2017-2018 Building HOME Webinar Series IV
Chapter 2 - General Program Rules

Kris Richmond: Going to be covering chapter two, general program rules. I know there were a lot of questions that have come in through the Q&A box. I tried to answer some during the break, Les will be able to look at those when I'm talking. But I do want to remind everybody that we are coming back again tomorrow for our office hours.

And that's when we're going to review the homework that you're all going to work on today, as well as answer questions that you are able to write in specifically that day or if we come across some questions that we think everybody needs to know the answer to or understand a little better. We'll cover those tomorrow afternoon as well. That'll be at 1:00 o'clock Eastern time tomorrow, Thursday, January 17th. So hopefully you'll be able to join us then. Les did remind everybody that you received an email this morning from Chantel Key that had the link for the Dropbox and in there is the chapters that correspond with the slides.

And if you haven't had a chance to do so already, hopefully tonight or later this week, you can look at chapter one, that's what Les just went over. And there's a glossary that starts on page 1-11 in chapter one. People had a lot of questions, what does a CHDO mean, what does a PJ mean, there's a really nice glossary in the back that'll help cover some of those questions that you have. And then also, for this chapter, we have chapter two that follows along nicely with the slides.

And then there's also a PDF document, a chart for underwriting that would be helpful for you to look at later as well. So those are couple of the handouts that were provided. So this is going over general program rules is going to be a lot of information. And I do want to make you feel a little more comfortable knowing that a lot of these details will be covered as we go over each activity. And when I mean activity, I mean home buyer, homeowner rehab, rental, TBRA. So this chapter right now, we're just going to talk about general program rules as they apply to the HOME program in general.

So let's start off with understanding what the definition of a project is. It's important for you to know what is considered a project mainly because it helps you determine the part of analysis and determining the number of units, it's going to help you determine the affordability period and the maximum investment. And it's going to really help dictate how that project is set up in IDIS and how the costs are trapped.

So in the HOME program we consider a project site under common ownership, management, and financing. It can be listed as a single undertaking or as one or more families under one TBRA program, but we're going to consider a project. Now, you're going to hear Les and I use this term HOME assistant a lot during our training sessions. It really distinguishes between units and a project that had been associated with HOME funds and those that have not. So any – HOME units, that's any units received HOME funds, we call HOME assistant. And these are the units where the HOME rules apply.

If you're working in a mixed income project, you're going to have some units that are HOME assisted and then some that don't have any HOME dollars. And those most likely will be your market units. And the HOME units are the ones where you're targeting your HOME dollars, only to income eligible households. So this HOME assisted term really helps us when we're working with mixed income developments.

The HOME units, like I said, they're subject to all the HOME requirements. This includes the affordability period, income restrictions, property standards. We'll talk about what those all mean in a couple of minutes. But your HOME assistant unit, those would be identified in your written agreement, that PJ, the personal ranger jurisdiction, would have an agreement with the developer, the owner, to identify which are the HOME assistant units.

So HUD allows PJ the flexibility for setting up a subsidy to be provided to eligible projects and eligible households. There are lots and lots of choices. So what we typically see are loans. These can have interest or no interest, maybe there's some payments or no payments, maybe there's no payments for a while, maybe that you have a 10 year affordability period and you're not requiring payments for the first five years, but you do want payments the next five years. Or perhaps it's a loan you're given that's forgiven over time. You, the PJ, can set up the restrictions on how you want that loan to be set up.

We also see a lot of grants. This is more typical for our homeowner rehab programs. This is where there's no repayments at all. You can have an interest in subsidies, this is what we consider a buy down for the interest rates to lower the percentage. We don't see a lot of that right now because our interest rates are historically low, but if for some reason our interest rates started to go up, that would be an option that you could adopt to use in your programs. We've equity investments.

This is where an investment is made in return for a share of ownership such as rental. We can have loan guarantees, this is a written promise the PJ has to pay the lender some percentage of the outstanding principal balance if that borrower defaults. You can use these types of subsidies for construction financing as well as permanent financing. You can also come up with another form. It has to be approved in writing by HUD and you need to submit that to your HUD field office outside of your consolidated plan and action plan process.

But if you had another form you want it to follow, you do need to get permission. So like I said, there's lots of choices. You, the PJ, are going to pick the one that best fits your community needs and you're going to pick the one that really fits the political atmosphere and the tolerance of your jurisdiction. I've worked with a lot of jurisdictions where they want everything to be grants, and I've worked with other jurisdictions where they want their money back.

They have everything to be a payable – loan. So really just depends on the political tolerance of your community and what the needs are. All right. Let's talk about eligible project costs. I had a lot of questions about pre-development costs, those aren't eligible project costs, eligible project costs do depend on the nature of the program activity. So each activity chapter, and again, what I mean by activity is home buyer, home owner rehab, rental and TBRA.

