2017-2018 Building HOME Webinar Series IV
Chapter 3 - Community Housing Development Organizations

Les Warner: CHDOs, Community Housing Development Organizations, and we're going to be covering the CHDO requirements, talking about the certification process, the roles that a CHDO is required to play or manage within our projects, and then talking about eligible activities and some of the way that we're able to support our CHDO partners.

We talked about – in the first session – talked a little bit about the formation of the HOME program and this concept of wanting to harness or utilize the nonprofit capacity as a part of this, of using the HOME funds. As part of the creation of the program there's a requirement that there be a minimum of 15 percent of our funds, are going to be set aside for eligible projects – and we'll talk about how we define those – to be done in conjunction with the Community Housing Development Organization. So we're going to be walking through today what those requirements are and really the implementation steps that the PJ is going to need to have in place to administer this portion of the program.

We mentioned when we were talking about some of the overall program deadlines and requirements that we have for now, for the rest of our funding we have a suspension of the commitment and expenditure deadlines, but we said that those do not apply – and this is real important to realize – those do not apply to your CHDO set-aside funds, so you still are required to identify and execute a valid written agreement to be able to commit your CHDO set-aside funds – so a minimum of 15 percent of your funding – within 24 months, or have those funds recaptured by HUD.

To make sure that you don't lose funding, you need to think about how am I going to solicit eligible, fundable applications. We'll be talking about how do I make sure that I'm going to have CHDOs that are going to meet our certification criteria and have the capacity to undertake these types of projects. The four-year completion deadline, of course, does also apply to these projects, so we're trying to analyze, for what's been proposed, will they be able to be completed within these required deadlines.

We're showing you a flowchart just to kind of help you visualize some of the steps involved in this. Generally, folks will have some kind of a project application for CHDO projects. In some cases that might be an open window where at whatever point a CHDO had a project, they could come to you. A lot of times those are done within a cycle along with – it might be also in conjunction with your housing tax credits or other projects. But as part of your review process, you're going to be underwriting that project, determining the eligibility of all the costs, making sure that you are providing the appropriate level of funding for the project. But as part of that, we will also, on a project-by-project basis, be looking at the CHDO itself and determining: do they actually qualify as a CHDO; do they meet our certification requirements? And we're going to be doing an analysis of their capacity, and it's specific to the proposed project. For this particular proposed project, do they have the right team; do they have the right capacity to be able to do that? Keep in mind, of course, we have an overlay of other federal requirements and so we also have an environmental clearance requirement that would be part of that and that would be something that would be done up front.

At the point we've completed all of those initial implementations, steps, and determined that we had a fundable, sustainable project, we had a certified CHDO, that they were serving in the proper roles, that they have the capacity, we would then be fully executing that written agreement and indicating within the IDIS system that we are committing these specific funds to the CHDO project. That begins our four-year time period for project completion, and so construction or rehabilitation is going to begin.

At the point that that construction has been completed – and we talked in the first session about our definition of project completion – for a homebuyer, once our construction is completed, that starts that nine-month timeline for getting those units sold, and so meeting that deadline means having a binding sales agreement in place, and that project then would be considered complete and we're going to be marking it in the system once that transaction has completed, so the title is transferred and we'll have all of the occupancy information to also enter into the system.

We have a little different definition for rental where we, at project completion with vacant units, have 18 months then to rent up those units and then enter that information into IDIS to be able to show who we've served.

In either case, if we fail to meet our sales deadline or our occupancy deadline, it could signal the return of money. In the case of a homebuyer project where we are unable to sell those units within that timeline, it could be converted to a rental project, but for rental, if we don't manage to read those units, we're going to be repaying funding. So very important to be tracking this process in this flowchart and thinking about how do I control this.

