2019 Building HOME Webinar Series IV, Chapter 6

Kris Richmond: Hey Les. Are you there?

Les Warner: I'm here. I've been dropped from the system itself. And so I'm working on trying to get logged back on to make sure that I can actually see the screen. It looks like I'm back. Just about back in.

Kris Richmond: Okay.

Les Warner: All right. I now have my screen back. I'm not sure what happened there.

Kris Richmond: Okay. Fantastic.

Les Warner: So welcome everybody. This is our final of the four-week session. This is Les Warner from ICF and I'm joined by my colleague Kris Richmond. Today we're going to be working on chapter six, which is rental housing. And we're going to start with talking about selecting a project, funding it, overseeing the development of that project.

Then Kris is going to be guiding us through the actions that are required during that long-term compliance period, to make sure that we remain in compliance. Just as a reminder, tomorrow during our office hour session, the first half of that session we're going to be covering tenant based rental assistance.

And you're going to have some additional TBRA slides, which are coming out to you this afternoon. So make sure that you find those in your mailbox as they come out. We're going to be working on those. And then the second half of the session, will be our normal question and answer session. So any questions that you have remaining from today's session, or any of our week's sessions we will spend some time with that following our TBRA session.

Because this is our final Wednesday session, I also want to mention that at the completion of this series you will be receiving an email with a survey. And you'll also be receiving a resource list. So Kris and I have been talking as we've gone through these weeks, a number of pieces of guidance and notices on [inaudible] those sorts of things. And so we've put together a resource list which lists all those and provides links to be able to access those.

Just as a reminder on our system, on the top right hand of your screen is a Q&A box. So to ask a question, you simply click on that, open that up, type in the question. And either Kris, or I will be actively working on answering those questions. If you have any kind of technical difficulty, like I did at the beginning here, you could use the chat box and send a chat to our ICF event host and that's John today.

And he'll see if he can help you. That would be any technical issue, or if you have not received material. Hopefully, that would not be the case at this point. All right. So without any further ado, let's jump into this. There's a great deal of information that we're going to be going through today. So I really recommend and will be pointing out in a couple of places here, that you received the chapters as part of the material.

So I would really recommend that you take a further look at chapter 6 on some of the things we're going to be talking about. There's a more detailed discussion within the chapter. There's some other resources, or charges, or things that I think will be helpful for folks. So we're going to start out today with a poll just to find out how many of you are actually currently funding, or have funded HOME rental activities.

And then secondly we're going to be asking about how many of you have worked with low income housing tax credit projects? So I think John will be opening up the poll any minute here and we'll be able to then - you'll be able to respond to that. There we go. So the polls are open. So if you can respond if whether you are working with rental activities.

John: We'll be closing in 20 seconds.

Les Warner: Great. So as we might expect, the majority if you are working with the rental activity for homes; a very large use of our HOME fund. And then we're going to move to our second question, asking how many you are funding homes in conjunction with the low income housing tax credit? You may or may not know whether that is the case. There we go.

So kind of a mixed bag here. It looks like a good number of you are currently using the low income housing tax credit. Some of you are not sure about that. And we also know [inaudible] on that which probably makes sense because of the mix of folks that are participating in this theory. So let's talk about the ways that we might use HOME dollars to address the rental housing needs in your community.

And probably the way you choose to invest your HOME funds has a lot to do with your local market and what the options are there and what the needs are. So you could use some funds to simply assist in acquiring property. So we would need to have rental properties that are already in standard condition. And so we could invest our HOME funds in, in exchange have affordable housing units.

We'll talk a little bit more about how that works. In many markets rental housing that you might have available you're going to need some reinvest. And so rehabilitation is often used. And that's often used in conjunction with acquisitions. So we might funds let's say a nonprofit who's going to acquire some existing rental units, growing them up to our HOME standards. And then rent them longer term as affordable rental housing.

We talked in earlier sessions about reconstruction. And this would be where we have an existing structure that we hear down and replace it with the same number of units. But we also could be doing conversion. So we would take a nonresidential structure idea from a hotel. Might be some kind of warehouse, or other commercial structure that we convert into residential housing.

A great way to utilize some existing buildings and revitalize an area. And then of course we're doing a lot of new construction, where we simply don't have enough units and we need to build some additional units. But when we're doing acquisition, when we're using our HOME funds, we're subsidizing that purchase.

So in exchange for having lower debt on that project they're able to afford to rent some of those units at a more affordable rent. And so we're going to - based on our underwriting, we're going to set that minimum of the number of affordable units in our written agreement. For that project we're going to specify the number of units that are going to be maintained to go for low income persons.

And they're going to be at affordable rents which are defined as our HOME rent. So for those units we are going to have rental occupancy requirements about who's eligible to live there. We're going to have affordability, so restriction on those rent and utilities that those households are going to be paying. And we're also going to be not only at completion but throughout that affordability period, we're going to be monitoring and making sure that the unit quality is also maintained.

We're going to be mentioning at a couple places within this training about lease provisions. There are some lease provisions that are prohibited. And so that rule would apply to make sure that those pieces were in compliance with those requirements. So for rehabilitation we're going to bring that unit up to our property standards. Now keep in mind that we could add square footage.

So we could add additional room outside of that building envelope. That still falls under the criteria of rehabilitation. So maybe we have two bedroom units and we have the space to be able to add on an additional bedroom under some of those units. And that's something that's really needed to provide adequate housing for families in our area. That we could do under rehabilitation.

If we wanted to add additional dwelling units, so go for 10 units to 14 units, that's not allowable under rehabilitation. That's going to be considered new construction. Because we're not just adding square footage, but we're adding additional dwelling units. And the range of level of rehabilitation is really going to depend on the condition of that property.

Now keep in mind we're going to spend quite a bit of time talking about the fact that we have this long term affordability that's going to apply. And during that period you will not have the ability to invest additional HOME dollars. So we're really concerned about making sure that these properties are going to be sustainable without additional need for a substantial additional investment during that affordability period.

So generally, when we look at that level of rehabilitation, we're going to want to do a substantial enough rehabilitation that with modest maintenance, or replacement of some components over time that that unit is going to continue to be maintainable in a standard condition without large reinvestments during that affordability period. Often times as I mention we going to see rehabilitation combined with acquisition.

And as we mentioned we've got property standards that are going to apply not only for the overall building itself as it's completed, but also over the life of that affordability period, we're going to be making sure that those property standards are maintained. I think we already talked adequately about reconstruction where we're replacing an existing building.

You probably don't see this a lot within rental, just because of the cost of this. But it is as we talked about under our homeowner program something that at times we might look at a building and determine that it was actually a better investment of funding to that building down and replace it.

There are times when we have a building that's no longer standing, but it was destroyed within the past 12 months that we might do that. So we might have let's say, some affordable housing units that had burned. And so there's a loss of those units. We could replace those under reconstruction if it's being done within a 12-month period from when those units were lost.

And again number of bedrooms can grow, but the number of units cannot be changed. I think we've probably handled that. I just want to point out the bullet at the bottom of this. This is important to understand. Even though we may be doing this under rehabilitation, at the point that we are tearing down a building and replacing it under reconstruction that's going to be a different level of reviews for environmental review.

So sometimes there are projects that as they are originally conceived are going to be rehabilitation. And as you go further in analyzing the existing building you might decide at some point we're going to switch this project and we're actually going to tear it down and reconstruct. Just keep in mind that that changes your environmental review that would need to be updated and match the scope of work that you are doing for this project.

For new construction we can be financing different aspects of that project. And we'll be talking about some examples on that. New construction often times is going to be combined with other sources. For the low income housing tax credit program which is a IRS program is one of the key partners that a lot of you are currently working with.

And it essentially brings some equity investments from either individuals, or corporations that are seeking a reduction in their tax liability. And that brings - it's an important source of funding for a new construction project. And as we talked about earlier, we can have with our HOME projects a mix of market rate and our HOME units. We also may in the same project have HOME units, tax credit units and market rate units.

