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HOME Essentials

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NCSHA

National Council of
Housing Agencies

HOME and
Housing Trust
Fund
JANUARY 12 - 14

MRBs and
Other Federal
Homeownership
Programs
JANUARY 15 - 17

Housing Credit
JANUARY 14 - 16

Section 8 and
Other Federally
Assisted
Multifamily
Housing
JANUARY 15 - 17

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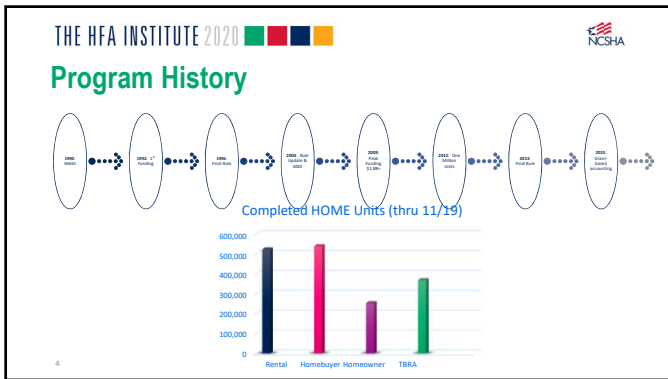
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HOME...in 4 hours?

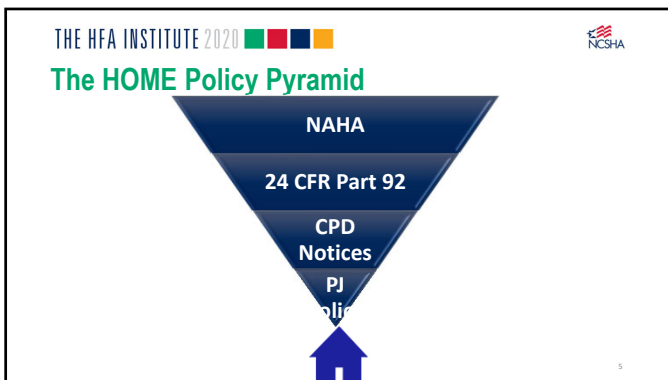
- History & overview
- Eligible activities & costs
- Program partners & roles
- Administration
 - Program
 - Project
 - Assisted units
- Requirements by activity type

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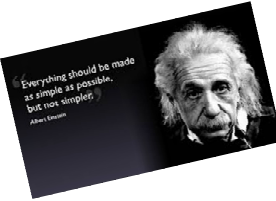


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The Rule: 24 CFR Part 92

- Key sections to read first!
 - 92.252: rental requirements
 - 92.253: lease requirements & prohibitions
 - 92.254: homeownership requirements
 - 92.250: project underwriting & max subsidy
 - 92.251: property standards
 - 92.203: income methods & documentation
 - 92.206/.214: eligible/ineligible costs
 - 92.504: written agreements
 - 92.508: recordkeeping
 - 92.2: definitions



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2013 HOME Final Rule

- Many clarifications/enhancements, including:
 - Project deadlines
 - Project (& buyer) underwriting
 - CHDO capacity & eligible set-aside activities
 - Property standards
- Effective: project commitments post 8/23/13
 - Pre-8/23/13 commitments: see Applicability Chart for changes that apply

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Other Recent Rules

- Interim Final Rule on commitments: eff. 1/3/17
 - Pre/post FY15 commitment/expenditure deadline
 - Revisions to reuse PI/Recapture/Repayment
- VAWA rule: eff. 12/16/16
 - HOME is covered; PJ is covered housing provider
 - Owner disclosure; lease addendum
 - PJ report; emergency transfer plan (6/14/17)
- Final Rule Housing Counseling: eff. 1/13/17
 - Counseling only by HUD-approved counselor (12/20)

