000 and you've got to cover some closing costs and this and other thing, then what I'm looking at basically is the gap between who I'm trying to... Purchasing power of the typical and lower end buyers that I'm trying to be able to serve, and what the typical pricing of the types of homes we're trying to help them buy is.

0:39:51 SL: If I have a program design that says I'm not going to give anybody more than $20,000, but I want to serve people that can only afford 90, and a typical house costs 120, then I'm going to have a real problem in my program because I've got a disconnect between the market realities and the amount of assistance that I'm providing. On the other hand, if who we're trying to serve needs, give or take, $30,000 of assistance, then I probably don't want to have a program design that says we'll give somebody up to 60, because at that point, either we're encouraging people to go out buy a lot more than they need, or putting a lot more assistance in them as necessary to serve the folks that we're trying to help.

0:40:36 SL: So, there's obviously a whole lot more to it, but the key issue here in terms of trying to think about how we set these sorts of limits is to be very deliberate in thinking about who's the target that we're trying to serve, what's their purchasing power, how does that compare to what it takes in my market. And often when we go in and we find we're working with people who are struggling with the down payment assistance program, and just not moving the money, or on the other side when we go in and work with PJs that have funded development projects where the houses had been slow to sell, often the underlying issue is that that kind of analysis wasn't done in the first place to think through and make sure that we designed our program to fit the market realities. So, I think that's some starting advice for people to use as you think about setting those limits within your program.

0:41:38 SL: The next area we had a lot of folks kind of asking, we understand, we heard the message that HUD is not going to tell us what the specific number is, but based on the experience that we have working with PJs across the country, kind of what do we see the norms being. And so... And some of these specific metrics, the front-end ratio, and how much of somebody's gross income should be being spent towards their housing payment. Generally speaking, what I see is PJs setting that maximum limit anywhere from a low of about 28% to a high of about 33%. So some PJs might be at 28{%}, some might be at 33{%}, some might be in the middle, but generally speaking, just about everybody that I've seen is somewhere within that range.

0:42:25 SL: In terms of those PJs that have set minimum expectations, the notion that, "Hey, if I'm going to help you, you have to be qualified to spend at least a certain percentage of your income towards the mortgage." Generally, I see that being set at the lower range, around 20%, at the higher range for the minimum, somewhere in the neighborhood of 25%. So that's really a function of when consumer debt has eaten in to the front-end ratio and limited the purchasing power of the buyer. At some point, the consumer debt has eaten into the purchasing power so much that arguably we're subsidizing consumer debt through the housing subsidy as opposed to really subsidizing the housing purchase.

0:43:07 SL: And so when people come up with those standards, that's kind of the norm of what I see. The back-end ratio is one where, really, we only see people setting a maximum, we don't obviously want to have the notion of saying, "You have to go out and get other debt to have some back-end ratio that goes above and beyond your housing ratio." But again, I don't really see anybody setting this much higher than 43%, that's the limit on what a qualified mortgage can be, so that's a pretty solid number to work from, I think. And some folks will set that down as low as 38%, wanting to make sure that we don't have people maximized out. So again, just the notion of kind of what we see people doing is there. Monte, do you want to add anything, or anything come in over the questions that I should address? Okay. I'll keep going. And then when we talk about...

0:44:13 MF: I'm sorry, Steve, I was on mute. There was one that came in that was about having the minimum front ratio, and it being based only on the first mortgage and how that might affect decisions about families, and not take into account any other loans that are in the deal. Do you have any more comments on the role of the minimum ratio and how it's applied?

0:44:42 SL: Yeah. So the people that... When I see folks doing this, what we tend to look at is really sort of saying if, first of all, there are some markets where housing is reasonably affordable, values are relatively low, purchasing power is for the folks that we're serving is relatively in balance with the market expectation, or I'm sorry, with the market values. And so this really only comes into play when the limiting factor in how much mortgage the bank will give is the buyer's debt-to-income ratio, not when it's driven by a loan-to-value ratio. So somebody who on paper could afford $100,000 loan that's buying only a $80,000 house, may well have a ratio, a relatively low front-end ratio, because they're buying less than they can afford. But if we're in a modestly priced housing market, that may still be perfectly fine. Generally, again, the question is, at what point is the consumer debt so much that he's backed off of how much is available for the front-end ratio. And so there, another way to sort of describe that is, if existing consumer debt exceeds a certain percentage, then what we're doing is basically saying, "Hey, there's not enough left towards the front-end ratio."

0:46:07 SL: And so again, they're looking to say that this person could by qualifying from a ratio standpoint to spend at least 20%, 25% of their income towards their housing. If you applied just a ratio analysis where we say we don't want somebody spending more than 40% on the back-end ratio, no more than 30% on the front-end ratio, but they already have 25% of their income going to consumer debt, purely on ratio analysis, then they could qualify for a loan so long as that loan didn't have a payment greater than 15% of their monthly income. At that point, many PJs have said, "You know what? That's not what we're trying to do is to subsidize somebody's housing when their purchasing power is so limited by their existing debt, not by their ability to make the housing payment per se." Does that make more sense?

0:47:02 MF: Yeah, and I think the additional comment here, Steve, runs to the minimum ratio, and they use all household income to calculate it versus just the primary homeowners for the front ratio. And it's just an acknowledgement that PJs can use their standards in different ways, that we're not talking about the strict income definitions now, but they can decide what they're comfortable with that a family can take on, and what burden they can take. And also the minimum that a family would have to put towards home ownership to ensure that we're not over-subsidizing them. So there's a lot of discretion that are left to PJs. Steve, there was one other question though about do we have to have a back-end ratio? If an applicant can get a primary loan but the back-end ratio might be a little high, do we have to have a set back-end ratio, or can we look at that on a case-by-case basis? I guess.

0:48:08 SL: No. The rule says that we have to consider both housing and other debt. So if you look carefully at the notice and if you look at the checklists we've published, a PJ is expected to have a standard around both the front-end ratio and the back-end ratio. And again, HUD's not telling you what the number needs to be, but you do have to set a standard.

0:48:39 MF: Yeah. Okay, that's it.

