2019 Building HOME Webinar Series IV, Chapter 3

Les Warner: Welcome back, everyone. I'm Les Warner. I'm going to be handling the second half of the session. We're going to be spending the second half talking about the Community Houses Develop Organization requirements and about the specifics on how we certify the organization, the types of eligible activities, the role that the CHDO needs to be in. So hopefully all the questions that you have related to these particular requirements of what we keep calling the sheet cake chart that we looked at on the first day and that I was saying included really a lot of the key home requirements.

So you see on the right-hand side again, we have this minimum of 15 percent of your home allocation needs to be done in conjunction with a certified CHDO, doing one of CHDO set-aside eligible activities. And as I mentioned, that's a minimum of 15 percent, depending on your action plan, the needs in your community, the partners that you have to work with, that percentage might be much higher, but we have a minimum threshold of 15 percent. We'll talk a little bit more about the 10 percent predevelopment fund later in this section.

Just keep in mind that again, as I was saying, HOME is a housing production program so all of our funds are in some way going to relate to production of affordable easement, affordable housing. It kind of goes back to those original slides we talked about sort of the thought behind the creation of the HOME Program. And one of those things was also in harnessing the non-profit capacity. And so we have this set-aside, we have the requirement of partnering of partnering with community housing develop organizations as part of utilizing our HOME funds.

So we have as part of the HOME regulations themselves, and we did mention that last week, there is a requirement within the regulations themselves that our funds are committed within 24 months, or those funds would essentially go back to HUD. We have currently a temporary suspension of that 24-month commitment requirement and that currently goes through I think that should be fiscal year, FY 2021.

But we don't know that - that will always be something that will be in place. That's important, that's why we spent some time talking about what needed to be in place and meet those, the definition of commitment. And it's something that, as a PJ, we need to keep in mind that we're trying to, with the funds we have available, we're trying to keep those funds moving, moving forward towards addressing the housing needs that we've identified as part of our consolidated planning process.

So even though we have a commitment deadline at this point, you as the PJ, as the CHDO partners, need to make sure that these projects that we are putting together viable projects, and then of course, keep in mind, we have these four year project completion deadlines. And so the PJ that is funding a CHDO project is going to be looking at those project timelines and making sure that they're very confident that the project can be completed prior to that four year project completion deadline.

And of course, the CHDO in administering that program would be really watching those deadlines, their projected the timelines and make sure that they remain on schedule, so that there will not be a compliance issue related to the completion of that.

This is a chart that they included to try to help you think about sort of the life cycle of your CHDO funding. So in one way or another, the PJ is going to identify CHDO projects. And that might be that you have a competitive funding process and maybe you have a specific time when those CHDO applications come in. Maybe they're coming in with conjunction with let's say low income housing tax credit, other competitive funding processes.

You also could have an open window where essentially at any point, that a CHDO could identify a fundable project that you would be working with them on collecting through some kind of an application all the needed inform that you would need to be able to go through the process of determining is this an eligible use of funds, is this and eligible set-aside project. We're going to be talking about the certification of the CHDO itself, so we would need that information, also, the information that we needed to complete the underwriting for that project. All of that will be part of some application process that the PJ would use to collect this information.

Once they have that application in place, they would begin that eligibility review process, completing their underwriting inside the new layering review for that project. But also, as part of that - we'll mention this again - that we have to do a CHDO certification each time we make the commitment of our HOME set-aside funds. So in the past, if it's something that you might have done only annually, this is going to be done on a project-by-project basis. And then of course, all of our other federal requirements and a particular environmental review is something that has to be done upfront.

So at the point that we have completed our process, we've determined that this is a project that we want to fund, we've determined what that level of funding is that's appropriate to support that project to make sure that it's going to be sustainable, we would execute that written agreement, so have a reservation commitment of our CHDO funds in play. And that essentially starts then the timeline for that four year project completion deadline whether it's construction or rehab of rental properties, whether it is construction or rehab of HOME buyer units. And then we have deadlines essentially of having the beneficiary actually identified.

