Building HOME

A Little About Us …

- HUD's Community Planning and Development Training Initiative
- Course developed by HUD
- Who are we?

How About You ….

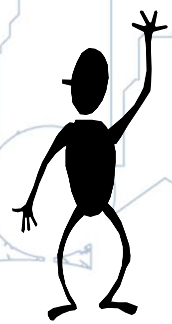
- Years of experience with HOME

  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

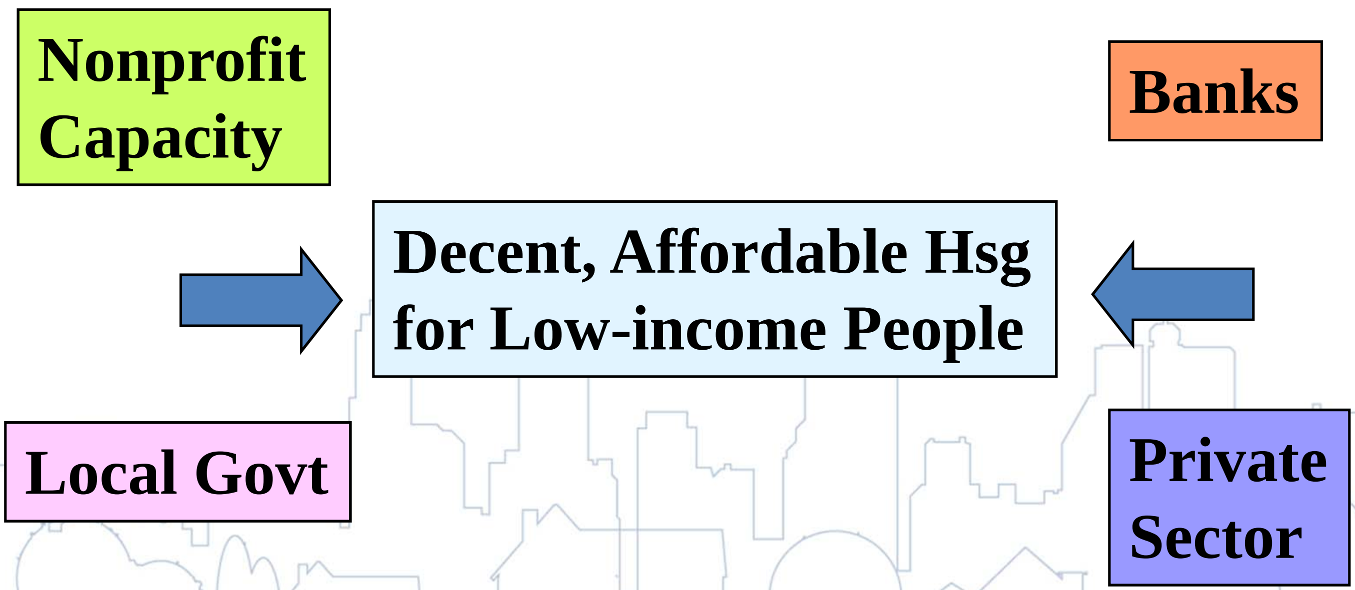
Logistics

- 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:



