

## **2017-2018 Building HOME Webinar Series IV**

### **Chapter 9 - General Administrative and Monitoring Requirements**

Kris Richmond: Today we're going to be covering Chapter 9, General Administrative and Monitoring Requirements. My name is Kris Richmond. I'm with ICF and I am accompanied by my colleague, Les Warner. He will be covering the CHDO section after our break.

I want to remind everybody about how we use this system. You should be able to see the slides on the screen in front of you and you should be able to hear the audio. If you have any issues with the audio or if for some reason you can't see your screen anymore, I'd like you type in a quick note to Mike, he's supporting us today in the chat box. So you'll see you have a chat box and a Q&A box.

And in the chat box is where you want to write any technical difficulties you're having today, and Mike will help you out as soon as he's able. And then if you have questions about the materials that we're covering, maybe you didn't understand something that I said, or you had a question about a concept, you want to type those in the Q&A box and Les and I are monitoring those. He's going to be answering questions while I'm going over this section, then I'll answer questions when he's reviewing the CHDO section. So please utilize both those boxes to help you out today.

This chapter does cover a wide range of materials. We're going to be hopping around from different topics, so if you're brand new to the HOME program, just hang in there with us; it is all going to make sense eventually for you. And I highly recommend if you haven't had a chance to yet already to review Chapter 9, that is the chapter that this accompanies, and it provides some really good in-depth information for you to go back and get more materials about.

So we don't have enough time during our session today so we're just going to lightly touch on some of these concepts. I also want to let people know that most of this material in this chapter is directed at the PJ, the participating jurisdiction, that's the city, county, state or consortium that receives the HOME funds directly from HUD. So these are mostly for the PJ's responsibilities. It is helpful if you're a sub-recipient or a owner, developer or sponsor working with the HOME program to understand what the PJ's requirements are, but these are mostly requirements for the PJ. So with that, I'm going to get started.

So we're going to start off with talking about admin costs and planning costs. So all PJs have access to administrative funds. So they are able to use up to 10 percent of their annual allocation plus 10 percent of their program income. So if I gave a really simple explanation, let's say maybe you had a million dollars of HOME money and maybe you had \$80,000 of program income, you would be able to use 10 percent of that to use your admin.

So 10 percent of a million is \$100,000, so you have \$100,000 there from your annual allocation and then 10 percent of \$80,000 is \$8,000, so you would have \$108,000 to be able to use for your admin costs that you have. There are two different ways that a PJ can use their administrative money to pay for management, administrative staff or staff at a sub-recipient. The first way is you can pay for their entire salary or wages if their responsibilities are primarily for HOME. So

if you have a staff person and all they do is work on the HOME program or the majority of their time is on the HOME program, then you can pay their entire salary.

If you work in an area similar to where I used to work where everybody worked on so many different things – I worked 50 percent on HOME and 50 percent on CDBG – then you would follow the pro-rata share and you would cover 50 percent of my salary using the HOME funds. But you do need to choose one option in the organization that you're working as a PJ.

So besides salaries, what else can we use our administrative funds for? Well, there's a lot of eligible costs that PJs can use admin money for. They can use it for monitoring, coordination, general management, traveling. They can – if they need to go to a training, administration of a tenant-based rental assistance, that's a voucher program we'll learn more about in the last session that we'll get together, so administering your TBRA program. Perhaps you need to disseminate any type of public information.

Maybe you want to do – you definitely have to do for housing but maybe there's some additional outreach efforts you want to do for Fair Housing and costs for your Fair Housing would be charged to admin and planning. Preparation of your consolidated plan, that's your annual plan that you – or your annual plan for the consolidated plans, a three to five year plan, your annual plan is what you're going to do every year, costs of those plans are charged to admin and planning. Compliances, other federal requirements, we reviewed those real briefly the last session together, so some examples are lead base paint, environment review, Davis-Bacon and then indirect costs.