So under HOME buyer, we talked earlier about having this nine month deadline from the point that construction is completed to make sure that we have a ratified sales agreement in place, and then once that closing occurs, of course, we're going to collect the information about that HOME buyer and that's going to be attributed to IDIS to report who was it that we assisted with the funds.

For our rental projects, we talked last week that we have an 18 month time deadline from project completion to get our HOME assisted unit occupied by eligible households. If we fail to meet that deadline, then we face the repayment of the corresponding funds for those units that did not meet that occupancy requirement.

So it becomes really important on that frontend, the underwriting, on the review of this project to try to make sure that there's an appropriate market, that we've got a capable partner and that we've got a plan on how to market and sell or rent units and collect that information, get it reported to IDIS so that we can maintain them as a client.

So we've really got an ongoing cycle as part of that project. For projects that have a long term affordability period, that cycle really goes on from this throughout that affordability tree then the actions that the PJ is going to need to take to make sure that that project continues to meet the requirement during that affordability period.

Let's talk about eligible uses. So an eligible use for set-aside funds is not -- it does not include everything that we could otherwise do with HOME funds. All of our CHDO set-aside activities are going to have an element of development of units. So that might be that we're going to acquire and rehab, sell or acquire standard rental units and make them affordable as part of our home assistance as part of that. We also might be acquiring and rehabbing rental units or new, doing new construction for either rental or HOME buyer.

Now, we can include HOME buyer assistance. That can be an eligible use of set-aside funds, but only when it's part of a project where we're actually developing those units. So if we simply were providing a home buyer with down payment assistance and they went out and found an existing unit, that's not going to be eligible.

But if, as part of our CHDO set-aside project, we're building these units, or we're acquiring and rehabbing them, then the financial assistance to make that specifically affordable for each of those HOME buyers would be something that could be included in your eligible use of set-aside funds. So, those are the eligible uses. Again, they all have some element of development that is part of that.

So the things that we can't do. So again, if the eligible things are related to development, the things that are not eligible are things where really CHDO is not functioning in developing units. So, if we had a CHDO that applied for and received funds and simply loaned those to another entity, so they weren't actually in the role of owning, sponsoring or developing that project, then it's really not a CHDO project and so it would not quality for the use of set-aside funds.

Also, if we have where the CHDO does not really have control over this project, in the case of HOME buyer and we're going to be talking about roles a little bit later in this. If they were not serving as the developer, so someone else is really handling that aspect of the project then it would not qualify as a development activity for that CHDO and so it wouldn't be eligible.

Tenant-based rental assistance, not eligible because again, we're providing some affordability assistance, but we're really not doing anything to develop a unit. Homeowner rehabilitation, this is we're not developing a unit, we're simply bringing it up to standard, it's already owned by an income eligible household, so homeowner rehab again is not something that we're able to use our set-aside funds for.

And then down payment closing costs where it's not associated with the development of the unit is something we cannot do. We talked about an earlier slide. We could use set-aside funds for down payment and closing costs when it was in conjunction with a CHDO developed unit, but it's a standalone activity. It's not going to be something that's eligible for use of the CHDO set-aside funds.

So, that kind of brings up this issue of CHDO versus subrecipients. So for instance, we mention on this last slide that things like a homeowner rehabilitation project. It's not an eligible use for a set-aside funds, so a CHDO could not be funded with the set-aside funds to be able to administer a homeowner program; but that CHDO as a nonprofit could be applying and could be designated as the subrecipient and could run a homeowner rehabilitation program. The importance of this issue is that we've kind of talked about CHDOs are sort of an other entity. They're not a subrecipient, they're not a PJ, and so the rules are different that apply to CHDO.

So when Shawna was talking about 2 CFR Part 200 and all the financial requirements, those apply and will be part of your agreement with the subrecipient and will control how they were operating that local program. Only two sections of 2 CFR Part 200 actually apply to CHDO. So there's a much more simplified, streamlined process.

When Shawn talked about admin funds and we looked at the sheet cake chart and ten percent of your allocation can be used to assist, to cover those admin costs, CHDOs are not eligible to receive admin. Subrecipients are. A CHDO though, could charge a developer fee as part of a project and cover some of those expenses.