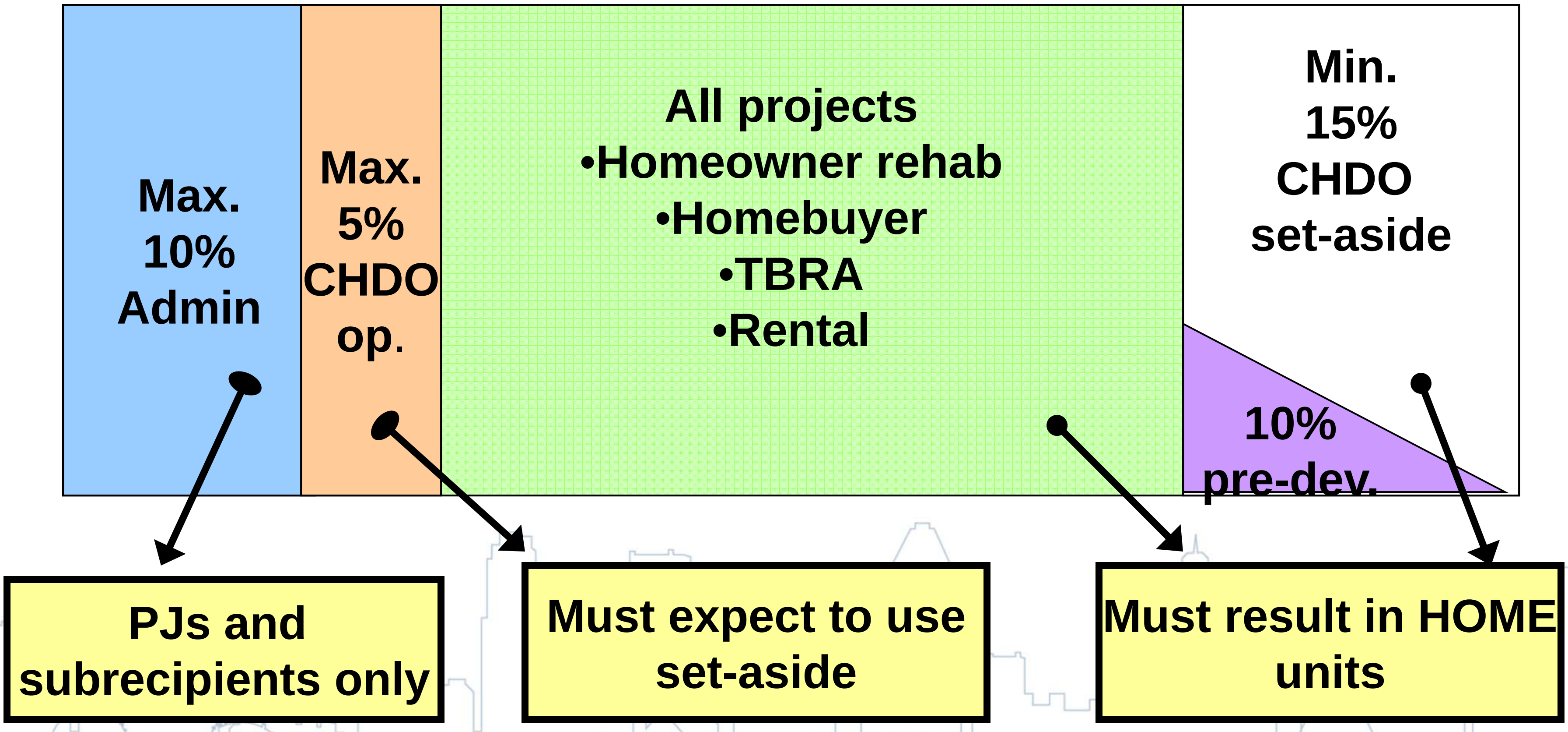
$$ Allocation and Expenditure

- Funds go to PJs
  - Localities
  - Consortia
  - States
- Deadlines:
  - Commit funds within 24 months
  - Expend funds within 5 years