0:48:43 SL: The next area that people wanted to explore a little bit more is this discussion we had about which assets we consider for underwriting and recognizing that that may be different than the assets that we look at when we're doing income qualification under the Part 5 definition. So again, to be very clear, what we're saying, we're not trying to say that anything about the Part 5 definition of assets has changed. So when we're doing income determination, we still have to consider non-cash assets. While we recognize many of these things are not common, but things like collectibles or other real estate, as well as tax-preferred accounts like 401(k)s, IRAs, Health Savings Accounts, or 529 college savings plans, all of those things are still assets under the Part 5 definition and need to be taken into account if that's the definition of income that we're using for eligibility purposes. But when we're looking and saying what assets do we expect a buyer to invest towards their purchase, and which assets do we consider to be available towards the purchase, most PJs will define that to only look at liquid assets, assets that are readily convertible to cash.

0:49:57 SL: So we wouldn't necessarily look at somebody's Beanie Baby collection, even if conceptually that has some value. But we also generally would exclude... Most PJs exclude tax-preferred accounts. Again, like a 529 college savings plan or a 401(k), on the policy rationale that we don't generally want to ask somebody to sacrifice their retirement in order to get into a house. And of course, many of the folks that we're serving, God love them that they've been able to scrape together savings in these areas, that from a policy standpoint it probably doesn't make a lot of sense to try to strip those assets from them and force them to use them towards the housing. So generally speaking, when PJs make this careful distinction between which assets are we going to count towards what we expect them to spend towards their house, and also how much is left, they tend to only look at liquid assets and exclude tax-preferred accounts, so that's kind of the norm in that area.

0:51:05 SL: And so let's kind of look at some examples. Again, HUD expects you to have a standard in terms of how much people need to invest, that we need to have a standard that says, "Hey, this is the upper limit on assets, and if they have more than X at this point, maybe we expect them to invest even more towards the purchase." And we also have standards that says, "This is how much they need to have left." And so, some common standards that I've seen are, again, these are examples, but a PJ might have said, "Look, we want our buyers to invest at least 1% towards the purchase price. If they have more than $20,000 in liquid assets, then the amount over 20 {thousand} needs to be invested as well. And at the end of the day, we want to see that they have three times the monthly mortgage payment left."

0:51:54 SL: So we're going to do some examples here and see how that might work in the real world. We're going to use a nice simplified assumption of a purchase price of $125,000 and a primary mortgage payment total, all in principle, interest, taxes, and insurance mortgage insurance, if that's necessary, at $1,000. And so our first buyer, we have liquid assets of $5,000. Maybe it's all nice and clean in a savings account. We're expecting that they make a minimum investment of 1% of the purchase price, so that's $1,250, that would leave them with $3,750. It has to be at least three times the monthly mortgage payment, that's at least 3,000. So hey, this is exactly where we want to be. The scenario is one that we could definitely proceed on.

0:52:41 SL: Our next buyer comes in and actually they've somehow accumulated $25,000 in liquid assets. Maybe they had an inheritance, a settlement, who knows, but they've got $25,000 in the bank. And so our expectation is if you've got more than 20, your minimum investment is either the $1,250 or everything over the 20. So in this case, we would expect them to invest at least $5,000 towards their own purchase, leaving them with remaining assets of 20. 20 is clearly more than the three. So again, we're okay to proceed. Buyer C is a different example and one that's a little bit more problematic. So we may have somebody come in, they've only got $2,000 at that point, they're sort of on the edge.

0:53:27 SL: There's a typo in my slide. In theory, we should want them investing at least $1,250, not the $5,000. $1,250, which would leave them with only $750 left. And $750 is not even one month of their mortgage payment. And so in this scenario, that buyer is not qualified under the underwriting standards, or basically at this time, they're not really ready for home ownership, because they don't have enough squirrelled away in assets to be able to make sure that we've not basically stripped everything they have towards their purchase, only making that $1,250 investment.

0:54:17 SL: So again, the 1% liquid assets over 20 remaining liquid assets of three times the monthly mortgage payment. These are based on real-world examples of where I see PJs setting these numbers. But on the other hand, there are other approaches. Some PJs say people need to invest at least $1,000. There are some PJs that might say 2% or 3% of the purchase price. Some PJs set their liquid asset limit higher or lower than this. Part of that depends on what the relative income levels in your part of the country are, what the relative housing values in your part of the country are. If you're in Northern California, then $20,000 doesn't go nearly as far as it does in some other parts of the country, and so you might see PJs in those high-cost markets making different decisions. And then again, remaining liquid assets. Most of the time I see people doing this as some multiple of the monthly mortgage payment. Sometimes I see it set in a nominal dollar amount, but three times is a pretty normal type of a standard that we've seen people setting. Okay. Any questions coming up that you want me to try to get to, Monte?

0:55:34 MF: No, I think you handled it in your example, and you just stressed that this is just an example and some sample standards that a PJ could have. The important thing here is that, number one, it's up to the PJ to decide what those standards are and then to equally apply them so that everybody's treated fairly. And this will run directly to the determination of a reasonable amount of assistance for each household. So it's another one of those examples of how they might get away from where they're giving everybody the same amount of assistance.

0:56:10 SL: Yeah, exactly, exactly. And I know that, as I've talked to people about this notion of looking at the remaining assets, it's probably one of the areas that is sort of new to a lot of people, it's not something that a lot of PJs that have already had standards like this in the past had been doing. But when you think, when we step back and think about it, it does make a lot of sense. If somebody has no money left, they put everything they have towards getting into the house, how are they going to manage if the car breaks down two weeks later, or in spite of our best efforts to do inspections and help them buy a quality house, that the furnace gives out that winter because it was a lemon that nobody could have known that? If people don't have a little bit in reserve, we're putting their ownership at risk. And so the challenge is setting that level that's the right level that balances those different interests. But HUD puts that hard work on you, but does say you've got to have a standard here.

0:57:14 MF: Steve, I was just thinking that one of the questions that came up Tuesday that we did not address and did not talk about in between was... One participant asked, if somebody's selling their current home and using this assistance to buy another home, in other words, it would be a program that doesn't have a first time homebuyer requirement attached to it, how would you look at the asset of the home being sold, and what would have to be rolled over into the new house? And I think that's an interesting question. But it would come up here under this located assets.

