

THE HFA INSTITUTE 2020

HOME Essentials

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**HOME and
Housing Trust
Fund**
JANUARY 12 – 14



Housing Credit
JANUARY 14 – 16



**MRBs and
Other Federal
Homeownership
Programs**
JANUARY 15 – 17



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
JANUARY 15 – 17



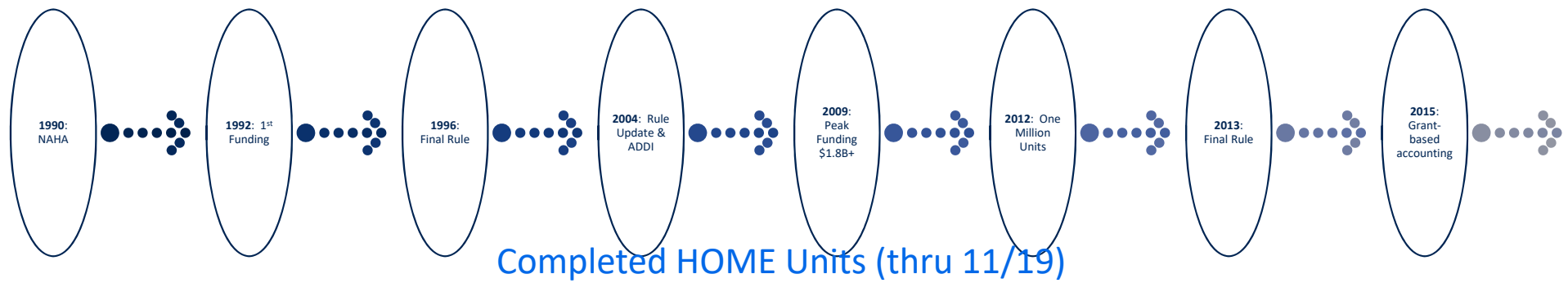
Let's Get Started

HOME...in 4 hours?

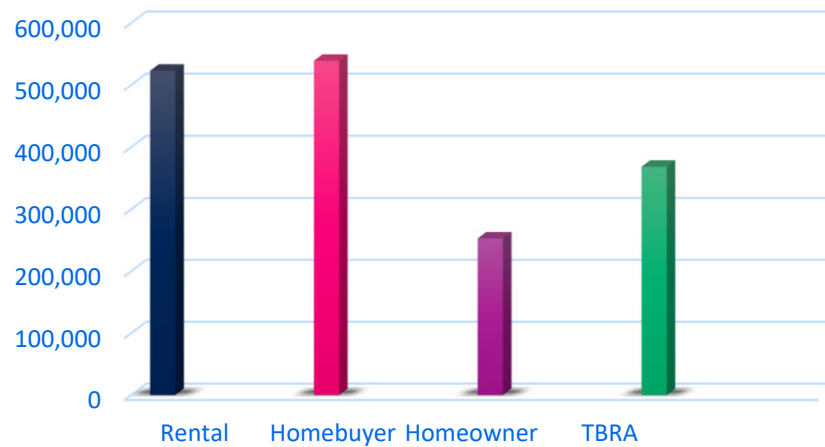
- History & overview
- Eligible activities & costs
- Program partners & roles
- Administration
 - Program
 - Project
 - Assisted units
- Requirements by activity type