$$ Allocation and Expenditure, continued

- 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



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

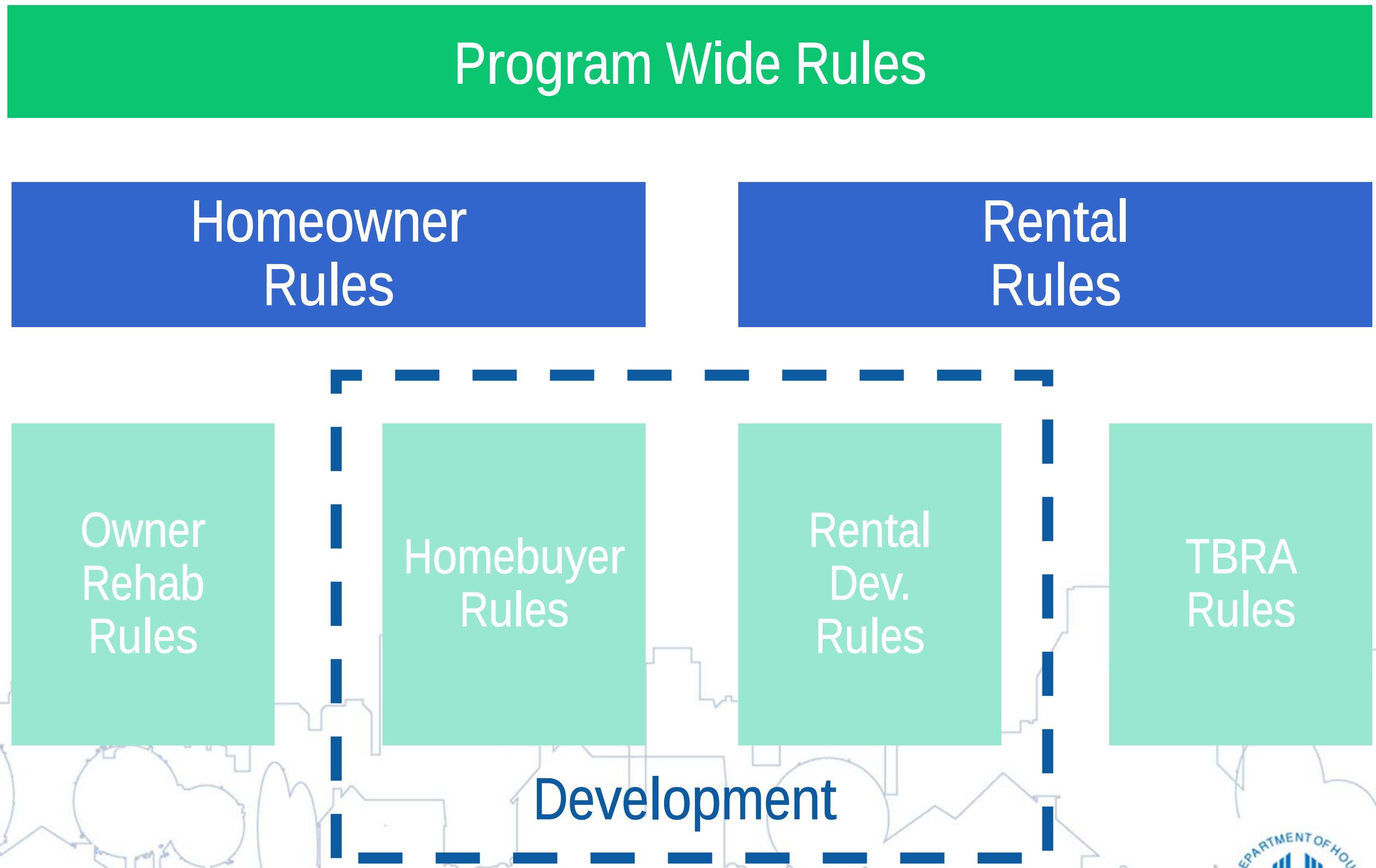
- State recipient
  - Unit of local government that runs a local program for the state
  - State can also work directly with CHDOs and other developers
- Subrecipient
  - Manages program on behalf of PJ
  - Can be public or nonprofit
  - Different definition than CDBG
- CHDOs
  - Creates affordable housing
- 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)

HOME Rules


Program Wide Rules
Homeowner Rules
Rental Rules
Owner Rehab Rules
Homebuyer Rules
Rental Dev. Rules
TBRA Rules
Development

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 <u>all</u> 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 ≤ 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

HOME $ Per Assisted Unit	Length of Affordability / Compliance
Less than $15,000	5 years
$15,000 to $40,000	10 years
More than $40,000	15 years
Refinancing Rental Hsg.	15 years
Rental New Construction	20 years

Additional HOME Funding for Projects During Affordability Period

	PERIOD	SERVE AGAIN?
Owner Rehab	none	Local option
Homebuyer	5-15 yrs.	Same house/diff. buyer Same buyer/diff. house w/in 1 yr. of complete
Rental	5-20 yrs.	W/in 1 yr. of complete assist tenant to buy
TBRA	none	No affordability period but lease required and TBRA contract up to 24 months

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
- PJs 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

CHDO Spin-Offs

- 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 <u>only</u> 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 <u>running a HOME program</u> 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

CHDO Proceeds

- 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

HOME Rules

Program Wide Rules

Homeowner Rules

Rental Rules

Home Owner Rehab Rules

Home Buyer Rules

Rental Dev. Rules

TBRA Rules

Development

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 <u>after rehabilitation</u> 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 **<u>and</u>** state/local codes
- Or, if no state or local code exists:
  - Uniform Building Code, National Building Code or Standard Building Code OR
  - 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