0:57:52 SL: Yeah. And I think that that's, again, one thing that some people don't understand is that HOME does not require that people will be first-time buyers. I know in the very early days of the program that was a requirement, but we always still fund sort of the urban legend that that's the case. So this is a good reminder that that's not true. In practice, it's most common that people only... We're not helping them buy a house when they already own another house, but there's not a regulatory prohibition against that. Most PJs as a part of their local program design that I've seen expect that people have sold their other house before they actually close on the new one. And then look at the anticipated equity coming out of that as a resource available towards that asset limit. On the other hand, we do have situations where somebody may have partial ownership of another home because it was a family home that somebody died and it's been left to them and their siblings. It's completely in a different jurisdiction. And there, it's generally seen under the Part 5 definition. It's a real estate interest, so it is an asset, but it's not a liquid asset, in that it's readily convertible to cash. So I think when we know that there's a plan to sell, generally, I think PJs are looking at the net proceeds of that sale as an asset that will be available towards the purchase.

0:59:18 MF: Yeah. I think, Steve, I've also seen cases of family breakups, divorces and things, where somebody's leaving a situation that they own, but it's a totally new setting. I don't think we're going to see many of these on an HGTV show about property flipping.

0:59:34 SL: Right. Right. Yeah. No. A lot of this stuff, we really are kind of talking about scenarios that are really at the margins.

0:59:42 MF: Yeah. Okay.

0:59:44 SL: So I think the thing that's important when we talk about these... Some of these specific metrics, is, at the end of the day, what we have to recognize is the end implication. It's that not everybody who comes through our door who is income eligible is going to qualify. I think we all recognize that in the abstract, but it sometimes... What I find is we don't always realize that as much, until we have to sit down and really put these specific items into our local policy and grapple with them. So some of our... There are people that want some assistance, that are income eligible, that are really interested, but they need more assistance than what the PJ allows. They may not have sufficient assets. It's going to take every penny they have and there’s not going to be any left. Maybe they only... They can get a loan, but it's really not a responsible mortgage. The only thing that's available to them is some sort of a subprime or really questionable product.

1:00:54 SL: At the same time, not everybody who a lender is willing to make some sort of a loan to is going to qualify under our standards. At the end of the day... And I know we had several questions that sort of say, "Well, if the bank's willing to do this, do I have to accept that?" And I think that at the end of the day, what we need to recognize is, HOME is subsidizing this transaction. And the point is that we're supposed to set policy limits on the nature of the transactions that we're willing to support. So just because the lender may be willing to loan this buyer more than we think is safe, it doesn't mean that we can tell the lender, "No, don't make that loan," but it also doesn't mean that we have to subsidize that transaction. If the lender's only willing to offer a sub-prime loan and not a loan that meets our standards for a responsible mortgage, we don't have any obligation to subsidize that transaction. We're only investing in transactions that meet our standards, and that the bank is also willing to say meets their standards. But there will be cases where they don't meet our standards, even though somebody somewhere is willing to lend them money.

1:02:00 SL: And I think it's important... I always think it's important to acknowledge this, to try to preemptively deal with that. And as much as we can, we know that in the real world and on the street, and at the local level, these can be difficult conversations sometimes. So the clearer you can be about your expectations and about your standards on the front end, we do start to temper some of those expectations where people who are not involved day-to-day in our program sometimes presume things about what they want us to do or what they think we should be doing that really don't fit within the program's structure. So all of these decisions lead, at the end of the day, to defining the parameters of which transactions we're willing to support, versus which transactions we're not. And I think it's just important to acknowledge that. And also to remember that when we're coming up with defining what our underwriting standards are. Anything you want to add to that, Monte?

1:03:09 MF: No, but we've had a couple more questions come in on your topic, Steve, if you want to go to those.

1:03:14 SL: Okay, sure.

1:03:15 MF: One of them had to do with the use of HOME funds for closing costs as part of down payment assistance, and what might be included to be able to be included, and in particular, the question was about prepaids as part of closing costs.

1:03:30 SL: Sure. Sure. So in HOME, we don't actually make a careful distinction between how much of our assistance is covering the down payment versus how much is covering the closing cost and prepaids, or how much might be writing down the mortgage to in a level that's affordable for the buyer. In CDBG and also in NSP, for those of you that deal with both of those programs, because NSP is based on a CDBG framework, we always have this restriction that says I can't fund more than half of the required down payment, and so we're carefully having to distinguish of the total assistance our buyer needs. How much of that is towards the down payment? How much of that is for the closing cost? How much of that is to write down the mortgage from the sort of the full loan to value down to a point that the buyer can actually afford to make the payment on.

1:04:25 SL: So when we say down payment assistance in HOME, we're actually speaking a little bit in precisely because that's just the way we tend to talk about it in the field, a down payment assistance program. But in fact, it is quite common and normal that our assistance is covering some portion of the down payment, some portion or all of the closing cost and some additional assistance that actually writes down the first mortgage. Or sometimes people talk about it as affordability gap to bring that mortgage down to a sustainable level. From a regulatory standpoint in HOME, we really don't have to make those careful distinctions in the way you do in CDBG and all of those different pieces of the assistance are eligible to be covered with HOME. And so we don't have to make the distinction of, "I'm only covering your down payment, but not your closing cost," so it's perfectly acceptable to help with all of those items.

1:05:23 MF: Another question, Steve, is must we, should we require reserves?

1:05:30 SL: If what we're talking about is are we required to evaluate the remaining assets that a buyer has, then yes. Again, HUD tells you as the PJ, you have to set the standard. Is it two months, three months, six months of their mortgage payment? Is it at least $2,500? The PJ has discretion in setting a reasonable standard, but the notion that you have to have a standard and you have to evaluate it, that is required.

1:06:00 MF: Yeah, and just to be clear, I don't know the use of the term reserves in that question, but just to be clear about that versus escrows and escrow requirements?

1:06:10 SL: Right. So yeah, if what they're talking about there is tax and insurance escrows, which some people might talk about as reserves in terms of, it does the mortgage include tax and insurance escrows, what most PJs had determined is, we don't want to help somebody buy a house if the mortgage is not including those, because many of our buyers are just... They don't have the resources necessarily to always be able to put that aside. That is a common policy choice, not a requirement, but it's certainly something that PJs should consider, is whether or not they would want to help somebody into a first mortgage that did not collect those tax and insurance escrows.