So having those written agreements be really clear on which of the units fall under what requirements becomes really important to make sure that we maintain compliance that is mandated by all of the funding sources that might be mixed in with that project. So let's talk a little bit about eligible cost and some of these such as acquisition have some timing issues on this.

So we can use our HOME funds to acquire land and structures. But keep in mind that it's of the housing production program, so if our HOME funds are used for acquisition, then we need to see that construction is expected to begin within 12 months. So it's not that we are acquiring property with our HOME funds and then figuring out later how we're going to use that. This is part of an actual project.

Just a reminder on infrastructure. Our HOME funds can be used for on-site infrastructure. So no sidewalks, streets, utilities all of that. As long as it's on our home site it's something that's eligible for use in our HOME funds. And that would include if we are - let's say we're running our main water line out into the street into the public [inaudible] where we're going to hook that up, that's all part of that eligible use.

As I mentioned, I think probably the first or second week in the example of let's say I need a larger line, than let's say I only have a - I don't know an 8-inch line in that street in front of my projects site and I need maybe a 10-inch line to have adequate fire suppression. And so I may need to run, or upgrade that water line for maybe a block down to tap into a larger line. Because that is offsite, that is not something that's eligible to use the HOME funds for.

Maybe a necessary part of your project, but it would not be an eligible cost. Demolition is fine, as long as it's part of our project and again the housing production program. So that construction needs to begin within 12 months. And of course our labor and materials are all eligible costs as part of that. Soft costs and particularly when we get into our larger-scale projects, we may have quite a list of soft costs that are going to be part of that.

All of the professional expertise that you're bringing in; architects, lawyers. You might have costs related to the environmental review. That developer's fee is going to be part of that. And we're going to be talking in a minute about this 18 month operating deficit reserve. We also under the 2013 HOME rule have a little bit of flexibility for the PJ to essentially allow reimbursement of costs that were incurred prior to the commitment of HOME funds for that project.

So the look back period is 24 months, that's the maximum. And these are costs that are related to putting together that project. So typically things like architectural drawings, write ups those sorts of things. Keep in mind that this does not get you around or waive the environmental review requirements. And as part of the reason that you'll see the costs that are allowable here are things that would be exempt from environmental review requirements.

So if you as a PJ are going to allow for some of these costs to be included in that project and reimbursed with HOME funds, you will have to have a policy on what you will include. And then have a methodology and how you're collecting that information, reviewing it, determining what's eligible to include that in the project that you're funding. So let's talk about I mentioned a minute ago this initial operating deficit reserve.

So all of our rental projects are generally going to have a number of reserves. We normally would have an operating, an ongoing operating reserve. So that if there was at any point a shortfall of cash flow that we'd still be able to properly operate and manage the project. And we also would normally have a maintenance reserve, or a replacement reserve for that project. Those are things that we cannot use our HOME funds for to pay for as part of our project costs.

But the initial operating deficit reserve is the one reserve that's actually eligible on this. So think about when - if let's say we've built a 60-unit new project of rental housing and we've completed it. So we would close on our permanent financing. And we're going to begin to have to make debt service on the loans on this project. We're going to have operating costs related to that. Until that project has at least partially rented up, we may not have enough cash flow coming in to be able to cover all those costs that are coming in.

And so this initial operating deficit reserve is allowable for up to an 18 month period, to be able to make sure that that project during that period where they're renting up units and getting to a stable position will have some reserve to call upon to be able to stay solvent during that period. So the amount that's going to be needed is going to be different for each of your projects. Some markets you may have a great demand for your units.

You might be even doing a lottery to determine who is going to be eligible to move into those units when they're completed. And so that kind of a project is maybe not going to need an operating deficit reserve at all because of the expectation of how quickly each units will rent up. Other projects are going to take longer.

And so the level of initial operating depths of reserve that you would be providing as a PJ would be based on reviewing that market study and determining what you project as the rent up [inaudible] for that project and the needs that would need to be in place. Other things that could be eligible costs, if we were to cause either temporary, or permanent displacement of existing tenants in that structure then we could pay for the replacement housing and moving [inaudible] services all of that as part of an eligible project costs.

And that's for all households that would be affected by that HOME project, not just low income households. Refinancing is also something that is allowable as part of a rental project. It's not a standalone sort of thing where were simply refinancing to make projects more affordable. But if we're able to as part of the rehabilitation, be able to also lower the costs to make that project more stable that would be something that would be allowable.

And as we mentioned in some of the earlier activities a loan guarantee is something that is eligible, not commonly seen with our use of HOME funds. For essentially we're guaranteeing loans, so we were able to get a better interest rate for those loans. Let's talk a little bit about ineligible costs. So a number of things that we're not able to pay for, as I mentioned we'll have other types of projects reserved that we'd want to have in place.

An operating reserve, or a placement reserve. those are things that can be capitalized using other sources of funds or they may be built up over time from cash flow. But it's not something that we can include as one of the cost that the HOME project is going to pay for. We also mentioned earlier that our HOME funds cannot be used in conjunction with 1937 Act of public housing.

And I think we have a slide coming up that will talk a little bit more about that. We also can't use our HOME funds to acquire property that the PJ already think that's kind of somewhat selfevident. We're going to be talking tomorrow about tenant based rental assistance. And that's the one type of rental subsidy that we're able to use our HOME funds to pay for.

It's fine that your HOME project receives project based rental assistance from some other source, but we can't use our HOME funds to be able to pay for that. Also delinquent taxes, these other charges. Anything that our financial circulars are going to list as being unallowable, or anything that's not considered to be cost reasonable.

It's also something that's going to be ineligible. And then of course generally we're not able to use our home fronts as a match for other federal programs. Let's take a quick quiz here, so looking at this list of costs which of these are going to be eligible for a rental housing program too paid for using our HOME funds?

John: Well, we'll be closing in 20 seconds.

Les Warner: Great. All right. So I am very pleased, the majority of you got this correct. So we're going to walk through this and see why this is correct. So water and sewer lines going through a mixed income neighborhood. As we talked about our infrastructure, we can only pay for onsite infrastructure. So that's what makes that ineligible. B is the correct answer here.

So that initial operating deficit reserve is for that period when we're renting out those units. And our maximum length of time is going to be 18 months. So B is our correct answer. For C, any kind of operating assistance that's going beyond that 18-month period we could have an operating reserve that we could call upon if there was a shortfall. But it's not going to be something that we're going to pay for with our HOME funds.

It could be capitalized by someone else's money, or it could be something that we're going to build up over time using cash flow deposits that are coming from the project. But it can't be a HOME-funded project cost. All right. So let's talk a little bit about allowable fees. So it's fine to charge the developer an application fee and frankly this is often times used to make sure that the developer has some investment in this project so that they're only going to submit an application when it's really complete and a reviewable application.

One of the great changes that happened with the 2013 HOME rule was that a PJ is now able to charge the owner of the property a monitoring fee. So we have ongoing monitoring that will be happening throughout the affordability period which prior to this was only coming out of your admin fund, which we talked about being limited at 10 percent.

So a couple things on this, there is a HOMEfire at volume 14, number 2, which goes into great detail about how to establish that monitoring fee. But a couple of key points I want to mention here. This only applies for projects that were funded once the new rule was in place. So August 23rd of 2013. So you can't go back to those older projects in your portfolio and start imposing a monitoring fee.

The other part about that is that the monitoring fee is always going to need to be established based on your actual cost of completing monitoring. So you're going to have a methodology on how that is established. And that can escalate over time. So we could as part of our underwriting make an assumption about how that's going to grow over time. But when you set that fee each year, it's still going to have to be based on what your actual costs are.

And if we're going to impose a monitoring fee on a project we're going to have to make sure that the project can actually afford to pay that without affecting its stability. So as part of our underwriting we would include that monitoring fee that we intend to charge and make sure that that project had adequate cash flow to be able to cover those costs.

Other fees that could be charged, things that are common in the area and customary things like an application fee, or parking, or other services that might be optional for those tenants are things that would be allowable fees. So let's talk a little bit about how we might use our HOME funds, how we might provide them. Could be grants, or loans.