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Recent HUD Guidance

- Notices:
 - CPD-18-10: 24-month HOME commitment suspension
 - CPD 18-09: Homebuyer program policies and procedures
 - CPD-16-15: cost allocation
 - CPD-15-11: underwriting guidelines
- Other published guidance:
 - HOMEfires Vol. 14, No. 2: HOME monitoring fees
 - HOMEfires Vol. 14, No. 1: PJ affirmative marketing
 - HOMEfires Vol. 13, No. 2: utility allowances
 - HOME FACTS Vol. 8, No. 1: multi-address activities in IDIS
 - HOME FACTS Vol. 7, No. 1: Receipt types (PI, repayment, recapture)

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Eligible Activities & Costs

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The Big Picture

- 4 categories of LI (80% AMI) housing activities
- HOME provides capital funds, not operating*
- Projects & investment terms locally decided
 - Underwriting (subsidy layering) & cost allocation
- Project deadlines: completed & occupied units
- HOME assisted units must meet requirements
 - Minimum affordability period: 5 – 20 yrs
- If requirements not met, funds must be repaid

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Eligible Activity Categories



Homebuyer



Rental

Owner-occupied rehab



TBRA



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Eligible/Ineligible Uses

• Eligible uses

• Permanent or transitional

• Capital costs

- Acquisition/Site Improvements
- Rehab/New Constr.
- Project Soft Costs (2 year lookback limit)
- Initial operating deficit (rental, <18 months)

• TBRA

• Ineligible uses

• Non-housing space:

- Commercial
- Accessory structures

• Non-low-income housing

• Shelters and facilities

• Off-site infrastructure

• Project reserves

- Exc. Initial Op Deficits

• Public housing (92.213)

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Program Partners & Roles

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Key Participants and Roles

• HUD funds/monitors PJ

• PJ can fund:

- State Recipients
 - Programs or projects
- Subrecipients to run programs
 - Buyer DPA, HO rehab, TBRA
- Developers (For-profit, nonprofit, CHDOs)
- Low-Income beneficiaries

HUD

PJ

State Recipients Subrecipients

Developers (incl. CHDOs)

Beneficiaries

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Subrecipients v. Developers

- Subrecipients
 - Not-profit or public agencies
 - Administrator; pass-thru assistance to others
 - Responsible for rules & uniform requirements (2 CFR 200)
 - Reimbursed for costs (admin & project delivery)

- Owner/Developers
 - For-profit or non-profit entity
 - Implements own projects
 - Only responsible for written agreement requirements
 - Fees as part of project costs

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The CHDO Set-Aside

- 15% of PJ annual allocation reserved for CHDO projects:
 - Rental Housing & Homebuyer projects only
 - Reservation = project commitment
 - 92.300 definitions: owned/developed/sponsored
- Nonprofit must qualify as CHDO
 - At time of reservation (commitment)
 - Revised CHDO definition (92.2) capacity (staff)

Category	Percentage
CHDO	15%
Other HOME	85%

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Eligible CHDO Activities & Roles

- Project must involve development activity
 - New construction, rehab, or acquisition by CHDO
 - Rental or homebuyer, not "DPA only," OOR or TBRA
- CHDO must control project: owned, developed, sponsored by definitions (92.300)
 - Sole control: key development/management decisions
 - New owner definition (own, not necessarily develop)
 - Tax Credit projects under "sponsored by" definition (CHDO/subsidiary sole gen partner/managing member)

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CHDO Certification at Funding

Checklist Item	Sat-Aside Reservation	Pre- Development Loan	Operating Expenses
1. Legal Structure	✓	✓	✓
2. Independence	✓	✓	✓
3. LI Community Accountability	✓	✓	✓
4. Capacity	✓	✓	✓*
5. Role	✓	✓	
6. Pre-development costs		✓	
7. Operating expense eligible			✓

*Exception: the operating award will allow CHDO to obtain staff capacity needed for project funding

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Other CHDO Assistance

• In addition to CHDO set-aside, a PJ may offer:

