Building HOME
A Little About Us ...

- HUD’s Community Planning and Development Training Initiative
- Course developed by HUD
- Who are we?
How About You ....

- **Years of experience with HOME**
  - 1-5 yr
  - 5-10 yr
  - 10+ yr

- **Years of experience in community development**
  - 1-5 yr
  - 5-10 yr
  - 10+ yr

- **Level of familiarity with HOME rules**
  - Novice
  - Good experience
  - I can cite part 92 verbatim
Course Objectives

- Provide a summary of the HOME rules
- Answer common questions
- Share techniques
Course Structure

- Agenda
- Exercises and breaks
- Training manual
- Training manual appendices
- Overheads
Rules!!!!

- Ask questions
- Please keep side conversations to minimum
- Parking lot
- No cell phones that ring, please
Logistics

- Timing of breaks and lunch
- Telephones
- Restrooms
- Hey, where’s the coffee??
CHAPTER 1: OVERVIEW OF THE HOME PROGRAM
History and Goals

• National Affordable Housing Act of 1990
• Objectives:

- Nonprofit Capacity
- Local Govt
- Decent, Affordable Hsg for Low-income People
- Banks
- Private Sector
Allocation and Expenditure

- Funds go to PJs
  - Localities
  - Consortia
  - States

- Deadlines:
  - Commit funds within 24 months
  - Expend funds within 5 years
• Commitment is generally related to the signing of a legally binding funding agreement
  – CHDO reservations require written agreement
• Expenditure means drawn from IDIS
• New rule effective 1/1/2011 on commitments that are 12 months old with no disbursements
PJ Allocation

- Max. 10% Admin
- Max. 5% CHDO op.
- All projects
  - Homeowner rehab
  - Homebuyer
  - TBRA
  - Rental
- Min. 15% CHDO set-aside

- PJs and subrecipients only
- Must expect to use set-aside
- Must result in HOME units
Roles and Relationships

PJ (including consortia)

Subrecipient or State Recipient (possible, not required)

Low-income owners
Low-income buyers
Low-income tenants

Owners and Developers
• Private for profit
• Private/public nonprofit
• CHDOs
Key Partners

- **State recipient**
  - Unit of local government that runs a local program for the state
  - State can also work directly with CHDOs and other developers
- **Subrecipient**
  - Manages program on behalf of PJ
  - Can be public or nonprofit
  - Different definition than CDBG
- **CHDOs**
  - Creates affordable housing
- **Developer**
  - Creates housing
  - Can be for-profit or nonprofit
CHAPTER 2:
GENERAL PROGRAM RULES
Program Rules

- The HOME Program is four housing programs in one
  - Homeowner Rehab
  - Homebuyer
  - Rental Development (New Construction or Rehab)
  - Tenant Based Rental Assistance (TBRA)
Definition of a Project

- Site(s) under common ownership, management and financing
  - Assisted as a single undertaking
- One or more families under one TBRA program
Definition of a HOME Assisted Unit

• Any unit that receives HOME funds is considered HOME assisted

• HOME units are subject to HOME requirements, including affordability periods for rental and homebuyer

• HOME funds may also be spent on mixed-income projects, where some units are HOME assisted while others are not
Form of Subsidy

- Lots of choices
  - Loans
    - Interest or no interest
    - Payments or no payments
    - No payments for a while, then payments
    - Forgiven over time
  - Grants
  - Interest Subsidies
  - Equity Investments
  - Loan Guarantees
- Can include construction financing as well as permanent financing
Amount of Subsidy

- Minimum = $1,000 per unit (except TBRA)
  - Calculated as average HOME investment across all HOME units in single project
- Maximum is capped by the 221 (d)(3) Subsidy Limit
  - Calculated based on the amount of HOME investment in the project – does not cover all other sources of financing
  - Available only from HUD hub office multifamily division
  - PJs are not allowed to use the 221(d)3 statutory exceptions (see HOMEfire Vol.9, No.4 for further information)
  - Contact your CPD Representative for applicable limits
Actual Subsidy Amount

• The amount of actual HOME subsidy per unit will depend upon:
  – 221(d)(3) limit
  – Amount of total project cost that is HOME eligible
  – Number of HOME assisted units
  – The financial needs of the project

• Cost allocation process is used to determine subsidy/# of HOME units
  – Applies when mix of HOME and non-HOME units
  – Covers both homebuyer and rental units
Cost Allocation

• Purpose: HOME funds should not pay more than eligible and proportionate given the number of HOME units
• Cost allocation notice 98-02 provides guidance on determining:
  – Minimum number of HOME units and
  – Maximum HOME investment
• Comparability of units determines process used
Layering Review

• PJs must evaluate projects to ensure that only necessary amount of HOME funds to make project feasible, affordable, and sustainable is invested
  – Applies to all types of projects with multiple government financing

• PJ must have written layering guidelines

• Each project file must contain the subsidy layering review

• PJs may use layering reviews done by HUD or State agencies, but must review results using PJ’s own standards
Layering Review

• When PJs conduct their own reviews, need to analyze:
  – Project development budget
  – Sources and uses of funds
  – Certification of government assistance
  – Development proforma
  – Operating proforma

• Determine per-unit costs
Eligible Costs

• Hard costs and soft costs for:
  – New construction
  – Rehabilitation
  – Reconstruction
  – Conversion

• Improvements on HOME project site

• Acquisition
  – Vacant land
    • Construction must begin within 12 months
  – Improved land
Eligible Costs (continued)

• Demolition
• Relocation
  – Can assist all displaced households in project, not just those units that will be HOME-assisted
• Refinancing (with certain restrictions)
• Initial operating reserve during lease-up
  – Limited to 18 month rent-up period
• Project related soft costs
Ineligible Costs

- Reserve accounts
- Match for other federal programs (except McKinney)
- Assistance to:
  - Public Housing
- HOME projects during affordability period
  - Some exceptions
  - More later
Ineligible Costs (continued)

• Acquisition of PJ-owned property
  – Unless specifically acquired for a HOME project
• Project based rental assistance
• Paying delinquent taxes on behalf of the owner or as part of acquisition
Type and Condition of Property

- Wide range of unit types
  - No facilities
- HOME $ is spent ➔ “standard” unit
- Different definitions of “standard” for different activities
- Three types of codes apply
  - Building Codes
  - Housing Codes or Standard
  - Rehabilitation Standards
Maximum Household Income

- 100% of HOME $ must assist households $\leq 80\%$ HUD Section 8 (Part 5) Low-Income Limit
- Lower income targeting for some activities
- Note: different than CDBG
What Counts As Income?