So we have different sets of rules that apply. It could be the same organization, sometimes functioning as a CHDO and being funded under the CHDO rules, and in other cases, could perhaps be also receiving funding as a subrecipient. So in those cases, it would be real important to make sure that you had a clear, written agreement which spelled out the differences. And might probably want to sit down with that CHDO and talk through, okay, on this project that we funded you as a subrecipient, a different set of rules, you're going to need to be able to keep these two funding sources straight and understand that we've got different rules that are going to apply as part of that.

In addition to that, Shawna talked about program income, so we said that money coming back to a subrecipient would be considered program income. We're going to talk in a minute or two here that money coming back to a CHDO as a, funded as a CHDO set aside program, that if the PJ allows it, that money would not be considered program income, but would be CHDO proceeds and have again, a little bit more flexibility as part of the regulations that would apply.

All right. So let's talk - when we're talking about a CHDO, community housing development organization, what do we mean by that? What's the criteria we would use to say, yeah, these people actually qualify on that. So we've a number of categories and we're going to spend a little bit of time going through each one of them. So we're going to look at their legal status, their ability to operate independently, they're accountability is a low-income community and then also capacity and experience.

And as I mentioned, with the 2013 HOME final rule, the requirement is that for each time that you make a commitment of a home set-aside funding to a CHDO that you are going to do that certification process. And just keep in mind, the reason for this is that as part of that certification, you'll see this last bullet point, and the upper part was capacity and experience. So the capacity and the experience that's needed for one project might be different than what was needed for another.

So for instance, if I was going to do a large scale new construction rental housing that had, you know, kind of a complicated financial package that was going to be put together and then needing oversight of a large scale new construction, that takes quite a bit of capacity and expertise.

If that same organization were applying, let's say to do a HOME buyer where they were going to purchase and rehab a single house and then market and sell it to an income eligible buyer, really a different skill set that's needed. And so for each of these projects, based on the projects that they're applying for, we're going to do that certification, including that capacity and review and make sure that we have an appropriate level of capacity and experience, that it makes sense for us to fund that particular project.

Now, the expectation is that the CHDO will remain in place throughout the period of affordability and so as part of that process, we're trying to make sure that we have viable, sustainable projects but also partners. So you're going to need to certify the CHDO at the time that you make that commitment, but you'll also need some methodology in those later years, throughout that period of affordability to revisit that and recertify to make sure that we continue to have that CHDO in place throughout the period of affordability.

So language does not say it has to necessarily be annually. That might be an easy way to be able to cover that. But there is, because we have a requirement that the CHDO remain in place through the period of affordability, we'd also need to have a system to be able to track that and make sure that we were in compliance. Because of that, oftentimes we'll see PJs will have language within their written agreements that will say, you know, if there's going to be a change of ownership during the affordability period, that they have the right to approve that because they need to make sure that the subsequent owner would also qualify as a CHDO.

All right. So let's go through some of our categories on the certification. So legal status, they need to be organized under state and local law, and one of their purposes needs to tie back to the home program itself in having a purpose of providing decent and affordable housing to low income persons. It doesn't mean that has to be their only purpose for the organization, but we would look at their bylaws and see that yes, they've listed that as one of their purposes as an organization.

They need to be organized in a way, excuse me, not to provide individual benefits to board members or the sponsor for that CHDO. They need to have a clearly defined service area. Now, we see a lot of variety in that. It might be that we have a CHDO that is serving a particular neighborhood or section of an individual city. It might be that they are county wide or multiple counties in that. So that service area can really vary in scale, but it needs to be defined as part of their organizational status. And that might be changed over time. Maybe they're going to expand that a bit over time. But that would be something that would be defined.

And they also have to have their IRS tax exempt status in place. So it's not uncommon to have someone, organization, working with the PJ saying we're seeking to become certified as a CHDO, they've applied. Maybe they have a temporary, but they have not received their final tax exempt status. Until that is in place, you're not going to be able to certify them as meeting the legal status requirements.