• Operating assistance funds

• Pre-development loan (forgivable)

• PJ option; up to 10% of CHDO \$

• CHDO retention of PI as CHDO proceeds

• CHDO Intermediaries & PJ TA & capacity building resources

• CHDO online training & materials

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Program Administration

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3 Levels of Administrative Focus



Program
Administrative
Requirements



Project
Requirements



Assisted Unit
Requirements

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Allocating HOME Funds

- Congress: annual appropriation
- HUD: formula allocation - State & local PJs (& consortia)
- ConPlan/Annual Plan
 - Programs & projects
 - Priorities
 - Procedures
 - Policies



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PJ Annual Allocation Breakdown

Admin (AD)

Max.
10%
Admin
(+ 10% PI)

Projects (EN)

All projects/activities

- Homeowner rehab
- Homebuyer
- TBRA
- Rental

CHDO (CR)

Minimum
15%
CHDO
set-aside

PJs and
subrecipients only

Need CHDO project
or expect in 24 mos.

Must result in HOME
units

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Admin v. Project Delivery Cost

Administrative cost

- PJ administrative costs
 - General program mgt, oversight, coordination
 - Public information
 - Fair housing
 - Indirect costs (cost allocation)
 - ConPlan
- PJ/subrecipient direct project costs may be charged to admin or project
- 10% of allocation (+PI) cap

Project delivery

- PJ/subrecipient staff & overhead directly related to carrying out activities, e.g.:
 - Application & underwriting
 - Documents
 - Inspections
 - Project env. reviews
 - Project compliance costs
- Subject to max. subsidy limit
- Cannot pass on to LI owner

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HOME Rules & Activities

Program Wide Rules

Homeowner Rules

Rental Rules

Owner Rehab Rules

Homebuyer Rules

Rental Dev. Rules

TBRA Rules

CHDO Set-Aside Activities

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HOME Expenditure Rules

- Program deadlines (Rule: 1/3/17, CPD-18-10)
 - Commitment: 24 mos subrecipient, project & CHDO res (& local account funds)
 - Suspended deadlines 2016-22 (CHDO reservations added 2019)
 - 36 mos (total) for subrecipient/SR projects (waived)
 - Expenditure: 8 / 9 years from appropriation
 - 5 year expenditure deadline removed for 2015 and later grants
- Project deadlines:
 - Expect to draw w/in 12 mos; but no auto de-obligation
 - 48 months from commitment to completion
 - 9 months to sell; 18 months to rent

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Disbursement Rules

- IDIS draws & reporting
- Reimbursement for expenses only
- Disburse only for HOME-eligible costs based on approved budget
- Document disbursements

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Match

- PJs must match 25% of HOME funds drawn down for project costs:
 - Program requirement, not each project
 - Must be a permanent non-Federal contribution
 - No match: admin, CHDO OpExp/Pre-Dev forgiven
- Sources: 92.220 & CPD-97-03
 - Match can be recorded for HOME-assisted & HOME-eligible projects (see CPD-97-03 p. 5)

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Eligible Match Sources


- Cash & "cash equivalents"
- Waived taxes, fees
- Donated land/property
- Infrastructure
- % of housing bonds
- Donated materials & labor
- Sweat equity
- Services/counseling



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Recordkeeping


- Documentation is critical last step
 - OIG Integrity Bulletin on documentation (12/6/16)
- Program & project records: 92.508
- Five years after closeout
 - Legal docs: 5 years after completion of aff period
 - Rental occupancy: 5 year rolling base



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Monitoring

- Recipients reviewed at least annually
 - PJ must develop risk-based monitoring plan
- Ongoing rental monitoring:
 - 92.252(f)(2): owners must provide info annually to PJ
 - Certify property standards
 - 92.504(d) on-site sample of files & prop inspections:
 - Within 12 months of completion & every 3 years
 - 92.504(d)(2) annual financial oversight, 10+ HAU's
- Ongoing homebuyer monitoring:
 - Principal residency & resale