So if you are charging indirect costs to your admin and planning costs, you have to have an approved indirect cost allocation plan in place. And then indirect costs are eligible types of costs that are shared across PJ agencies. Some examples might be centralized personnel or finance department. The PJ has to have these indirect costs plans approved by the PJ's cognizant federal agency. And that cognizant federal agency's the agency that gives out the most federal money to that PJ. Those are all different things we can use our admin and planning costs for.

All right. Now there are certain costs that can be charged either to your admin and planning bucket that we refer to in IDIS or the project costs. And so just different things that can be charged to either one. We do need to be ensuring that if these costs are charged to a project, that there is a completed project at the end of the project. So a couple of examples would be appraisals, work specifications, these are like the work write-ups that are put together, construction inspection, oversight, underwriting, relocation, environment reviews, any type of home buyer counseling and then tenant-based rental assistance, unit inspections and income eligibility reviews.

So like I said, these can be charged either to admin or an activity cost, but we do need to ensure that there is a completed eligible HOME project at the end if we charging it to our project costs. So if you do decide to charge those costs to a project, there are a couple things you need to keep in mind. It is going to count against your maximum subsidy limits. Remember we talked about HOME has a minimum of \$1,000 and a maximum subsidy limit and that's published by HUD. It is going to trigger 25 percent match, so that needs to be tracked. If for some reason the project does not move forward, if it doesn't end up being an eligible project, then that cost must be

charged to your admin pot of funds. And, then, you also need to keep it in mind that any type of project costs incurred by the property owner is always a project cost.

All right, so now we're going to talk about the consolidated plan. So all five CPD – and CPD means community, planning and development – so all five CPD formula programs are covered within your consolidated plan. And this includes home, CPDG, [inaudible], ESG and the Housing Trust Fund. And the PJ has to ensure that all planned HOME activities are represented in the Con Plan. So the Con Plan's a three to five year strategic plan and it really describes the goals and the strategies for affordable housing and community development activities within the PJ.

And then, so you have the three to five year consolidated plan and then you have an annual action plan. And so your annual action plan is what are you going to be doing that year. So the three to five year plan, what are we doing up to these five years and then each year you break it apart into saying this is what we're going to be do this particular year. You will have different public hearings to identify your need, to get public input. PJs really rely heavily on nonprofits and other associations to get the word out when they need public input. But this is something that you do have to go through in order to receive your funds.

So the e Con planning suite has been around for about five or six years now. I think it started in 2012 is when HUD introduced the e Con planning suite. It is an online tool that helps PJs create market-driven leveraged housing and community development plans. And these tools are designed to help PJs with the needs and analysis of strategic decision making. So there's an IDIS template for the consolidated plan, the annual action plan and the consolidated annual performance and evaluation report, we call that the CAPER.

And then there's CPD maps, there's an online data mapping tool for place spaced planning. And then there's also new data sets and these describe a broad spectrum of community economic and market conditions. So these are all different parts of the eCon planning suite. There's a lot of really good information on the HUD exchange. If you need any training or if you need any guidebooks on how to use that eCon planning suite, so lots of resources available for you to use.

All right. So there was a change in December of 2014 that consolidated all of the uniform administrative requirements into one super circular and that's all found now at 2CFR Part 200. There used to be many different circulars. There was the A87, the A183, the 122, there's all these different circulars and we had to try to remember is it for a nonprofit, is it for a government agency, is it for profit and now everything is all together in one place. So it's much, much easier for us to be able to find our requirements in the uniform administrative requirements. HUD put this together all into the 2CFR 200 to really help eliminate duplication.

We no longer need to know which circular applies to which entity. The focus really shifted from compliance to performance, and auditors are going to look more now to outcomes rather than process. And the emphasis is really on accountability with enhanced policies designed to protect against fraud and abuse. There was also a major change for the trigger for conducting a single audit, so it did that – you have total federal funds expended within a year was changed to \$750,000. So it used to be \$500,000, now it's been changed to \$750,000 for federal funds expended within a year in order to trigger a single audit. So there's more information here. You

can see this link on the HUD exchange. There was also a transition memo, we have listed here too. All these resources are available on the HUD exchange if you want to dig in a little more and learn more about the 2 CFR 200.