HOME Rules

Program Wide Rules

Homeowner Rules

Rental Rules

Home Owner Rehab Rules

Home Buyer Rules

Rental Dev. Rules

TBRA Rules

Development

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 HOMEfire 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

Property Standards - Acquisition and Rehab

- If acquisition and rehab
  - Written rehab standards, <u>and</u>
  - State/local code
  - If no state/local code, meet a national code

Property Standards - Acquisition and Rehab

- Acquisition and rehab (cont.):
  - Inspect prior to occupancy
  - No health and safety defects
    - Before occupancy, <u>and</u>
    - No later than 6 months after transfer
  - Meet applicable codes
    - At project completion, <u>and</u>
    - Within 2 years of transfer

Property Standards - New Construction

- 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

HOME $	Affordability Period
< $15,000	5 yrs.
$15,000 - 40,000	10 yrs.
Over $40,000	15 yrs.

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 <u>only</u> be used when:
  - – Provide Direct Subsidy to Homebuyer
  - – Must have an amount that can be recaptured
    - If pure grant, then must use resale

Key Term

- 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

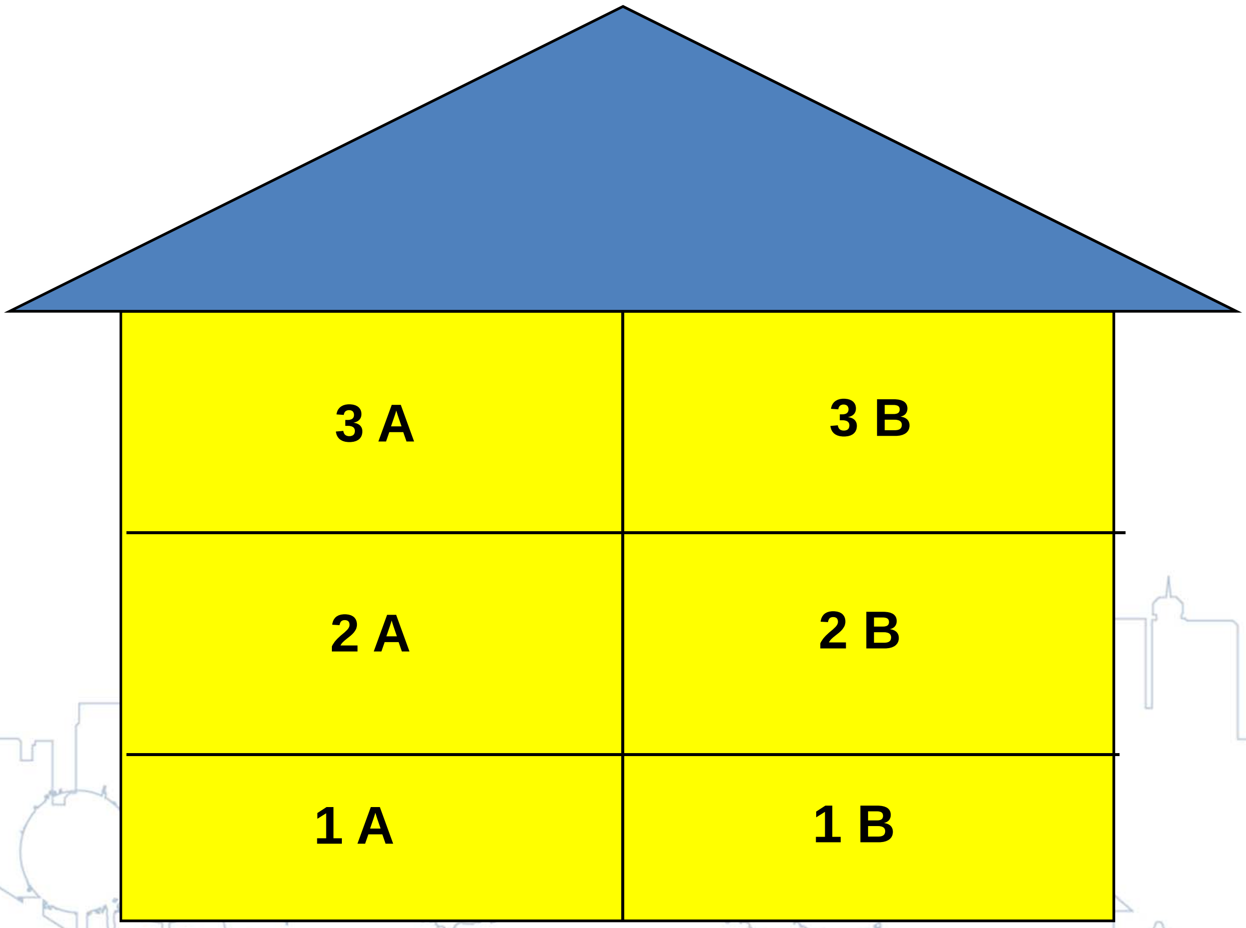
Ineligible Costs

- 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

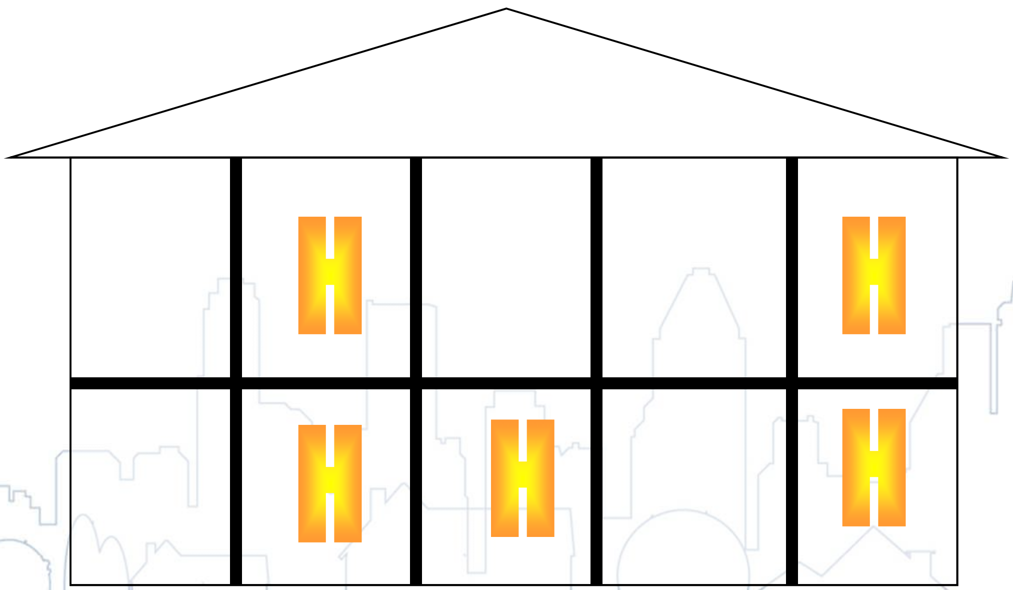
- Acquisition or acquisition / rehab activities:

Per Unit HOME $	Min. Affordability Period
<$15,000	5 years
$15,000 - $40,000	10 years
>$40,000	15 years
New Construction/ Acquisition	20 years
Refinancing with Rehab	15 years