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HUD IDIS Performance Reports

- Monthly activities & production reports (commitments, expenditures, activities)
- SNAPSHOT & Dashboard (performance)
- Deadlines
 - Deadline Compliance
 - Expiring Funds
 - Open Activities
 - Vacant units

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Program Income & Other Funds

- Program income – local account, 10% admin
- Recapture – local account, no admin
- Repayment – local account, no admin
- CHDO proceeds – PJ may allow CHDO to keep
 - 1st reuse for HOME or other LI housing in written agreement
- 12/2/16 Interim Rule changes required reuse
 - PJ accumulates for next Annual Plan activities
 - No longer disbursed 1st (grant accounting)
- HOME FACTS Vol 7 No 1: IDIS entries

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General Project Requirements


Program
Administrative
Requirements


Project
Requirements


Assisted Unit
Requirements

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Project Commitment

- Notice CPD-15-09
- Legally binding written agreement required for commitment; all HOME requirements incl.:
 - Underwriting
 - Environmental clearance
 - CHDO certification (if CHDO)

\$92,352
Expenditures
(disbursements)

\$2,700
Underwriting

\$2,800 (CHDO
certification (if
applicable))

Project commitment (written agreement)

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Cost Effective Use of Funds

- OMB cost principles: 2 CFR Part 200 Subpart E
 - Costs must be eligible, allocable, necessary, reasonable, documentable
- HOME requirements
 - Eligible/ineligible costs
 - Project underwriting/subsidy layering
 - Buyer underwriting standards
 - Cost allocation
 - Repayment (if doesn't meet requirements)

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Project Underwriting

- Notice CPD-15-11
- All projects must be underwritten prior to commitment: PJ must have:
 - Project underwriting & subsidy layering guidelines (92.250(b)) &
 - Homebuyer underwriting guidelines (92.254)
- PJ certifies project underwriting in IDIS set-up

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Underwriting Framework

- HOME investment no more than necessary to provide quality, financially viable housing for at least affordability period
- Return/profit to developer/owner is reasonable and not excessive
- Sources and Uses balance, including that all costs are reasonable

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Framework cont...

- Market assessment supports occupancy within deadlines
- Developer's experience and financial capacity is appropriate to project
- Firm written commitments for other project financing

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Subsidy Layering

- Integrated with underwriting guidelines
 - Must consider all (public) sources in the project
- PJs may use layering reviews from HUD or State agencies, but must review results using own standards

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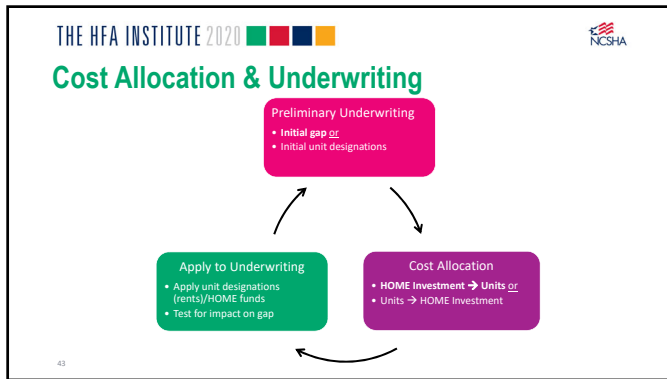
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Cost Allocation



- HOME funds should not pay more than what is eligible & allocable to HOME assisted units
- In mixed use and mixed income projects, cost allocation determines
 - Minimum number of HOME units &
 - Maximum HOME investment (CPD-15-003)
- Notice CPD-16-15
 - Standard Method preferred
 - Proration & Hybrid Method permitted only if comparable units