All right, the new HOME rule requires that PJs have written policies and procedures on these different topic areas. A lot of these topics will be discussed when we get into the next couple of sections, but just to do a real quick review you need to have policies and procedures for underwriting and subsidy layering and this applies when you have homebuyer projects and rental projects. Also, for resale and recapture, this is applicable for homebuyer projects.

Any time you do rehabilitation, you need to make sure you have written rehab standards in place, these are the methods and materials of how you're going to be doing rehab. You need to have monitoring and risk assessment in place and we have a couple slides at the end of this section that will review monitoring. You need to have property inspection procedures in place. You need to be able to identify the definition of income that you're going to be conducting for your activities or your home rental projects.

And then you need to have affirmative marketing in place, that's when we have five or more HOME assisted units as well as how are you handling minority- and women-owned businesses. That's our MBE WBE. So the policies and procedures are really good. Now it's required, but it's also a really good practice, to have in place. It helps with training, maybe you have new staff, that's a really good training tool to refer back to your policies and procedures. It helps with consistent treatment of application and it really helps make your program a little more transparent.

So there are some other policies that are required if you are conducting any activities that will trigger these requirements, then you do need to have policies and procedures in place. So if you're conducting any projects that trigger relocation, you need to have in place procurement. Almost everything we're doing is triggering procurement, so you probably already have local procedures in place for that, conflict of interest, travel, financial management and drug-free workplace. So drug-free workplace you're already certifying to that when you receive your federal money and most of these you probably already have local procedures in place already.

All right. So let's talk a little bit about written agreements. Any time HOME funds are provided, you need to have a written agreement in place, and we need to have this written agreement in place before we are able to disperse any funds and before it's considered a commitment. So we need to make sure we have that written agreement in place. Written agreements are really, really important. It's a valuable management tool for verifying compliance and monitoring performance. It can be used as a training tool for all parties, so the PJ, any owner, developer, sponsors you're working with, as well as your beneficiaries to learn about using HOME funds and those other federal requirements.

It's also the PJ's method of enforcing program requirements and protecting its investment. In the chapter there's a really nice chart and it's on page 9-11, so if you want to write that down and look at that later, this is where you can find a chart that explains the required provisions, as well as some suggested provisions for the HOME program for your written agreement. And it's set up by who, what kind of entity are you going to have an agreement with. Are you going to have an

agreement with a sub-recipient or you have an agreement with an owner, developer, sponsor? Is it a homebuyer or a homeowner? Is it somebody receiving tenant-based rental assistance?

And it lists what those provisions are that need to be in the written agreement. I always highly recommend that when you're working on written agreements that you put all of your HOME elements together in one place in that written agreement. That's a really good way for you to be able to go back and find anything in case maybe there was a nuance in the HOME rule that we didn't quite understand and there's been some clarifying guidance that has come out, or maybe you're working with your attorney and they want to change something, and you know that's a HOME requirement, you can't change that. So it's easier if you put all those HOME elements all together.

So this slide is just going to talk about some general things that might be in an agreement, but again I highly recommend you go back and look at page 9-11 so you can tell exactly what needs to be in those agreements. And, then, it's also found at 92504 in the requirements, in the regulations if you want to go back and look at the regs too.

But just to get started, so use the HOME funds. You're going to list the recipient's role, any tasks performed, the number and type of households that will be assisted, what's the schedule, what's the budget, those are all different things that we would find in the use of funds. What kind of fees are going to be allowed, which are going to be prohibited. What about program proceeds, how's that going to be handled? Repayment, recapture, reversion of assets, program income. Any type of written policies that the subrecipient has to follow.

What are those uniform administrative requirements, which ones are going to apply, you want to list out what those are going to be. You also want to have other program requirements, this is where you would discuss non-discrimination, equal opportunity, affirmative marketing, environment review, relocation, labor standards, lead-based paint, conflict of interests, these would all fall under the other program requirements. You want to talk about how can they request funds for disbursement, so we cannot request advancements of HOME funds.