Generally, we're going to see these as loans. We've got a long term affordability period on this. So we need to have some strings attached to that project. But also the way we invest those funds. We might be providing them, particularly when talking about CHODOs as predevelopment loans. We often times see our HOME funds used as construction loans because that's a more expensive interest than our permanent financing projects.

We might be the permanent financing as part of that project. A bridge loan is essentially a temporary loan where we're bridging that gap in timing. So for instance if we have investments that will only be made at a particular point in a project. For example, the low income housing tax credit, pay ins are going to only be available at the point that the project is placed in service. And so those sources are not available earlier on in the project.

So we could provide our HOME funds in the form of a bridge loan that's then paid off as those other permanent sources become available as part of that. Or we could do some credit enhancements. So again we're going to be as part of our underwriting process looking for how to best assist that project and laying that out as part of our written agreement. Now one of the things I'll just mention here, is that just keep in mind if we're putting HOME funds into a project such as if we put money into a construction loan, or a bridge loan that is a HOME-assisted project.

So even if they pay that money back at the point that they're closing on the other forms of financing that's still a HOME-assisted project. It still has all the strings that apply. So it still has an affordability period that would apply and we'd still expect to see some HOME-assisted units as part of that. So paying that back does not cancel out those requirements.

The way we're going to determine that level of assistance, we have a couple of things that we need to pay attention to. Home has maximum minimum and maximum subsidy limit. The minimum is $1,000 average per unit. So I suppose we could have and we could be acquiring an existing project that maybe some of the units had already been rehabilitated and needed really minimal investment.

But as long as our overall average per unit is at least $1,000 that will be fine. That's usually not the problem here. But we also have a maximum per unit subsidy that's in place. Notice 16-15 provides guidance on that. But essentially we are going to underwrite that project and do our subsidy layering analysis to determine how much funding does this project need to cover all of the uses, all the costs that are going to be related to this project and making sure that we're not over subsidizing this.

So for instance, if a project has a significant cash flow and is able to support some private financing we're generally going to want to see that that is utilized. And we're only filling the gap with our HOME assistance. And so we're going to determine the minimum number of units based on the size of investment. Or in cases where they're offering us a specific number of units we're going to calculate what the maximum dollars invested in that project will be.

And notice 16-15 will help you through that cost allocation process. So as part of our underwriting and subsidy layering, we need to have some guidelines and standards in place. So essentially when we're determining is this going to be an affordable project? Is this going to be sustainable? We need to have some standards as part of what we're going to use to evaluate that.

So that might be things such as things like vacancy rate we're going to assume is going to have an impact on the cash flow that's going to be available. We're going to make some presumptions about how quickly we think rents are going to rise over time, or how quickly we think that expenses are going to escalate. So all of those become part of our standards.

And so for instance, if I had a developer that submitted a pro forma, so their projection of what their costs of operating this and then also what their cash flow would be. If they make a presumption that their rents are going to rise by let's say 5 percent every year and they will have no vacancy allowance. So they'll have no loss of revenue due to turnover units.

If those are unrealistic assumptions then the numbers, their projections of the cash flow that's being provided would be unrealistic. And we might think, gosh this is a great looking project where in actuality if we used more realistic projections we would perhaps see that this project was not as stable. And so that's why we need to have standards as part of our underwriting on how we're going to review and the assumption that we're going to work with as we review those projections.

So we're trying as part of our underwriting to determine how many - how much HOME funding is actually needed on this. We're trying to make sure that there's not an unreasonable profit, or return for that owner or developer. That might be where we're going to as part of our terms of ours [inaudible] determine maybe what the rate of that loan is. So that they may need our money up front, but we may need them to pay back all, or some of that.

Otherwise, they would have an unreasonable profit, or return on that. You need to make sure that that project is going to remain stable throughout that affordability period. So we're concerned about the expenses, the revenue coming in. And making sure that they're going to be stable. They're going to have positive cash flow throughout that affordability period. We also need to make sure that all of those sources and uses are actually finalized.

Now if we were to commit our HOME funds, get the project under way and then discover during development that some of the funds that we thought we're going to be available we're not, because you've already invested HOME funds you have a liability there. We need to make sure that all of the sources are actually committed.

The market demand and we talked about this on some of the earlier activity is really critical particularly on rental to make sure that if we build this project, if we rehab these units is there a market demand for these units for the number of units, for the kind of units that we're offering? And you know maybe this neighborhood, or proximity to other things like transportation and other things?

So we really need to analyze that market demand and make a determination on whether this is a project that is an appropriate risk for us or not. So we talked about having market studies done. Depending on the scale of the project, we might be having a professional market study done. In other cases, we might be reviewing something lesser than a full professionally done market study.

You're going to make that determination as the PJ on what's going to be appropriate for you to have adequate information to be able to measure the market and determine whether this is the project you ought to be funding. And because we have this 18 month rent up requirement, we also might at times be saying, we think there's a need for this project in these units, but we think this is too large of a project for this market.

So we might say, let's do this as phases. And I will approve or fund a smaller version of this project and then later you could come back and build more. That developer is going to be a really key predictor of success, so we need to make sure that they have not only the knowledge capacity in staffing for the kind of project that's being proposed, but also they have the financial stability and liquidity to be able to bring that project to a completion.

So very important parts of our evaluation of this project. There is an underwriting subsidy layering notice. There's also a webinar that's available. I would encourage you if this is something that your PJ does not have a lot of strength in to make sure that you have a system in place, policies and procedures. And that you spend some time with this to make sure that you're going to be making correct decisions and following the guidelines that apply.

For the HOME final rule adopted in 2013, it added a requirement for rehabilitation projects that have 26 or more units to be a capital needs assessment. So essentially what this is doing is looking at all the different systems and components in that structure throughout the affordability period and predicting when they are going to be calls on capital to be able to replace, or repair.

So for instance if I had a building with a boiler system that appears to have a remaining life of let's say 10 years and I'm going to have a 15-year affordability period there's a cost the capital needs that will occur at the point that I need to replace that boiler system. And so we're making a projection throughout that affordability period of what those costs would be. And so as part of this evaluation we're going to look at what those costs are projected to be and then what revenue will be available.

And so that would be both cash flow that's going to be generated by that project and then also replacement reserves that we would have in place that are going to be capitalized over time. And so essentially and let me just look back to that. Essentially if we find that our capital needs are going to exceed the funds that are going to be available, then we may need to increase the depends that are going to happen over time into our reserve account.

Or we might be saying, let's go ahead and replace that boiler system now so that we have a system that has an expected life throughout the affordability period. And so that need for additional capital is no longer projected during that affordability period. It's an important step for rehab projects with 26 or more units essentially to make sure that they're going to be sustainable over time.

Let's talk a little bit about partners that we might be working with. We might be working with other public agencies, our CHDOs, our rental development projects are going to be if they meet our requirements as far as the CHDO being certified, serving in the role of our sponsor, or developer. Generally, our rental projects are going to be one of the certified eligible activities. So we might be partnering with a CHDO for a nonprofit, or for a profit developer.

So eligible projects. So we certainly have our traditional rental projects, but it also includes group homes, transitional housing and SROs, single room occupancy. So the key here is that we are funding permanent housing. So tenants would have a lease, tenants have to be low income. And one of our criteria here is also that housing cannot be conditioned on participation and service programs.

So we certainly can have services available, but it cannot be part of the condition of being allowed to live there. You have to continue to participate in those services like some kind of counseling, or treatment. So things that are a facility which is where we would have this requirement of some kind of service, or treatment. Shelters, dormitories, halfway houses and student housing are things that are not eligible on that.

We're going to talk a little bit about SROs here, single room occupancy. So one of the things to keep in mind is you may have local zoning, or building code classification that would designate whether a structure is going to be considered an SRO, or whether it might be considered a group home. So in your designation for your HOME assistance just make sure that you're consistent with whatever those local codes and standards would be.