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Environmental Review

- All projects subject to environmental review
 - Type of review varies by activity
- Limits on pre-clearance actions (58.22)
 - PJs can't commit/expend funds prior to clearance
 - Developer can't take choice limiting actions (including acquisition, construction, & demo, but can do exempt activities (planning, design, options & relocation)
- PJ can make conditional commitments
- Projects in progress: stop no-exempt work until clearance

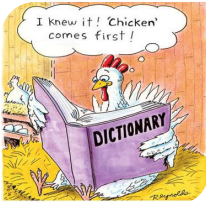
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Preliminary HOME Award

- PJ can make a preliminary award of HOME funds for a proposed project
 - Contingent on obtaining financing, completing environmental review, etc.
- Preliminary awards are not reservations or commitments!!
 - Do not satisfy PJ's 24 month commitment deadline
 - Activity may not be set up in IDIS



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Form of Subsidy

- Full range of choices
 - Loans: interest or no interest, payments or deferred, forgivable over affordability period
 - Grants
 - Interest subsidies
 - Equity investments & loan guarantees
- Construction & permanent financing
- Subsidy limits: Max HOME investment



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Required Documents

- Written agreement (commitment):
 - Agreement between PJ & developer/owner
 - Required for commitment; execute before IDIS setup
 - Delineates compliance obligations
 - Defines developer & PJ roles & responsibilities
- Recorded documents (closing):
 - Note/mortgage, deed covenant, etc.
 - Recorded at closing
 - Governs disbursements & occupancy
 - Basis for enforcement

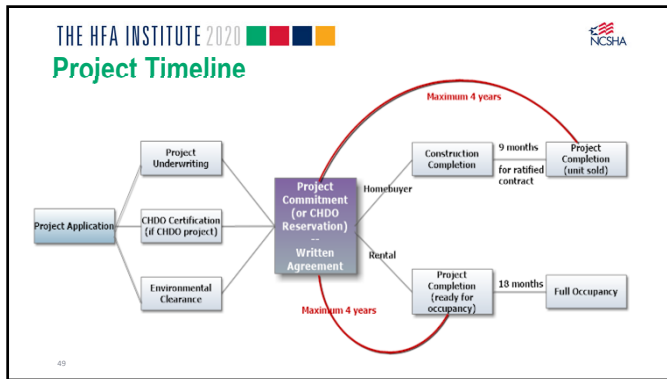
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Project Deadlines

- Initial draw: expect within 12 months
 - No longer subject to auto cancelation
- Completion: 4 yrs commitment to completion
 - Rental: construction completion & funds drawn
 - Homebuyer: construction completion, funds drawn, unit sold
- Occupancy:
 - 9 months to sell (or ratified sales contract)
 - 18 months to initially rent

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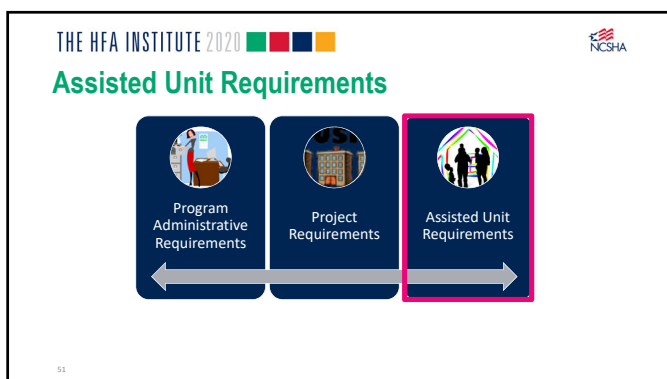
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Cross-Cutting Requirements

- Environmental review
- Relocation: URA & HCDA 1974 S. 104(d)
- Labor: Davis Bacon (if 12+ HAU's)
- EEO, M/WBE, Section 3
- Fair housing & accessibility: Section 504 & FHAA