1:06:54 MF: Next question, Steve, is credit scores. Should we, must we look at credit scores somehow?

1:07:02 SL: Sure. A PJ certainly can establish credit criteria. This is one place that it's permissible, but not required. We're not required, necessarily, to have specific credit criteria. And in fact, many of our PJs don't have ready access to credit reports that give detailed credit scores. Indirectly, I think we are kind of getting at that when we set up responsible lending standards. At the end of the day, our responsible lending standards are about making sure that people are getting a loan that is within some reasonable variation of what unassisted buyers with good credit in the local market are otherwise being offered. So it's not to say that they have to have perfect credit and get the best loan available, but part of why we look and say, "Hey, you should evaluate how close the interest rate is to the norm is, if the only loan somebody can get today is a first mortgage with an interest rate of 9%, what we're being told is there's one or two things that we can conclude about that situation. Either, they're not very credit-worthy and the bank is seeing them as a huge risk, or they're being ripped off."

1:08:10 SL: And neither of those is necessarily a good thing. And I think we get it that indirectly through the responsible lending standard, but it's certainly permissible for a PJ to... It would be permissible so long as we've defined it in our standards and we uniformly apply it, and we have an appropriate way to document, to set a minimum credit score, that would be permissible.

1:08:35 MF: Here's a fun one, Steve. What if the applicant spent all of their assets, their available funds prior to the requests for assistance?

1:08:47 SL: Yeah. First of all, I think that never say never, there's a lot of strange situations that we see, but from a regulatory standpoint, I don't think we necessarily have... There's no specific regulatory issue that maybe they did have $50,000 in the banks six months ago and it's all gone. I suppose people might say, "Where did it go? Are we sure that their current financial situation is sustainable if they've burned through their savings that quickly?" But we don't necessarily have an explicit way to sort of say, "We're going to call that back," or say that you're not eligible for assistance today because you could have done this four months ago without us. I think that's a challenging situation. I also, however, do think that it's something that is much less rare in the wild as it were than in the popular imagination of a lot of folks. And I'm sure the questioner is asking because they've seen one of those situations in the real world, but I think it overwhelmingly it's pretty rare.

1:10:00 MF: I think the comment that I would add, Steve, is we all hit situations that we look at and we say, "Do they really need the assistance or would they have needed our assistance if they had done what I consider to be responsible?" And we're not to make a personal judgment in that, we're to have a standard that we equally apply to all, and that's the purpose of these policies. So if we have certain concerns about people doing things to take advantage of it, you either adopt it as a policy standard to the program, or it's something that you sometimes have to just grit your teeth and go ahead and do things. I think, not only spending down the assets, the other thing that a lot of PJs have reported to me are people going out and getting car loans and other things in advance that drives down what they're able to borrow, and therefore increasing the need for assistance, and that's why you were recommending minimum front ratios and things like that to make certain that people were putting their money that should go to housing to other things.

But again, it's important to have a standard that's equally applied and has been vetted docked and approved rather than simply making a case-by-case judgment on these where we would get into risk of their housing violations and other kinds of things if we do it on a case-by-case basis.

1:11:30 SL: Yeah, absolutely, absolutely.

1:11:32 MF: And then one last question, Steve, was... And it actually came up the other day and I'm not sure we responded to it. The questioner was asking about a HOME loan that goes out 30 years and comes due at the end of 30 years and questions like that that run to the loan terms that are on the HOME loan itself, and whether they are deferred or amortizing, whether there's a balloon due at the end, or whether it's deferred due on sale, or whether it's deferred declining disappearing. All those kinds of decisions are made locally and are not part of the regulatory framework. The PJ decides how it invests its HOME funds and how it would be repaid. So once the appropriate assistance amount is determined in the process that you've described, Steve, the terms of that loan are entirely a local policy decision, and it wasn't part of what we discussed here, but it is part of the program design that each PJ has to determine for itself.

1:12:37 SL: Yeah, I would agree. I think the one place where they could interact obviously is in the rare circumstance that a PJ was providing the HOME assistance in the form of an amortizing loan, which is technically permissible, but again, rarely done in practice. Then you would obviously have to incorporate the payment on that HOME loan into your evaluation of the ratios.

1:13:00 MF: Yeah. Okay, I think that's enough of those questions for now.

1:13:06 SL: Sure. So I will pass the ball back to you for a little bit, Monte.

1:13:15 MF: Yeah. There are just a couple more questions coming in now Steve. You can look at is here as I'm talking, that could run again to some of these issues, the lending issues. But I'll go ahead and cover some of the other topics and then we can come back to those at the end. The second area of a required policy was responsible lending, and as you may recall, I talked the other day about the purpose of a responsible lending policy is to ensure that any senior debt like first mortgages or trust deeds that the PJ gets behind with its HOME assistance has reasonable terms and the low-income buyer has a reasonable chance to sustain that. HUD offered the qualified mortgage standards of CFPB as a starting point, but only as a starting point, and some of your questions ran to where you can get access to those standards, and the link is on the screen, it will take you to the page at the CFPB.

1:14:26 MF: For those of you who really want to dig into the underwriting aspects of qualified mortgages, the document that I look at, and it's not on your screen, but if you google The CFPB Small Entity Compliance Guide, that lays out for small lenders how CFPB sees applying some of these principles for the qualified mortgage and the higher price loans, and what CFPB considers a good faith determination by a lender. And so again, for those of you who really want to dig into this, I would suggest you download The Small Entity Compliance Guide. We talked about the things that were not allowed to be called a qualified mortgage, and I think the point that I made the other day was primarily that some things that are qualified mortgages, you might not want to approve as a PJ, and there are some things that are not qualified mortgages that you might want to approve as a PJ. And so you have to consider both of those things. That's why we called qualified mortgage standards as just the start.

1:15:37 MF: For example, qualified mortgages permitted to adjustable rates, and you want to allow those or do you not want to allow those, and there may be other things in the qualified mortgage standards that are not something that you would find acceptable, including higher price loans, which are not eliminated from the qualified mortgage standards. And again, as we talked the other day, there are lenders that do not have to meet qualified mortgage standards, including state HFAs and rural development and habitat and other special lenders. And obviously, some of your buyers will be using those loans as well, and it's appropriate, and there could be some situations where some... You know, like in a higher cost area where something greater than a 30-year term even makes sense. So it's up to you to decide what you want to accept.