So our maximum rents are going to be based on what that unit looks like. So some of our single room occupancy units are going to have both a bathroom and some kind of food prep facility. And so in those cases we're going to use our fair market rates of using the zero-bedroom rate on that. We're also going to have a low HOME requirements supply if we've got five, or more HOME units. So we're going to be talking later about the program and the project rule.

In some cases, our SRO, our single room occupancy unit will maybe have their own bathroom, but not have a kitchen or vice versa. And so we're not going to charge that full amount for that unit because they have a little bit less amenities. So in that case, we'd be using the fair market rent and we'd be doing that at 75 percent of the zero-bedroom rate on that. We'll talk more about the rest structures in a minute.

So as we mentioned, we can't do the 1937 public act, our public housing act unit. But we also can't fund a project that had previously received HOME funds and it's still during its affordability period. So when we talked earlier in the series about you could adopt a longer affordability period, but probably you want to designate the HOME affordability period at the minimum period and then maybe have an extended use local requirement.

If I made my HOME affordability period let's say 50 years, I would not be able to reinvest any HOME funds until the completion of that 50-year affordability period. And so that might be a concern for the stability of a project that might need some reinvestment as the years went on and that. So if it's during the affordability period, we cannot reinvest additional funding. So we talked about the public housing projects, but we have some exceptions.

So our HOME funds can be used in conjunction with HOPE VI projects if no public housing capital funds are being used. They could be getting operating funds and they might subsequently be receiving our organization fund. So sometimes in making sure that you're in compliance with this, you're going to have to ask probably a series of additional questions about the other sources of funding coming in to be able to clarify that these are allowable on a public housing investment as opposed to something that would block you from being able to use our HOME funds.

Let's switch gears and talk a little bit about property standards. So if we're doing rehabilitation we're going to have to meet our state and local standards. In the absence of those we'd be deferring to the international existing building codes. But in addition to that much like we talked about in our other activities the PJ also is going to have written rehabilitation standards and part of that will include at the point that they're issued this inspectable list of minimum deficiencies that would have to be considered.

Also your health and safety standards. So we need to have a useful life of major systems. Because we want to make sure that these projects are going to be sustainable. Of course the lead based paint rules are going to apply. Accessibility standards such as 504. You also might have locally adopted accessibility standards. Maybe you have adopted universal design, or visibility standards which are going to apply.

And so that would be incorporated into your written rehabilitation standard. Disaster mitigation. So as I mentioned I live in a hurricane prone area. So we've got additional standards about [inaudible] the tax to the structure to make sure that that HOME-funded project is going to be sustainable throughout a potential future disaster. And then keep in mind that broadband is a requirement now as part of our rental projects.

And so that needs to also be part of your written rehabilitation standards. If we are doing new construction, a little higher standard here it's going to be our state and local codes. If you were and I would think for the most part you're going to have state and local codes. But if you were in an area that had no state and local code you'd be referring to the international residential code, or code council's building code.

And again the accessibility, the disaster mitigation and the broadband requirements are also going to be part of those property standards. If we're doing acquisition only. So I know rehabilitation is part of that, then we need to make sure at the point that we're going to commit our funds that this project meets our property standards. So if the property was newly constructed within one year of our commitment we're going to treat this as being a new construction unit and use those standards.

Otherwise, we're going to use our rehabilitation standards and we're going to have to have an inspection to be able to show that it meets those standards. It needs to be done within 90 days of your HOME commitment. So we want to make sure that its current - depicts the current condition of that property. So keep in mind as part of that funding process you're going to have to review those inspections. You're going to have to look at their work write up.

If we're building something new, we want to make sure that the plans as provided if they follow those and build that will actually we have a unit that's going to meet appropriate standards. But we also were concerned about were the costs reasonable as part of that. So we're going to have to have some valuation methodology on those costs. Whether we're doing procurement as part of that, or whether we have a cost evaluation process as part of that.

So inspections do need to be done as part of that, as those units are being constructed, or rehabilitated. We of course are going to do inspections at the point that they are requesting a draw. And it's being mentioned we're going to need to have someone who is acting on behalf of the PJ conducting and signing off those inspections for the HOME funds that are going to be invested.

So throughout the progress of that project and then of course that final inspection we need to be able to sign off to show that this building meets all of our required property standards. All that documentation would be part of our due diligence on this. Keep in mind of course things like 504 requirements would apply. So if we have five or more HOME-assisted units or new construction, or we have 15 units where our rehabilitation is exceeding 75 percent of the replacement cost for that structure. Then under five, or four we're going to have [inaudible] sites for both mobility and sensory residents.

And that would be part of your review of those plans, part of your written agreements. Site and neighborhood standards, something that often times is forgotten about by folks. This applies only for new construction of a rental housing. And essentially you have a chance when you're building something new to determine where is an appropriate site for that project to be located?

So as part of your site and neighborhood standards you would have some standard things that you're going to consider as part of that. May be [inaudible] to transportation, or accessibility to jobs, or other opportunities. It might also have to do with concentration of minorities, it might have to do with crime rates. So we're trying to make a decision that our slide is appropriate that enhances choice for our future residents.

Also of course our fair housing is going to apply. We mentioned affirmative marketing is something that applies to our projects. So a PJ is going to have an overall affirmative marketing plan that they will have adopted. But when we have a HOME project that has five, or more HOME-assisted units, we're going to have a project specific affirmative marketing plan. It's going to be based on what the PJ's standards have been.

But it's going to look for that particular project in that particular location how that marketing needs to be done to make sure that those least likely to apply, or know about access to that that our marketing would be specific for that project itself. During that affordability period, we not only have our standards for when we complete the project that we're signing off on, but throughout that affordability period we're going to have ongoing property standards. We're going to want to make sure that these are decent units.

We also want to make sure that they'll continued to rent, so we need to make sure that they're maintained appropriately. So we're going to be following our state and local codes of standards, health and safety, lead based paint. If you were in a community that had no state and local standards for existing units then we're going to be deferring to be inspectable list of deficiencies that is going to be issued by HUD.

Those are essentially based on the Uniform Physical Condition Standard program which this will be potentially the HOME short list of those items that will apply. So let's talk a little bit about occupancy and those lease requirements. So we mentioned earlier in the series that we have an 18-month period to make sure that our HOME-assisted units are occupied. So we need to make sure that there's a marketing plan in place.

HUD may be asking at the six-month point in that if they're seeing that the HOME units are not occupied about those marketing plans. And making sure that appropriate efforts are being done. So of course the PJ would be monitoring the progress on that. Making sure that things are moving forward appropriately, so that you're going to be in compliance with that requirement. If you were to fail to get those units occupied within 18 months of project completion, then you would be repaying those HOME funds.

So for instance if I had 15 HOME-assisted units and I was only able to rent up 11 of those then I'm going to have the costs related to those four unoccupied units that will be considered ineligible and would have to be paid back. So it really relates back to that issue of looking at the market demand, making sure that if we build this that we will be able to rent those units and have them serving as part of our affordable housing supply.

So here's our affordability period. For rental housing it's going to be based on the average per unit investment. So it's going to be 5, 10, or 15 years. Here is where our rule is different for new construction. For rental housing new construction, it's an automatic 20-year affordability period. And if we were providing refinancing then we would have a 15-year affordability that's part of that project. So keep in mind that unlike what we talked about for recapture under home buyer, where we could simply pay back maybe some portion of what had originally been invested.

If our rental projects don't complete that affordability period, then all of our HOME investment has to be repaid. So it's really critical for us as part of the underwriting to make sure if I fund this project that it's one that I'm confident can actually be successful. So let's take a little bit of a look at how we designate these units. So that affordability period is going to be based on the average cost investment per unit.

So depending on the number of units we designate we'll have an impact on that affordability period. So for instance in this example there are five units that are designated with our $240,000 investment that gives us an affordability period of 15 years. And that's with 5 units having being designated. If on the same project we were to designate more, so in this case having designated eight units, we end up with a shorter affordability period of 10 years because our average per unit HOME investment is lower.