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HOME Assisted Unit

- Any unit that receives HOME funds is considered HOME assisted
- HOME units are subject to all HOME requirements
 - Income restrictions, price limits, property standards, affordability period, etc.
- Unassisted units are not subject to HOME requirements





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The P's of HOME Unit Compliance

-  **P**eople – income limits
-  **P**rice – price or rent limits
-  **P**roperty – eligible properties & property standards
-  **P**eriod – 5 to 20 year affordability period

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People: Income Eligibility

- All HAU's occupied by LI (80% AMI)
 - Deeper 50%/60% targeting for rental/TBRA units
 - Limits on student households
 - Presumed conflict of interest for PJ/subrecipients & developer/owners
- Income determinations
 - Definition: Part 5 or IRS 1040
 - Determined at delivery of assistance

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Price: Affordability

- Homebuyer: sales price limit
- Rental: rent limits (published annually) & tenant paid utility allowances

HOME Program Limits

Income Limits

Rent Limits

Maximum Purchase Price/After-Rehab Value

Per-Unit Subsidy

HOME Reports

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Property: Property Standards

- All units must meet property standards to ensure decent & sustainable housing:
 - New Construction
 - Rehabilitation
 - Acquisition of Standard Housing
 - Manufactured Housing
 - Ongoing Rental
- PJ inspection requirements

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Property Standards, cont.

- All units must meet applicable state/local codes (or model codes in absence)
- Additional HUD standards
 - Federal requirements (e.g., LBP, accessibility, broadband)
 - Minimum deficiencies for existing housing

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Period: Min. Affordability Period

HOME Investment per Unit	Length of Affordability
less than \$15,000	5 yrs
\$15,000 - \$40,000	10 yrs
more than \$40,000	15 yrs
refinancing of rental housing	15 yrs
new construction of rental housing	20 yrs

+ local extended use restrictions

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The 5th P; PJ Policies & Procedures

• Beyond the rules, PJs have discretion to impose additional requirements, e.g.:

• Lower incomes

• Lower rents/prices

• More stringent property standards

• Longer affordability periods

• Other priorities

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Requirements by Activity Type

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Homebuyer Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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Homebuyer Assistance

- Eligible activities
 - Acquisition assistance (not CHDO-eligible)
 - Acquisition & rehab
 - New construction
- Forms of assistance
 - Development subsidies
 - Grants, Loans
 - DPA/CCA
 - Loan guarantees & other approved by HUD

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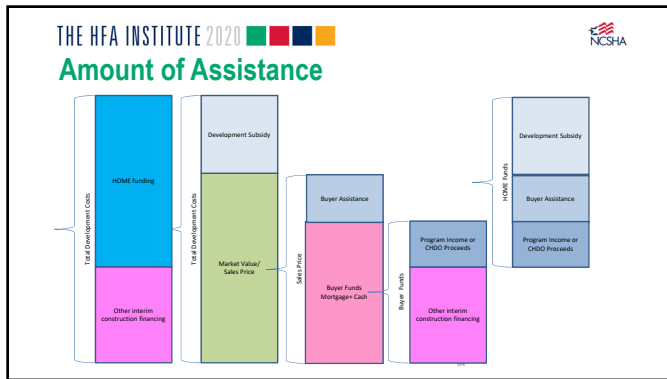
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Different Approaches to Buyer Assistance

- Direct buyer assistance
 - Downpayment assistance
 - Closing cost assistance
 - 2nd mortgage gap assistance
- Development assistance
 - Development subsidy: development costs in excess of value/price
 - Pass-thru assistance: used for development costs but passed through to buyer as part of purchase financing

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Unit Compliance: The 4 P's

1. People: eligible buyers less than 80% AMI
 - Principal residency (no land or installment contracts)
 - Buyer underwriting & counseling required – HUD-approved counselor (effective in 2020)
2. Price:
 - Price/value < 95% of area median value limit
 - Price or after rehab/construction value; see web site
 - Lease-purchase: complete w/in 3 yrs.
 - Sale (ratified contract) within 9 months completion
 - If not, convert to rental or repay

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The 4 Ps, cont.