There's also a concern that the CHDO be able to have independence. So they might be created by another organization, but they need to make sure that they're able to operate independently. As Shawna mentioned earlier, it's fine that we have religious organizations that would be the sponsor or just be a part of that organization, but religious activities would have to be voluntary, and so the marketing of those units would be for the whole community, it would not be tied or prioritized in some way based on a religious affiliation.

So government entities also can create CHDOs and we have a number of examples of these where we have, particularly public housing authorities or housing finance agencies, redevelopment agencies that have helped to sponsor, to create CHDOs to provide that needed capacity. But we have some rules related to their ability to operate independently.

So if we have a for-profit entity that is sponsoring or has created a CHDO, the CHDO can't be controlled by that for-profit entity. And we have sort of a further exclusion that if that for-profit entity is in the housing development, or management, property management role or that's their focus, that they could not be in the role of sponsoring or creating a CHDO, really because of the conflict of interest there.

The for-profit representation on that CHDO board is capped at one-third. So we want to make sure that that CHDO isn't controlled by that parent or sponsoring organization. And then of course, keep in mind that the CHDO has to be free to be able to contract for goods and services from any vendor. So this is not a way for a for-profit entity to sort of create the CHDO that's then going to funnel business to them. That's not something that's going to be allowed.

Okay. Let's switch gears a little bit and this is a really important aspect of this, is the accountability to the low-income community and that's really part of this harnessing the non-profit capacity is the idea that the CHDO with their tie to the low-income community, can help guide and steer towards more appropriate projects that are going to better meet the needs of the low-income community.

So we have two ways that we are required to meet this. First off, the CHDO board itself has to have at least one-third of their board members are going to be able to be certified as being representatives of the low-income community. And we're going to talk - there are multiple ways that we're able to do this. We also have a cap that no more than a third of that board can represent a government entity.

And so if we had a board member that qualified as a representative of the low-income community, but they also, based on our criteria of being tagged as a government entity representative, we're always going to count them as a government entity representative, even if they happen to qualify for low-income community.

So we'll talk in a minute or two about sort of the logistics of collecting that information and make sure that our board members actually are going to qualify. So we've got a minimum of a third representing the low-income community and no more than a third representing the government entity. The balance of that board, the last one-third is really unrestricted and typically, we're going to be recruiting folks that bring some kind of capacity or connection in the community that would be helpful in providing some leadership and guidance in making decisions to address the need of the low-income community.

So we have three methods in how we would be able to designate board members as actually representing the low-income community. So they could be a low-income resident. And so in that case, we're going to, as part of our documentation of this, show that we have s self-certification of their income to show that I'm a family of four, and my income is between this range, and that qualifies me as a low-income resident of the community.

I also could qualify as a representative of a low-income neighborhood. So, for instance, my first house, I bought an abandoned crack house in a low-income neighborhood, even though I was not low-income myself, I qualified because of where I lived. So in those cases, my documentation for that board member would be showing their address, and then looking at the Census information to determine that that neighborhood itself actually qualified by being at least 51 percent LMI.

And our third category here is we could be an elected representative of a neighborhood organization that was serving that low-income community. So maybe I have a, I don't know, some kind of community service organization, maybe I've got a feeding program that is local to that community. If I am elected, so I would have a letter from that organization that says we've designated this person to be the representative of our organization and serve on this board, that would be your file documentation.

So Shawna and I over the years have oftentimes worked with grantees, kind of reviewed some of their compliance issues, and it's not uncommon to see a board roster that will have asterisks beside a number of the names and there will be a key at the bottom that would say these are our low-income representatives. Well, that's a good start, but we then need to know okay, so which one of these three methodologies, how is it that they're qualified to be a low-income representative. And so we would need that additional documentation.

The other part of that is, as I mentioned earlier, if that person also qualifies as representing the public sector, we're always going to count them towards public sector and not towards low-income. So we're really going to have to have sort of an intake form that asks all of these standard questions about do you qualify as a representative of the community, but also asking the questions about public sector, to them be able to make a decision on which third of the board are we going to count that individual for.