So because our eligibility of use of those funds is based on completion of this affordability period we're going to be pretty serious about being able to enforce that. So our rental projects are going to be required to have land covenant, or deed restrictions in place. You could potentially have some other methodology that would have to be approved by HUD.

So if we were to have a project, let's say we've got a 15-year affordability period, if that project were to go into foreclosure and through the foreclosure process the court stripped away our deed restriction, those units would no longer because they were not restricted would no longer be part of our - they wouldn't be functioning as affordable housing. And so anything that had already not been paid back on that project would have to be repaid and returned to our local HOME account.

So really critical that we make sure that our projects are sustainable. That there's any kind of financial distress they were going to work with them as quickly as possible to be able to address that. So I'm going to do a few more slides and then we'll take a break on this. So I want to talk a little bit about our rent limits. So these are something that are provided to you by HUD. We'll give you a little bit of background on how they're calculated. But just know that this is something that you don't have to calculate.

They are published by HUD on an annual basis. You'll be using those. You'll be providing those updated rent limits to all of your projects property managers as part of that. So the rents, or the rent limits are not really set based on a percentage of individual household income. You could set it up that way, but generally it's going to be that you're meeting these restrictions by using the HOME rent. So we could have a household that rents a high HOME unit and is actually paying let's say more than 30 percent of their household income.

That's okay. As long as that rent that's being charged, lines up and does not exceed what those HOME rent limits would be. I just want to mention a special provision here. So in the case where we had a project based assistance and we were using that in combination with a low HOME unit, we have some additional flexibility which would allow the rent that is charged to go up to whatever that contract rent is as part of the project based assistance.

So let me give you an example. If I have a low HOME unit that my low HOME rent, let's say is $500 and my project-based assistance contract allowed me to charge $650 for the rent for that unit. If this is being done in conjunction with a low HOME unit, so we have a household with an income of 50 percent, or below.

They're not paying more than 30 percent of their household income then we could actually go ahead and charge, exceed that $500 low HOME rent and actually charge the project based rent limit. Because that household is only paying 30 percent of their household income. It does not have any impact on this. And so that's the one exception where we could exceed those rent limits. But just make sure you understand it's only in conjunction with a low HOME unit.

Also keep in mind that our rent levels are including utilities that are paid by the tenant. And so we will have to be able to project what we believe those tenant paid utilities are going to be and then essentially subtract that out to determine what the maximum lease rent that we could charge a tenant. So if my HOME rent is $600 a month and I'm projecting that the tenant will pay $50 in utilities then I'm going to have to - only the maximum rent that I can charge is going to be $550.

So as our methodology and projection of what those utilities are going to be, we need to have a methodology in place. You could use the HUD utility schedule model to make that calculation. But you have a number of other options. There is a home buyer number 13 - volume 12, number 2 which lays that out. And I would encourage you if there are questions about this to read through that guidance.

And again this is something that has to be updated annually. So we're trying to make sure that we have a realistic projection of what those costs are that are going to be incurred by the tenant, so that we're making an appropriate adjustment when we determine what the maximum lease rent would be that we could charge. Because of course we want to make sure that these units are going to be affordable for those households.

So for high HOME rent essentially is calculated based on 30 percent of 65 percent of the median income for that area, or fair market rent, whichever is lower. And so depending on the area it may be that that HOME rent really gets capped by not needing income, but what the fair market rents are in that area. So low HOME rents have a little bit different of a methodology. And so in this case we sometimes will have - the numbers will look a little wonky for you.

So we've got a different calculation methodology, plus we have a rule that says that that low HOME rent can't exceed the high HOME rent. And so you might have a case for when you got your rent charge for the year, you might see that you've got high HOME rent and low HOME rent that maybe are the same. And that's because the calculation is a bit different and we also have this restriction that we can't - the low can't exceed the high.

So here's an example of just showing - so based on bedroom size, based on whether it's a high, or a low HOME unit there will be a designated maximum HOME rent. So in this example if we looked at a three bedroom with a high HOME rent, it's $740, the low is $710. And so in calculating what the rent would be that we could charge that household, we'd have to back out the $120 utility allowance to determine what that maximum rent was that we were going to charge.

All right. I think that we should take a 10-minute break. So I have that it is six after the hour, and so if we can be back at 2:16 we'll finish this up and then hand thinks off to Kris. Welcome back. All right. So our rents are going to go up and down over time because our rents are set based on income, so depending on what happens with incomes in your area. And so HOME specifies that the owner cannot be required to accept rents that are lower than when that original commitment was signed. So you probably want to capture what that amount was.

As I mentioned these rents are published annually and when they are published the PJ needs to make sure that the owners and the managers are receiving copies of that. The PJ is also required to review and approve rent and make sure that those are maintained in compliance. And so you would generally be requiring your projects to file a rent increase plan and you'll be reviewing and approving that.

There's a couple of rules that are overarching that apply. So the program rule is only for - it applies to that initial occupancy. And so it's saying that 90 percent of the households at initial occupancy and this is both for rental and TBRA have to have incomes at 60 percent or below or area median income. So we know that generally we can go up to 80 percent, but at initial occupancy we have the requirement for 60 percent.

A lot of folks simply choose to make all projects and initial occupancy at 60 percent so they don't have to calculate the 90 percent of compliance on that. We also have the project rule, which requires that when we have projects with five, or more HOME-assisted units that we're going to set aside 20 percent of those units for households that have a lower income. So these are set for households with an income at or below 50 percent of the area median income.

And so that would be something that the PJ is going to designate as part of their written agreement. We're going to set the rents for those units at the low HOME level. As we're renting those units we're going to make sure that we have households at initial occupancy that are at, or below 50 percent. The balance of those project units can go up to 80 percent unless you as the TJ have put something more restrictive in place.

So we need to make sure that we have income eligible households in those low HOME unit. So it's going to be based on growth, not adjusted income. And Kris is going to be talking about what happens over time as incomes change for those household members. And so this is just an example of we know that for at initial occupancy that we have to have 90 percent of those units be at 60 percent. So that's nine of the units.

And then for our program rule we have to have two units that are going to be at 50 percent or below. And just a note at the bottom that TBRA is also part of the requirements for this. So initial income eligibility, we have to determine using one of our definitions, either the Part 5 Section 8 income, or the IRS adjusted. Frankly most folks are using overall the part 5 Section 8 income. And low income housing tax credits requires part 5, so we tend to see rental projects using part 5 as their income in that.

Home also requires there be at least two months of source documentation in place for each of those files. That needs to be verified. I will mention there is an income - determining income webinar that is posted on HUD Exchange. And I would suggest if you're not familiar with this to make sure you use that as a resource. Annually we're going to be going back and recertifying those incomes. And so for every sixth year of a project we have to do the full source documentation process.

That's sixth year of the affordability period, not of that tenant's occupancy. In those other years we're always going to do source at initial occupancy, we're going to do it every sixth year of the affordability. In the other years we could simply use the source documentation. We could use a written statement of self-certification from the family. Or in some cases we're going to have households that are already being certified by another government program as being income eligible.

And by definition they're going to be eligible for HUD. So we could also use written statements from one of those other programs. This is just a diagram that's showing at initial occupancy we need source documentation. At fourth year we've got more flexibility. Mrs. Jones when she moves in because that's initial occupancy that's got to be source documentation. But on the sixth year of the affordability period we're going to do source documentation for everyone including Mrs. Jones who just moved in last year.

So if this is a 20-year affordability period, we have our sixth, our twelfth, and our eighteenth year which you're going to have the source documentation requirement. I mentioned earlier that the lease terms leases need to be for a year. They can't have the prohibited provisions. If you look in the chapter that was provided on 6-16 and 6-17 there's a section that spells out these prohibitive provisions.

There are essentially things we're trying to start giving up some of their rights. Owners need to provide 30 days' notice. And there has to be a written tenant selection policy in place for how you're going to determine who is going to be - how you're going to select who the next tenant is for your units. So that's going to be based on your local housing needs. You may accept some priorities as part of your consolidated plan.