And so each activity chapter has different charts that lists the eligible costs. This slide really helps to review some of the general eligible costs. And eligible costs, if you're wondering, are found at 92.206. That's 24 CFR 92.206. That's the HOME regulations where you can find these. So hard costs, what do we mean by that? Well, we're talking about wood, roofing, drywall, what are the hard costs actually build your building or your unit? As well as soft costs, soft costs could be marketing maybe for housing costs, maybe there's home buyer counseling, any type of professional services, closing costs.

So that's what I mean by soft costs. So both hard and soft costs that are for an eligible project for any of these types of undertaking. So new construction. And we're going to do new construction maybe if you're running a rental program or home buyer program, or perhaps you're doing rehabilitation. This will be seen in home buyer, homeowner rehab as well as rental. We would do rehab. That would be alterations, improvements, modifications to an existing structure.

Perhaps you're going to undertake reconstruction. This is where you're rebuilding on an existing lot, or maybe you want to do conversion. This is where you're converting a building to affordable housing. So I – I grew up in western New York and there were a lot of – a lot of people that moved away. So there was a lot of extra schools around, they didn't have the population for all the schools, and so they've started to actually convert some of those into affordable housing.

Have worked with other communities that have used churches, all sorts of or warehouses, any type of thing that was not a housing to be converted to affordable housing, that's what we consider conversion. You can use your HOME and aid to do an improvement on a HOME project site. This is on site. So I want you to write that down. On site sidewalks, utility connections, sewer, water lines. But again, it has to be on the HOME project site. It's very specific – a little different than CBG.

Acquisition, we can use our HOME money to acquire vacant land, but we do need to make sure that our construction for our project is starting within 12 months. We are not allowed to just buy land and not do anything with it. There's no land banking in the HOME program. We have to make sure that we are purchasing that land and we are starting our construction within 12 months. We could also buy improved land. So improved land is land that's previously prepared for development and we're going to be building on that improved land, that's why we would be acquiring that improved land.

A couple other eligible projects. So demolition. This is only if construction begins within 12 months; so again, different than than CDBG. Relocation is also eligible. So you might have heard the term URA that stands for the Uniform Relocation Act or the section 104D, the one for one replacement. This is when both permanent and temporary relocation costs are eligible for the HOME program. Staff and overhead costs associated with relocation is also eligible. And we are allowed to assist all displaced household.

So there may be some households that need to be relocated that are over income and this is the only time we can use our HOME funds to assist over income household if relocation is being triggered. We can also use our HOME funds for refinancing, but it must be tied to rehabilitation. We need to be able to show and document that we're making the unit more affordable with refinancing. We're not allowed to have a standalone refinancing program that's not eligible, but we can have refinancing. And we should just start to put these on the slides. Refinancing plus rehab, let's see if I can fit that on the slide here.

Refinancing plus rehab is eligible. We can use our HOME money to pay for initial operating deficit reserve up to 18 months, rental period. So when you – when you have a rental project going your operating costs are going to be pretty consistent. But when you get started, you might have some vacancies and so your income might take a little while for your income to actually meet where you're operating costs are. And so you might have this gap here. And that's what we can use our HOME money for, for the initial operating reserve for to help fill that gap. And – but it is limited up to 18 months.

You would have a written agreement in place, what's that going to be used for? Can be used for operating expenses, scheduled payments, replacement reserves, debt service, but that's what that – that initial operating reserve means. We can also use our HOME funds for the pre-development costs of the developer. This can be if it's incurred up to 24 months before the HOME commitment occurs. And some examples, some eligible costs examples might be develop and prepare plans, drawings, specifications, work write-ups, and soft costs fees such as architectural engineering, professional service fees.

But like I said, they need to be in the written agreement and they must have been incurred within 24 months before the HOME commitment. All right. So now that we know what's eligible, here's some general ineligible activities. So reserve accounts, no project reserve accounts are operating subsidies except for that 18 months operating deficit reserve, which we just talked about. We also cannot use HOME for match unless it's for the McKinney-Vento program, the HARP Act program.

We also are not allowed to use our HOME money for 1937 Act of Public Housing Units. We cannot use our HOME money for halfway houses or dormitories, including farm worker and all types of student housing, because remember the HOME program is for permanent housing. And these things are all considered temporary housing. And for the public housing, they have their own funds. So we want to make sure we're using our HOME money for permanent housing.

In general, HOME cannot be used to reinvest in a home buyer project or a rental project during the affordability period. There are some exceptions, we'll talk about those later, but we usually refer to that as double-dipping. No double-dipping. Cannot receive additional HOME money during that affordability period. We also cannot use our HOME money to pay any – payback the PJ for any property that's currently held by the PJ.