• Three definitions
  – Section 8 (Part 5)
  – IRS Adjusted Gross Income
  – Census Long Form

Use the Income Calculator on HUD’s website
Income Basics

• Gross annual income determines eligibility
  – Adjusted income used for TBRA payment/rents for over income tenants
• Anticipate income for next 12 months
• Compare income to published income limits to determine eligibility
• Income is based on all household members not just family (related individuals)
Income Determinations

• Determine income using source documentation
  – Income determination is good for 6 months
• Recertify rental income annually:
  – Must do source docs every 6th year of affordability period
  – For other years can use:
    • Source documents
    • Written statement from household
    • Statement from administrator of another program
• TBRA must be determined annually using source documentation
Affordability Period

• Applies to homebuyer and rental activities
• Appropriate return on federal investment
• Amount of HOME $ establishes time period
  – Big HOME investment = long period of time
  – Small HOME investment = shorter period
• Affordability period is same regardless of whether assistance is loan or grant
• Affordability period is not terminated by repayment of HOME loan
Affordability Period

- Period of affordability = period of compliance
- PJs can establish longer period of affordability, if desired
- Period starts when project status in IDIS is changed to “complete”
## Affordability & Compliance

<table>
<thead>
<tr>
<th>HOME $ Per Assisted Unit</th>
<th>Length of Affordability / Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $15,000</td>
<td>5 years</td>
</tr>
<tr>
<td>$15,000 to $40,000</td>
<td>10 years</td>
</tr>
<tr>
<td>More than $40,000</td>
<td>15 years</td>
</tr>
<tr>
<td>Refinancing Rental Hsg.</td>
<td>15 years</td>
</tr>
<tr>
<td>Rental New Construction</td>
<td>20 years</td>
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### Additional HOME Funding for Projects During Affordability Period

<table>
<thead>
<tr>
<th></th>
<th><strong>PERIOD</strong></th>
<th><strong>SERVE AGAIN?</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Owner Rehab</strong></td>
<td>none</td>
<td>Local option</td>
</tr>
<tr>
<td><strong>Homebuyer</strong></td>
<td>5-15 yrs.</td>
<td>Same house/diff. buyer</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Same buyer/diff. house w/in 1 yr. of complete</td>
</tr>
<tr>
<td><strong>Rental</strong></td>
<td>5-20 yrs.</td>
<td>W/in 1 yr. of complete assist tenant to buy</td>
</tr>
<tr>
<td><strong>TBRA</strong></td>
<td>none</td>
<td>No affordability period but lease required and TBRA contract up to 24 months</td>
</tr>
</tbody>
</table>
Other Federal Regulations

- HOME regulation lists other requirements that apply
- Refer to source of other requirements for applicability
- List includes regulations about:
  - Non-Discrimination (92.505(a))
  - Handicapped Accessibility (Part 8, Section 504)
  - OMB Circulars and Part 85 (92.505(a))
  - Environmental (Part 58)
  - Lead Paint (Part 35)
  - Relocation/acquisition (Part 42)
  - Labor standards (92.354)
  - Excluded parties (debarred/suspended) (92.350)
CHAPTER 3:
CHDO REQUIREMENTS
AND
ACTIVITIES
CHDO Set-Aside

• The equivalent of at least 15% of each allocation must go to housing owned/developed/sponsored by CHDOs
  – Set aside funds must be owned, developed, sponsored units

• PJ's have 24 months to reserve Funds for CHDOs
CHDO Qualifying Criteria

- CHDOs must meet requirements pertaining to their:
  - Legal status
  - Organizational structure
  - Capacity and experience
Legal Status

• To be eligible, organization must:
  – Be organized under state and local law
  – Have as its purpose to provide decent and affordable housing to low income persons
  – Provide no individual benefit
  – Have a clearly defined service area
  – Have an IRS tax exempt status
Organizational Structure

• CHDO board must have:
  – At least 1/3 reps of low-income community
  – No more than 1/3 reps of PJ employees
    • All employees of PJ – even those that are low income -- count toward this 1/3

• Balance is unrestricted except when sponsored/organized by a for-profit
Low-Income Representation

- Three ways to meet the 1/3 minimum requirement:
  - Low-income residents of the community
  - Residents of low-income neighborhoods
  - Elected representatives of low-income neighborhood organizations
Low-Income Input

• CHDO must also provide formal process for low-income beneficiaries to provide input on design, siting, development, and management of HOME projects
  – Must be described in writing
  – Must be in by-laws or resolution
• Ways to achieve this:
  – Special committees or neighborhood advisory councils
  – Open town meetings
PJ Employees

• Public sector representatives include:
  – Elected officials of the PJ/State recipient
  – Appointed officials of the PJ/State recipient
  – Public employees of the PJ/State recipient
  – Persons appointed by a public official/PJ

• Low-income public officials count against the 1/3 public sector max
For-profit entities can sponsor a CHDO:

- Cannot be controlled by the for-profit
- Primary purpose of for-profit cannot be housing development/management
- For-profit reps cannot be more than 1/3 of board
- CHDO must be free to contract for goods/services from any vendor
Capacity and Experience

• Organization must:
  – Have at least ONE YEAR of experience serving the community
  – Demonstrate staff capacity to carry out planned activities
  – Have financial accountability standards that conform to 24 CFR Part 84.21

• Capacity must be relevant to type of CHDO activity to be undertaken
Uses of HOME Funds

• Eligible uses of CHDO set-aside funds:
  – Acquisition/rehab and sale of units to homebuyers
  – Acquisition/rehab of rental units
  – New construction (rental or homebuyer)
  – Direct financial assistance to homebuyers only when also constructing or rehabbing the units
Uses of HOME Funds II

• Ineligible use of set-aside funds:
  – Tenant-based rental assistance
  – Homeowner rehab
  – Downpayment and closing cost assistance when not associated with unit construction or rehabilitation
CHDO Roles

- To count towards the CHDO set-aside, CHDO must act as:
  - Owner
  - Developer OR
  - Sponsor
CHDO as Owner

• As owner, CHDO:
  - Holds valid legal title OR
  - Has long-term leasehold interest

• CHDO may be an owner in partnership
  - Must have effective control

• CHDO may be both owner and developer of its own project
Developer

- CHDO owns property OR has contractual obligation to property owner to:
  - Obtain financing AND
  - Rehabilitate or construct
- If rental, may also manage project
- If homeownership, CHDO transfers property to homebuyer
Sponsor

• As sponsor of rental housing,
  – Develops a project that it solely or partially owns
  – Transfers ownership to a second non-profit at some point

• As sponsor of a homebuyer project,
  – Owns property and shifts responsibility & ownership to second non-profit during development
  – Second non-profit transfers title and obligations to homebuyers
CHDO vs. Subrecipients

- Subrecipients administer programs while CHDOs own, develop, or sponsor projects
- CHDOs may take on the role of subrecipient
  - Not a CHDO set-aside activity
  - If subrecipient, may not receive HOME funds for a project through same activity
  - PJ provides admin $$$
- If CHDO is running a HOME program rather than acting owner/sponsor/developer of housing = subrecipient role
Special Assistance

- PJs may provide special forms of assistance to CHDOs
  - Project pre-development loans
  - Operating assistance
  - CHDO proceeds
  - Capacity-building assistance (new PJs only)
Pre-Development Funds

• Access to up-front money
• Costs must be
  – related to specific project
  – for HOME eligible activities
• Uses and costs must be customary and reasonable
• Up to 10% of set-aside
• Not limited to 10% of a project
Restrictions on Pre-Development Loans

- Funds must be provided as a loan
  - CHDO must repay from construction loan proceeds or other income
  - PJ may waive repayment if:
    - There are impediments to project development beyond the CHDO’s control
    - Project deemed infeasible
CHDO Operating Assistance

• Up to 5% of PJ's HOME allocation may be used for CHDO operating

• Eligible uses:
  – Organizational support
  – Housing education
  – Admin expenses
  – Operating expenses

• No project specific costs
• Not subject to match
Limitations on Operating Assistance

• Assistance may NOT exceed:
  – $50,000 each fiscal year OR
  – 50% of CHDO’s total annual operating expenses for that year
    *WHICHEVER IS GREATER*