- If project does not remain compliant, HOME investment may need to be repaid

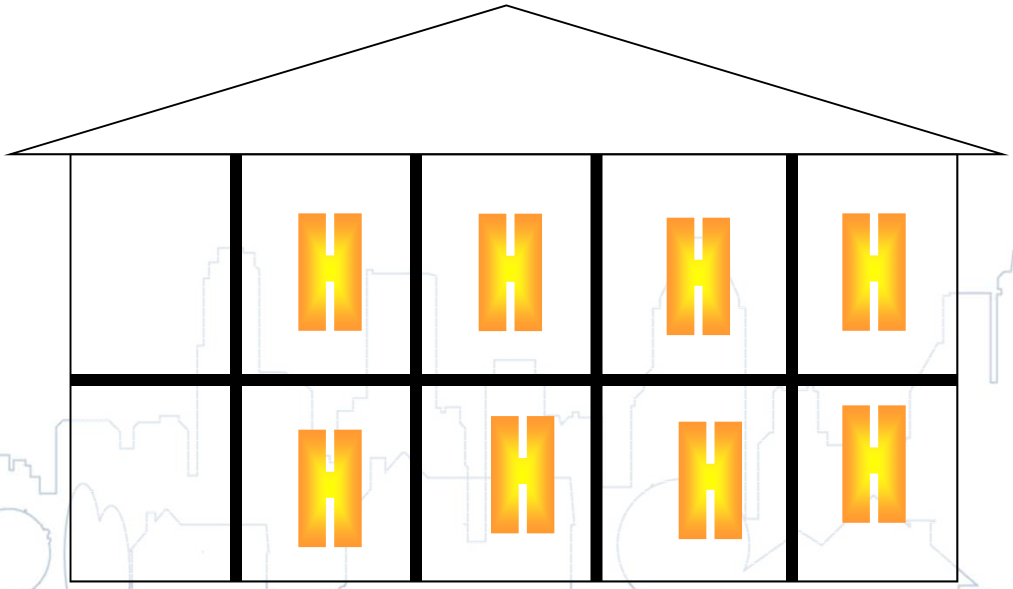
Affordability Period Rehabilitation Example

- 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

	1 br	2 br	3 br	4 br	5 br
High	600	670	740	810	860
Low	550	630	710	810	860
FMR	630	710	740	810	860
50%	550	630	710	820	915
65%	600	670	800	910	1010

- 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 <u>HOME-assisted</u> units
  - Actual percentage established in written agreement
- Existing tenants are <u>never</u> 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"

Over-Arching Points (cont)

- 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

Actions when Low HOME Tenant Income $\geq$ 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

FIXED		
Low HOME Unit		
	Tenant income remains ≤ 50%	Update rent to current Low HOME
	Tenant income rises above 50% but ≤ 80%	Unit remains Low HOME until vacancy in High HOME unit. When vacant High HOME unit, change that unit to Low HOME & rent to VLI household at Low HOME rent. Designate original unit as High HOME & raise rent to High HOME rent
	Tenant income rises above 80%	Increase rent to 30% adjusted income. When HOME-assisted unit available, rent to VLI household at Low HOME rent
High HOME Unit		
	Tenant income falls ≤ 50%	Check to see if swap possible with existing Low HOME unit whose tenant income is between 50 - 80% AMI.
	Tenant income remains above 50% but ≤ 80%	Update rent to current High HOME
	Tenant income rises above 80%	Increase rent to 30% adjusted income. When High HOME-assisted unit available, rent to LI household at High HOME rent

Summary of Actions at Lease Renewal – Floating Units

FLOATING		
Low HOME Unit		
	Tenant income remains ≤ 50%	Update rent to current Low HOME
	Tenant income rises above 50% but ≤ 80%	Unit remains Low HOME until vacancy in High HOME-assisted unit. When vacant High HOME unit, change that unit to Low HOME & rent to VLI household at Low HOME rent. Designate original unit as High HOME & raise rent to High HOME rent.
	Tenant income rises above 80%	Increase rent to lesser of 30% adjusted income or market rent. When market rate or HOME unit available, rent to VLI household at Low HOME rent. If HOME unit was used, next available market rate becomes High HOME.
High HOME Unit		
	Tenant income falls ≤ 50%	Check to see if swap possible with existing Low HOME unit whose tenant income is between 50 - 80% AMI.
	Tenant income remains above 50% but ≤ 80%	Update rent to current High HOME rent
	Tenant income rises above 80%	Increase rent to lesser of 30% adjusted income or market rent. When market rate unit available, rent to LI household at High HOME rent.