You can pay for a HOME project, perhaps you bought that with the intent, of property that the intent of developing a HOME property. But if you're mayor comes to you and says, hey, we got these houses that we bought 10 years ago, can't we use our own money for that? The answer is no. We can't repay herself for PJ on property. We also cannot use it for project based rental assistance. This is where it's fixed to a unit, that's why it's called project based. We're going to learn later about tenant based rental assistance or TBRA that is eligible, but that moves with the tenant.

This one right here is project based, where it's actually fixed to a particular unit that's ineligible in the HOME program. We also cannot use our HOME money to pay delinquent taxes on behalf of the owner or as part of an acquisition. So we can't use our HOME money to bring taxes current. All right. So what about some fees? There are some allowable fees, just because they're allowable doesn't mean that's going to work for your program in your community, but it is something for you to think about.

So you can charge developers an application fee, but it has to be appropriate to the type of application. Perhaps you want to avoid frivolous types of applications, so you could set up an application fee for that. You are allowed to charge owners a monitoring fee if it was for a project that was funded after the new rule came out, so after August 23rd, 2013 and the reason that stipulation is on there because it needed to be part of the underwriting. You can also charge for home buyer counseling.

This is where I would highly suggest that you look very closely to see if this is necessary. We don't want to put homebuyer counseling – too expensive. So it's an obstacle for our potential home buyers, we don't want to create a hardship for our low income home buyers, but it is an allowable fee. And then it's also a lot of owners want to charge tenants for reasonable fees such as application fee, parking, or services.

We just need to be careful here, like for parking, we want to make sure that the customer, if he. So is the whole neighborhood charging for parking or is it just one – this one particular project? If it's only the HOME project on the whole block of charging for parking and no one else is charging for parking, that would not be considered customary, then the PJ should not approve that. So you really need to look at that.

Services, another thing we need to be careful about with the HOME program, we need to make sure that services are voluntary. If the owner's charging for a bus services or meals, that needs to be voluntary. It can only be charged for services provided and the occupancy cannot be tied to required services. We just have to be careful, services in the whole program has to be voluntary and cannot be required for occupancy. So any of these fees that come in to the PJ, these fees up here, those would be considered applicable credits. And you would want to make sure that you used those before you draw down additional administrative money from the treasury account.

A couple ineligible fees. The PJs cannot charge applicants borrower fees for administration of the HOME program. That's what your admin money is for your admin money is supposed to cover covering the costs of the program. This prohibition also trickles down to state recipients and recipients.

Let's talk about subsidy limits. So HUD has a minimum and a maximum that can be spent on each unit. So the minimum is $1,000 per unit except for the TBRA, this is pretty easy to achieve. It's highly unlikely that you're able to assist a household for less than $1,000. So that's why we set the minimum at $1,000. It is calculated on average, so if you're working with more than one unit for your project, you would be looking at the average. But if each of your projects are set up as individuals, then again, it's the $1,000 is the minimum. And then the maximum is kept by the HUD published subsidy and limits. This is published by bedroom size by jurisdiction.

You need to contact your CPD divisions, CPD stands for Community Planning and Development Division, which is your HUD office and your local field office to obtain this maxim subsidy limits. But, again, this is how much HOME money, maximum HOME money that can be put in, it doesn't apply to what the maximum amount of the project can be. There can be other investment, you can use other funds but this cap is for the maximum amount of HOME money that needs to be put in.

And then there was also a notice that came out, it's 1503, let's see if we can get the dot in there. So it's the CPD notice 1503 that came out in March of 2015. This was the interim policy on the maximum per unit subsidy limits for the HOME program. So if you were one of those people that had more than 10 years' experience, the HOME program really well, you might say Kris, what about the 221(D)(3) limits? Well, we're not following those anymore. We now are following the maximum subsidy limits that are published by HUD.

So we now know what the minimum maximum is, but how much you actually spend on that project is really going to depend on a number of factors. One is that published maximum subsidy limit, we don't want to go over that. The second is what is the amount of total project cost that's HOME eligible. Maybe there's things on the property that are not HOME eligible, maybe there's a club house. We can't use our HOME money to pay for a club house. Maybe there's a pool, we're not paying for our HOME money for a pool. So we're only paying for eligible home costs.

We also need to determine what's the number of HOME assisted units, how many units are we going to have for this project and what are the financial needs of the project? We don't want to over subsidize a project, but we also don't want to under subsidize. We want to make sure that we're setting this project up for success. So we're going to be doing a subsidy laying review as well as a cost allocation process. And the cost allocation process is going to help us determine when we're working with properties that have a home and non-home unit. How many number of home units do I need and what's that maximum amount of funds that I can apply?

This cost allocation process refers to both home buyer and rental units. So the purpose of the cost allocation – it's required to do when you have home and non-home units in the same project. And if it's all home units, then you're not going to do a cost allocation. This is only when we have home and non-home units. We want to make sure that we're getting our fair share of units. So if we're paying for 50 percent of the cost, we want to make sure we get 50 percent of the unit. That's what we consider our fair share or our proportionate share.