Let's talk about what's an eligible use. It's not just anything you could do with HOME that is going to count as an eligible use of these CHDO set-aside funds. The common thread here is that all of these eligible uses have some form of development. We could acquire something that was existing, and rehab it; bring it up to standard, so we essentially create a decent unit; and then we're going to sell it to homebuyers. We could do the same thing with rental projects where we're going to acquire rehab and rent those, so we're going to have long-term affordable housing. We could acquire existing rental housing that was already in standard condition, and by applying those long-term affordable housing requirements, we're going to create essentially affordable housing. We also could be doing new construction for rental or homebuyer units.

Now, we'll talk in a moment of what you cannot do under the set-aside, but know that you could, as part of a homebuyer development, you could also include financial assistance to help with those and the buyers who need some affordability assistance, but that only can be done in conjunction with development of units. We might be acquiring rehabbing and then selling units and providing some affordability assistance, or we might be building new homebuyer units and also providing some homebuyer assistance, which often would be in terms of down payment assistance, closing costs, that sort of assistance.

That was what we can do. This is what we cannot do and would not be eligible for use on those set-aside funds. As I mentioned, it always has to be a development related activity, so things that don't include development are not eligible. For instance, if a CHDO wanted to simply loan their HOME funds to another project, to a developer who was going to be undertaking a project, but the CHDO itself was not going to be in one of the eligible roles, which we'll be talking about on either owning, sponsoring, or developing the project, or in the case of homebuyer, to be developing and then selling those units, if they're not actively in those development roles as part of this project, it's not going to be eligible.

Also, activities such as tenant-based rental assistance, homeowner rehab, or running just a down payment and closing costs assistance that don't have development as part of that, all of these things are going to be things that are ineligible because of that lack of linkage to development of units.

We mentioned this before and I think it's important to sort of revisit. We have different sets of rules that will apply if the organization is under an agreement as a CHDO versus as a subrecipient. We could have the same organization – you know, the CHDO was a non-profit – they could be designated as a subrecipient and run one of the non-CHDO activities. For instance, I might, as a CHDO, be doing maybe development of some new homebuyer units in a neighborhood, and so I would have an agreement with the PJ and be implementing my project as a CHDO with the CHDO-specific rules. At the same time, though, I might be receiving money from that PJ. Let's say I'm going to operate an owner homeowner rehab program in that same neighborhood; our goal is to try to stabilize that neighborhood. Homeowner rehab is not a CHDO eligible activity, but it is a HOME eligible activity that a subrecipient could be doing.

So that same organization could receive funding as a subrecipient, but the key here is that because they are in two different roles, there are two different sets of rules that are going to apply. So if you, as a PJ, were to fund a CHDO also as a subrecipient, it'd be really important to make sure that your funding agreements were separate, that they were very clear, and that you work with the CHDO to make sure that they understood and had adequate systems to be able to keep track and kind of know which rule applies to what.

If I'm working as a subrecipient, this will not be a CHDO set-aside activity, and things like our financial requirements, things like money coming back to that organization, being program income, are going to apply. So it becomes really important to keep that very clear for folks.

All right. Let's talk about how do we define what a Community Housing Development Organization is. Within the HOME regulations we have a number of criteria that are going to apply, specifically about their legal status, about how they're able to operate their level of independence. One of the key factors is this accountability to the low-income community, and that's one of the things that's bringing our community-based development organizations to the table and that's one of the reasons that we have the set-aside in this [ph]. We're also going to be talking about capacity and experience on this.

Now, the important thing about this certification process, particularly for those of you that are not new to the program, is that we have a change here. In the past, a PJ might well have annually sent out a CHDO certification packet to all of their CHDOs and they would review those when the responses came back in, and designate or recertify your CHDOs on an annual basis without that being tied to any particular project.

This has been changed under the new rule. Our certification is specific to each project. Let's say I have an existing CHDO and they come to me with an application to do – let's say they're going to do a larger scale rental development project. I'm going to be not only tracking legal status and dependents [ph], those sorts of structures for the CHDO, but I'm also evaluating their capacity and experience based on the proposed project to make sure for this particular project that they really have appropriate capacity.