1:16:32 MF: Both things that don't qualify as a qualified mortgage and those that are, in fact, qualified mortgages that you find unacceptable. So, what lenders do you want to work with? Do you want to prevent adjustable rate mortgages? Do you want to allow for higher cost loans? Or do you want to have interest rate caps? Which we'll talk on the next side. Whether you want to limit Caesar points beyond qualified mortgage limit of 3%, or rule out certain Caesar points that you won't pay in that mix, and whether you allow for loan terms other than 30 years, which is the standard under qualified mortgages. So, those are all things that you need to consider even though you might be starting with the qualified mortgage standard as your starting point.

1:17:20 MF: In terms of the interest rate limits, we talked about the fact that higher priced loans are defined in the CFPB standards using the FFIEC average prime offer rate. An FFIEC, which is not easy to say, is the Federal Financial Institute Examination Council. And so, it's one of those standards, but there are other standards, including the Freddie Mac weekly average, which we've given you a link to, and also your state HSA may have its own standard for setting the pricing, and you might want to create a standard that says, within so much of the state HSA loan. It's up to you to set your interest rate standards. It's not dictated to you by HUD.

1:18:18 MF: In terms of the counseling, there were really two major sets of questions, and one was the concern about where you can find counselors and whether you'll have enough counselors. And then secondly, how can you make sure there will be counseling available to all your buyers? And the particular concern that we heard were from states and organizations working in rural areas where there might not be a local counseling agency, and the concern of how you can deliver counseling to all your buyers when the counselors are not ubiquitous. Remember that we have until August 2020 for the new counseling rule to take effect that requires that all counseling be done by HUD certified counselors working for a HUD approved agency, and that's going to be required across the HOME Program. That's the standard for the HOME Program, that you have to have a HUD certified counselor delivering the counseling.

1:19:18 MF: In terms of locations and how it can be delivered, we had a chance to talk with some of the HUD folks and some of the HOME experts who are tracking the housing counseling requirements, and they've assured us that the delivery approaches are flexible enough to hopefully address your concerns about the lack of a local housing counseling agency. The new rule will allow for a variety of remote approaches, including things like counseling by phone, by Skype, web-based learning; things of that nature. We just want you to remember that the rule requires your counseling to be individualized to the needs of your buyer, and to provide for a reasonable follow-up. So, online learning might need to be tweaked for specific issues related to your programming, your buyers and maybe supplement it with some direct outreach or current tech.

1:20:13 MF: We also were urged to encourage you to begin your outreach now to your counseling agencies and to try to build your network now and identify those agencies that are going to meet the new certification requirements and try to identify the gaps that will exist in your network, and figure out how to fill those gaps so that you can avoid a stoppage or a slowdown in your program when the new requirements take effect in August of 2020. So, you're encouraged to get on this issue now, even though it's still a good year away. Again, we're giving you the link on this slide just where you can go to identify your counselors that are already recognized by HUD. You see, not only the page link up top, but the arrow pointing to the button you can push on that page. It's going to be taking you to the same HUD counseling page that has always existed, but the link is in the HUD exchange, and we urge you to use this housing counseling page as your reference to this.

1:21:28 MF: Again, this is a rule that is not controlled by the HOME Program folks. They simply are required to have their program comply with this new rule. So, if you're going to need additional support you're going to have to reach out to the HUD staff that work with the housing counseling program and this regulation to give you support. Again, this is a slide just is encouraging you to begin developing your relationships, build your network and identify those people who you will work with. With that Steve, I'm going to hand it back to you. Do we have questions from those topics?

1:22:19 SL: I imagine some of those topics will be continuing to come in, but let's cover some of the other ones that I see. So, I see a question about is, if the front or back-end ratio are a little higher than our standard, can they be approved? Again, I think there's two points. One is, there's always going to be scenarios that we didn't anticipate and may be a good cause for some sort of an exception.

1:22:45 SL: Particularly sometimes as a reasonable accommodation to a household that has some sort of a disability. And none of these things should be seen as carved in stone tablets brought down from the mountain to be forever memorialized exactly as is. So there's always the opportunity to update your standards, there's always an ability, I think, within not violating some other law to make reasonable waivers if needed. Any time you're doing that, I think it's a good practice to go back and say, "Is this a function of where our policy can be refined so that it addresses this issue moving forward?" And we don't have people feeling like we're just doing everything on an ad-hoc case by case basis. So if there's a good reason to provide a marginal waiver, I think that that's fine, but I would be concerned about somebody that... Every file had some exception within it.

1:23:42 SL: I think there's another question here about can the loaned value be over 100% if we're assisting with the down payment, closing cost and prepaids. And I think that yes, there's no prohibition on that per se in HOME, and in fact, in most cases, in a standard recapture type situation, on the day a buyer purchases the combination of their first mortgage from the bank and their second mortgage from HOME will in fact exceed the total value of the house. Just to show an example of that using relatively round numbers, particularly on a sale with a $100,000 purchase where there are say $4,000 in closing cost and prepaids. Then, even if I was going to walk in and buy that house without any assistance, the combination of my down payment, and my mortgage, and any other cash contribution, I'm going to have to make as an unassisted buyer is going to have to total up to $104,000. And so I'm going to have invested 104{,000} to buy a house that's only worth 100,{000} because of those transactional costs.

1:24:54 SL: And when we're helping somebody buy a house, let's say that we said they only have to put a $1,000 down, then they still need that same 104{000}, they put a $1,000 down, the combination of their first mortgage and our second mortgage is going to come up to a total of 103,{000}. In that scenario, on the day they buy the house technically, they have a combined loan to value ratio that is marginally over 100%. There's no regulatory problem there, it's just that's the way it is. And it's really the same as it is in any unassisted transaction, the total investment between the buyer's cash and the debt that they've taken on is always going to be marginally over the purchase price of the house because of those closing cost. So we're not leaving people better off in the market or worse off than in the market, they're really in the same place. And obviously, they're better off because the HOME assistance is not available to other folks.