The cost allocation notice 16-15 and that provides some really good guidance. It came out in August of 2016. Helps you review and determine what's the minimum number of home units I need, what's the maximum home investment? If you have a comparable unit, you would follow one process, you would determine what the average is. If you have units that are not comparable, perhaps they have different amenities, maybe different square footage, different amenities inside. Then you would add up the actual costs.

So there was also a training that was done back in December of 2013. It was a webinar called allocating costs in the HOME program. So if you want to go back and look up on the HUD Exchange, the date was – let's see, I have it down as 12/13/2016 and the HUD exchange does hold on to old webinars. And it's called allocating costs in HOME program webinar. So if you're not really sure what cost allocation is or you want more information, I would go and listen to that webinar and I would also go and read the notice. Here, this is all kind of brand new to you. We don't have enough time in our hour for reviewing this chapter to go in deep into cost allocation, but there's two resources that you can go and get more information.

So PJs also have to evaluate each project in accordance with their underwriting and subsidy layering guidelines. So PJs have to have subsidy and layering underwriting guidelines, and they need to follow these guidelines for each project. We need to make sure the PJ is not invest anymore HOME funds and necessary to provide quality, affordable housing. So they need to do this review prior to commitment.

And remember, Les talked about what the definition of commitment is, if you forgot, you can go back and look on slide 16. It has that whole definition. But part of this review is looking at these items that are listed here. So are the project costs necessary? Are they reasonable? And we're going to review that subsidy layering on the next slide. Is there a market demand for this type of project property? You need to assess the condition of the neighborhood and determine the demand for the project. If you think that home buyer units are needed, you need to do a market demand review and determine if those units can actually be absorbed into the community.

You need to look at the developer experience and financial capacity. So does the developer have the experience to undertake the activity that they are proposing? Do they have current staff that can do that? Do they have the financial resources to carry out this project? For financial capability, you need to determine their net worth and liquidity. Some – some PJs, will use a liquid asset test, so they want to ensure that at least 10 percent of the total development costs that the developer actually has liquid assets that equal at least 10 percent of the total development costs of that proposed project. That's one way that they do that review. You need to make sure there's a firm commitments in place. Is there money really available or is the HOME money the first place they're coming to, to get started? So you need to make sure firm commitments are in place.

And then MF stands for multifamily. So for multifamily rental rehabilitation, there you need to do a capital needs assessment. And this is if there are 26 or more rental units, you need to determine the scope and replacement reserves over the affordability period, that's what we refer to as the capital needs assessment. You might also hear it referred to as a CNA. And then also all home buyers also must be underwritten. This is [inaudible] 9254 prior to receiving HOME funds. So most PJs were doing this underwriting review for rental, but not very many were doing for home buyers. So when the new HOME rule came out, really clarified that home buyers are also subject to this underwriting review.

Subsidy layering. We need to ensure that only the necessary amount of HOME funds are being used to make the project affordable. We do need to make sure it's sustainable, we want to right size it and make sure the correct amount of HOME money is going into this project. This applies when it's home alone or with multiple sources of financing. And then you need to have a copy of the subsidy layering review in the file.

A lot of PJs ask us, well, we're doing a joint project, we're working with the state, they have HOME money as well as us or HUD; can we use their subsidy layering review? Well, the answer to that means it depends. If you're subsidy layering guidelines match the guidelines that the state or HUD has, then the answer that would be yes. But you still need to review it against your own guidelines that actually lists what your standards are to make sure that it's going to be – that it's going to meet your own standards.

So let's take a little quiz. We're going to do this like a poll for you to be able to answer which of the following activities trigger underwriting and subsidy layering. And if you had an opportunity to access all those things on the dropbox, that chart for underwriting might help you answer these questions. So, Michael, you want to open the poll for us?

Michael Reich: Yep. The poll will be open for another 20 seconds.

Kris Richmond: All right. Michael, have we closed the poll? Oh, there we go.

Michael Reich: The results are there.

Kris Richmond: Great. So the correct answer is E, all of the above. And I see that the majority of you actually got the correct answer. So thank you for paying attention and – and getting that. If you did not get that, I noticed this is a lot of information for some really brand new people. Please go back and look at that chart for underwriting, that goes over a lot of really good material on there. But let's look at rental development. So we would do underwriting for rental development, we'd look at review for compliance risks, costs necessity, and cost reasonableness. We'd want to make sure we're looking at sources and uses.

We will want to look at the marketing demand and we will also want to assess the experience and financial capacity of the developer who would do all of those things for rental development. If we were doing home buyer development, we would also do the same thing. If we were looking at home buyer downpayment assistance, we would want to make sure we're reviewing for compliance of risks, costs necessity, cost reasonableness, and also examining the sources and uses.