So if I'm doing large-scale new development, I'm going to have a complicated finance package on this, I probably need a different level of capacity than if the CHDO – and maybe in the same year CHDO is going to come back to me and say, "I want set-aside funds to be able to acquire rehab and resell two houses within my neighborhood," so the kind of capacity and experience that would be needed for that project is going to be different because it's a different kind of undertaking.

The second bullet is also a change or a clarification that's very important. In the past, we would've said, "We know that you have to have a certified CHDO in place throughout the development period, but not necessarily throughout the affordability period." That has been clarified under the 2013 rule that you are expected to have that project remain with a certified CHDO throughout that period of affordability. If we're doing rental new development, that's an automatic 20-year period, so that may raise some concerns of, "Gee, I'm concerned about the stability of these oftentimes small nonprofits. What do I, as a PJ, do to make sure that I'm going to be in compliance with that?"

Well, first off, we're trying to make sure that we have stable CHDOs – we're going to be talking about some of the ways that we can assist them financially with some assistance – but also trying to work with and helping them to maintain their capacity, maintain their board structure over time. Some of our PJs are also looking at including some language within their written agreement, which gives the PJ the right, essentially, to review any subsequent ownership of those properties.

If, let's say, the CHDO began to be unstable and said, "We're going to transfer or sell some of our projects," because we need this to remain as a CHDO project, you as the PJ might want the authority to be able to review and determine is this subsequent owner that's been proposed, will they actually meet the criteria for this requirement. So building in some of those things on the frontend within that written agreement may be helpful in this long-term oversight process.

Let's talk about the criteria that applies. A CHDO needs to be legally organized under state and local law. One of its purposes – it doesn't have to be its sole purpose – must be the provision of decent and affordable housing to low-income persons, so somewhere within their bylaws that needs to be included. They also cannot be set up for to provide individual benefit. They have to have a clearly defined service area.

Service area might be neighborhood, might be city/countywide, might be multiple counties within a state. It cannot be statewide, but it could be all but one county. I suspect, as we have concerns about having adequate capacity, we may see fewer CHDOs, but with a larger service area. They also must have their IRS tax exempt status in place. You might be working with an organization that had applied for and felt they would soon have it, but to be qualified, they must have their taxes exempt status in place.

These organizations also have to be independent. Oftentimes we have had CHDOs that were spun off from or supported by other nonprofits or charities, religious organizations. We'll also be talking in a minute about for-profit entities might essentially sponsor a CHDO. These are CHDOs. When they're created have to have experience in serving the low-income community. They may have had as their background – maybe they've been serving meals to the low-income community. That qualifies as far as having experience with low-income community. There will be further qualifications and essentially having appropriate capacity for the project that they are requesting funding for.

Also, as Kris mentioned – and this applies here – religious activities must be voluntary. We could have a religious-based organization that became certified as a CHDO, but it will have to be clear that any activities are going to be voluntary for anyone that's interacting with our housing.

Government entities can also sponsor. We've had a lot of CHDOs over the year that were sponsored or created – public housing authorities, housing and finance agencies, other redevelopment entities.

For a for-profit entity it's important to know that the CHDO cannot be controlled by that for-profit and that sponsoring entity cannot be either housing developer or a housing management firm. For others that are not blocked by this criteria of being a housing developer or manager, the for-profit can have representation on that board, but it cannot be more than one-third of the board. We want to make sure that that board is essentially autonomous to be able to make decisions independently of that sponsoring for-profit entity.

Also, keep in mind that CHDO cannot be tied to specific vendors for goods and services. We're trying to essentially prevent a for-profit creating this CHDO so that they, in some way, had a direct line to try to get the CHDO funding. We need these organizations to be independent.

We have two ways that our CHDOs are required to be accountable to the low-income community. First off, they're required to have one-third of their board representing the low-income community – we're going to talk in a few slides here about how do we define who actually fits that criteria – but we also have a limitation in place so that no more than one-third of that board can be representing a government entity, and that's any government entity. We'll talk a little bit more about that. I might be a city-based CHDO, but any governmental entity, whether it's state, county, another city, are still going to be counted. Even if they are low-income, they're still going to be counted as a governmental representative if they meet that criteria, which we'll talk about a little further down here. So one-third must represent low-income community, one-third is the maximum for government entity, and the rest of that board then is really unrestricted.