So the second part - I said there were two ways that we have accountability to the low-income community. The organization itself is also required to have a process for seeking input from the low-income community and also from their beneficiaries. And that would be relating to the decisions they're making on the new projects, where are we going to put them, what are they going to look like. But also related to the ongoing management of existing home projects, so this formal process needs to be in writing, needs to be part of their bylaws or resolution.

So ways that we might see this, we might see as part of their formal process that they would say any time that we are looking at a new project, we are going to have committees that are formed or we are going to do some kind of neighborhood advisory meetings where we're going to seek input about these potential projects.

We might have some kind of open meetings. It also would be common where we have management of home projects to organization in each one of those projects where we have a multi-unit project to have a residents council and essentially seek input on an ongoing basis from the residents about how is the management of this property, are there issues that CHDO should know about.

And so we would see that this process is in place in writing, but also, if we were to look at the board minutes, we would see that after they've had an open town meeting and collected information, we would see in that board meeting then that the information collected would be brought back and presented in that board meeting and become a part of the input that's considered as they're making decisions for that organization.

All right. So let's talk a little bit about the section of our board that is capped at one-third, no more than one-third representing the public sector. And so the folks that we're going to count towards public sector are going to be anybody who is an elected official, an appointed official. It also includes public employees, or persons that were appointed by a public official of a government entity.

And so, as we mentioned, we could have someone who resided in a low-income neighborhood we could document with the Census track information, but because they were an employee of government entity, instead of counting them towards our low-income sector on this, we're going to count them as our public sector. So it's really important to collect that information, ask all of the information to know that you've done it correctly. But here's a visual just reminding us of our one-third minimum for low-income and our one-third maximum for government entity representation on that board.

So here's where we kind of switch then into, as part of our certification process, that capacity and experience part of it, which is so important to make sure that if we fund this organization, that they have the wherewithal to be able to complete that project. So when we evaluate capacity and experience, we are only going to consider their paid staff, whether that's full-time, part-time. It could be a contract employee, that it was part of that. And so we're going to look at the staff and the experience that they bring to that organization.

In the case where we have a CHDO that's in its first year, they can have a consultant as part of demonstrating that capacity, but as part of that consultant's work, they will be working with the CHDO staff to provide training to them, so some key things here that keep in mind. So what we're not including in that capacity evaluation would be the board members or other volunteers, any officers or employees of a government entity.

And it might well be that we as a PJ would really be working kind of closely with this CHDO to help them guide them early on in their project, but we cannot look at those governmental entity employees that might be doing some important guidance, that's not going to be considered as part of this evaluation and capacity.

And then, consultant as opposed to a contract employee would not be counted as part of that. And I'll just kind of point, though a contract employee generally is able to speak on behalf of that organization, would appear on their payroll, where a consultant is hired for one specific scope of work and would not generally be authorized to speak on behalf of the CHDO itself.

Employees of a for-profit sponsoring entity, and this is where we had a number of organizations that ran into trouble. But for instance, if I had a housing authority that sponsored and created a CHDO but some of the staff that were working with that CHDO, instead of actually being on the payroll for the CHDO, remained on the payroll for the public housing agency, that might be because of benefits and some other things that went with that, because they are not on the CHDO's payroll, they're not -- part-time, full-time staff, and so they would not be counted as part of that. And then of course, donated, contract, cost allocated, so someone that is not on the CHDO payroll is not going to be included.

So at a minimum, the HOME requirements say that a CHDO has to have at least one year experience serving the community. That wouldn't necessarily have to be housing, but then as sort of our second tier, we're then looking at okay, with a proposed project, what's the capacity that's needed and do they have staff that are going to meet that needed capacity for that project. Here's also where I mentioned, so a subrecipient 2 CFR Part 200, all of it applies to them.

For CHDOs, it's really only two sections, 302 and 303, which really talk about some basics about internal controls, being able to track money coming in and expenditures, money being paid out [inaudible] accounts, that sort of thing. And as I mentioned, the PJ has to complete this certification review and document capacity each time they're funding the project and it's going to be specific to that project that's being proposed.

So just to get a feel for what you all are dealing with, we want to take a poll and know how many CHDOs you're actually currently working with in your PJ, so is it less than three, three to five, five to ten, ten or more. It looks like Nicole has the poll open, so if you could go ahead and vote now.