We do not need to do a market demand because for home buyer, that downpayment assistance, that unit already exists. So we already know there's a demand for that. And then for homeowners rehab, we would be reviewing for compliance risks, cost necessity, and cost reasonableness for home buyer with an amortizing loan. So that's kind of the key to be there, but the correct answer is E, all the above and go back after this afternoon and take a look at that underwriting chart, that'll help you out as well. All right. So let's dig a little into conditions and types of property.

So all HOME funds, all HOME units must meet a standard at project completion. There's a wide range of types of units we can assist. We can do single units, we can do duplexes, triplexes, fourplexes for rental, we can do high rises, we could do market, I mean, garden style units, scattered site, all sorts of different types. But we cannot use our HOME money for facilities. No facilities, shelters, dorms, or nursing homes.

Because remember, we're using this for permanent housing. Like I started saying, the HOME funds – anytime you use HOME dollars, you have to have a HOME unit at the end of that project. So at project completion, we need to have a standard HOME unit. There are different types of standards for different types of activities. If you have the chapter pulled out, on page 2-16, is a really nice chart that will list the minimum property standards by activity type. So it lists TBRA, acquisition, rehab, and new construction. And then what are those minimum property standards that need to be met?

So that's a really good chart for you to look at. There's three different types of housing codes that apply. We have building and housing codes or standards and then we have rehab standards. And our rehab standards are our methods and materials of how we're going to do our rehab. There was some expansion with the new HOME rule for rehab standard. And I'm also going to write down the page where this information is going to come out. It's on page 2-15 of your manual where the rehab standards were expanded.

So I'll just summarize that a little bit, but I don't want you to get worried that you can't write it all down. Just write down the note see page 2-15 and that's going to review what some of this material is. But just to highlight health and safety was expanded. So if there's any life-threatening deficiencies, they have to be addressed immediately if it's occupied. Major systems were also expanded for rehab.

So rehab standards, so the standards have to address all major systems. And what we refer to major systems are structural support, roofing, cladding, weather proofing, plumbing, electrical, heating, ventilation, air conditioning. And for HOME buyer and homeowner rehab, when we talk about major systems we need to have a useful life of all major systems of at least five years. And if it's not five years for home buyer and home and rehab, then needs to be rehabilitated or replaced.

And for rental projects of 26 or more units, remember I talked about that CNA, the capital needs assessment. That's going to do your review of your major systems and the major systems need to have a useful life of at least the affordability period. If it's shorter than they need to be replaced, rehabilitated, or funds need to be budgeted for replacement reserves. And then the third area that was expanded for rehab centers is disaster mitigation. And this has to be included in areas that are prone to disasters, such as earthquakes, hurricanes, and flooding.

That's why some of the expansion. So, but take a look on page 2-15 for more information on that. And then we also have the uniform second – uniform physical condition standards, the UPCS, these are the new standards that establish inspectable standards. So for site building, exterior building systems, dwelling units, and common areas that essentially replaces housing quality standards when there's not other state or local codes.

So now that we talked about the buildings, let's talk about the people. So just like other HUD programs, HOME has program targets for income eligibility. So 100 percent of the HOME money needs to assist households that are at or below 80 percent of the area medium income. And in the HOME program, we refer to this as low income. So anything at or below 80 percent is low income. We also have a lower targeting for some rent – from some activities and that would be at or below 50 percent AMI and we refer to that as very low income. Okay?

So we have low income, LI, and very low income, VLI, in the HOME program. This is different than CDBG, CDBG has low income, moderate income. In the HOME program we're only dealing with low income at or below 80 percent and very low income at or below 50 percent. The HOME income limits are published annually. We do have the link here on the HUD exchange. But you do need when you're reviewing somebody for eligibility, you need to check their income against the published limits for that year.

So let's talk a little more about income. The HOME program allows PJs to choose the income definition per activity or rental project. When I mean activity or HOME program here is, we're talking about home buyer, homeowner rehab, tenant based relative assistance. You might have a section eight, part five definition for your home buyer program, but you might be following the IRS adjusted gross income for your homeowner rehab program. So that's what we mean, you can have different incomes for different programs. You do need to have the same definition, though, for everybody within that program.

So if you have homebuyer program, everybody that goes through that home buyer program has to follow the same definition. If this is the one you chose, everybody that goes through that home buyer program has to be reviewed using the section eight, part five definition. Now if you're working with different rental projects, you can have a different definition for each rental project. Maybe you're doing one with a tax credits, most likely you would follow the section eight, part five for that.

But you could use IRS adjusted gross income for a different rental project. So this is rental is the only activity where you can choose project by project which definition you want to follow. If you've been with the HOME program for a really long time, you might say, hey, Kris, I thought there were three definitions. Well, that changed when the new HOME rule came out in 2013. They got rid of the census long form; we're no longer recognizing the census long form as an eligible definition of income in the HOME program.