1:25:53 SL: Another question here about could we, as a local policy, consider an IRA or 401K as assets available towards that remaining asset test? Again, HUD says you have to define which assets. I'm not sure that I personally would say that that is advisable because we do know that it's not readily available to them, most people will pay penalties for withdrawing that and if that's the only backup that we're leaving people with, then we may be putting them at some risk, but that is something that would be permissible, I think, within the plain language of the regulation, but is probably, I think most of us would say, not necessarily the most advisable thing.

1:26:45 SL: And let's see, some questions here about counseling. Again, we're not in a position to provide all of the answers on counselling. I think the counseling website is the place to go but presumably through that, will be where you could find the providers and you can talk to the different providers about is this agency only doing in-person classes? Does this agency have remote options? So really, I think what we want to do is get you pushed out to the counseling agencies to talk to them about their options. Let's see, I'm just looking...

1:27:35 MF: Steve, there was one about the monthly expenses of the family, if you could come in on that again as to what those are.

1:27:42 SL: Yeah, so the rule, in addition to talking about both the housing debt and other debts, talks about evaluating other monthly expenses of the household. And if you go look at the notice what the notice focuses on is are there potentially other significant recurring and largely unavoidable monthly expenses that may be substantial enough that they should be taken into account? It doesn't specify exactly which ones that we should be looking at. They provided some examples of high transportation costs. In some parts of the country obviously, we have people that regularly have to commute long distances. In DC, for example, regularly taking the Metro and spending quite a bit on the Metro every month or what have you. And then I think we've also seen people look at things like health insurance premiums, dependent care expenses where in order for a member of the household to work, some other member of the household, whether this is an elder or a minor, we may have some sort of dependent care expenses that are incurred, those sorts of things.

1:28:56 SL: The challenge, of course, is that we want to be careful, that we're not looking at items that have a disparate impact on protected statuses under Fair Housing. And so HUD has basically said, PJs need to determine in their standards what other expenses might you want to take into account in determining whether or not somebody is going to be able to afford the house, you need to be clear on what those are, how you're going to document them and how you're going to implement that. I think they laid out a few options for us. We could almost have a third ratios or front-end ratio, a back-end ratio and a debt plus fixed monthly expenses ratio. We might simply say that we want someone to take that into account to lower the front-end back-end ratios. It could be that we look and we say, "If these expenses exceed a certain percentage of income, then we might be willing to buy down the mortgage a couple of more points." It doesn't, again, necessarily override the notion that we're still setting a limit that in no case do we give any buyer more than this set level of assistance. But when is it that those expenses are meaningful and substantial enough that they need to be taken into account in evaluating the sustainability of the buyers purchase price.

1:30:19 MF: Steve, we had a question that's come up on development subsidy. And so I'll comment on what a development subsidy is before we answer that. In the rule, it anticipates situations where the PJ or its partners need to spend more than a property is worth in order to acquire rehab or construct and sell it. And so it allows for, under the recapture method, for a PJ to not pass that subsidy for the cost in excess of value through to a buyer which would make them hostage to the mortgage and it permits PJ and its partners to sell the property in essence, fair market value, and those costs in excess of fair market value to not be included in a recapture note and mortgage to a homebuyer. That's permitted when you use recapture and it is for those excess costs. That would not affect the determination of the amount of the Homebuyer assistance covered by the recapture note and mortgage. And presumably since they're not accountable for it, you would not need to include that in your underwriting of the buyer. Steve, you don't want to add any comments to that?

1:31:49 SL: Not really, I think well... Yes, I suppose. A couple of examples.

1:31:53 MF: You've always got a comment, Steve, so...

1:31:56 SL: Yes, couple of points. I think any time we start to talk about development subsidy versus homebuyer subsidy or direct assistance to the buyer, we inadvertently stumble into what I think is actually one of the most complex concepts to get people to understand in the HOME program, which is sort of the flow of money through a development of for-sale housing transaction. But I think the point for today is that that development subsidy, the fact that the CHDO had to spend $200,000 to end up with a house that was only worth 170. That $30,000 of direct... I'm sorry, of development subsidy that we can pay for with HOME, we don't expect the buyer to pay that. So when the buyer buys the house, in most cases and what we recommend is that they're buying the house at the market value. So that $30,000 of cost over value is irrelevant to the underwriting of the buyer. It is relevant to the underwriting of the development transaction, which is really a whole separate topic. And the underwriting of the buyer is relevant to the underwriting of the development transaction because you need to have some sense of who your buyers are and how much they can afford. But when we're purely looking at the buyer and to the transaction, that development subsidy is really irrelevant to the buyer's transaction. But any time we do this, we stumble into really one of the most complex things to try to explain about HOME.

1:33:27 MF: Yeah. Steve, there's another question that's come up and it's one of your favorite topics. That 10% thing about down payment assistance under the CHDO rule 92.300(a)(6). You want to comment on that for folks?

1:33:43 SL: Sure, and that takes us right deeper into that same topic. So the first thing to understand is that when funded from the CHDO set aside, we are not trying to say that the most somebody can get is down payment assistance equal to 10% of the purchase price. What happens and let me just use some really round numbers. Don't worry whether these fit your market or not, but everybody should be able to follow these round numbers. So we have... Let's say that I'm going to fund the entirety of the cost of buying property, building etc... And we're going to keep it at one house. We're going to give a CHDO $200,000 to go out and buy the lot, build the house, get paid a reasonable development fee, etcetera. That's their all-in cost. Just like I said a minute ago, we've got a market value when we're done of 170,000. So all else being equal, $30,000 of what I gave to that CHDO can... Is going to go away in development subsidy. We're not going to ask the buyer to pay that back.

1:34:51 SL: Now, the buyer walks in and to buy that $170,000 house, we're going to ignore closing costs for a minute, they can only qualify for a $120,000 mortgage. So they need $50,000 of direct assistance. Well, that direct assistance is in fact already invested in the house. We don't have to send a check for that to closing. All else being equal, when if the CHDO sold that house for 170,000 the PJ might well say, "We want all 170,000 of that back as our program income. We provided you in effect with construction financing." Instead what we're going to say is, "The $50,000 the buyer needs, you don't have to pay that back to us. Just have them sign the note for the HOME assistance." We refer to that as assistance that has passed through the CHDO to the buyer. There is no particular limit on that from a numeric standpoint, other than the fact that we have to have underwritten the buyer and that they're getting the assistance that they need, so the whole topic that we've been talking about this week.