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

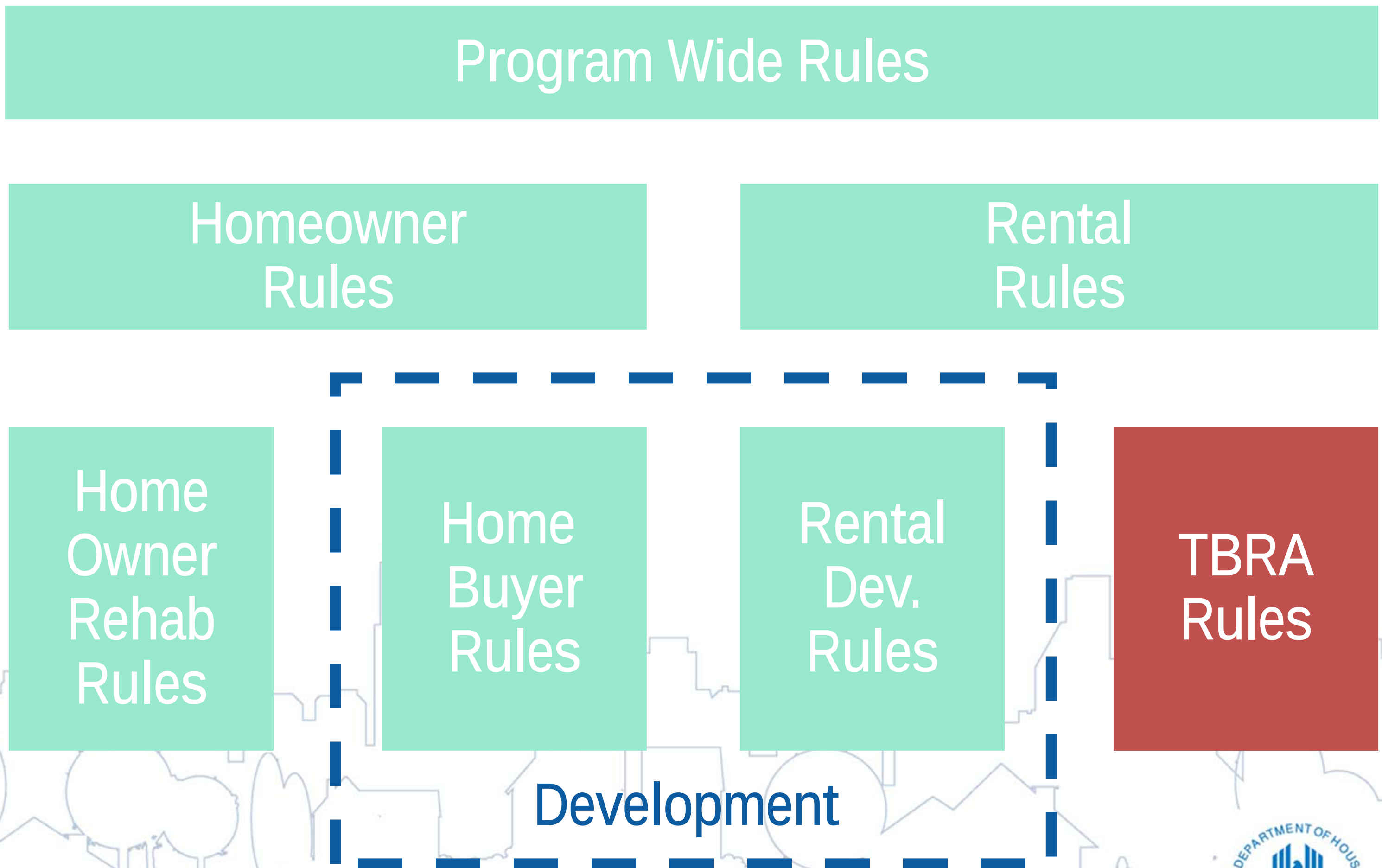
- Leases must be for at least 1 year, unless agreed upon by owner and tenant
- Leases may not contain certain provisions
- Owner may terminate tenancy with 30 days notice under certain conditions
- Owners MUST adopt written tenant selection policies and criteria

CHAPTER 7:

TENANT-BASED RENTAL ASSISTANCE

Slide 174

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 <u>may exceed</u> the payment standard (tenant must pay difference)
- <u>PJ payment is constant</u> and equals the payment standard minus 30% of household adjusted income
- <u>Household payment varies</u> 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 <u>OR</u>
  - 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 <u>not</u> go forward
- TBRA admin <u>always</u> admin cost
- Project costs incurred by property owner <u>always</u> 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

- PJs 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 <u>only</u>

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

Policies And Procedures

- 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

CONCLUSION

- Questions
- Future training needs
- Follow-up clarification:
  - HUD Field Office staff
  - ICF Trainer emails