Nicole: The poll will be closing in 15 seconds.

Les Warner: All right. so this is kind of what I would expect to see. The majority of you have less than three CHDOs. That would be pretty normal. Some of you have in the three to five or five to ten or ten or more. Now, if you were a state, and so you have a much larger geographic area, it would be really common and you would have a larger number of CHDOs. Also, if you're a large PJ, and so you have a larger allocation of funding, you probably have, [inaudible] oftentimes to be able to do [inaudible] implement and use those CHDO funds.

So the key here is that you've got at a minimum a 15 percent set-aside of your funds that have to be expended in conjunction with a certified CHDO, one of our eligible activities. And so we need to make sure that we have an organization or multiple organizations to be able to provide the capacity needed to actually implement those funds. And that can be sort of an ongoing challenge to make sure that CHDOs are healthy or that we recruit additional CHDOs as we might have some organizations that over time we're not going to be taking on new projects.

All right. So we talked about what a CHDO is, we talked about the requirement that were needed to be able to certify the CHDO, but we also have to have the CHDO serving in one of our roles. We talked about it's not a CHDO project if they're simply passing the money through to another entity. We have some definitions on what we're looking for here.

Under rental, we have three options on roles and then under HOME buyer, we have one specific role for HOME buyer. So as part of your funding process, you're going to be determining not only do we have an eligible project and a certifiable CHDO, but are they serving in one of the required roles that will then reflect their [inaudible].

So this is a list of the roles and probably the lowest level of capacity needed would be for a rental CDHO project to simply be the owner. So the expectation would be the CHDO is going to own the property [inaudible] period of affordability. But in this case, the developer or contractor [inaudible].

Shawna LaRue Moraille: Hey, Les, I'm sorry to interrupt you, but we're hearing about every other word, and I'm not sure what's going on, so. It's actually worse than what it is.

Les Warner: What I'm going to quickly do is hang up and see if that maybe clears that up.

Shawna LaRue Moraille: Okay, great. Okay, well, we'll standby. Sorry folks. Just a couple of moments here. Many of you have been writing in to the Q&A box, which we appreciate, so make sure that you've got your questions in there. This definitely helps us prepare for tomorrow. I know there's one question that we would like to clarify with the class on the CHDO requirements, which we will do that when he joins.

And then while we're waiting, in the chat box, I told you I would find record keeping that part of the regulations. So I put that there. It's 92.508. One of you asked where the low-income input was for CHDOs, and I sent it to them, but I, I think guys see it publicly. It's -- that's in the definition of CHDO in 92.2.

And then finally, in the chat box, I put a link to the monitoring resources that are available. A couple of you are interested in that, and there's a link to home monitoring guides, HUD's checklist for monitoring, lots of good things there.

Les Warner: Very good. I'm back. How am I sounding?

Shawna LaRue Moraille: Oh, you sound so much better. Thank you so much.

Les Warner: Very good, thank you so much. So as I was mentioning, in the case of rental owner, so really our threshold that you hear is the ownership that allows us to use other folks to be able to handle some of the more technical aspects of the project. And of course, the expectation is that they're going to own the property during not only the development but also a period equal to the affordability period. So that's probably the lowest level of capacity that would be needed.

Probably more commonly, we're going to see where the CHDO is serving as the rental developer. And so they're not only going to own the property as we mentioned in the earlier category, but also, they're going to be the folks who are running that project. So they're going to be packaging together the financing, they're going to be overseeing construction and they're also going to be managing that property during the period of affordability.

And so again, a little higher level of capacity that would be needed as part of this process. And we would expect that that application is going to clearly describe what their role is going to be. As part of that, we would then be looking to see, okay, what staff are going to be responsible for some of these key functions and then trying to evaluate do they have the experience to be able to do that.

And you'll note on that earlier slide, we mentioned on capacity, we're including full-time and part-time staff. That would also be I think an evaluation of, you know, let's say I have a part time staff member who has good capacity. Looking at the scale of the project, or maybe several projects that they have currently going, is a part-time employee going to be adequate at that point, to try to evaluate, do we have adequate capacity on this.