1:36:00 SL: The other practical limit on that, of course, is the maximum per unit subsidy, but we're ignoring that for purposes of this example for the moment. It's only in a situation where we find out that we didn't fund the entirety of the development cost with HOME, some of it, let's say, was funded with a construction loan from the bank. And we didn't have enough assistance to pass through to the buyer to cover what they needed, and that we do need to send an additional check to closing as additional direct assistance. In that scenario, the most that we can charge to the CHDO set aside is equal to 10% of what we've already funded towards the development of the project. But even there, if the buyer needs more, we can do that, it's just the PJ can't charge that to the CHDO set-aside, it can only be charged to the so-called entitlement portion or EN portion of the grant, for those of you that deal with IDIS on a regular basis. Really, like I said, we're in one of the most complex discussions about HOME, but that hopefully gives folks some ideas.

1:37:13 MF: Thanks Steve, I'm sure people's heads are spinning right now. And let me just summarize by saying, first of all, the discussion Steve just had only applies to CHDOs using the set aside. The purpose of this restriction is to make sure that the bulk of the funds that you receive from the set-aside are being used in the development of the project and are not just coming in at the end to assist the buyer. And so that's a limitation only on CHDOs and only on new assistance coming in to assist the buyer at the end of development rather than using it for development. HUD looks at the CHDO set aside as money that's supposed to be primarily for development, so the mechanics of calculating it are more complicated than they probably should be, but that's the intent.

1:38:18 SL: Here's a question back to the home ownership value limits, Monte. And so first of all, the question says, yes... Or asks, is it still permissible for a PJ to do a market analysis and calculate their own 95% limit? And yes, that's still permissible, it's still within the reg; it's not common, but it certainly can be done. That also has to go into your annual action plan, be approved by HUD, and it has to be updated on an every few year basis. And also the questioner is correct that we cannot use 95% of the FHA limits. The whole point is that HUD started publishing this 95% of the area median value back in... I believe it was 2015. Or no, no, no, it was even before that, I'm sorry. But the reason is that FHA program used to be effectively limited in practically the same way, and so it was a sufficient index that was close enough to be able to do that. On the other hand, when the financial crisis hit, and Congress changed the rules around FHA and how large of a mortgage they could ensure, then it no longer bore any relationship to modest housing in the local market, and HUD determined that to meet the statutory requirement of HOME we had to calculate that index directly. And so they've now been calculating that index off of data available to them. PJs can still do their own study, but you need to look carefully at those requirements and coordinate with your Field Office on doing that.

[pause]

1:40:11 MF: Question just came in, if the appraised value exceeds the HOME program maximum home value limit, is that allowed?

1:40:22 SL: Again, we touched on this earlier, but I think I'll repeat.

1:40:25 MF: Yeah, I think they want you to.

1:40:27 SL: Yeah, the maximum home value, let's just, for easy numbers, say that in your jurisdiction, that when you look it up, it says the existing home limit is $175,000. The point is, we should not be providing assistance to anyone buying a house at a price of more than $175,000. If the person is buying a house that has... Where the seller has listed it for 170,000 and that's the price they agree to, and it turns out that the appraisal comes back and says this market is moving up so quickly that maybe it even is worth 180,000 that's not a regulatory problem per se, because the sales price is what we're focused on, but I think that that is unlikely to be a super common scenario. In most cases what I see at the local level is that those values are usually a fair bit higher than the typical house that the typical HOME-funded buyer is looking at anyway, but on the margins that itself would not be a regulatory problem. But if we said, "Hey, they happened to find a house that was 180,000 and the limit's 175,000" what we're saying is, no, it's not permissible to use HOME to help them buy a house that has a sales price in excess of that limit.

1:41:58 MF: There was a question that came in that was getting back to the CHDO limitation, the 10% limitation on down payment assistance with set-aside funds, and the question was, so this doesn't apply to CHDO proceeds? And the answer is yes, the CHDO proceeds are defined separately as being funds that can be used for HOME-eligible or other low-income housing purposes so they wouldn't come under the HOME rule in that particular limitation.

1:42:33 SL: Correct. Yeah, I agree.

1:42:37 MF: I think we probably should move on with the rest of the slides, Steve.

1:42:41 SL: Okay, sure. And we'll pause at the end for one more set of... If there's pressing questions and all of that. So next, again, where do we go from here? We want to encourage everybody, if you haven't already, to download the checklist. We made that available in Tuesday's downloads, and again today; that will be posted shortly to the HUD exchange. So use that to start to review your own policies and identify where are the areas that we've not addressed an issue, and now you can start to think about what's the metric that you want to be able to incorporate into your policies? Again, through all of this, remember any time you've heard us cite a specific number, we're giving you examples to try to illustrate the point. We've told you some of the things that... As TA providers and as consultants helping various PJs directly that we regularly see, but that's just to give you a sense of what's out there. HUD doesn't set the numerical framework, they tell you, "You have to... Here's the element that you need to address, you come up with the number." So always remember that. At the same time act reasonably. I think while HUD doesn't say that they're never... Doesn't give you a number, if you come back and say, "Our front-end ratio is going to be 75%," you're going to get a lot of side-eye at a minimum, as it were.

1:44:10 SL: I think the other thing is, again, Monte kind of touched on this earlier, take some initiative for yourselves. We recognize the limits of the webinars; it's a great addition to the menu, but it should not be the only menu out there in terms of how you get some of this assistance. We think there are a lot of opportunities for local and regional coordination, whether that's through trade associations, we know many of the PJs on the phone may be members of NCDA, some of the state PJs through NCSHA or CASCA, those types of associations. So using the regional meetings, using the national trade shows and meetings that some of those agencies have might be a way to coordinate amongst yourselves and talk about best practices. Many of you are in states where there are state housing conferences, where there's a lot of ongoing education. This could be a ripe topic to talk about amongst yourselves, coordinate, have somebody that's really thought through these issues present what they're doing. Some of you are in areas where your field offices are doing grantee meetings or grantee calls, so maybe suggest to the field office that you could carve out some time for that kind of thing, we think that's a great idea and a way to take the bull by the horns and take some initiative with all of that.