• Admin funds to CHDOs acting as subrecipients do NOT count towards cap
• Uses must be outlined in written agreement
• CHDO must be funded or expected to be funded with CHDO set-aside within 24 months
• PJs may allow CHDO to retain some or all proceeds from a HOME project
• Proceeds might be:
  – Proceeds from permanent financing
  – Principal and interest on HOME loans
• Proceeds are NOT considered program income
Use of Project Proceeds

• Use of proceeds must be for:
  – HOME-eligible activities OR
  – Other low-income housing activities, including CHDO operations

• Written agreement with CHDO must include:
  – Whether CHDO will retain any proceeds
  – The specific use of proceeds
Capacity-Building Assistance

• Only applies to PJs in first 2 years of participation in the HOME Program!
• HOME funds can be used for CHDO capacity building
  – Up to 20% of CHDO set-aside
  – Total cannot exceed $150,000 per CHDO
  – Use for intermediary organizations, training and TA or operating expenses
CHAPTER 4:
HOMEOWNER REHABILITATION ACTIVITIES
Eligible Activities

• Assist eligible owner-occupants with:
  – Rehabilitation
  – Reconstruction
  • Must replace with same unit type and same number of units
  • New unit(s) may have more or fewer bedrooms than unit(s) being replaced
Types of Rehabilitation Programs

• These programs are ineligible UNLESS the property meets minimum property standards upon completion:
  – Weatherization
  – Emergency repair
  – Handicapped accessibility
Forms of Assistance

• Most common:
  – Grants
  – Deferred payment loans
  – Below-market interest or non-interest bearing loans

• Can also use:
  – Loan guarantees
  – Interest subsidies
  – Other forms approved by HUD
Eligible Costs (I)

- Rehab is subject to minimum and maximum subsidy requirements
- Virtually all types of hard costs eligible:
  - Actual rehab/reconstruction
  - Accessibility improvements
  - Utility connections
- Soft Costs
- Relocation Costs
- No luxury items or off-site infrastructure
  - A/C, dishwashers, minor landscaping not considered luxury
Eligible Costs (II)

• Refinancing existing debt is eligible if:
  – Housing is owner-occupied
  – HOME funds are *loaned* for rehab
  – It reduces costs to borrower and housing is made more affordable
CHDO & Nonprofit Roles

- Homeowner rehab is NOT an eligible CHDO set-aside activity
- Nonprofits may act as:
  - Subrecipient
  - Competitively procured administrator
  - Community advocate/advisory group
  - Counselor to owners
Eligible Property Types

• To be eligible, housing must be:
  – Owned & occupied by income-eligible homeowner
  – The owner’s principal residence
Eligible Property Types

Types of eligible housing:
- Single-family housing (1-4 units)
- Condo unit
- Coop or mutual housing unit (if recognized by state law)
- Manufactured home
Rehabilitation of Rental Units in 2-4 Unit Properties

- When homeowner has 2 to 4 unit property, compliance depends on type of HOME investment:
  - If rehabilitate only owner unit, HOME does not apply to other units
    - Can pro-rate common costs
  - If use HOME funds for rehab of other units, HOME rental rules apply to those units
Rehabilitation of Rental Units in 2-4 Unit Properties Cont’d

• Cost allocation notice 98-02 guidelines apply
• Comparability of units guides approaches to determining
  – Minimum number of HOME units, and
  – Maximum HOME investment
Definition of Ownership

- Fee simple title
- 99-year leasehold interest (50-year leasehold on trust or restricted Indian lands)
- Ownership in a condominium
- Ownership/membership in a coop or mutual housing project (if recognized by state law)
- Other HUD-approved form
Maximum Property Value

• Value after rehabilitation must not exceed 95% of median purchase price for the area

• Determining the 95% of median value:
  – Use mortgage limits established by HUD for the 203(b) program
    • PJs that choose this option must use pre-stimulus calculation – see HOMEfire Vol.10, No.1 for further information
  – Perform local market survey
Property Value

- Individual property value must be determined prior to performing any work
- Establish after-rehab value using:
  - Appraisal including added value of rehabilitation
  - Informed estimate of value by PJ staff
  - Tax assessment if based on market value of comparable unit to post rehab
Property Standards (I)

• PJs must have written rehab standards
• All rehab projects must meet written standards **and** state/local codes
• Or, if no state or local code exists:
  – CABO One to Two Family Code OR
  – FHA Minimum Property Standards
Property Standards (II)

- Cost Effective Energy Conservation Effectiveness Standards no longer apply
- Permanent utility hook-ups or permanent foundations for manufactured housing not required
Long-Term Affordability

• No long-term affordability for owner occupied rehabilitation
CHAPTER 5:
HOMEBUYER ACTIVITIES
Eligible Activities

• HOME can be used for:
  – Acquisition
  – Acquisition/rehabilitation
  – New construction
  – Lease-purchase if conveyed within:
    • 36 months of signing OR
    • 42 months of project completion
Sale of HOME Rental Units to Tenants

- During the affordability period, can sell HOME units to tenants
  - Tenant must be eligible

- Affordability period:
  - If assist homebuyer, affordability period is based on that assistance
  - If no homebuyer assistance, use resale restriction and remaining term of affordability period
Forms of Assistance

• PJs generally use:
  – Grants
    • Repayable if affordability requirements are not satisfied
  – Deferred payment loans
  – Below-market rate loans
Subsidy Amounts

- Subsidy limits, both maximum and minimum, apply
- If multiple government sources, subsidy layering applies
- If subdivision or multiple units, actual subsidy subject to cost allocation
  - Notice 98-02 provides guidance
Eligible Costs

• Hard costs:
  – Acquisition
  – Site preparation or demolition
  – Construction

• Soft costs:
  – Fees and appraisals
  – Homebuyer counseling

• Relocation Costs
Nonprofit & CHDO Roles

• Nonprofits can:
  – Manage a homebuyer program as a subrecipient
  – Be a competitively procured administrator
  – Provide counseling
  – Be a developer of housing

• CHDOs can serve as owner, developer, or sponsor of a homebuyer project
Eligible Properties

• Eligible property types:
  – Single-family home
  – Two-to-four unit property
    • Other units may be subject to HOME rents
    • Depends on how funds invested
  – Condominium unit
  – Coop or mutual housing unit (if recognized as ownership by state)
  – Manufactured home
Maximum Property Value

• Housing must be modest
  – Determined based on property sales price or value

• If acquisition only,
  – Sales price cannot exceed 95% of the median area purchase price*
Maximum Property Value (cont)

- If acquisition and rehab:
  - **After-rehab value** cannot exceed 95% of the median area purchase price*

- Use HUD 203(b) limits OR perform local market survey
  - PJs that choose this option must use pre-stimulus calculation – see HOMEdire Vol.10, No.1 for further information
Property Standards - Acquisition

• If acquisition only,
  – State/local housing quality standards
  – If no state/local standards, then Section 8 HQS
  – House must be inspected
  – Must meet standards at time of occupancy
• If acquisition and rehab
  – Written rehab standards, and
  – State/local code
  – If no state/local code, meet a national code
• **Acquisition and rehab (cont.):**
  – Inspect prior to occupancy
  – No health and safety defects
    • Before occupancy, and
    • No later than 6 months after transfer
  – Meet applicable codes
    • At project completion, and
    • Within 2 years of transfer
• If new construction
  – State/local code
  – If no state/local code, meet a national code
  – Also meet International Energy Conservation Code
The Applicant