We're only using these two section eight, part five or the IRS adjusted gross income. All right. So just a couple of income basics, because again, I only had an hour to cover all this material and we have a whole day long class on determining income.

Income basics. Gross income is used to determine eligibility. So is someone eligible for your project? Is someone eligible to move into a unit? We use gross income and I always tell people and remember that, that gross has a G and eligibility has a G, so that's how you can remember that. There's also adjusted income and adjusted income is used when you need to determine what a payment is going to be. Or if somebody's living in a home rental unit and they're over income and they now need to pay 30 percent of their adjusted income. So anytime we're looking for what a payment is going to be, we'll use adjusted income. And that you can remember by there's an A in adjusted and in A in payment, okay?

So gross income and adjusted income are the two that you need to keep in mind. Again, for eligibility, gross income is the one that we are looking at, and we would determine someone's income, their anticipated income, using gross income for the next 12 months. We're not looking at what they earned last year, we're looking at what are they anticipated to earn for the next 12 months. That's what anticipated income is. And we want to compare that to those published income limits, we just gave you the link, the last two slides. You want to print out those out, figure out what the income limits are.

And then it's based upon all household members, not just the related individual, okay? So everybody that's living in the house, where they're – or the unit. Whether they're related or not, is what we determine all their income together to determine if they're income eligible or not.

We do have the income calculator and the income calculator is a really neat tool if you haven't used it already. It's on the HUD exchange. You do need to know what type of definition you're following.

So you would put in what definition, and then you would put in all the income information into that income calculator for that household and it'll – it'll spit out at the end whether that household is income eligible or not. And you can print that page out, put it in your file so that you have documentation that you reviewed somebody's income.

A couple more things about income. With the new HOME rule it does require now that you have at least two months of source documentation. Most PJs were doing that already as a best practice, but it is identified in the HOME rule now that you need to have at least two months of source documentation. And source documentation, we mean wage statement, interest statements, unemployment compensation. That's what I mean by source documentation. The income review is good for six months.

So, if, for example, you reviewed somebody's income in January and they're assisted, within the next six months, we don't need to review their income again. If we review their income in January and we don't get to their file to assist them or – or provide a written agreement to them until July, more than six months have gone by. And we consider that stale and we need to review their income again. So we need to make sure that's within six months.

If you have rental properties in your portfolio, the owners, not you, the PJ, but the owners need to be reviewing the tenant's income on a yearly basis. This can be done using source documentation as well as self-certifications. So that's up to the PJ to decide whether they allow owners to use self-certification, but the HOME rule does require that source documentation be used every sixth year of the affordability period. So if you have a 20 year, maybe you have new construction rental, and you have a 20 year affordability period, you would be using source documentation at year six, year 12, and year 18, okay?

You would have to use source documentation if you the PJ were allowing self-certification in those other years. But, and for example, every time somebody moves into a unit, you always have to use source documentation. So perhaps, in this example, household moved in, in year five of the affordability period. Since they're a new household, that owner needs to use source documentation to review their eligibility. And then the next year their income needs to be reviewed and we're at the sixth year of the affordability period, source documentation needs to be done again.

So it's not six years of tenancy; it's six years of the affordability period of the project. If that household is still there in year seven, then we can use a self-certification. We could use maybe a statement from an administrator, maybe another program, maybe just a self-certification, so that is eligible. If we're working in TBRA, we always have to use source documents every time we review in comfort TBRA and that needs to be done on an annual basis.

You've heard me talk about affordability period. What does that mean? Well, when the HOME program was put together, Congress wanted a return on investment, so they introduced the concept of affordability. And we refer to this in the HOME program as the affordability period. It really is only for home buyer and rental activities. It's tied to how much HOME funds are put into that property.

So if there's a lot of HOME money, then there's a longer period of affordability, if there's a smaller HOME amount, then there's a shorter period of affordability. The affordability period does not change depending on the type of subsidy, whether it's a loan or a grant, it just really depends on how much funds are put into that property. And it's not terminated by repayment of the home loan, okay? That's really important to remember and to keep in mind.

So what do we mean by affordability period? Well, that's the period of compliance. So if you're dealing with home buyers, home buyers need to occupy that unit as their principal residence. So if they have a five year affordability period, you the PJ need to be monitoring for five years is that household still is living in that unit as their principal residence, or not.

Checking their income every year for home buyer, we don't do that. We only do that once to make sure they're eligible. We're checking during the affordability period for a home buyer to make sure they're still living there. That's still their principle residence. If we're working with a rental property, there's a number of things that need to be put in place here. We need to make sure that our units are charging the proper home rent, that the tenants that are living there have certain incomes.