For that representation on the board itself, we have three ways to be able to meet that. I could be a low-income resident of the community, so I would be then providing a self-declaration that would show: I'm a household of four people, this is my income, it's under this maximum income level that would qualify me as being a low-income resident. I also could be a resident of a low-income neighborhood. I wouldn't necessarily myself have to be low-income, but where I reside is part of a low-income neighborhood. In that case, you would be looking at the address of that board member and comparing that to our census information that would show is that neighborhood at least 51 percent low-income.

Our third option on this is I could be a representative of a low-income neighborhood organization. Maybe I have a Volunteers of America organization that is located and serving that particular neighbor. I could be designated by that organization to be their representative. Now, I would have documentation in that file, the letterhead designating that the organization has determined that they want this person to represent. Just keep in mind that if any of these folks who have been designated as low-income in one way or another also meets the criteria on our public sector designation, they're going to be counted as public sector even though they might meet each of the criteria.

The second part of our requirement for CHDOs to provide representation or accountability to the low-income community has to do with the ongoing operation. In addition to having board representation, the CHDO also has to have this formal process in place to get input from the low-income community. That would include things like design, citing, development of new projects, but also the management of existing projects. That process needs to be described in writing, must be a part of your bylaws or resolution, and as part of your compliance on this, you as the PJ would be looking to see not only do they have a process but do we see that actually happening.

The process might be that we're going to have neighborhood advisory council, special committees. Maybe every time we have a CHDO rental community, we're going to create a neighborhood council, a resident council; we're going to have some kind of regular meetings where the council would be providing input, but you would also be able look at the minutes for that CHDO and see that that input that was being provided is actually being brought back to the board and so it's informing the process and the operation of that CHDO.

All right. Here's where we're going to talk a little bit about our public sector representation. Anyone that's an elected official of any governmental entity, an appointed official, but also a public employee or a person that's been appointed by a public official of the government entity, as part of our screening for our board – and I would think that you would want to see for each of our CHDOs an intake form that's going to be filled out by each one of those board members – so they would ignite am I a low-income person, am I a resident of a low income and neighborhood, have I been designated by a neighborhood organization, and that backup documentation, but in addition to that, we're going to ask them are you an elected official, are you an appointed, are you a public employee, to make sure that we know are these folks needing to be counted as low-income on our board configuration or do they actually belong being counted as public sector.

All right. Here's just a visual on this, keeping in mind we've got minimums and maximums, a minimum of a third for low income and a maximum for our governmental entity. We would need to have documentation each time we certify that organization, but they actually meet that criteria.

That's the essentially legal status and board requirements, but we also separately have this issue of capacity and experience. The way we are going to measure a capacity and experience is going to be based on the CHDOs' staff – full-time, part-time, also could be contracted staff – and that would be part of the submission of information showing that they have relevant experience and capacity. For a first-year CHDO, they do have the ability to demonstrate that capacity by having a hired consultant who is going to be working with and training CHDO staff.

Things that will not be counted – it's great that you've recruited board members for your CHDO that bring good relevant experience and capacity. That's fine and that might be very helpful, but that is not going to be included in our evaluation of capacity and experience. Also, anyone that's an officer or employee of a governmental entity will not be counted. We know here that consultants are not going to be counted except – and we talked about this exception for the first year.

The next bullet point has caused some issues for folks. We oftentimes have had CHDOs that were sponsored or sort of created by a for-profit entity, and the actual capacity is not an employee of the CHDO but actually is still on the payroll for that for-profit sponsoring entity. Because these individuals are not on the payroll of the CHDO, they are not considered CHDO staff and they will not count towards capacity and experience. Also, again, donated, contracted, or cost allocated staffing that comes from another entity is not going to be included. So we're going to be really looking at, for that specific CHDO, who actually is on their payroll, who is a designated employee that's bringing – providing that needed capacity.