And keep in mind you have to follow your affirmative marketing requirements. We have income eligibility requirements. And so we need to make sure that we have a fair process in place if we have preferences that we're using that they're part of your written agreement, your action. And we're not able to exclude folks that are coming to you that have a voucher, or have been found eligible for the tenant based rental assistance which we're going to be talking about tomorrow.

So special needs housing. We might have times when we were targeting our housing towards a sector of the disabled population. There had been some questions about if we select one portion of the disabled population is that discrimination under 504 against the disabled, because we're not allowing all disabled?

So if we're going to limit it to a specific disabled population it's going to be for those that those services are needed that they have a disability that interferes with their ability to obtain, or maintain housing and so that those services are essential. Families can't be required to accept services as we talked about before. And then it's going to have to be open for all eligible persons who based on the services that are being provided would benefit from those services.

That's just a moment about VAWA and I'm going to turn things over to Kris. So the Violence Against Women Authorization act was adopted in 2013. And it applies for projects that are committed on or after December 16th, 2016 and also for trust fund projects. And what it's doing is providing projections for folks that are victims of domestic violence, dating violence, sexual assault, or stalking. This is not just women, it would apply to any victim of any of these.

As part of that projects are required to adopt an emergency transfer plan. So how you would assist a tenant to move to another unit and that might be in the same project. It might be moving to another project in the area if possible. There is the ability to use TBRA funds as part of your emergency transfer plan. That would have to be part of your TBRA planning. And you could also allow that lease essentially to be split. And so the victim would be - become a separate household and moved to a separate unit. I need to turn things over to Kris now.

Kris Richmond: Thanks Les. That's a lot of information everybody. It's Kris and I'm back again today with you all. We're going to be going through the rest of this module. Here's where we're going to start to think about what needs to happen to our rental unit. So during the period before Les talked you through how do we get a project to your office? How do we make sure it's eligible? How do we fund it? How do we make sure we're meeting all those requirements?

Now we're going to talk about what do we need to do to make sure the project is still in compliance during that ongoing affordability period. So we are assuming that the project construction, or rehab, or acquisition has been completed. We have our tenants already residing in the unit. And so what are the responsibilities? What needs to happen now? So we need to ensure that we're maintaining the HOME project mix throughout that affordability period.

What does that mean? What is that mix? Well, do we have the correct number of HOME units? Do we have the correct number of high and low HOME units? I had a lot of questions that came in, how do I know when to use high and low? So remember Les was saying about the project role, if you have five, or more HOME assistant units then 20 percent of those units would be your low units that have households with incomes at or below 50 percent.

So do we have the right mix, of our high and low HOME units? Is the owner reviewing the incomes on a yearly basis? Are they making any changes that need to happen such as increasing a rent payment, or switching the designation of low and high HOME units if needed? And we'll talk about how do we do that. So we talked about this term of HOME-assisted the first time that we all got together. And the concept of HOME-assisted is it distinguishes between units in a project that have been assisted with HOME funds and those that have not.

And so only the HOME units are subject to the HOME requirements in the HOME affordability period. And so HOME units receiving the HOME designation, those are the ones we refer to as our HOME-assisted units. So the PJ is going to decide whether they have fixed, or floating units. And so floating units are about the portion of the total. While fixed refers to a specific unit number, or address number. And if you decide to use loading then they need to be comparable.

And comparable I mean the same number of bedrooms, amenities, the square footage that type of thing. Typically, we see six units if there's market units that have a lot more investment in them, meaning a private investment. Maybe they have more amenities, maybe fireplaces in them, maybe Jacuzzi tubs in those, those in your market units. And then you have your regular HOME units in that situation you might have fixed units. You can get more money for your market units than you could for your HOME units and so you'd want to fix those addresses.

If you were developing a project where all of the units were really comparable then you would choose floating because you could float that HOME designation around, it wouldn't matter whether it was a market unit, or a HOME unit you could get the same amount of rent for those. So you would use more of a floating choice when the units or more comparable. So people always ask what if I have a project that's 100 percent HOME-assisted, which do I choose?

So in the projects where there's 100 percent HOME-assisted, those would be considered fixed and you would follow all of the fixed rules and we're going to show you a chart in a couple of minutes. And that's why it'll be important for you to know whether you're following floating or fixed. So in this scenario here, let's pretend, I'm going to get my pen out maybe we have 3 HOME-assisted units. And if I choose fixed then - and we decided that 1A, 2A, and 3A were my HOME-assisted units throughout the entire affordability period 1A, 2A, and 3A would always be my HOME-assisted units.

That's going to be by fixed. It's always the HOME units throughout the entire affordability period. Now, if I decided I was going to use floating and again it's the PJ that decides it. And then we have three HOME units. Maybe in the first year 1, 3A, 2B and 1A are my HOME units. And then maybe a couple years go by and we decide they're moving around and maybe 2B is the HOME unit, maybe 1B is the HOME unit, and 3B is the HOME unit. So floating means that the designation of your HOME unit floats throughout your property.

So as I mentioned if you decide to use floating you the PJ, they do have to be comparable, so they have to have the same number of bedrooms, the same type of amenities, fixtures throughout the unit. Largely the same square footage. All right. So we need to identify upfront in the written agreement whether you've chosen fixed, or floating. And it also needs to identify the number of HOME units and the number of bedrooms.

Sometimes you also identify the square footage. And then if you decide to use floating we would need to identify the HOME units no later than at initial occupancy. So we're going to go through a couple examples of how we keep the unit mix. But first it's really helpful to understand some of the language so that we are all on the same page. So when I talk about HOME-assisted those are my HOME units.

The units have to follow the HOME rules, the units that we used our HOME funds to pay for. And then I have my market rate units, these are my non-HOME units. I have my unit type. We are going to identify those as fixed, or floating. We have our low HOME rents, our high HOME rents. And just to keep this simple, we're just going to pretend that there's only HOME funds in there. We're not looking at tax credit, or CDBG funding.

So a couple other things to keep in mind, a very low income household earns at, or below 50 percent of AMI, our low income households at, or below 80 percent AMI. And then an over income households are households that earn more than 80 percent AMI. A couple other things to keep in mind, we are never requiring our owners to have more HOME units than they originally agreed to.

So that would be identified in the written agreement, how many HOME units they have and we'll never make them have more HOME units than they might have. We are going to try our best to keep in proportion our low and our high HOME units. Remember if there's five, or more HOME-assisted units at a minimum 20 percent of those units must have households with incomes at, or below 50 percent.

And we never, never, never ever want to require anybody to move out of the HOME-assisted units because of an income change. They might be paying for rent than the people living next door to them. They might have an incentive because that unit next door to them is nicer than the unit they're living in and they're still paying more rent. And so they might be incentivized to move out, but we are never requiring them to move out. The HOME program does not ever require displacement.

Displacement we consider a bad word in the HOME program. All right. A couple more things to keep in consideration and this will become a lot clearer when we look at some of these samples. But if somebody is in a low HOME unit we - and they end up changing their income and they're over 50 percent, we are never going to change the unit designation until I have another low HOME unit back on. This will make a lot more sense when we look at the example.

And then for my over income in either a low, or a high HOME unit I don't need to wait for that substitution. I'm allowed to automatically change the rent as the lease permits. So remember over income is anybody who's over 80 percent of AMI. The tenant's income is being verified annually. This is being done by the owner, it's not the PJ that's doing that.

The PJ has communicated with the owner and has educated the owner on what needs to happen. And the PJ is monitoring, but it's not the PJ that doing the annual income review. This is actually the owner. So the owner needs to do this income review on an annual basis. The tenant is provided a 30 days' notice of any rent changes. And then there may be some swapping. We might swap a low HOME unit for a high HOME unit.

So you'll see some examples of what we mean by that. So I love this chart. This chart was a handout that was provided in the Dropbox that you got. And so this chart is actually the second page of the handout. And if you're a visual person like me you're really going to enjoy the chart. If you really like doing word math problems, then you should flip that chart over because the same information is provided in a written format.