• Low-income
• Property will be principal residence
• Income eligibility determined
  – At purchase for existing housing
  – At contract signature for new construction
  – At signing of lease-purchase agreement
• No requirements that:
  – PITI be affordable at purchase OR
  – PITI remain affordable over time
Forms of Ownership

- Types of ownership allowed:
  - Fee-simple ownership
  - 99-year leasehold (or 50 years on Indian Trust land)
  - Condo ownership
  - Coop or mutual housing ownership/membership, if recognized by state law
  - Other forms must be HUD-approved
## Long-Term Affordability

<table>
<thead>
<tr>
<th>HOME $</th>
<th>Affordability Period</th>
</tr>
</thead>
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<tr>
<td>&lt; $15,000</td>
<td>5 yrs.</td>
</tr>
<tr>
<td>$15,000 - 40,000</td>
<td>10 yrs.</td>
</tr>
<tr>
<td>Over $40,000</td>
<td>15 yrs.</td>
</tr>
</tbody>
</table>
Recapture/Resale

- For each homebuyer, UP FRONT, the PJ must select the compliance requirement during the period of affordability, either:
  - Recapture ("sell to anyone, but pay back the subsidy") or
  - Resale ("sell to low-income buyer, at affordable price")
- PJ cannot mix Recapture and Resale; must choose one or the other
When to Use Resale or Recapture

• Resale can be used for any HOME-assisted homebuyer

• Recapture can only be used when:
  – Provide Direct Subsidy to Homebuyer
  – Must have an amount that can be recaptured
    • If pure grant, then must use resale
• Direct subsidy to the Homebuyer:
  – Financial assistance that reduces purchase price for homebuyer below market OR otherwise subsidizes the homebuyer
  – Examples:
    • Downpayment assistance
    • Purchase financing
    • Principal reduction
    • Assistance to CHDO to develop and sell unit below market
    • Closing cost assistance
Using the Recapture Option

• Affordability period based on total direct subsidy to homebuyer
• **Does not include** HOME amounts to subsidize development when that cost exceeds market
  – Known as development subsidy
Recapture Affordability Period Example

- $60,000 HOME development assistance to CHDO
  - Of this, $10,000 left in deal to write sale price below market
- $10,000 HOME downpayment assistance to homebuyer
- Total direct subsidy: $20,000
- Affordability period: 10 years
What Is Subject to Recapture?

• Buyer pays back some or all “Direct Subsidy to the Homebuyer”
  – Amounts provided directly to the buyer:
    • Downpayment / closing cost assistance
    • Subsidized loan
  AND
  – Amounts that write cost below market
  – May sell to any willing buyer at resale at any price
Recapture Limit

- Recapture is capped at what is available out of “net proceeds” for agreements after November 2004

**Sale Price**
- *Superior Non-HOME Debt*
- *Closing Costs*
  
  = **Net proceeds**
Actual Recapture Amount

• Based on the PJs recapture requirement as approved by HUD and capped by net proceeds

• Options approved by HUD:
  – Recapture amount of direct HOME subsidy to the homebuyer;
  – Forgive direct HOME subsidy pro-rata over the affordability period;
  – Proportionately share net proceeds; or
  – Allow buyer to recover his/her initial investment first.

• Can combine any of these options with shared appreciation
Recapture Example: Owner Investment Returned First

- HOME assistance $30,000
- Owner downpayment: $10,000
- PJ has agreed that owner downpayment can be repaid first
- Sale in year 6
- Sales price: $175,000
- Superior private debt: $150,000
- Owner closing costs: $5,000
- Amount to recapture?
Recording the Recapture Agreement

- Must be included in written agreement with household
- Can be recorded via:
  - Promissory note
  - Lien
- Must also enforce residency status
Using the Resale Option

- Affordability period based on total HOME investment in the property
  - Must include $$$ of HOME assistance to buyer
  - PLUS total amount of HOME funds provided to developer
Resale Affordability Period Example

- $60,000 HOME development assistance to CHDO
  - CHDO provides a $10,000 soft second principal reduction forgivable loan
- PJ provides $10,000 HOME downpayment assistance to homebuyer
- Total HOME investment: $70,000
- Affordability period: 15 years
Resale Basics

• If there is a Resale requirement, when the home is sold:
  – Home must be affordable to a reasonable range of low-income buyers
  – New buyer must be low-income
  – New buyer must occupy house as principal residence
  – Original buyer must receive a “fair return”
  – Remaining resale restrictions apply to new buyer OR
  – Can provide additional HOME assistance to the new buyer and compliance period for the unit starts anew
Affordable to Range of Homebuyers

• **Option 1: Defined by PJ**
  – Typically, PJs require that PITI does not exceed a stated percentage of the income of the targeted range of low-income homebuyers

• **Option 2: Presumption of Affordability**
  – PJ documents that all homes in this neighborhood are affordable to low-income buyers using conventional financing (document in Action Plan)
  – No deed restriction required
Fair Return to Seller

• PJ must define “fair return”
• Consider whether definition should be based on initial investment, or on full value of the home
• Note: a high return to the original owner means a high sales price to the next buyer
  – ... and the more likely it is that the PJ will need to subsidize the next buyer
Recording the Resale Agreement

- Must be included in written agreement with household
- Must be recorded via:
  - Deed restriction
  - Land covenant
- Must also enforce residency status
CHAPTER 6:
RENTAL HOUSING ACTIVITIES
HOME Rules

Program Wide Rules

Homeowner Rules

Rental Rules

Home Owner Rehab Rules

Home Buyer Rules

Rental Dev. Rules

TBRA Rules

Development
Approaches to Creating Rental Housing

• Range of possible approaches under HOME:
  – Acquisition
  – Rehabilitation
  – Reconstruction/conversion
  – New construction
Acquisition

• PJ subsidizes the purchase of units
• In return, units are rented to low income persons at HOME rents
• Assisted units must meet all HOME rules:
  – Rental occupancy
  – Affordability
  – Unit quality
  – Lease provisions
Rehabilitation

• Alter, improve, modify an existing structure
  – Can add rooms outside of existing building envelope
  – If add dwelling units = new construction
• Wide range of approaches possible:
  – Moderate rehab
  – Substantial rehab
  – Historic preservation
  – Reconstruction
  – Conversion
• Can be combined with acquisition
• Requires compliance with property standards for all HOME assisted units
Conversion and Reconstruction

• Reconstruction = re-building same size and type of structure on same site
  – Unit must be standing at time of project commitment
  – Number of bedrooms may change but number of dwelling units cannot

• Conversion = changing non-residential structure into affordable housing

• Both considered rehabilitation for HOME purposes
  – Reconstruction: if add dwelling units = new construction
  – Conversion: if add units beyond envelope = new construction
  – May differ for purposes of environmental review
New Construction

• HOME can fund rental new construction
• Can finance all aspects of the development or focus on specific cost
  – Example: HOME funds land acquisition, LIHTC funds construction
  – When mixed financing, need to determine “HOME-assisted units” (more later)
Key Partners in Rental Development

• Many types of partners in developing rental housing:
  – Public agencies
  – CHDOs
  – Nonprofit developers
  – For profit developers

• If CHDO acts as owner, developer or sponsor, counts towards CHDO set-aside
What is a Rental Project?