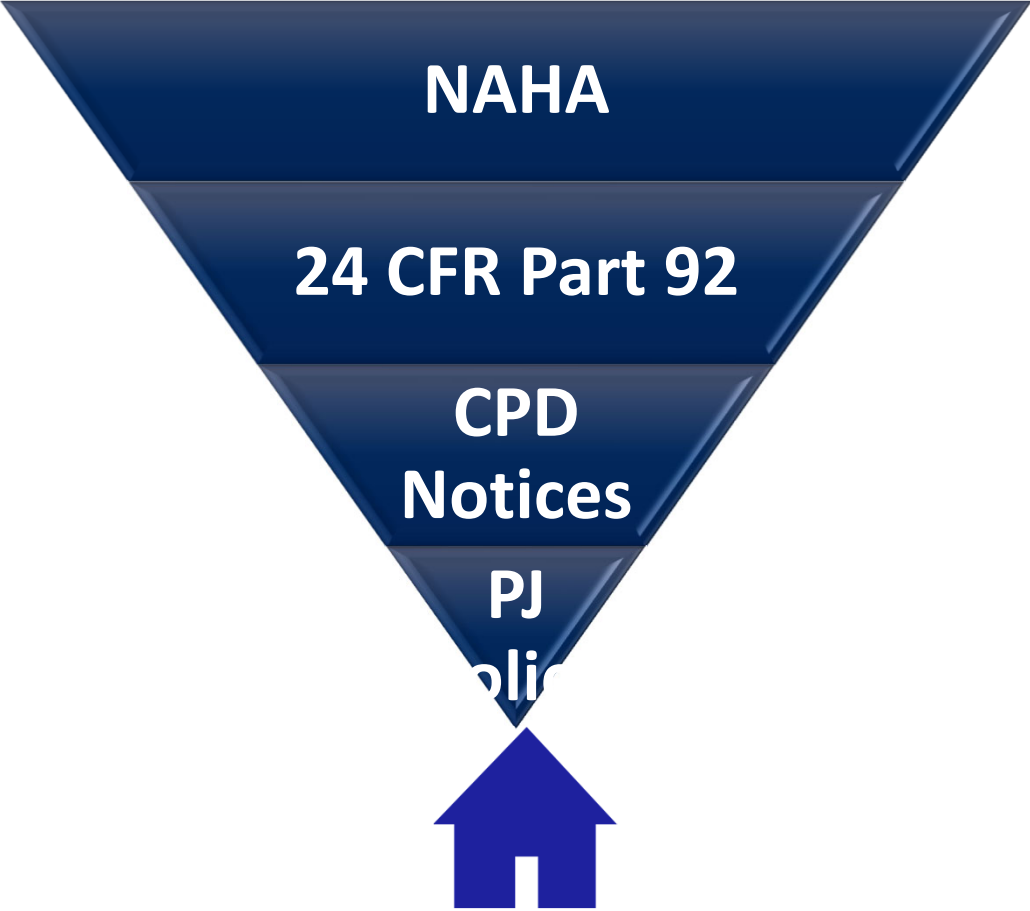
Program History



Completed HOME Units (thru 11/19)

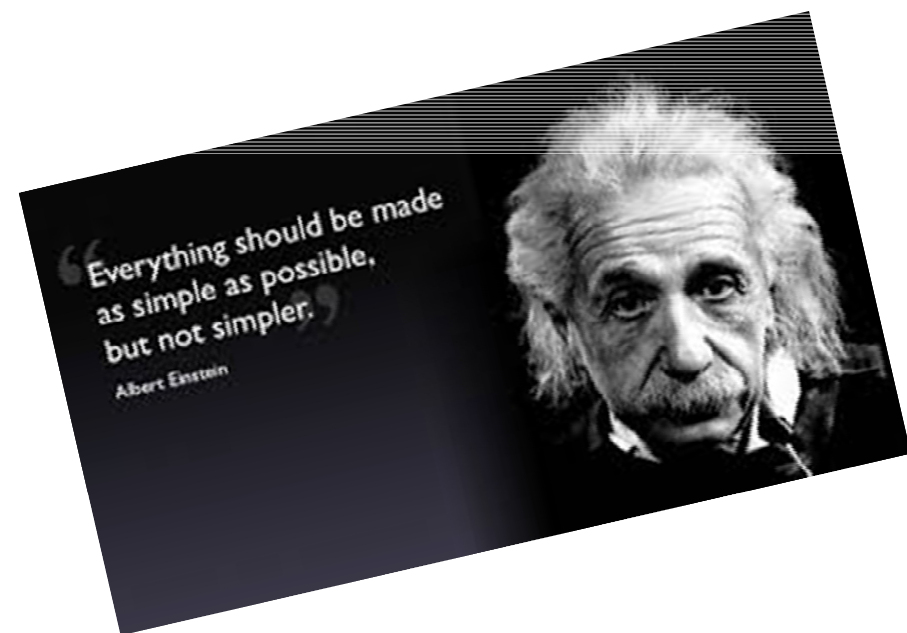


The HOME Policy Pyramid



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



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

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)