We mentioned that the CHDO has to have at least one year of experience overall serving the local community. They also have to have financial accountability standards, and it's limited. We talked a little bit about you as a PJ and a subrecipient fall under 2 CFR 200. For a CHDO it's only two sections of that larger regulation that are designated for CHDOs, and essentially it's having basic financial systems and some basic accounting practices in place. So because we're not citing all of 2 CFR, things like federal procurement, audit requirements, and program income are not a requirement for CHDOs. Keep in mind that you as the PJ are required to document that capacity each time you make that funding.

All right. Let's take a quick poll here. How many CHDOs are you currently working with in your PJ; if you'll go ahead and vote now?

Michael Reich: The poll will be closing in 20 seconds.

Les Warner: Great. All right. We've got a real mix here. A lot of folks, which I think is probably expected, have less than three CHDOs that they're working with. I would guess there are a lot of folks that would say, "I've only got one CHDO." Some folks are going to have - we've got a number folks in the 3 to 5 and some in the 5 to 10. I'm going to guess that the 5 to 10 or 10 or more are states, and so they have a larger set-aside to be able to support that.

The concern here is we need to have at least one because we need to have someone who can meet the certification process and capacity to be able to partner with to meet our 15 percent satisfy, but based on the amount of funding, to keep stable organizations, there may not be enough of a pipeline of projects to keep a large number of CHDOs actively funded and being able to receive enough money to hold onto the staff that's needed.

Let's talk about the CHDO roles. This is where we said not only does it have to be an eligible activity but the CHDO has to be serving in one of these roles. We have two separate categories here. We have three options for roles for a rental project and only one for homebuyer projects, and we'll talk our way through these.

For our roles for rental, probably the simplest of these is the CHDOs serving as the owner. They would own the property in a fee simple profits or they have a lease for at least of a period of affordability. In this case they could hire a developer; they could hire a contractor who's going to oversee the development process for that rental project. The CHDO itself doesn't necessarily have to have that capacity in-house, but they're going to meet this ownership requirement. They also can be hiring or contracting a property manager to oversee that through the long-term management. But they do need to be the sole owner during development and for at least that period equal to the affordability period, so probably the simplest and lowest level to be able to demonstrate adequate capacity.

Our second category here is as rental developer. They're meeting the criteria as an owner, but in addition to that, they're going to be in charge of overseeing the development and the management of that property during the affordability period. They're going to have to show that they have capacity and appropriate experience to not only just own it but also to be pulling together the project and overseeing it. That's going to be different depending on whether we're doing the two houses that we're going to acquire, rehab, and resell versus I might be doing a large-scale development where I had oversight of a large complicated financing package and extensive new construction happening. This gets evaluated on a project-by-project basis.

Our third category is as a rental sponsor. If you take away nothing else from this section, it's really important to understand that if your project – and many of our HOME projects are done in conjunction with a low-income housing tax credit funding – that you are going to be required to operate under this category of rental sponsor, and so that project needs to be owned or developed by a wholly-owned subsidiary as a sole general manager or serving as the managing member of an LLC.

In the past we had had where often the CHDO was maybe a 50 percent or 51 percent owner for that subsidiary, might serve as controlling general partner, but this language has been redefined: they must be the sole general partner or managing member of the LLC. So that legal organization for that partnership in conjunction with the tax credit equity providers is going to have to be specific to meet this definition. So all tax credit projects must meet this criteria.

The other option under rental sponsorship is a scenario where as part of the planning for this project, the plan is that we will have one organization who will develop the project and then it will be transferred at project completion to another pre-identified nonprofit, so we know that it has to remain as a CHDO project throughout its affordability period. The example of this would be I may have a CHDO that has a great deal of capacity for putting together financing, overseeing construction, and they might be the initial property owner, but at the point that the project is completed, they're going to transfer to another certified CHDO that is going to manage that property throughout the affordability period.

I think the most common example of this might be where we have that second CHDO; it's actually an entity that specializes in the particular population that's going to be served by that project. So maybe we have a nonprofit that is serving the elderly within that community. The first CHDO is going to do the development and they're going to then transfer it to our senior advocacy nonprofit who's then going to oversee that project throughout its affordability period.