So I'm more of a visual person, I'm going to use the chart as we go through these examples. But no this is a resource available to you and it was provided within that Dropbox. Go back to our slide. Okay. So before we dive into our examples, we just want to show you that the chart is split into two different scenarios. So the first scenario is what if the income is between 50 percent and 80 percent?

So this would happen if somebody was living in one of my low HOME units, because they have to be at, or below 50 percent AMI to move into a low HOME unit. And then when their income was reviewed after a year they've gone above 50 percent. So they're no longer eligible to live in a low HOME unit, or being charged a low HOME rent, but they're still eligible to be part of this HOME program because they're below 80 percent AMI.

That's going to be important for us to look at is the situation between 50 percent and 80 percent? And then the other part of this chart is what if someone is now over income. And over income is if they are over 80 percent of area median income, what do we need to do? This is when it's important to figure out, are then we in a fixed unit, or are we in a floating unit? Because it's going to be a different situation depending on which one.

Now back in my first scenario here between 50 and 80, it doesn't matter whether it's fixed, or floating it's the same rules that we follow of what happens when somebody is over 50 percent, but still below 80. Okay. So let's look at our first example here. Example one, we have someone living in a low HOME unit and when their income was reviewed again they are now at 60 percent AMI. And in my situation here, I have five HOME-assisted units.

And remember my project role kicks in because I have five, or more HOME assistant units. So 20 percent of those units have to have incomes at, or below 50 percent so that's one out of my 5 is my low HOME unit. And then the remaining units that I have are my high HOME units. So those are tenants that are at, or below 80 percent living in there. So looked at the scenario and we see the person living in my low HOME unit is above 50 percent, but still below 80 percent. So where do we look?

Well, we're going to look on the left hand side of the chart. And remember it didn't matter if it was fixed, or floating, or still following the same requirement. So what do we need to do? So the first thing it says we need to do is see if there's a tenant at, or below 50 percent of area median income to make a swap. So let's see. Let's go back here. It looks like the household - and remember this was my original household who's over income.

It looks like this household that's living underneath them when the landlord went through and did the income review. This helpful actually has an income that's at, or below 45 percent. At, or below 50, so they are at 45 percent. So I'm able to change my designation. I'm able to identify my low HOME unit now specifically to this unit below here. And I'm swapping the high and the low. So now this top unit I'm able to have as my high HOME unit.

So I'm able to - let's go back to our chart and see what we're supposed to do. So once the replacement was made, that means once we found a low HOME unit to replace my original HOME unit this top unit, this pink unit is now paying the high HOME rent. So once we were able to make that swap the unit at the top is now my high HOME unit and the unit on the bottom, the blue unit is now my low HOME unit. So since we were able to make that swap we were able to make that change right away. Let's look at a second situation here.

So now we are in our sixth situation, we look at our clues here. And we have a low HOME unit income rises above 80 percent. So let's look - which chart do we look at? We're going to go in the middle, because this says we are above 80 percent and we are fixed. So here, remember we're above 80 percent and we are fixed. And so what is that thing we have to do?

We have to raise our rent to 30 percent of the monthly adjusted income. That's the very first thing that we're going to be doing. We're going to raise - sorry, go back to two here. We're going to raise their rent and they are going to be paying 30 percent of their adjusted income and there's not going to be any cap, because this isn't a fixed situation. So if somebody in here was income eligible, that doesn't help me because remember from my fixed situation this is a HOME unit, this is a HOME unit, this is a HOME unit, this is a HOME unit.

My five HOME unit addresses are always, always, always going to be the same. So these other units that don't have an H next to them these do not help me at all, because these can never be HOME units. My HOME units can only be my pink units, because I'm in fixed situations, I'm only allowed to have five HOME units. And so I have one, two, three, four and this one on the top is my fifth unit. So this unit here my HOME unit here, this person's income is above 80 percent.

We're automatically going to charge them 30 percent of their adjusted income to pay the rent. Now we're going to check to see if any of these people living in these households and any of the high units do any of those have incomes that are at, or below 50 percent? Can I swap that designation? I might not be able to, those other units might still have households that are above 50 percent and they might just stay that way.

And that's okay, as long as this household is paying 30 percent of their adjusted income we're going to be temporarily out of compliance until they actually move out. And when they move out I need to make sure a household that has an income at, or below 50 percent moves in, so that I have the right mix of my low and high HOME units. Okay. Let's look at another scenario. So now we're in scenarios three and we have a fixed and we have above 80 percent. So which one? This is very similar. Again we're still in the middle, we're fixed, we're above 80 percent.

And so what do we need to do? So first we need to adjust their rent. Okay. So we go back and we are increasing this person's [inaudible] to 30 percent of their adjusted income no cap. And then I can't really look for a swap because I already have my sixth high HOME unit - I mean my sixth - I already have my two low HOME unit, that's what I really want to make sure is in alignment first, is my low HOME unit. And low HOME units are still okay.

What's not okay right now is this high HOME unit that has the household income above 80 percent. But if I've increased the rent to 30 percent of their adjusted rent window cap then I'm temporarily out of compliance and that's okay. I'm never going to get into full compliance until this household actually moved out. And then when a new household moves in, I'm going to be making sure all my low HOME units are online.

If they are then the new household that moves into this unit is going to be a high HOME unit which will have an income at or below 80 percent. Okay. My last scenario here we're in a floating situation and this is where my income is rising above 80 percent. So here we're over on the right side of the chart. And the difference here is that we are immediately raising their income to 30 percent of their adjusted income, or the comparable market rent.

It's whatever is less. So remember when we were dealing with the sixth, we were automatically raising it to their adjusted monthly income with no cap. There is a cap here in a floating situation. The cap is the comparable market rent, or the 30 percent of their adjusted income. Whatever is left is what we're going to be following. So what do we need to do? We need to adjust their rent immediately.

So we're going to do that. And then the next available market high, or low HOME unit needs to be available. Because this is someone who is living in a low HOME unit. And let's see, we had to go back this way, I'm sorry. So remember this was low. Okay. So now that they're above 80 and that it's no longer going to be my HOME unit. So I want to look here. I want to look at this unit, or maybe look at this unit. Maybe this unit here has an income at 40 percent. And if that's the case, then I can make this unit down here my low HOME unit.

And this unit up here can become one of my market unit. Do you see how we did that? Since this is floating, I'm allowed to float my HOME designation around. And so now the whole bottom floor are my HOME units, and the top floor only has three HOME units and it has two market units. I have a market unit here, and the second unit here is also a market unit. Okay. So a lot of scenarios that we went through very quickly. Les will be back with you tomorrow if you have more questions that we can address about what do we need to do for swap and increasing the rents and how is that all handled?

So it is up to the PJ to make sure they're monitoring the rental projects every year and they're monitoring it for rent in occupancy. They also need to be insuring that the tenant selection policies are being followed. If they said that there was going to be a waitlist, is there an actual waitlist? You want to ask to see that. Remember that PJs could charge for monitoring, as long as the fees were included in that original underwriting and when the HOME subsidy was provided. So Les had talked about that HOMEfire I believe it was on the slide.

But it's HOMEfire number - volume 14, number 2. And it's some really nice guidance it actually goes through and talks about what are some different ways on how to charge for monitoring? Should you do a variable fee based on project size? Should the PJ set up a standard monitoring fee plus a re-inspection chart? Or should the PJ setup a portfolio average fee? So you want to get this HOMEfire again it's volume 14 number 2.

And it also has a spreadsheet attached to it that can help you calculate how to come up with a monitoring fee. So I found it to be a very helpful resource. There's also an annual certification that's required, so property owners have to submit an annual certification to the PJ that each of their buildings and all of the HOME-assisted units in the project are suitable for occupancy. And then we're going to talk about inspections, financial oversights on the next couple of slides here.

So inspection, somebody was asking me a question like what kind of inspection, what kind of form do we have to use?