• A project is:
  – One or more buildings on a site or sites under common ownership, management and financing
    • Assisted as a single undertaking
      – One contract for all activities on site(s)
• Project includes ALL activities associated with the site or building
Eligible Projects

- No requirements on structure type or style of property
- Mixed income is possible
  - HOME can be targeted at specific units
- Mixed use is also possible
  - HOME investment limited to residential portion
Eligible Projects (cont)

• Group homes, transitional housing and SROs are eligible
  – Tenants must have a lease
  – Tenants must be low-income
  – Housing cannot be conditioned on participation in service programs

• Facilities and shelters not eligible
Ineligible Projects

• Cannot assist:
  – Property previously assisted with HOME during its affordability period
  – Public housing units
    • HOME and HOPE VI – eligible in some instances
    • 1937 Act Housing – NOT eligible
Forms of Assistance

- HOME allows grants, loans and other forms of assistance
- Common forms of assistance with rental housing:
  - Predevelopment loans and grants as defined by HOME
  - Construction loans
  - Permanent mortgage loans
  - Bridge loans
  - Credit enhancements
Assistance Amount

• Subsidy limits, both maximum and minimum, apply
• Actual subsidy subject to cost allocation and subsidy layering analysis
  – Notice 98-02 provides guidance
  – Comparability of units in project will determine the steps in calculating
    • Minimum assisted units and
    • Maximum investment
Eligible Costs

- Acquisition of land and structures
  - For vacant land, construction must begin within 12 months
- Site preparation
  - Includes sidewalks, roads, utilities
  - Must be on-site or hook-up to nearby utility
- Demolition
  - Construction must begin within 12 months
- Construction labor and materials
Eligible Costs (cont)

• Soft costs
  – Such as financing fees, legal fees, architect, enviro review, developer fee, affirmative marketing, 18 month operating deficit reserve

• Relocation
  – Can pay replacement housing, moving, advisory services, temporary relocation
  – For any household in HOME project

• Refinancing
  – If related to rehabilitation

• Loan guarantee
Eligible Costs (cont)

• Operating deficit reserve:
  – Initial operating deficit reserve in new construction AND rehab projects allowed
    • Reserve cannot exceed 18 months
  – Reserve can be used only for:
    • Project operating expenses
    • Scheduled payments to replacement reserves
    • Debt service
  – Make up difference between income and expenses
Ineligible Costs

• Cannot pay for:
  – Other types of project reserve accounts (beyond the 18 month operating reserve)
  – Development, operations, modernization of public housing
  – Acquisition of PJ owned property
  – Project based rental assistance
  – Delinquent taxes, fees, charges
  – Items not allowed under A-87 or not deemed cost reasonable
  – Match for other federal programs
Fixed and Floating Units

• Only units receiving HOME $ are subject to HOME requirements
  – Known as “HOME-assisted units”

• For properties with HOME and non-HOME units, must select “fixed” or “floating” HOME units
  – Fixed = HOME units for duration of affordability period
  – Floating = unit numbers change but always have same portion of HOME units
Fixed & Floating Units (cont)
Floating Units

• Units must be comparable
  – Same number of bedrooms
  – Amenities
  – Square footage
Property Standards

• Acquisition only:
  – State/local code
  – If no state/local code applies, Section 8 HQS

• Rehabilitation:
  – PJ’s written rehab standards AND applicable state/local code
  – If no state/local code applies, one of the national model codes
Property Standards

• New construction:
  – State/local code OR
  – If no state/local code, one of the national model codes
    – International Energy Conservation Code
Other Standards

• Handicapped accessibility (Section 504) requirements may apply

• Site and Neighborhood Standards apply to new construction of rental housing

• Fair Housing applies to all new multifamily construction
Long-Term Affordability

- Acquisition or acquisition / rehab activities:

<table>
<thead>
<tr>
<th>Per Unit HOME $</th>
<th>Min. Affordability Period</th>
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</thead>
<tbody>
<tr>
<td>&lt;$15,000</td>
<td>5 years</td>
</tr>
<tr>
<td>$15,000 - $40,000</td>
<td>10 years</td>
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<tr>
<td>&gt;$40,000</td>
<td>15 years</td>
</tr>
<tr>
<td>New Construction/Acquisition</td>
<td>20 years</td>
</tr>
<tr>
<td>Refinancing with Rehab</td>
<td>15 years</td>
</tr>
</tbody>
</table>

- If project does not remain compliant, HOME investment may need to be repaid
Affordability Period Rehabilitation Example

- HOME investment: $240,000
- Affordability period: 15 yrs
Affordability Period Rehabilitation Example

- HOME investment: $240,000
- Affordability period: 10 yrs
Rent and Occupancy Requirements

• Must be legally enforced for the term of the affordability period through:
  – Covenants
  – Deed restrictions
  – Other methods approved by HUD

• May only be terminated upon transfer by or deed in lieu of foreclosure
  – Unpaid balance must be returned to treasury account
HOME Rent Limits

• High HOME and low HOME rent limit
  – Published by HUD
  – Tenants given notice of increases

• Actual unit rents can be less but not more than HOME limits
  – Rents not usually set as a percentage of individual household income
  – Special provision for low HOME units with project based assistance
HOME Rent Limits (cont)

• HOME rents are inclusive of utilities
• Adjust rents for tenant-paid utilities
  – Subtract utilities to determine rent paid by tenant
• Use actual utility costs or use utility allowance schedule
  – Can use PHA schedule if it is up to date
High HOME rents

- Published by HUD
- Based on lower of:
  - 30% of 65% of median income for area; OR
  - Fair market rent
Low HOME rents

• Published by HUD
• Based on:
  – 30% of 50% of median income for area, OR
  – Rent does not exceed 30% of the family’s adjusted income, OR
  – If project gets state or federal project based assistance, the unit is occupied by a household at ≤50% of median and tenant payment capped at 30% of adjusted income, can use maximum rent under project based program
• If low HOME rent exceeds high HOME, use high HOME rent
# HOME Rent Example

<table>
<thead>
<tr>
<th></th>
<th>1 br</th>
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<th>5 br</th>
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<td>Low</td>
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<td>810</td>
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<tr>
<td>FMR</td>
<td>630</td>
<td>710</td>
<td>740</td>
<td>810</td>
<td>860</td>
</tr>
<tr>
<td>50%</td>
<td>550</td>
<td>630</td>
<td>710</td>
<td>820</td>
<td>915</td>
</tr>
<tr>
<td>65%</td>
<td>600</td>
<td>670</td>
<td>800</td>
<td>910</td>
<td>1010</td>
</tr>
</tbody>
</table>

- Assume: 3 br unit, $120 utility allowance
- Rent?
HOME Rents Over Time

• HOME rents may go up or down over time
  – Owner not required to accept rents lower than rents in the initial agreement
  – PJ must provide new rents HOME rents when published
The Project Rule

• Projects with 5 or more HOME-assisted units must have at least 20% of units occupied by families at/below 50% of MFI
  – Determination of appropriate unit type is based on gross income of household
  – Rents must be at Low HOME rent level
  – Balance of units may be at/below 80% of median with high HOME rent level

• Determine eligibility for low HOME unit based on gross not adjusted income
The Program Rule

• 90% of households assisted with HOME rental and TBRA must have incomes at/below 60% of MFI
  – Applies when funds are spent -- initial occupancy
  – NOT project-specific
  – Balance of units may be at/below 80% of MFI
Initial Income Eligibility

• To determine eligibility, use 1 of 3 income definitions:
  – Part 5 (gross) income
  – Adjusted gross income defined by IRS for IRS Form 1040
  – Annual income as reported on Census long form

• Source documentation must be obtained and verified
Annual Income Re-examinations