All right. Quick quiz here to see if you are paying attention. True or false: home projects that involve low-income housing tax credits may be done under any role: owner, developer, or sponsor. Is that true or is that false? Please vote now.

Michael Reich: The poll will be closing in 20 seconds.

Les Warner: Great. All right. The results are in. A lot of you didn't vote, so maybe you weren't sure. The correct answer here is false; you do not have the option of doing any of these roles. You absolutely must, and that was the key point. Under sponsor here is that if that project is being done in conjunction with low-income housing tax credits, you must be meeting our sponsor criteria where we talked about being the sole owner or the managing partner for an LLC, so you do not have the option of any of do three roles. Low-income housing tax credit projects will always have to be meet the sponsor criteria.

All right. Let's talk a bit. Those were the three options for rental CHDO projects in the role that they're going to be serving. If the CHDO is undertaking a homebuyer development project, then we have one specific criteria: they're going to have to not only own but also develop the property. That might be where they're going to build a number of units – it might be one or two units – but it also could be where they're going to acquire, rehab, and then resell. They need to not only own but they're also going to be arranging the financing on this, they're going to be overseeing construction, and then when those are completed, they're going to be selling those units to income eligible households.

Now, one of the things that was changed or clarified under the 2013 rule was that we have a cap on the amount of additional down payment assistance that could be provided as part of our project budget. The cap now is that down payment assistance can be no greater than 10 percent of the HOME funds provided to the project. Let's say I got CHDO fund – let's say I'm just doing one unit and I got $200,000 to develop this unit that I'm going to be selling to a low-income buyer. I'm going to be doing my underwriting and determining what's going to be affordable for that household, and it may be that some of my buyers will also need some down payment assistance, some coverage on closing costs, to be able to allow them to afford that unit. We can provide that. That can be additional money beyond what we provided in HOME funds to build the unit, but it's capped at that 10 percent. So if we have a $200,000 development budget, then it's going to be 10 percent of that is our maximum on additional down payment assistance.

Now, some of you might look at that and think, "Gosh, that might cause me to have an issue with this," but think about it in this term: if I develop that $200,000 unit and I sell it to a person who's gone to the bank and gotten a private mortgage, when you sell that unit, when close on that, you are going to be – and let's say our fair market value is $200,000 and we're selling it for that. At the closing, the CHDO is going to receive back $200,000 from the sale of that unit.

In the case where that homebuyer really only can affordably qualify for, let's say, $180,000 mortgage, I could have the bank provide that affordable mortgage of $180,000, and I as the CHDO could provide what we would call a soft second. I could essentially, instead of being reimbursed for the full cost, provide a secondary mortgage of that $20,000 affordability gap. I'm not asking for or using additional HOME money, I'm simply leaving that in the deal and having a loan for that, a secondary loan. It probably would be as a deferred loan, so it still remains affordable for that household. So there are ways to be able to provide the needed assistance without providing additional down payment assistance that might be limited by this requirement.

Okay. I mention this need to have adequate capacity, whether we need one CHDO, whether we need three. There are some ways that we can help to be able to support those organizations, and so we're going to talk through each of these categories.

For an existing CHDO we have the ability to provide project specific predevelopment assistance. That's essentially providing upfront money to that organization to cover some of the costs that they would need to incur to put together that project. It might be that CHDO, to put together a fundable project, needs to maybe get an option on a piece of property, pay for a market study to be done, maybe they need to have some architectural work done or some pre-engineering, those sorts of things. Sometimes that is difficult for that CHDO to be able to fund upfront for this potential project, so we can provide a predevelopment assistance in the form of a loan. We would be kind of clear on our loan agreement with them on how those funds would be able to be used. These are on a project-by-project basis for HOME eligible activities, so costs have to be reasonable.