Remember we can only pay HOME funds out after an eligible cost's been incurred. You want to make sure that that's really clear in that rent agreement. You want to identify what types of records and reports need to be maintained and when to report and what kind of reports need to be submitted to the PJ. You want to list any type of enforcement provisions, what kind of compliance do they need to maintain. Any project requirements, you know maybe you're working with a homebuyer and so principal residents is one of those requirements.

Maybe you have a rental property and so you need to talk about the rent and occupancy requirements in that written agreement for rental or what kind of units are you [inaudible] either fixed or floating, all those things to be identified under project requirements. And, then, also if you are providing CHDO operating money, you want to identify in that agreement you have with the CHDO. How are they going to be used? What kind of reporting needs to be done on those CHDO operating expenses. There's are sorts of different for the written agreement.

Now, for conflict of interest, PJs, state recipients and subrecipients have to follow a specific conflict of interest requirement and those are found in 2CFR 200 sub part B, as in boy, as well as

in the provisions in the HOME regulations. They need to follow both of those sections. You also want to keep in mind that a lot of state and local communities also have conflict of interest's provisions in place as well. So you want to make sure you're following all those that apply. And then owners, developers, sponsors, including CHDOs have to follow requirements and regulations that say they cannot occupy a HOME assisted unit.

There is an exception if they participate in the PJ's homebuyer, homeowner rehab program or they're a resident manager in a rental housing program. So there are some exceptions there. And then we do want to let you know that the rules do not prohibit the use of a related subcontractor but the costs has to be customary and reasonable. And I always think that this should be disclosed as well, I would check it with your attorney, make sure that there's not going to be a perceived conflict.

All right. We're going to move on to religious organization. I do want you to be aware that it is okay to provide HOME funds to religious organizations. This is found at 92257, but you do need to be aware that they have to be for HOME eligible activities and it needs to be open to anybody of any faith to be able to receive those funds and receive those benefits. You do need to work with this religious organization like it's any other partner that you would have, whether it's a subrecipient or a developer, they still need to have an eligible project.

It still needs to be cost reasonable and then they need to have good marketing to be able to access anybody in your community. And then religious activities can be offered but they can't be required. So perhaps maybe there's a bible study they want to offer, that's okay, but it has to be strictly voluntary, it can be required for participation and we are not using our HOME funds to fund that. Remember, our HOME funds are only used for housing. If religious activities want to be offered, that's the religious organization that's deciding to pay for that using their own funds. Our HOME funds are only used for eligible HOME activities.

IDIS. So IDIS stands for the Integrated Disbursement and Information System. This is a real-time online system that allows PJs to report on activities and accomplishments. So it's like a bank, it's where they set up their projects, it's where they draw down their funds, it's where you report on activities, it's where you report on data, all of this is within IDIS. There's so many resources available for IDIS.

So if you're brand new – and again, remember this is the PJ that's going to be using IDIS – they may allow their subrecipient to also access IDIS but it's most commonly just the PJ. Starting on page, I think it's 9-15, maybe 9-14 – it's 9-15, I'm sorry – is where you can start to find information about the IDIS system. It reviews some really basic definition and some tasks and the different roles that people can play, that's all within there. The HUD exchange also provides some really good information, there's some great guidebooks and trainings, also they're all posted on the HUD exchange about IDIS. But just in general, there's some basic components. You're going to prepare and submit the consolidated plan and the action plan. You're going to set up different activities, so what kind of activity, the location, the number of units, those are all done within the activity set up.

The activity funding. This is what type of bucket of the HOME money are we using. Are we using admin money, are we using CHDO money; are we using project money? That all falls

within the activity funding. Drawdowns, the requesting reimbursement for eligible HOME costs, that's all done as a drawdown. And the reporting, so including beneficiary data, this is all done within IDIS. Your local HUD field office also has staff there designated as super users, so if you have some questions or issues you can always reach out to your HUD field office. There's also an AAQ desk – an ask a question desk – that can be accessed through the HUD exchange where you can type in a question and somebody will answer you within a day or so to be able to answer those general questions. So please reach out to these different resources if you have questions or need to know more about IDIS.