• Annually, tenant income must be re-examined
  – Review source docs OR (at PJ discretion)
  – Get written statement and certification from the family OR
  – Get written statement from another means-tested government program

• At least every 6th year of afford period, source docs MUST be reviewed
Maintaining HOME Project Unit Mix

Key Terms for Discussion

• **HOME-assisted unit:** Unit currently designated as compliant with HOME rules

• **Market rate unit:** All non-HOME assisted units in project

• **Unit type:** Fixed or floating

• **Net HOME rents:**
  - *Low HOME:* Current HUD-published Low HOME rent minus tenant-paid utilities
  - *High HOME:* Current HUD-published High HOME rent minus tenant-paid utilities

**Note:** for simplicity, these slides assume no other types of assisted units in project (such as LIHTC or CDBG)
Key Terms for Discussion (cont)

• **Income categories:**
  – *Very low income (VLI):* Household earns \( \leq 50\% \) of AMI
  – *Low income (LI):* Household earns \( \leq 80\% \) of AMI
  – *Over income (OI):* Household earns \( \geq 80\% \) of AMI

• **Existing (original) tenant:** Tenant currently living in HOME-assisted unit

• **New tenant:** Tenant who moves into HOME-assisted project
Over-Arching Points

• Must maintain mix of HOME & market rate units
  – Designated in written agreement

• Must maintain proportion of Low & High HOME rent units
  – Minimum Low HOME: 20% of HOME-assisted units
  – Actual percentage established in written agreement

• Existing tenants are never required to move due to income change
  – Neither required to move out from project nor required to move to different unit in same project
  – Existing tenant may choose to move out if not like their new rent; this is not “displacement”
• For LI in Low HOME unit, cannot change rent from Low to High HOME until substitute Low HOME unit is identified

• For OI in either Low or High HOME unit, can change rent as permitted by lease – do not need to wait for substitute unit
  – Project may be in “temporary non-compliance”

• Tenant income is verified annually; allowable rent changes occur when permitted by lease
  – Tenant is provided 30 days notice of rent change

• Depending on existing tenant incomes and units, unit swap may be possible
  – Example: need Low HOME unit & VLI household lives in High HOME unit
Factors in Determining Unit Mix

• Is project fixed or floating units?
• What was original type of unit (low HOME or high HOME)?
• What happened to household income?
  – Stayed below 50% AMI
  – Went above 50% but ≤ 80% AMI
  – Went above 80% AMI
Increases in Tenant Income

Income between 50 - 80% AMI

**MATTERS ONLY FOR LOW HOME RENT UNITS**

- Rent: stays at Low HOME rent until High HOME rent unit is designated as Low HOME rent
- Once replacement is identified, rent adjusts to High HOME rent
- Unit is now designated as a High HOME rent unit

---

Income greater than 80% AMI

**SAME ACTIONS FOR HIGH AND LOW HOME UNITS**

**Fixed unit:**
- Rent: raise to 30% of monthly income
- Next Available HOME unit must address High/Low HOME unit proportions
- No action for next available non-HOME unit

**Floating unit:**
- Rent: raise to LESSER OF 30% monthly income or Comparable Market Rent
- Next available non-HOME unit
  - Must be designated as HOME unit and
  - Address High/Low HOME unit proportions

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Slide 160
Actions when Low HOME Tenant Income $> 50\%$ but $\leq 80\%$ AMI

- Tasks same for fixed & floating units
- Unit stays Low HOME unit until available or swapped
  High HOME unit is re-designated as Low HOME rent unit
  - Until re-designation, rent stays at Low HOME rent limit
- Once High HOME unit re-designated as Low HOME unit, current unit designation changes to High HOME Rent unit
  - Rent can increase to High HOME rent, subject to terms of lease
Over Income Households in Fixed Units

• If income of a tenant in a fixed HOME unit exceeds 80% of MFI:
  – Tenant may remain in HOME-assisted unit BUT
  – Tenant must pay rent equal to 30% of adjusted monthly income

• Next available HOME-assisted unit must be rented to low income person (if High HOME unit needed) or very low income person (if need Low HOME unit)
Over Income Households in Floating Units

- If income increases above 80% MFI in floating HOME units:
  - Rent cannot exceed lower of comparable market rent or 30% of adjusted income

- In floating unit projects, next available market rate unit must be rented to HOME-eligible tenant
Increases in Tenant Income: Scenarios

• Low HOME Rent unit tenant income increase
  1. Above 50% but below 80%
  2. Above 80% in Fixed Project
  3. Above 80% in Floating Project

• High HOME Rent unit tenant income increase
  4. Above 80% in Fixed Project
  5. Above 80% in Floating Project
Low HOME Rent Unit Scenario 1: Over 50% but below 80%

- Example: tenant income increases to 65% AMI
  - Look for High HOME unit with tenant at or below 50% AMI
  - If found:
    - Swap the unit designations so that unit with tenant at 65% AMI is now High HOME unit
    - New rent limit: High HOME Rent Limit
  - If none available:
    - Unit designation stays as Low HOME unit
    - Rent stays at Low HOME Limit
    - Change when High HOME unit becomes vacant & lease permits change
Low HOME Rent Unit
Scenario 2: Over 80% in Fixed Project

• Example: tenant income increases to 85% AMI in fixed project
  – Rent increases to 30% of monthly income
  – Next available High HOME unit must be rented:
    • To VLI tenant (at or below 50% AMI)
    • At Low HOME rent limits
  – Project is “temporarily out of compliance” until OI household chooses to vacate
Low HOME Rent Unit
Scenario 3: Over 80% in Floating Project

• Example: tenant income increases to 85% AMI in floating project
  – Rent increases to the lower of
    • 30% monthly income OR
    • Rent on comparable market unit

  – Next available unit (market or High HOME rent) must be rented:
    • To VLI tenant (at or below 50% AMI)
    • At Low HOME rent limits
    • If existing High HOME unit used to replace “lost” Low HOME unit, next available market rate unit becomes High HOME
High HOME Rent Unit
Scenario 4: Above 80% AMI in Fixed Project

- Example: tenant income increases to 85% AMI in fixed project
  - Rent increases to 30% of adjusted monthly income
  - When HOME unit vacated, must ensure proper count of High/Low rent units:
    - If next available HOME unit is High, must rent to LI household at High HOME rent limits
    - If next available HOME unit is Low, must rent to Very Low income tenant at Low HOME rent limits.
    - Project is “temporarily out of compliance” until OI household chooses to move out
High HOME Rent Unit
Scenario 5: Above 80% AMI in Floating Project

• Example: tenant income increases to 85% AMI in floating project
  – Rent increases to lesser of 30% of monthly income or market rent
  – Next available market unit must be rented to LI tenant at High HOME rent
  – If next available is HOME unit, must maintain High/Low unit designations
    • If next available HOME unit is High, must rent to Low income at High HOME rent limits
    • If next available HOME unit is Low, must rent to Very Low income tenant at Low HOME rent limits.
## Summary of Actions at Lease Renewal – Fixed Units