3. Property:
 - Single/family, 2 - 4 unit, coop, condo
 - Applicable standards, incl. 5 year useful life if rehab
 - LBP: Subpart K or J (if rehab)
4. Period:
 - Compliance period: minimum 5 - 15 years
 - Principal residency
 - Resale to low income or recapture \$
 - No ongoing inspections or income certification

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Resale/Recapture Options

- Resale to Low Income Buyer
- Recapture (out of net proceeds of sale)
 - Full recapture
 - Declining balance recapture
 - Shared net proceeds
 - Owner investment returned first
 - Models approved by HUD (ConPlan)
- Recapture agreement & note assumable
- See CPD-12-003

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Homebuyer Policies

- CPD-18-09
- 92.254(f) policies required:
 - Homebuyer underwriting standards
 - Responsible lending standards
 - Standards for refinancing and subordination of HOME loans
- Counseling requirement
- 92.254(e) buyer assistance thru lenders

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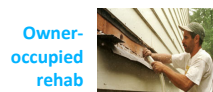
Owner-Occupied Rehab Requirements



Homebuyer



Rental





Owner-occupied rehab

TBRA



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Owner-Occupied Rehab

- PJ/subrecipient program activity,
 - Not a "development" activity; not CHDO-eligible
- Same requirements as homebuyer, except:
 - Inherited, life estate, living trust, benef. deed eligible
 - 95% AMV limit on after-rehab value
 - Property standards: written rehab standards
 - No minimum affordability period (determined by PJ)

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Rental Housing Requirements


Homebuyer


Rental


Owner-occupied rehab


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Eligible Rental Activities

- Acquisition
- Rehabilitation
- Acquisition & rehab
- New construction

- Transitional or permanent, not temporary housing or facilities

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The 1st P: People

- All assisted units at 80% AMI (LI)
- (if 5+ units) 20% @ 50% of AMI (VLI)
- 90% of initial occupants at 60% AMI
 - Program requirement annually (IDIS/CAPER)
 - Does not apply to recertifications & turnovers
- 18 months to lease assisted units (or repay)
 - HUD requires reporting after 6 months
- Getting the unit mix right...and maintaining it

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A HOME Rental Project...

LI	LI
VLI	LI
LI	LI
LI	VLI
LI	LI

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Initial Occupancy Prerequisites

Written Agreement

• Unit mix, occupancy requirements, initial rents, deadlines, affordability start

Affirmative Marketing Plan (5+ assisted units)

• Special outreach to those least likely to apply

Tenant Selection Plan

• Preferences, selection policies, and procedures for intake, processing, grievances, waitlist

Lease



• Approved lease form
• VAWA addendum

Tenant Participation Plan (CHDOs only)

• Fair lease & grievance procedure
• Tenant participation in management decisions

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The 2nd P: Price


- VLI units: 30% at 50% or FMR
 - project based rental assistance exception
- LI units: 30% at 65% or FMR
- All rents adjusted for tenant-paid utilities
 - PJ to establish project-specific allowances & update annually
 - HOMEfires Vol 13 No 2
- Adjusted annually by HUD
 - link on HOME web page
- PJ must approve rents annually
- Limits on fees beyond rent (92.214)

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The 3rd P: Property Stds

- Ongoing: state/local codes & HUD standards (notice coming)
- Lead-based paint & accessibility
- HAU's must pass inspection prior to occupancy
- Apply for the full compliance period
 - Owners certify annually
 - PJ requirement to inspect (within 12 months of completion + every 3 years)




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The 4th P: Period of Affordability