Great, program income. So program income is defined as the gross income that's received from the use of HOME funds by the PJ, the state recipient or a subrecipient. And it's generated directly of the use of HOME funds or matching contributions. So maybe you're using local funds as match for your HOME programs, but you're running, I call them HOME like projects. So maybe you're running a homeowner rehab program, you are following all the HOME rules but you're not using HOME money for that, but you're using it as match. So any funds that would be generated from that type of program, that matching contribution program would be program income.

So a couple examples. Perhaps for your homeowner rehab program you gave them a loan and you required the loan to be repaid at transfer of sale. Maybe that's how you set it up. So maybe those funds have come back to you, the PJ, that would be considered program income. Maybe you have homebuyer property and the property was acquired, rehabbed and resold to a low-income home buyer, so, any proceeds from that sale, that would be considered program income. So program income funds are program income and perpetuity, so they're always considered program income, they always need to be used for HOME eligible activities, and this applies even if the funds were received after the end of the affordability period. They always have to be used for HOME eligible activities. We typically see a PJ receive about 10 to 12 percent of their annual allocation in program income funds.

So people often get confused about what is considered program income and what is not. So this slide really shows us what is not program income.

CHDO proceeds, and Les will talk about this more in the next section, but these are funds that come back to the CHDO. They stay with the CHDO, those are not program income, but they have to be used for affordable housing activities. So there's a little more leeway with that, it doesn't have to be exactly following home rules, it just has to be affordable housing activities.

Now, if I had a written agreement with my CHDO and I was allowing them to keep their CHDO proceeds, I would want to define what I would consider affordable housing activities so I had a little more control over that.

Recaptured funds. These are funds that are received from the sale of a homebuyer under a recapture provision and we'll talk about that a little more next time when we get into home buyer. Those are considered recaptured funds, not program income. They are treated like program income in IDIS, but we're not allowed to keep 10 percent for admin. We also have repaid funds, this is from a noneligible project or activity and these funds had to be returned to the treasury account or our local account. Perhaps there was a rental housing project that didn't

live through the affordability period and those funds were repaid, those are considered repaid funds.

We also have project application and monitoring fees. These are considered applicable credits, they're not considered program income. And then funds that return to an entity that's not the PJ, state recipient or subrecipient, those are also not considered program income. So perhaps there's an owner and they got a developer fee, that's not program income. Or, perhaps there's a rental property and there's cash flow for that rental property from the rent that's coming through, that's not program income.

Funds that are going to an entity that's not the PJ, state recipient or subrecipient are also not considered program income. So program income must be used for HOME eligible activities and at the PJ's discretion 10 percent may be used for planning and administrative activities. They have to be reseeded in IDIS. A state recipient, a subrecipient may be authorized by the PJ to retain program income, that would be in the written agreement. And the income has to be used according to HOME rules and requirements.

Let's talk about when we need to use this program income. So the old rule was we had to use our program income first, okay, before we could access any of our HOME funds from the HOME treasury account. That has changed. So it's been about a year now since the change came into place but there was an interim commitment rule that came out last year and it changes the timing of when we're going to use our program income funds. So now we no longer need to expend our program income before treasury account funds.

We are going to be collecting that program income in a local account. We want to make sure we're reporting on that local income in our annual action plan. And then for our next year plan we're going to include that program income and then identify what we're going to use it on and make sure we commit and use those funds before we use new funds. So I might actually want to change these, so I would include those in my 2018 plan and I would want to commit those before I drew down any 2018 money.

So let's do a quick quiz to find out how you're understanding is on program income. So Mike if you want to pull that poll up and if you're able to see the poll, if you could go ahead and answer which of the following is not a source of program income. So if you could go ahead and answer that.

Michael Reich: Poll is closing in 20 seconds.