<table>
<thead>
<tr>
<th><strong>FIXED</strong></th>
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<tbody>
<tr>
<td><strong>Low HOME Unit</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Tenant income remains (&lt; 50%)</strong></td>
<td>Update rent to current Low HOME</td>
</tr>
<tr>
<td><strong>Tenant income rises above 50% but (&lt; 80%)</strong></td>
<td>Unit remains Low HOME until vacancy in High HOME unit. When vacant High HOME unit, change that unit to Low HOME &amp; rent to VLI household at Low HOME rent. Designate original unit as High HOME &amp; raise rent to High HOME rent</td>
</tr>
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<td>Increase rent to 30% adjusted income. When HOME-assisted unit available, rent to VLI household at Low HOME rent</td>
</tr>
<tr>
<td><strong>High HOME Unit</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Tenant income falls (&lt; 50%)</strong></td>
<td>Check to see if swap possible with existing Low HOME unit whose tenant income is between 50 - 80% AMI.</td>
</tr>
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### Summary of Actions at Lease Renewal – Floating Units

#### Floating

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<td></td>
</tr>
</tbody>
</table>
Monitoring and Inspections

• PJs must verify compliance with HOME requirements each year

• On-site property inspections are required:
  – Every 3 years for projects with 1-4 units
  – Every 2 years for projects with 5-25 units
  – Each year for projects with 26 or more units
Home Lease Terms

- Leases must be for at least 1 year, unless agreed upon by owner and tenant
- Leases may not contain certain provisions
- Owner may terminate tenancy with 30 days notice under certain conditions
- Owners MUST adopt written tenant selection policies and criteria
CHAPTER 7:
TENANT-BASED RENTAL ASSISTANCE
HOME Rules

Program Wide Rules

Homeowner Rules

Rental Rules

Home Owner Rehab Rules

Home Buyer Rules

Rental Dev. Rules

TBRA Rules

Development
What is TBRA?

• TBRA is a rental subsidy that PJs can use to help individual households afford housing costs (rent and tenant paid utilities)

• Can also help with security deposits and utility deposits

• PJ can have a TBRA program that assists with security deposits but not rent
Rental Projects Vs. TBRA

- There are several key differences between traditional rental housing and TBRA
  - Helps individual household (not unit)
  - TBRA assistance moves with family
  - Level of subsidy based on income of household and/or rent of the unit the household selects
Program Design Options

- General community-wide program
- Self-sufficiency program
- Homebuyer program
- Targeted populations program
- Anti-displacement program
- Security deposit program
Ineligible Activities

• Assisting a resident owner of a cooperative or mutual housing unit
  – Unless these units are considered rental housing units under state law
  – A tenant who rents from an owner of a cooperative or mutual housing unit may receive TBRA
Ineligible Activities

- Preventing displacement of tenants from projects assisted with Rental Rehabilitation funds
- Providing funds to homeless persons for overnight or temporary shelter
- Duplicating existing rental assistance programs that already reduce rent payment to 30% of a tenant’s income
Eligible Applicant

- Tenants must be low-income
  - Prior to signing contract
  - Income determination is good for 6 months
  - Income must be verified annually
- PJ Program rule must be met...
  - For each funding allocation, 90% of households occupying newly developed HOME rental units and receiving TBRA must have incomes at/below 60% of MFI
Tenant Selection Requirements

• Written policy
  – Select households
    • Income
    • Preference

• Two options:
  – Select from PHA Housing Choice Voucher waiting list* OR
  – Establish its own waiting list

* Receipt of TBRA does not change the household’s position on the PHA waiting list
Eligible Units

• Units may be publicly or privately owned
• Units may not receive a duplicative form of rental subsidy
• Units must have a “reasonable rent”
• Units may have been developed or rehabilitated with HOME assistance
Portability

• PJs may permit portability of assistance outside of the PJ
• PJs must permit portability of assistance within the PJ
Property and Occupancy Standards

- Property must meet Section 8 HQS
- PJ must develop occupancy standards (maximum / minimum unit size depending on household size)
  - PJ develop own standard OR
  - Higher local standards (codes)
- Assure compliance with Lead-Based Paint Title X Regulations
Lease Requirements

- Owner’s lease must not contain prohibited lease provisions
- Term between tenant and owner must be for at least one year, unless mutually agreed upon
- PJ must establish termination/non-renewal standards
Calculating Rental Subsidy

- Factors affecting PJ’s payment:
  - Family’s income
  - Payment standard for each bedroom size AND
  - Cost of housing and utilities

- Subsidy also depends on type of TBRA program
Payment Standard

• Established by PJ
• Applies to all TBRA units in the PJ
• Option 1: 80% to 100% of the HUD Fair Market Rent
• Unit Specific “Exception Rent”:
  – For up to 20% of TBRA units
  – Can go up to 110% of the FMR
• Option 2: PJ Market Study
Amount of Subsidy

• Maximum PJ subsidy is capped at payment standard less 30% of household adjusted income
  – Individual households can pay more or less than 30%, depending on PJ program design
  – Typical program models are based on Section 8 Certificate or Voucher

• PJ must establish a minimum household payment

• PJ can pay up to 100% of reasonable security deposit/utility deposit
Certificate Approach

- Total payments (rent plus tenant paid utilities) cannot exceed the payment standard
- Tenant payment is constant at 30% of adjusted income (inclusive of utilities)
- PJ payment varies depending on rent and utilities at unit actually chosen by household
Voucher Approach

• Total payments may exceed the payment standard (tenant must pay difference)
• PJ payment is constant and equals the payment standard minus 30% of household adjusted income
• Household payment varies depending on rent and utilities at unit chosen (may exceed 30% of household adjusted income)
TBRA Administration

• Subsidy contracts with households:
  – Contracts cannot exceed two years
  – Can be renewed

• Administration of TBRA cannot be charged to project
  – Must be charged to administration
CHAPTER 8: MATCH
Match Basics

- PJs must match 25% of HOME funds drawn down for project costs
  - Match must be a *permanent contribution* to the HOME Program
- Match liability must be satisfied by end of federal fiscal year
- Match credits and debits not necessarily linked to same project
Match Requirements

• No match required for:
  – Admin and planning costs
  – Funds to CHDOs for:
    • Operating expenses
    • Capacity building
    • Pre-development loans for projects that don’t go forward
  – Shortfall funds
Eligible Sources of Match

- Cash or “cash equivalents”
- Value of waived taxes (HOME projects only), fees or charges
- Value of donated land/real property
- Cost of infrastructure improvements related to HOME projects
- Percentage of proceeds of housing bonds
Eligible Sources of Match

- Value of donated materials and labor
- Sweat equity
- Direct costs of supportive services to residents of HOME projects
- Direct costs of homebuyer counseling to HOME-assisted households
Cash and Cash Equivalents

• Cash must be:
  – From a non-federal source
  – Permanent contribution

• Cash equivalents means the value of grants and below-market interest rate loans
  – Match notice includes guidance on calculations

• Cash is credited when funds expended
Forbearance of Fees

• Two kinds of waived fees may be counted as match:
  – State and local taxes, fees and charges
    • Only on HOME-assisted projects
    • Value of foregone real estate taxes must be based on after-rehab value
  – Other charges and fees
    • Fees associated with property transfer or development
Donated Land/Real Property

- Can be donated or sold at below-market value
- Can be for a HOME-assisted or HOME-eligible
- Property acquired with non-federal funds counted at 100% of its value
- Match credited when ownership is transferred
- Must be determined by appraisal
Property Acquired with Federal Funds

• To get match credit:
  – Property must have been acquired for HOME-assisted or HOME-eligible project
  – Property must have been acquired at or below the appraised value
  – Seller must acknowledge the sale at or below market value as a donation to HOME

• Amount of credit is based on proper calculation of non-federal share
Infrastructure

• To get credit, infrastructure must be:
  – Directly facilitate the occupancy of HOME-assisted project
  – Completed with the HOME project or within 12 months prior to HOME funding commitment
  – Paid for with non-federal funds