- Deed restriction
- Minimum affordability period

• Less than \$15,000 HOME/un	5 yrs
• \$15,000 - \$40,000	10 yrs
• Greater than \$40,000 (or refi)	15 yrs
• New construction	20 yrs
- During compliance period:
 - Income certs, rent limits, report (prop stds cert)
 - File review/unit inspections (within 12 mos + 3 yrs)
 - Financial condition review
 - Distressed project workout guidelines (92.210)



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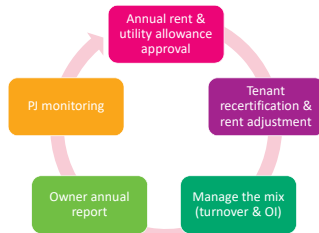
HOME + Other Funds

- HOME projects may have other public subsidy
 - General guidance: Comply with both HOME & the other program(s) requirements
 - But only for the HOME-assisted units
 - Usually following most restrictive rule will cover both programs, but not always – some rules are different
- PJ must monitor for HOME compliance
 - May coordinate if same agency or interagency agreement

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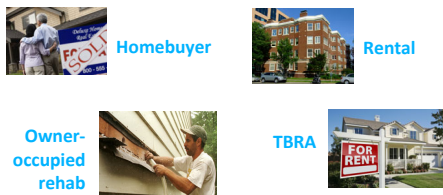
Ongoing Compliance Annual Cycle



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TBRA Requirements



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Eligible TBRA Activities

- Eligible
 - Assist w rent, utilities, security/utility deposits
 - Contracts up to 24 mos
 - May be renewed subject to availability of HOME \$
 - May be administered by PJ, or under contract to PHA or subrecipient
- Ineligible
 - Tying to specific project
 - Co-op or mutual housing units (unless rental)
 - \$ for overnight or temporary shelter
 - Duplicating rental assistance programs that already reduce rent to 30% of income

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Eligibility & Assistance

- Eligible households: < 80%, but TBRA part of 90% @ 60% program rule requirement
- Eligible units:
 - Public/private; no other rental subsidy
 - Reasonable rent
 - Property standards (Section 8 HQS)
- Assistance amount (up to 2 yrs):
 - Diff between payment std & 30% of income

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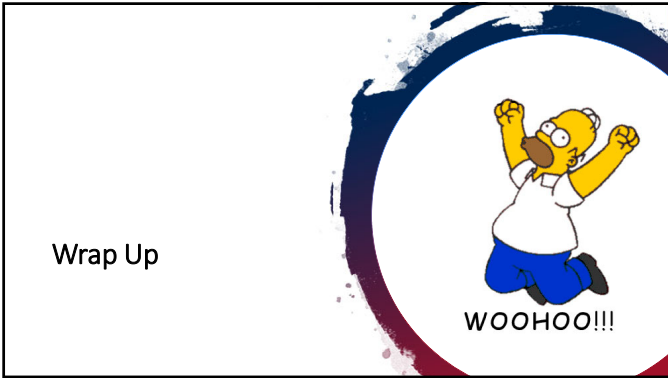
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Program Design Options

- Section 8 or locally designed
- Rent or security deposit
- Community-wide or targeted
 - Must address an unmet need in PJs' Con Plan
 - Subject to fair housing limitations
- Options: self-sufficiency, buyer, anti-displacement
 - Targeted assistance permitted (92.209(c)(2))
- Inspections & income determinations can be project-related costs

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Wrap Up


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Final Thoughts

- The metric of HOME success is timely completed, occupied & sustainable units
- PJs depend on partners to perform
 - If they're not ready, you can't commit
 - If they can't complete on time, you must repay
 - If they can't occupy, you must repay
 - If they can't sustain, you must repay
- Pay attention to deadlines (some suspended)
- Document, document, document

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HOME on the Web

- HUD HOME Program: www.hud.gov/homeprogram/
- HUD Exchange: www.hudexchange.info/home/
- Mailing list: www.hudexchange.info/maillinglist/

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Thank you!



Questions:

- Now, or
- Ask me any time during the Institute
- Or email: MLFranke@aol.com

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