Customary, as we showed you on the sheet cake chart, up to 10 percent of whatever your CHDO set-aside is can be provided in the form of predevelopment assistance, and that is based on your overall allocation, not 10 percent of what we think that projected project would be. It gives you a tool to be able to assist those CHDOs to be able to pull together a fundable project to be able to submit to you. The restriction on this is that those loans, we expect to be repaid from the construction loan proceeds or other income at the point that that project goes forward. This was one of the places under the HOME program where you have the opportunity, if needed, to be able to waive repayment. If there are indications from that predevelopment work that that project is not going to be feasible to go forward, you have the ability to waive repayment.

For instance, if part of my predevelopment funding is used to be able to do a market study – let's say we've proposed we're going to develop 60 units of affordable family housing in a particular neighborhood and our market study comes back showing that it is not clear that that local market can actually absorb that particular proposed project, that project is not going to be feasible, and so in that case, the CHDO did its appropriate due diligence, utilizing those pre-development funds; the PJ could choose to waive the repayment requirements and forgive that loan.

Another tool that we have which is not project specific is providing CHDO operating assistance. Now, keep in mind all of these CHDO assistance that we're talking about here are – they're not required, they're an option for the PJ to determine if it's needed, is this how I want to utilize my funding. The PJ could choose to provide up to 5 percent of their HOME allocation to essentially assist in covering operating costs for their CHDOs. Maybe just for ongoing organizational support, but it might be pretty specific to things like you need to get some additional education, maybe we need specific staffing additions to make sure that they're going to have appropriate capacity to be able to take on projects. So it might be simply covering their ongoing operating an admin expenses, but it might be very specific in your agreement.

There is an expectation that if they are receiving operating assistance, that within 24 months they're going to be coming back to you, the PJ, with a fundable project. So it's not just that we're going to provide them ongoing support, but because of our investment of operating assistance, that we're going to have applications that are going to be coming to us for fundable CHDO set-aside activities.

The operating assistance is not project specific costs. It also is not subject to match, so it helps a little bit. This could be really critical, particularly where we now have some further criteria about adequate capacity. This may be one of the ways that we try to stabilize, that we try to help CHDOs to be able to afford to maintain the kind of capacity, the staffing levels that are needed to be able to qualify to be certified.

This isn't unlimited. The restriction on this per agency is that it is a maximum of either $50,000 or 50 percent of their total operating expenses, whichever is greater. You can always go to $50,000. If you're going to go over $50,000 you would have to be able to document what that CHDO's annual operating expenses are and be able to calculate to show that it did not exceed 50 percent of that.

Now, we mentioned before when we were talking about CHDOs that are operating both as a subrecipient and as a CHDO. The admin funds that might be used by that CHDO as a subrecipient are not included in that calculation. It'd be important in this to very clearly outline within your written agreement what your expectations were and how those funds were to be used, and we're trying to make sure that we're going to have stable, certifiable CHDOs that will have the capacity to take on the needed CHDO projects in their area.

Now, I mentioned that because the CHDOs are not under all of 2 CFR 200 but only under two specific references, CHDOs are not following under the requirements of program income that Kris covered in our last session. But we do have a requirement that money coming back to that CHDO is considered CHDO proceeds, and the PJ can allow the CHDO to retain that money. There are some restrictions on that.

Those proceeds that are retained at the CHDO level have to be used either for other CHDO-eligible activities or other activities that would support affordable housing. Most commonly, we're going to see that coming from proceeds, maybe from permanent financing where there are payments coming back in, principal lender interest that's being paid on HOME loans.

Again, they're not going to be considered program income, so they don't hold their federal identity. It's less restrictive, so it doesn't require you to continue to be limited to HOME-eligible uses. They're not getting reported into IDIS. If you had a homebuyer project that had recapture provisions in place and you had money coming back to that CHDO, recaptured funds – and we'll talk about that in next week's session – recaptured funds are not considered CHDO proceeds, but are going to follow some other rules.