• In HOME and non-HOME housing, investment must be prorated
Infrastructure

• Investment in infrastructure credited:
  – When funds are expended OR
  – If improvements made prior to HOME commitment, when HOME funds are committed

• HOME projects only
Housing Bond Proceeds

• No more than 25% of a PJ’s total match obligation can be met through loans made with bond proceeds

• To be eligible, proceeds must be provided to either HOME-assisted or HOME-eligible units
Housing Bond Proceeds

- Limitations on the amount of match credit that can be counted:
  - 50% of loans to multi-family projects
  - 25% of loans to single family projects
- Loans from bond proceeds credited at loan closing
Donated Labor, Services, Equipment And Materials

• To count donated material, PJs must use normal cost estimating procedures to determine value

• To get credit for donated or reduced-rate equipment,
  – Calculate normal rental rate
  – Document with letter from equipment owner
Donated Labor, Services, Equipment And Materials

• For donated or reduced-rate labor or services:
  – HUD publishes rates for donated unskilled labor
  – Skilled labor valued at rate normally charged for the service

• Donations credited at time used/contributed to the project
Sweat Equity

• Must be contributed as part of an established program of the PJ
  – Calculate at rate of unskilled labor (provided by HUD)

• Can be contributed up until project completion report submitted
Supportive Services

• Services must be provided to residents of HOME-assisted units
• Services must be:
  – Paid for with non-federal funds
  – Provided during affordability period
  – Necessary for independent living OR required in self-sufficiency program
• Match credited when services are provided
Homebuyer Counseling

• Value of counseling credited only for HOME-assisted homebuyer families
• Ongoing counseling during the affordability period is eligible as match
• Match credited when counseling provided
Ineligible Match Sources

• Contributions from federal sources
• Interest rate subsidy from tax-exempt financing or tax credits
• Owner equity/investment in a project (except sweat equity)
• Cash/contributions from applicants or recipients
• PJ’s administrative cost
• Match for any other federal program
CHAPTER 9:
GENERAL ADMINISTRATIVE AND MONITORING REQUIREMENTS
Eligible Admin and Planning Costs

• May use up to 10% of annual allocation plus 10% of program income

• Two options for calculating admin staff costs:
  – Entire salary/wages OR
  – A pro-rata share

• Choose one option!
Admin/Planning Costs

• Other eligible costs may include:
  – General mgmt, monitoring & coordination
  – Eligible travel costs
  – Administration of TBRA
  – Public information
  – Fair Housing
  – Preparation of Consolidated Plan
  – Compliance with other federal requirements
  – Indirect costs (must have approved cost allocation plan)
Admin Vs. Project Costs (I)

• Certain costs directly related to carrying out HOME projects may be either admin OR project costs:
  – Appraisals
  – Work specifications
  – Construction inspections and oversight
  – Underwriting
  – Relocation, environmental reviews, etc.
  – Counseling
Admin Vs. Project Costs (II)

• If costs are tracked to a project:
  – Counts in maximum subsidy limit
  – Triggers 25% match

• Must be charged to admin if project does not go forward

• TBRA admin always admin cost

• Project costs incurred by property owner always project costs
Consolidated Plan

• All HOME activities must be tied to Con Plan

• Two components:
  – Consolidated Plan (strategic plan)
    • Up to five years
  – Annual Action Plan

• Covers HOME, CDBG, ESG, and HOPWA
Uniform Administrative Requirements

- PJ's and other government entities must adhere to:
  - OMB Circular A-87 (cost principles)
  - Provisions of 24 CFR Part 85 (uniform financial mgmt. standards, procurement, etc.)
  - OMB A-133 (audits)
Uniform Requirements

• Subrecipients that are nonprofit organizations:
  – OMB Circular A-122 (cost principals)
  – Provisions of 24 CFR Part 84 (uniform standards)
  – OMB A-133 (audits)

• CHDOs:
  – 24 CFR 84.21 only
Written Agreements (I)

• Written agreement is the commitment to disburse funds
• Required contents vary by organization type:
  – Use of funds
  – Reversion of assets/program income (not for private developers)
  – Uniform administrative requirements
  – Other program requirements
  – Requests for disbursements
Written Agreements (II)

- Required contents (cont.):
  - Records and reports
  - Enforcement provisions
  - Project requirements (e.g., affordability)
  - CHDO provisions

- Other provisions may be included
Conflict of Interest

• Employees, officers, or agents of PJs, state recipients and subrecipients must comply with:
  – 24 CFR Parts 84 and 85
  – Provisions in HOME regulations

• For owners, developers and sponsors:
  – Provision in HOME regulations (92.356(f))
  – Rules do not prohibit use of related subs but cost must be customary and reasonable
What is Program Income?

• Program income is gross income received by PJ, state recipient or subrecipient directly generated by:
  – Use of HOME funds OR
  – Matching contributions

• Funds generated through the use of HOME funds that return to these entities are PI in perpetuity
  – Applies even if the funds are received after the end of the affordability period
Program Income Is Not:

• CHDO proceeds
  – Must go to affordable housing activity
• Recaptured funds
  – From homebuyers; treated like program income, except no 10% for admin
• Repaid funds
  – Repaid from non-eligible project or activity; must return to Treasury account
• Funds that return to an entity that is not the PJ, state recipient or a subrecipient
  – For example a for-profit or nonprofit developer
Receiving and Using Program Income

- Income recognized when received by PJ, state recipient or subrecipient; prorated if appropriate
- Income must be deposited in PJ's local HOME account; 10% for admin OK
- State recipient/subrecipient may be authorized by PJ to retain income
- Income must be used according to HOME rules and requirements - before other funds are drawn
Pre-Award Costs

• May incur costs to be reimbursed with HOME:
  – Beginning of program year; OR
  – Consolidated Plan received by HUD
    WHICHEVER IS LATER!

• Capped at 25% of grant amount unless HUD approval obtained

• See chart on p. 9-23
Monitoring Function

- Monitoring fosters:
  - Production/accountability
  - Compliance with requirements
  - Responsiveness to community needs
  - Effective use of resources
  - Good organizational performance
Who Gets Monitored

- PJ
- CHDO
- Subrecipient
- Developers
- Contractors
• Develop monitoring policies, procedures, guides
• Include sample:
  – Form letters
  – Checklists
  – Job descriptions
Levels Of Monitoring

• HUD review of PJs
  – Annual review
  – If issues, may result in concerns or findings
  – If problems not resolved, sanctions may be imposed
Levels Of Monitoring II

- PJ monitoring of its programs and administration
  - Consistency with Consolidated Plan
  - Commitment and expenditure of funds
  - Match
  - Compliance in program design/implementation with HOME rules
- Must monitor subrecipient programs annually
Levels Of Monitoring III

• Project monitoring
  – Project meets requirements
  – Needed regardless of type of project or entity

• Beneficiary monitoring
  – Make sure families meet income and occupancy requirements
Risk Analysis

- Determine risk factors
- Assign weight to risk factors
- Determine rating by factor
- Compile all scores
- Rank organizations
Records

• Types:
  – Program
  – Project
  – CHDO
  – Financial
  – Program admin
  – Other federal
• Keep 5 years
Reporting

• Submit CAPER annually
• Contains:
  – Accomplishments
  – Status of actions to implement strategy
• Questions
• Future training needs
• Follow-up clarification:
  – HUD Field Office staff
  – ICF Trainer emails