Kris Richmond: Thanks Mike. So let's see how you all did. Okay. So it looks like you answered – well, the correct answer is, let's see, B, cash flow in a rental housing project received by a developer, so the correct answer here is B. And it looks like the majority of you got the right answer there. Let me see if I can make this circle again here, I'm sorry. So the correct answer is B as in boy, cash flow in a rental project received by a developer because remember funds that go to any other entity besides the PJ, state recipient, or subrecipient is not considered program income.

So these funds went to the developer, that's not the state recipient, subrecipient or PJ, so that's not considered program income. You'll see here these were – the first one, A, these are principal interest loan payments received by the subrecipient, that is program income. C, proceeds from a sale of rental housing after the affordability is over received by the PJ, also program income and home matching funds returned to the PJ, also program income. So that correct answer is B, as in boy.

All right. So let's talk about pre-award costs. So a PJ may incur eligible costs prior to the effective date of their annual home agreement, this is what we would call pre-award costs. So maybe admin and planning and project costs, these are just different types of examples that would be incurred. It can be incurred at the beginning of the program year or the consolidated plan is received by HUD, whichever is later. It is capped at 25 percent of the grant unless HUD approves a higher amount. And then the costs have to be for eligible HOME activities and they are subject to other federal requirements such as Davis-Bacon, lead-based paint and environmental review.

All right. Let's talk a little bit about monitoring. A PJ is responsible for managing the day-to-day operations of their HOME program and they have to ensure that the HOME funds are used properly. So one way for them to be able to ensure this is to do monitoring. So monitoring's conducted to check for compliance and it helps keep PJs out of trouble. So it helps with the production, accountability, are they actually doing what they said they would do. Are they in compliance with all the HOME requirements, the other federal requirements? Are they responding to community needs?

You do those consolidated plans; you try to find out what the needs are in the community. Perhaps in your Con Plan you identified that serving large families is a need. And perhaps as the monitor you've been reviewing the last couple projects that were approved, and they were all for one-bedroom units, and one-bedroom units are not serving large families. So that's one way for you to be able to check against, are you being responsive to those community needs. Are you being a good steward of the funds? Are you effectively using your resources and also with good organizational performance?

So who gets monitored? Well, the answer is it's everybody. Everybody gets monitored, so PJs, that's your participating jurisdiction, you get monitored by HUD and the inspector general. CHDOs, these are the special nonprofits that Les is going to talk about in a little while, they get monitored by the PJ. Subrecipients, developers and contractors, they also get monitored by the PJ. So PJs are required to conduct risk-based monitoring of programs and projects. And this slide shows one way that PJs could evaluate risk. You know by doing this it really helps the PJ identify projects and entities with low, medium, and high risk. So one way is they could determine different risk factors, maybe the dollar amount, maybe there's new staff or staff turnover.

Maybe there have been previous issues or complaints, so those would be different risk factors. You would assign a weight to those different risk factors. Some might be weighted higher such as staff turnover or maybe the amount of funds, and then you would determine the rating by adding up what those factors are, and you're going to compile your score and rank your organization. So just something to keep in mind, is that the level and structure and the formality

of your risk assessment should really reflect the size and the scope of activities that you, the PJ, are undertaking.

So PJs have to have a monitoring plan in place with monitoring policies and procedures. And in that plan, you want to have identified what your objectives are. You want to have standardized procedures for reporting by the funding recipient. You want to have standardized procedures for reviewing and monitoring. You want to identify how your risk is going to be identified and addressed. And you also want to have frequency of meetings, monitoring reviews and inspections. These are all different things you want to include in that monitoring policies and procedures.

You also might want to have some samples. Maybe you want to have that sample email or letter that you're going to send out. When you're going to be coming to monitor you want to have checklists and then job descriptions. And I always chuckle about this with job descriptions because every job that I've always had had a little bullet that said, and other duties as assigned. So I like to have roles identified in there. Who's going to be sending the notification out? Who's going to be looking at the file? Who's going to be doing the inspections?