1:45:30 SL: Additionally, some other reminders, hopefully... We presume that most of you are on the HUD exchange HOME email listserv, that's how you probably found out about the webinar and registered for it. If not, make sure that you've done that because that is how you're going to hear about future HUD training, or the publication of additional guidance, the publication of additional tools, those sorts of things. We know there will still be some questions that we haven't necessarily gotten to, so please continue to type your questions in here, and also when we finish we're going to push you out to a survey again like we did on Tuesday that not only will ask a couple of... How did the technology work, but also what remaining questions do you have, so we compile all of that stuff and share it with HUD.

1:46:22 SL: I also mentioned on Tuesday we are planning an in-person training, plan to be a two-day training that will cover this and some other related issues, the goal being that we'll actually... People will, in the training, mark up a policy, make it their own, make it fit for themselves, be able to use an Excel spreadsheet to help them test the different scenarios based on their actual local market and do that both in combination with their peers and in combination with guidance from the trainers. I believe that the tentative plan is to do a pilot of that in Washington, DC, shortly after Labor Day; watch for that. And then I think the goal is to do several more of those at various field office locations across the country following that. So again, make sure you're on the listserv, you'll be one of the first ones, you and 15,000 other people that get those emails will be one of the first ones to know that that's coming.

1:47:27 SL: We'll pause for a moment for some questions, but again, I always like to take just a brief moment to thank you for your time, and your attention, and most importantly for the work that you guys are doing in the communities across the country to make these programs successful. So with that, I'm going to see... Monte, do you have other things that you see in the Q&A you'd like us to circle back to?

1:47:49 MF: Yeah, I think one interesting that I'd like you to comment on is the one about the timing. When should the PJ or its sub-recipient be doing its underwriting analysis relative to or sequenced with a conventional loan underwriter, the first mortgage lender? When should the PJ be doing their piece of it?

1:48:14 SL: I think in practice there's a lot of different potential scenarios on the ground locally. In some cases, for example, we see PJs that... Or sub-recipients, obviously, acting on the behalf the PJ, where there's some level of almost pre-qualification underwriting before we even send a buyer out looking for a house. And there it's hard to do the full underwriting because we don't know exactly which house they're getting, exactly what the taxes and insurance on the house will be, but we can make some generic assumptions about a typical home in the community, typical things, and at least start to say, "Hey, Monte, how much of a house do we think you ought to be able to afford? What should you be looking at? How much of a mortgage, roughly speaking with some variation, might you be able to afford?"

1:49:00 SL: But until we have a specific house at a specific price, and... We really can't start to do that full underwriting, and so usually it kind of all comes together closer to the same time. We may have sent you out looking, given you some preliminary estimate, but until you have a specific house and we have a specific offer of mortgage lending to you, we can't put all of those pieces together and make sure that you hit all of our standards and hit all of the lending standards. And so really often there needs to be some coordination between the mortgage lenders underwriting an analysis and the PJ, or the sub-recipient, or whoever the other HOME program participants analysis where there's conversation going back and forth.

1:49:47 SL: And then you get to the point of the commitment and the closing, which can be a logistical challenge in the best of circumstances, but at some point we kind of have to have those numbers locked down so that we can say, "This is how much we're providing," and in many cases, particularly in a straight down payment-like scenario, we've got to go to finance and get a check cut in advance of the closing. And there will, obviously in some cases, be minor variations at the closing table, closing on Friday instead of closing on Monday, and the tax prorations change a little bit. Usually that comes out in the wash in terms of the few extra dollars the buyer may need to bring to the closing table. I don't know if that... There's no silver bullet here, so I don't know if that answers the question specifically, but that's my starting point.

1:50:42 MF: Yeah, no, I think, Steve, that I would just add that the more a potential participant goes out knowing what the parameters are for the... Determining the HOME assistance that they'd be eligible before they shop, or as they shop is useful because the thing you're trying to avoid is somebody thinking they can get more assistance than they really can or they can afford something more than they can. Given that you're doing counseling before you make the commitment and doing some income eligibility and other things up front, having them go out knowing roughly what the parameters are for what assistance would be available from the home perspective would be good, even though as you said, you can't lock it down until you have a specific home and a price.

1:51:29 SL: Yep. And I think that's the same reason that, in a perfect world, we want people to be counseled in advance before they're going out and applying for a mortgage loan and seeking to buy a house. We know that in practice sometimes people have already started that process with the conventional market; they realize there's assistance and then they come back for the counseling. But the more we can get to people early on in the process, orient them to our program, get them counseled so that they're informed consumers, then all of this will go more smoothly.

1:52:06 MF: Yeah, yep. And then a final determination's made when all the numbers are locked down, so that you can say, "This is how much will be provided," and sometimes those numbers are fluid in the transaction until you get there. But you want to stay within the program parameters that you set through these policies.

1:52:23 SL: Mm-hmm, exactly.

1:52:27 MF: I'm not seeing any other questions, and we're getting pretty close to the end, Steve.

1:52:32 SL: Okay, well, I think... Again, thank you everybody. We know it's always... If you're one of the ones who maybe typed in a question that we weren't able to get to, we know it's a little bit frustrating. We will go back through these, we'll use these to try to inform additional future TA, whether that's FAQs that HUD can publish, whether that's other webinars, etcetera. Again, we will post a recording of this. It usually takes about two weeks to get the transcript done, to get the transcription done, to get it cleaned up. The transcriptionist often... When we say... It's always interesting to see how they spell CHDO or any of the other acronyms that we use. But watch for all of these materials to be posted in the HUD Exchange here in the next couple of weeks, and we will again keep on keeping on, and do everything we can on our end and on HUD's behalf to try to keep giving you resources that are useful to you on the local level. So thank you to everybody, thank you to Monte. I always like working with you, Monte, and if you've got any final words, I'll give you the last word.

1:53:35 MF: No, no, thanks, enjoy doing it with you, and I hope everybody found it useful, and we'll see you again somewhere down the road.

1:53:42 SL: Yep, perfect. So you can go ahead and end everything, Sandy, and push us out to the SurveyMonkey.