Les is going to review those when we get to our last week in the rental module. A PJ can establish a longer period of affordability if they want to. We highly recommend that you call this something else, call it a separate compliance period, because remember that double dipping rule? We can't put more HOME money into a unit if we are during the fourth period of affordability.

So if you're extending it, we highly recommend you call it something different so it's not – you're not extending the home affordability period, perhaps you have a local affordability period that's a separate and longer time. This affordability period starts when the unit is – and the project status in IDIS – IDIS information disbursement, integrated disbursement information system. That's kind of like the bank where you get your money and you set your projects up. That status has to be changed to complete in IDIS, in order for this clock to start ticking. And then projects that don't complete the affordability period are considered ineligible. They're not considered HOME projects and those HOME funds must be repaid to the treasury account.

All right. So this chart is going to show by activity what the period of affordability is. So you'll see for home buyer and rental housing acquisition in our rehab, it really depends on how much money is going in, how long the period is. So less than 15, it's five years, 15 to 40 is 10 years, and more than 40 is 15 years. Any new construction of rental housing is automatically 20 years. So any dollar amount for new construction of rental housing, automatic 20 years. A lot of people get this confused with homebuyer.

I often see new construction of home buyers set at 20 years. That's not what HUD has set in place. You as the PJ can make it longer and make it 20 years, but just know that the maximum that HUD has set up for home buyer is actually only 15 years, okay? The 20 year automatic affordably period is for new construction of a rental. And then if you have any type of refinancing with rental housing, that's an automatic 15 years. But remember what I went over earlier, when we're doing refinancing, it also has to be with rehab, okay? We never do refinancing on its own.

So people also ask, can we serve a household again? Can we give more money during the affordability period and it depends. Or can we serve again? So let's look.

So for owner rehab, this is what I'm referring to as owner occupied rehab, homeowner rehab – this is where somebody owns their home already. They're low income, they're home is below codes and standards. You put HOME money into it to help bring them up to codes and standards, okay? So there is no affordability period set by HUD. So it's up to you, the PJ, as to whether you're going to serve that household again in that unit. So that's the local option. If you're running home buyer programs, remember that's a five to 15 year period. And it depends on whether we can help them or not.

So if it's the same house in a different buyer, then we could assist them. If it's the same buyer and they've finished their affordability period and they want to move to another house and you allow that in your policies, you could help them purchase another house, a different house. Or if it's within one year of completion. Sometimes things come up that were overlooked and you can put more HOME money into a home-buyer project if it's within one year of completion. But it is subject to the maximum subsidy per unit rules. This is where you need to look at your original funds and your new funds and they need to be at or below, or need to be below the unit subsidy limit. That was our maximum subsidy limit.

And then for rental, five to 20 years, you still also have the stipulation within one year of completion, but it's filling to be below subsidy limits. Or perhaps you have a rental property that was assisted with HOME fund and now the tenants want to purchase those units. You could use HOME money to help those tenants purchase those units. We'll talk about that a little more in the home buyer module, and we'll probably touch on a little bit as well in the rental module. And then for tenant base rental systems, that's what TBRA is, there is no affordability period. There is a lease required and there can be a contract up to 24 months, it can be renewed, though. So it's up to you as to whether you want to continue assisting those households in your TBRA program or not.

So there are some new information about terminated and failed projects. Those are repayment of HOME funds to the PJs HOME account. If there is a terminated or failed projects. So if a project was not completed, maybe you gave HOME money to a non-profit, they were going to buy land, and build a house on it to resell and the house never got built. That's an incomplete project, those HOME funds would need to be repaid. Perhaps they cannot maintain the affordability period, that's also considered ineligible. That would be to be repaid.

And if the affordability period is terminated, the PJs required to repay those HOME funds back to your HOME local or treasury account. So the PJs not losing those funds, because it does go back to your own account, but you need to find some other funds to repay that account. Typically through your local funds and nobody wants to go to your – to your council or mayor and let them know that you have a failed project or your ability period's terminated and you need to find some funding to help repay your HOME account.

So the training manual will cover this in great detail, but just to list a couple of these other federal requirements, these are triggered for the HOME program. There's a really nice chart in each activity chapter that does highlight which other federal requirements are triggered by activity. And again, activity homebuyer, homeowner rehab, TBRA, or rental.

But just to review a couple of these, we have the non-discrimination, this is where fair housing would fall under, handicap accessibility, per eight, section 504 requirements, the OMB circular. So we forgot to update this one. It's 2 CFR part 200 are aware the new super circulars are – this is all the – where they took all the federal registers and already had the A133, the A110 and 85 and 87, those all got combined into 2 CFR part 200. That's what we refer to as the OMB circulars.