So I always like to identify what those roles are. And, then, in that annual plan you want to have a schedule and that schedule should incorporate your results of that risk based evaluation that you did. In this first slide we talked about here, this was how we – one way that we came up with how we could evaluate our organizations that we funded and in our plan, we want to be able to identify the results of that in the schedule of what we're going to view our review.

So there are different levels of monitoring. The first level we're going to talk about is HUD's review of the purchasing jurisdiction, this is conducted annually. It's usually a combination of desk and on-site monitoring. A desk review is pretty much what it sounds like, any type of monitoring that a staff person can do from their desk. They're going to pull IDIS reports, they might ask you to send some information in, they're going to be looking at all different data systems, so there's different ways they can do that desk review.

And then they're going to come on site and they're going to go look at some of your projects, they're going to interview staff, they might even interview some beneficiaries, so different combinations of desk and on-site monitoring. If there's issues that come up, they might result in a concern or a finding. And a concern is not necessarily a regulation violation, but it could lead to a regulation violation, that's what we consider a concern. And then a finding is a regulation violation.

And so what you'll receive, you'll have an exit conference where the HUD staff or someone will review any issues or concerns that they found or findings that they found. And then they will report back to you with a written letter and the letter will list out everything that they saw as well as any concerns or findings, and then the PJ will need to respond back to that and to solve any of those concerns or findings. If the problems are not resolved, then there may sanctions put in place.

Another level of monitoring is the PJ monitoring their own programs and administration. Again, you want to make sure that you're consistent with your consolidated plan. You're going to be

doing a desk review for this, most likely. You're going to be doing a review of your commitments of funds. You want to be checking to make sure you're meeting your deadlines. You're going to be checking your match low, are you meeting that match obligation, is it being documented properly.

Are you in compliance with the way you designed your programs and are you following what the HOME requirements are? You also need to make sure if you have subrecipients that you're conducting a subrecipient monitoring on an annual basis. And the regulation site for that is at 92504, little a. Whenever we train this in person, somebody always comes up to me and says, show me where it says I have to monitor my subrecipient annually, so I've learned to write that on my notes, 92504a.

Another level of monitoring is for the PJ to monitor their projects and the beneficiary. So the beneficiary is the recipient of the HOME funds or benefited from the HOME project, that's what we consider a beneficiary. So you want to, for the project monitoring, you want to check is it meeting all the requirements, did it meet schedules, milestones. Were the costs on target? Was the proposed number of units met? Were there inspections conducted? And this is needed for your projects regardless of the type of project or the entity.

And then there's beneficiary monitoring. You want to make sure that the proper households met the correct income requirements and occupancy requirements. There are also two really good guidebooks and I'm just going to mention them but during the break I'll be sure to go back into the chat box and write the names of these. These are for rental projects, so if you have rental projects in your portfolio there's two different guidebooks that are really helpful. The first is the compliance and home rental projects, a guide for PJs.

And then there's a second one, it's the same information but it's written for the audience of the property manager, so it's compliance and HOME rental projects, a guide for property managers. So I'll make sure I write that in the chat box during the break, but those are two really good resources for monitoring if you have rental projects in your portfolio. There's all sorts of records that have to be maintained by the PJ. Your record reporting is found at 92508 and so you have to have sufficient records in place to document that you're meeting program requirements.

So you have to have information about your program, what are your guidelines are on your program, where the policies and procedures are on your program, what are the maximum levels of subsidy you're going to assist with your programs, those are all different things you want to have with your program. Who's eligible? What areas? Maybe you have different target areas within your jurisdiction, that's all information that would be in your program records. And then you have your project files. This is for each individual project that's gone through your different programs.

Each project file should tell a story. If you're running a homeowner rehab program and I ask to see 123 Oak Street, I should be able to sit down and understand everything that happens by looking in that project file. I should not need a staff person sitting next to me to interpret what happened and did not happen. So you want to really make sure those project files are telling a story. You need to keep track of your CHDO files because remember we need to be reviewing

our CHDO, certifying our CHDO to make sure they're a eligible CHDO every time they're funded. So they need to be maintaining that they are indeed a qualified CHDO.