As I mentioned, the proceeds are limited to use for either HOME-eligible activities or other low-income housing activities, including the ongoing support of that CHDO's operations. You as the PJ would want to have a written agreement with the CHDO that specified what your expectations were, whether they were able to retain those proceeds, and how you expected them to be used. You might also want reporting on the level of proceeds that they had in place, or if they were applying for new funding, you might be asking them about CHDO proceeds that they had received. But, again, CHDO proceeds might be an important way for that CHDO to remain viable because they are using those funds coming in to be able to help support their ongoing operations.

For a new PJ – and we don't often have new PJs at this point – but if you had a brand-new PJ, so in the first years of participation with the HOME program, there also is the ability for the PJ to set aside 20 percent of the CHDO set-aside to be used for capacity building. The maximum of that is $150,000 essentially. It's to try to develop and create CHDO capacity to be able to undertake their local program.

All right. That completes our CHDO section. Kris, are there questions? Are there issues that we should try to revisit before we end today's session?

Kris Richmond: Yeah. It's just a couple. One, everybody's asking for a CHDO checklist. I don't recall if we put the sample that we have in the Dropbox or not. If we didn't, we'll make sure that it's placed in there this week because we do have a sample checklist for CHDO certification that HUD's approved – the draft form, but HUD's approved it.

Les Warner: Yeah. Important to not it's a draft, but I think it would be helpful for folks.

Kris Richmond: Mm-hm. Another question that came up was about the 10 percent for the homebuyer assistance. They wanted to know – does the 10 percent for homebuyer assistance consider only the development budget or the development budget plus the developer subsidy, they provide separate loans and closing costs and then they provide the CHDO a developer subsidy as well? I guess they're trying to figure out what's the 10 percent of for the lending.

Les Warner: The 10 percent is of all of your – my understanding would be of all your HOME funds that are going into that CHDO set-aside activity, so all of your CHDO funding that was supporting the development of those units. If you were going to use – if you're needing additional money to be used directly, not for development but for those homebuyer sales to make it affordable, then we're looking at 10 percent of what that development budget was.

Kris Richmond: Another question came in. I can't tell if it's the same person that asked it multiple times or if a couple of people are concerned about it. It has to deal with the timelines. When you showed that slide that has the different timelines and the time periods, they want to know does the five-year expenditure requirement for HOME funds apply to the fiscal year of the funds while the four-year completion applies only to the project. Then what happens if a project is funded with the funds that are required to be expended during that four-year completion period?

Les Warner: The expenditure requirement is based upon that allocation. If I receive my, let's say, my 2018 funding in January of 2018, that starts my five-year expenditure clock ticking, but it might be that my actual funding for, I don't know, the south side development, might not happen until August, so that August commitment of funding to a specific project is starting that four-year project completion because it's project-specific, but my clock for the expenditure requirement is overall for your allocation, so that clock has already been ticking for eight months.

So if you were actually – you have 24 months to commit your funds. It might be that if you committed, I don't know, a year-and-a-half into your expenditure period, you may have four years for project completion but you don't have access to the money for another four years; you may have three-and-a-half years remaining under the expenditure. So the project itself must be completed within that project completion.

You have access to your HOME funds based on your expenditure rule. So it could be in a case where you have drawn down and expended your HOME funds during the expenditure period and maybe your other sources in that budget are actually being used after the expenditure period might have elapsed while you're still in your four-year project completion to get that finished up.

Generally – and I think we may have talked about this in an earlier session – even though you have a four-year project completion deadline, most folks are going to set up their projects to be a shorter time period because you want to make sure that even if the projected schedule doesn't move along quite the way you thought it would, that even with delays, that you felt confident that your project could be completed within that time period. Hopefully that helps with that question.

Kris Redmond: Great. Well, we're just about out of time. I think we can cover other questions tomorrow during your office hours.

Les Warner: Great. Just a reminder, as Kris mentioned, we do have office hours tomorrow and we will also be going over the exercise. You're going to be our second exercise which I think is exercise three, which is going to be looking at a CHDO and the board and those requirements. So I would encourage you to participate tomorrow and to, in advance of that, do the exercise which we will review.

Thank you everyone for participating and we will talk with you tomorrow.

(END)