Well, the HOME program doesn't actually provide an inspection form, it is up to the PJ to ensure that the inspections are being done that meet all their codes and standards. So the PJ with the new HOME rule is now required to have inspection procedures in place. And they need to clearly identify when the inspections are going to occur. So they have to have checklists, procedures, as well as some identification on how the inspectors are going to be trained and certified if that's required. And then the rule also changed the frequency of inspection.

So if you've been around with the HOME program for a long time, you might have remembered that chart. Remember it was like 1 to 4 units, 5 to 25 units and more than 25 units. We don't follow that chart anymore for the frequency of inspections. What the new rule allows us to do is that an inspection is required once within 12 months of completion. And if you review that, and everything looked great then you don't have to inspect those units again until three years afterwards. If there were health and safety issues that were identified, you do want to do more frequent inspections.

Now if you have a very large portfolio and you have some older units and you're following that old way of the number of units of how often you go to inspect you can change those agreements. You can amend them to put them more in alignment with the rule that's in place now. So you could set those up maybe to do it and do the next inspection. And then if everything was clear you're going to start to do inspections every three years after that. That's perfectly allowable, but you do want to amend your agreements.

HUD came to monitor you in your agreement that you're going to review every year, because you had 27 units. That you actually did the amendment to make an alignment with a new HOME rule and you're deciding to - you did your next annual inspection and then you decided to do inspections every three years after that and there was documentation in the file to help support them. So how many units should be inspected?

Well it depends on how many HOME-assisted units were assisted. If you had a small project. If you only had one to four HOME-assisted units, then 100 percent of those units have to be inspected. All of those one to four units must be inspected. If you have five, or more HOME-assisted units then you're allowed to have a statistically valid sample. So at least 20 percent of the HOME units in each building, but not fewer than four units in the project must be inspected. And then as I said follow up inspections have to verify any deficiencies that were corrected within 12 months.

If you had an inspection and there were non-hazardous deficiencies, then the PJ could allow a third party inspection. So maybe there's documentation such as a paid invoice for work that was completed. That would be allowed as evidence if there was a non-hazardous deficiency that was found. Okay. So financial oversight. So financial oversight was also something with that came up with the new HOME rule. This is only for projects with ten, or more HOME-assisted units. So if you have less than 10 HOME-assisted units you don't need to do financial oversight. If you have more than 10 minutes, then it is required.

And so the PJ is required to conduct a financial review and they do this to determine the continued viability of the project. And the purpose of this is really to help identify any projects that might have any problems that could impact the viability. We always want to make sure our projects go through the whole period of affordability. And so this financial oversight is one way to help do that. So you're going to review the operating budget that was provided at development and compare it to how are they operating now? You need to look at cash flow. You need to look at the deposits in addition to the onsite inspections.

So more guidance is going to be coming out from HUD about how to conduct this. But for now you should start to put some general procedures in place on how you're going to take this on. Okay. The on-site manager's unit. This is also now allowed on four projects that were 100 percent HOME-assisted. So if you had 100 - a project that was 100 percent HOME-assisted and it's determined that in order for the project to remain stable, it needs an onsite manager's unit that would be allowed after you did a maximum per unit subsidy limit review.

So remember we had this maximum subsidy per unit. So if you do that review again and determine that you reduce the number of HOME-assisted units that you don't exceed that maximum per unit subsidy limit, then that would be allowed. You do need to show documentation of why it's required to have an on-site manager's unit. Maybe you need to have copies of the police reports. More documentation. Maybe there's complaints from the tenants. So some type of documentation about why an on-site manager's unit is required.

And if that's the case then you could reduce one of those HOME-assisted units and change that to an on-site manager unit. But again only allowed in projects that have 100 percent HOME-assisted units. All of those units were HOME units. All right. PJs may also take steps to address troubled rental projects before they completely fail. And HUD defines a troubled project when a project has operating costs that significantly exceed the operating revenue. And so there's a couple of different things that could happen. The PJ could ask for additional HOME funds.

And if that's the case, they need to be able to document that using the new funds and the old funds do not exceed the current maximum subsidy limit. So that's one way you could invest initial money. Or the PJ could also request the HUD to reduce the number of HOME units than were required. Both of these do require involvement with your HUD field office. The HUD field office is going to need to go to headquarters to get approval. So this is not something that the PJ can do on their own. They do need to start to involve your field office and then the field office will reach out to headquarters.

So if you feel like you're in the situation, please contact your local HUD field office and they will begin to start a review with you. This is the last slide in this chapter, but I do want to point out to you a couple of really helpful resources. Here on page - I'm going to scroll down, but you need to scroll down as well if you're going to see. On page 6-17 it lists all of the prohibited provisions for a lease. Les had mentioned you cannot have the prohibited provisions, those are listed in the chapter as well.

If we did not have time today to cover tax credits, but if you are working with the tax credit program - again I'm scrolling down here, so you need to scroll down on your page. It starts on page 6-29 and it continues on to 6-30, if you want to look at what do we do if we're combining our HOME program and our tax credit program, what rules do we need to follow? So I think that's a really helpful chart in there as well. Again that starts on page 6-29 and continues to 6-30. Also on page 35 is a comparison of single room occupancy units.

That's what an SRO stands for in a group home. We had a bunch of questions that came in about what rent do I charge for an SRO? What do I do? This is a really nice chart that'll help you clarify some of that. And then if you have monitoring responsibilities there's a nice chart here that can help you get started on how to monitor your rental portfolio. So if you don't have something in place already, this would be a nice one.

You could set up in an Excel spreadsheet, or a Word document, whatever works for you. But you need to be able to identify the unit number, number of bedrooms, is it a lower, or a high HOME unit? What that tenant income is going to be. The household size. You can put all these categories in there and then you send it to the owner and the owner needs to complete it and submit it back to you. And the PJ would do that review as part of a desk review. So that's another great resource that's on there as well. So Les we have like three minutes, is there any questions, or things you want to add in order to help clarify these sections?

Les Warner: Just a couple of things. We'll mention [inaudible] on our resource list, but there are two guides that were created a number of years ago that there - we hope that there will be an updated version issued. But on the HUD Exchange there is compliance in HOME rental projects and there are two guides. One is for the PJ and what is for the property owner. And these are really user friendly that help you walk through a lot of the requirement that Kris and I were going through today. And it can be really helpful for property managers to use those, for PJs to work with that property manager in helping them know where to go to look some of these things up. But I think they're pretty helpful. The other thing that I will -

Kris Richmond: And Les I'd put that in the chat - I'd put that in the chat box for everybody if they wanted to know the name.

Les Warner: Perfect. So just a couple of other things I would mention. Tomorrow we will have more time, so can go into a little more depth on some of those things that were talked about today. But we can talk tomorrow a little more about how to deal with this issue about lease provisions and how you might - methods that the PJ might use to make sure that they were all going to be in compliance. There's a question that came through asking about the slides. So the slides are going out, a little bit later today. So they probably are not in your mailbox yet, but they should be coming through.

Kris Richmond: And that's for TBRA?

Les Warner: Yeah.

Kris Richmond: The TBRA site, tomorrow?

Les Warner: Correct. Yeah. I think the other question here I think we'll defer that until tomorrow, so I can poke through it carefully. But I would encourage you - we've gone through a lot of detailed information today which is probably making a lot of your heads swim a little bit.

So sleep on it, come back to the office hour session tomorrow and we'll have a little more time to revisit some of the things and that might - we might be able to help some of you to settle into that. In the chat box there's a question here about the compliance link. If you look in the chat box Kris has provided the names of those two guys. I will talk about them tomorrow and they will also be in the resource list.

Kris Richmond: Yeah. So the link I think is in the resource list when that's emailed out. Or you can just do a search. You can go into the HUD Exchange and do a search.

Les Warner: Yeah. And just the last question, there was a thing about temporary noncompliance, how long can it last? It really lasts until you have an opportunity to be able to correct that. So in some cases there's nothing that you can do until a client moves out, that's perfectly acceptable.

All right, that brings us to 3:00. I'm going to thank everybody for their participation and encourage you to join us tomorrow for tenant based rental assistance and also our question and answer session. Thanks everybody.