You need to have files in place that shows that you reviewed those requirements and that they gave you documentation to match that. Les is going to go much more into detail in our next section so you'll be a little more familiar with that after the next section. You need to have all your financial files in place, program, administration, your other federal requirements. Remember in our other federal [inaudible] uniform and location act, lead-based paint, Section 504, affirmative marketing, those are just to name a few.

They need to be maintained for five years, so the initial five years if you have like an owner, keeping tenant files, those need to be maintained for five years. If you are the PJ you need to keep your projects, your files, for five years after the affordability period ends. So if you have homebuyer program, they need to be kept for five years after the affordability period ends. If you have rental programs, five years after the affordability period ends. So if you did a new construction rental project, and remember new construction has a affordability period of 20 years, you would be keeping those records for 25 years.

And people always ask during the trainings, can we do e-files. Kris, do we have to have paper files, or can we do e-files? So we always say you can have e-files, but you need to make sure you have a backup in place so if the system crashed there is another backup to be able to show what those e-files are. And you have to be able to print and access those files. So if HUD came to monitor and they don't want to review e-files, and they do request that you print those out, you have to be able to access and print those out.

All right, reporting. PJs are required to do reporting, they have to submit their CAPER and the CAPER stands for the Consolidated Annual Performance and Evaluation Report. This needs to be submitted on an annual basis and it needs to be submitted within 90 days after the program year closes. In that CAPER they're going to talk about their accomplishments, as well as the status of actions to implement their strategies.

So you do need to make sure that you have that CAPER conducted and submitted to HUD within 90 days after the close of the program year.

So Les, that was a lot of information in 45 minutes. Are there questions that came up that we could go over real quick or did you want take a break?

Les Warner: Yeah, I think there are a couple of things we should just kind of revisit quickly.

Kris Richmond: Okay.

Les Warner: There were questions you covered talking about the 10 percent limit on the HOME admin and people were kind of asking about, well, you know, is that a project? Is that project by project that that cap is 10 percent? So the 10 percent is out of your annual allocation. The maximum that you can use for eligible admin costs are capped at that. So that's your overall budget, that's for anything that you as the PJ or a subrecipient, state recipient are going to be charging off to admin.

And as Kris talked about, generally our admin costs are not actually going to be project specific costs and that's why we're charging them off to admin. In some cases, though, she mentioned, we've got costs that could be charged, may be eligible to charge as admin but they are project direct costs and would be eligible to charge off as to the project. If we're able to do that, if we're able to charge a cost off as part of our project and project delivery costs, that allows us, essentially, to conserve that admin budget that's capped at 10 percent. So a lot of times we're going to be scrutinizing those costs and trying to figure out how is this eligible, what are my options? If I have the option of both, either admin or a project cost, a lot of times we're going to track those costs and charge them off to the project itself, just to try to help with our budget a little bit.

There also were a couple of questions as people were thinking through what you had covered about program income, and trying to think when it's really considered program income and when it's not. So there was a question about if I have rents coming back to me from a project is that program income?

Well, the key here on understanding program income is, again, who's the money coming to? So as Kris said, if the money comes to the PJ, the subrecipient, the state recipient, then it's considered program income. If it's coming to a developer and so probably the majority of our rental properties are going to be owned by a for-profit or a nonprofit entity, including it might be a CHDO project, in those cases, because they are not a PJ or subrecipient or state recipient, then it is not program income.

So generally in a HOME program we don't see rents coming back to the PJ but there are some instances where the PJ actually does own that property. And we'll talk a little bit more when we get into the CHDO section next after our break about there's a whole different system for CHDOs because they're under different financial regulations, they don't actually have program income requirements, but they do have CHDO proceeds requirements and we'll discuss those further.

So Kris, I think we should go ahead and take a 10-minute break and be back at 2:00 o'clock Eastern time and then we'll go into Chapter 3 for the CHDO requirements.

Kris Richmond: Great. And I put in the chat box already the names of those two resources for HOME monitoring –

Les Warner: Great.

Kris Richmond: – rental projects.

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 if 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 Richmond: 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)