We have environment review that needs to be taken, so we can't ever have any choice limiting actions undertaken before the environmental review is done. Lead based paint, this like a safe housing rule for any pre 1978 housing we need to be reviewing for the lead based paint rules. Relocation acquisition, this is what I referred to earlier as the Uniform Relocation Act, the URA we have labor standards, this is for Davis-Bacon and prevailing wages. This is triggered when there's 12 or more homes assistant units.

And then we have our excluded parties that are debarred, suspended unless this is on that Sam.gov. You got to make sure you're checking that your contractors and subcontractors have not been excluded. So long laundry list of other federal requirements. Like I said, when we get to each activity chapter there's a really nice chart that references each of those.

And so before I ask Les if there's any questions, I do want to remind everybody that we have office hours tomorrow at 1:00 o'clock Eastern time. And I want everybody to try to work on exercise number one, eligible activities.

So the exercises were a part of the documents that were provided in that dropbox, and I want you to work on the one that says eligible activities. And tomorrow we're going to review those answers together as well as answer any questions that you have that didn't get answered and review some general questions that we think everybody would benefit from. So Les, is there anything you want to add or any questions? We have about 10 minutes left.

Les Warner: Well, we had a lot of questions on income determination. And as – as you mentioned, we could do probably a day and a half, two day training on income eligibility. So a couple things I would just add to this. If you go to the HUD exchange or you simply Google the technical guide for determining income and allowances for the HOME program, it's a slightly outdated publication because it still includes the long form census, long form methodology. But this is a very helpful guide also.

The slide, it provided the linkage for the income calculator. There is also a linkage on the income calculator for this same guide. So I – I would recommend that folks take a look at that and that will help you with some additional guidance on that. A couple of areas of common questions on this, what's the difference between gross income and adjusted income? And really what the adjusted income is allowing you to do, in some specific situations, is back out or not count some of the gross income and determining these payments.

So as Kris mentioned, in an over income household or in the case of relocation payments, we might be using an adjusted income. And that would make an adjustment on what we – how we calculate what was going to be affordable, or a payment that the household is going to make. Also were some questions about, well, explain the difference between the initial income determination and when we talk about recertification.

So anytime we're going to qualify a household to receive assistance under the HOME program, we know that they all have to be at a minimum, have to be at 80 percent or below area median income. And so we're going to be doing that initial income certification. But for rental housing, you're required – and also tenant based rental assistance, you're required to annually re-certify. So we're going back to those households that we determined to be income eligible when we provided them the assistance and then do this annual recertification to determine what's their current income.

And when we get to the rental section in the fourth week of this series, we'll be talking about that recertification process and how we might be making adjustments to the rent that, that household's going to pay or how we designate that particular unit. We're never going to require someone to move out because their income has gone up, but we're going to re-certify on that. There also was – were some questions about when we talked about the IRS methodology and kind of asking about tax forms and the use of that. When Kris was talking about there are two definitions of income, being the part five, section eight, or using the IRS adjusted income long form. We are essentially – that definition is talking about what we're going to count as income and what we will exclude. It is not when we talk about the IRS method, it doesn't mean that we're going to simply use their tax statement.

It may be very helpful for you to have a copy of that tax statement because it also shows, hey, what did they actually report as their income and their household composition, some of those things. But the IRS methodology is simply defining what income you are going to count when you're making that calculation. We don't really get a chance to go into a longer discussion at that, but that might be something that we can spend some additional time on tomorrow on helping you with that. I think that's the majority of the questions.

I will note there was a question talking about – you talked about the four year, we talked about four year project completion deadline. And there were folks saying, well, gee, I've got a written agreement that holds my project at a two year time periods. That would be something that the PJ has put in place. And so you would need to work with the PJ on determining whether they were willing to extend that or not.

And it would be in their control to decide what those terms and conditions would be on that. The maximum that they can go to would be the four year project completion deadline unless they went, the PJ, went to HUD, made the request for that up to one year extension that we discussed. And they would have to provide that criteria to HUD to be evaluated, to have that put in place before they could approve a change to your written agreement that exceeded the four year timeline.

Kris, I think that's it. I guess folks will do their homework and I really recommend, the participation in the office hours is not required, but it is highly recommended. And this is where we're able to go over the exercises and also where we really have the time to be able to talk through some of these additional questions and revisit some of these technical issues to help you better understand it.

Kris Richmond: Great. And I've had a lot of questions come in about the office hours and that information. I'll relay that to our registration staff to let them know that a lot of people don't seem to have that information. And we'll make sure that another blast goes back out –

Les Warner: Great.

Kris Richmond: Since we're able to access that tomorrow. We want to make sure everybody –

Les Warner: Great.

Kris Richmond: Participate if – like Les said, it is voluntary, but I highly recommend that you join us. We'll cover a lot of good information because it's such a short time that we're able to be together.

Les Warner: All right. Kris, I think that's it. Thanks everybody for participating. We'll look forward to you joining us tomorrow for the office hour and then again next week at the same time. Thanks everybody.

(END)