Our third role in this is as a sponsor. And the key thing here is that for our low-income housing tax credit projects, instead of having one owner, we're going to have partners that are part of that ownership. So a low-income housing tax kind of project isn't going to qualify for owner or developer because we don't have that fee simple or lease ownership for the affordability period because we have other partners who are part of that ownership entity.

And so in cases, where we have tax credit projects, we always are going to have to be under the sponsor role, and as part of that, the PJ is going to have to make sure that the CHDO is in an ownership position, so they either are a wholly owned subsidiary serving as the general, sole general partner or managing network.

So they need to be in control of this project. There is a second definition under sponsor and this is where we have a project where there is a plan really from day one, that this project is going to be transferred from one ownership entity to another. So we could have a project that was developed by a CHDO and then is going to be transferred to another organization that's been pre-identified.

So, for instance, let's say I have a, a development project for let's say senior housing and so I have a CHDO that is going to put the financing together, oversee construction, have a lot of capacity for what's needed at that part of the project.

But once the project is completed, they're going to transfer it to the other non-profit who specifically works with the target population. And so they're going to then manage and oversee that project through the balance of that affordability group. That also is one of our definitions under rental sponsor. We don't see that very often.

All right. So we've got a quiz here to try to figure out were you actually paying attention in the last couple of minutes. So important point, if we have a home project that includes low-income housing tax credits, which of the roles may the CHDO be in? Can it be done under owner, developer or sponsor, true or false? Do we have that option of any of the three, if that's true or false, they are limited in some way, if you'll vote now, please.

Nicole: The poll will be closing in 15 seconds.

Les Warner: All right, so the majority of you got this correct. It is false. I said that with tax credit projects, because we have multiple owners, that the only role that you're able to utilize here is going to be sponsor. So the CHDO is not an outright owner in that projects the owner and developer that were qualified for in low-income housing tax credit project is always going to need to use the sponsor role as how they're going to qualify this.

All right. As we mentioned, there's only one definition for HOME buyer, and that's going to be developer. So we're going to expect that the CHDO is going to own that property, they're going to oversee the development, so that's putting together the financing, but also marketing those units qualifying HOME buyers as being eligible as part of that.

Now we have an extra requirement here. In the case where we have a CHDO sponsored or set-aside project, and we want to also be able to provide down payment assistance to those buyers who are buying those units, you are capped at, that means you are adding additional dollars to no more than ten percent of the home funds to the project.

And so that puts a limit on how much that down payment assistance could be. So that applies to down payment assistance. If I was doing some kind of a secondary financing, so maybe I'm going to provide a second mortgage to those individuals, that's not held under this down payment assistance cap. And so just keep that in mind as you are designing projects and calculating the amount of down payment assistance that could be provide to those HOME buyers.

Let's finish this up by talking about some of the ways that the PJ can support their CHDOs. Of course, we know that we need some healthy CHDOs to be able to certify, to be able to, you know, make sure we can use our allocation. So our pre-development assistance we mentioned that in our sheet cake chart, that up to ten percent of your CHDO set aside could be used for pre-development assistance.

This is essentially a loan that is provided to the CHDO to cover some of those upfront costs related to putting together a project. That might be doing some site testing, maybe some engineering. It might be things like a market study or getting a option on a property.
This is not something that's required for the PJ to fund, but it is something that the CHDO regulations allow you to be able to do as a way to make sure that your CHDOs are able to put together viable projects.

So our restrictions on this, it needs to be in the form of a loan, we would have a written agreement in place. That written agreement is going to lay out pretty specifically how you expect those funds to be used. Now, the expectation is that that CHDO is going to pay back this pre-development loan at the point that they receive their construction loan proceeds or other income that's coming in.

In the case where you have a project where they utilized their pre-development loans to do some of that frontend legwork and determined that this was not a viable project, we do have the ability to waive repayment. So, for instance if they did a market study, the market study concluded that there really was not an adequate market if you were to build this project, it doesn't make sense then, that project isn't feasible, and so the PJ could waive the repayment of that loan.

CHDO operating assistance, so this is another option we looked at in the sheet cake. Up to five percent of the PJ's home allocation can be used. This is assistance that's provided to the CHDO just essentially to keep the doors open, keep holding on to staff, and making sure staff has appropriate skills and education, covering some of those operating expenses.

Now, there is an expectation that if I'm providing CHDO operating assistance, that they either have a current project or they're going to be coming to you for funding for a project within 24 months.

So it's not just ongoing operation, this is in support of the HOME program and the use of the set-aside funding. But these are not project specific costs, like we mentioned in the pre-development funding on that. So this is one way to help PJs kind of support and keep some of those organizations viable.

The limitations is it can't go over $50,000 per fiscal year, or 50 percent of the CHDO's annual operating expenses, whichever is great.

So if you were going to go over $50,000 per fiscal year, you would then have to document that this higher number was eligible by showing what their annual operating expenses were and that that proposed funding did not exceed that. Keep in mind some things are excluded from that. So if the CHDO was also functioning as [inaudible] and getting admin funds, that would be excluded from that calculation.

Again, you'd want to have a written agreement in place on how you expected those funds to be used. And this is something that you could provide for an organization that met all of the criteria to be a CHDO but did not have the capacity to be able to fund for a specific project.

CHDO proceeds, we mentioned that a CHDO is not considered to be a subrecipient and so does not fall under all of the 2 CFR Part 200 requirements. But money coming back to that CHDO is not considered CHDO income but is CHDO proceeds. So we have some additional flexibility here. So it's not holding its federal identity, it's not being required to be tracked and reported in the same way.

So CHDO proceeds might be coming from the sale of some kind of property. It might be that you've got a loan in place and you're getting principal and interest payments that are coming in. So these are not program income. Keep in mind though, recaptured funds, and we'll talk about those when we get to HOME buyer, that's something different. That is not CHDO proceeds and we'll talk more about that I believe next week as part of this.

So what can we use these funds for? Well, we can use them for any home eligible activities, but we also have the flexibility to use them for other low-income housing activities, which would include ongoing operation for the CHDO.

So the PJ is issuing that written agreement with the CHDO needs to specify, you know, are you allowing funds to be retained by the CHDO as CHDO proceeds. In some cases, the PJ is going to say they want all of the funds to be repaid back to the PJ and they come back to the PJ, they're going to be program income.

And then, this last slide, capacity-building assistance. This only applies when we have a new PJ, not a new CHDO, but a new PJ that's in the first two years of participating in the HOME program. So we don't have many of those. If we have that limited case, then up to 20 percent of your set-aside funds could be used for this, you know, establishing CHDOs and the cap on this is $150,000. Again, that's only for a new PJ in the first two years.

All right. So we just made it in time. Just a reminder -

Shawna LaRue Moraille: You did. And I just have one - oh, sorry, go ahead.

Les Warner: So just a reminder that tomorrow we have our office hour session and so there is exercises, I believe it's exercise three, which is about CHDOs and CHDOs boards. We'd ask that you go through that in preparation for tomorrow's [inaudible]. Go ahead, Shawna.

Shawna LaRue Moraille: Yeah, sure, no problem. Go back to slide 85 for us, and this is the only thing I think is pressing is the commitments, yeah. So, they were confused because of the notice 18-10 talks about how the CHDO reservation requirement is still in place. So they were just confused when they saw the, the item that's in bold.

Les Warner: Okay. So it has temporarily been suspended and that's as part of appropriation language. But it is with each appropriation, it may or may not be there. And so that's why I'm saying you still need to understand commitment and also keep those funds moving, and we might not always have this suspension in place.

Shawna LaRue Moraille: Okay, got it. That's really helpful and I know some of you, like me, like I usually don't watch all of the appropriations, but it looks like we now need to watch them in case something changes with our program. All right, thank you.

Lew Warner: Yes. We can talk a little bit more about that tomorrow, but thank you everyone for participating, and we look forward to being with us tomorrow during office hour and next week we'll start into our first two eligible activities homeowner rehab and HOME buyer.