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)

Eligible Activities & Costs

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

Eligible Activity Categories



Homebuyer



Rental

Owner-occupied rehab



TBRA



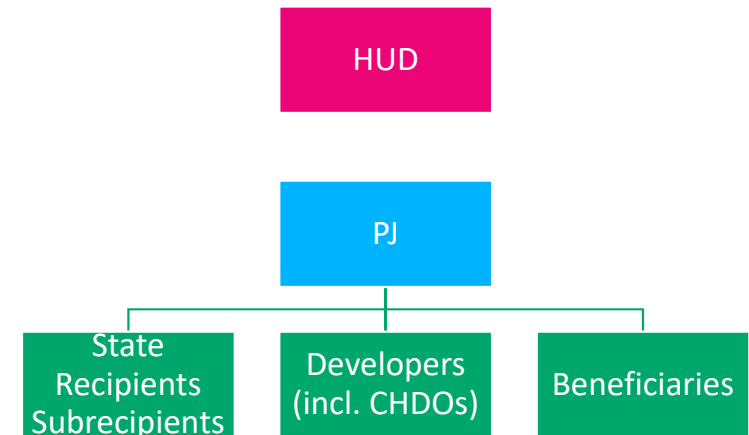
Eligible/Ineligible Uses

- 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)

Program Partners & Roles

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

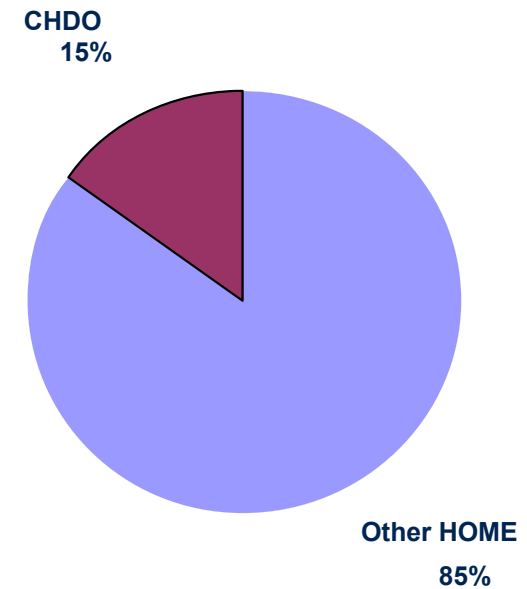


Subrecipients v. Developers

- 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

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)



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)

CHDO Certification at Funding

| Checklist Item | Set-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

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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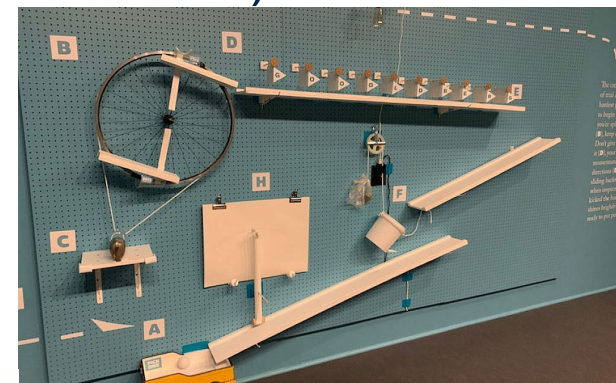
Program Administration

3 Levels of Administrative Focus

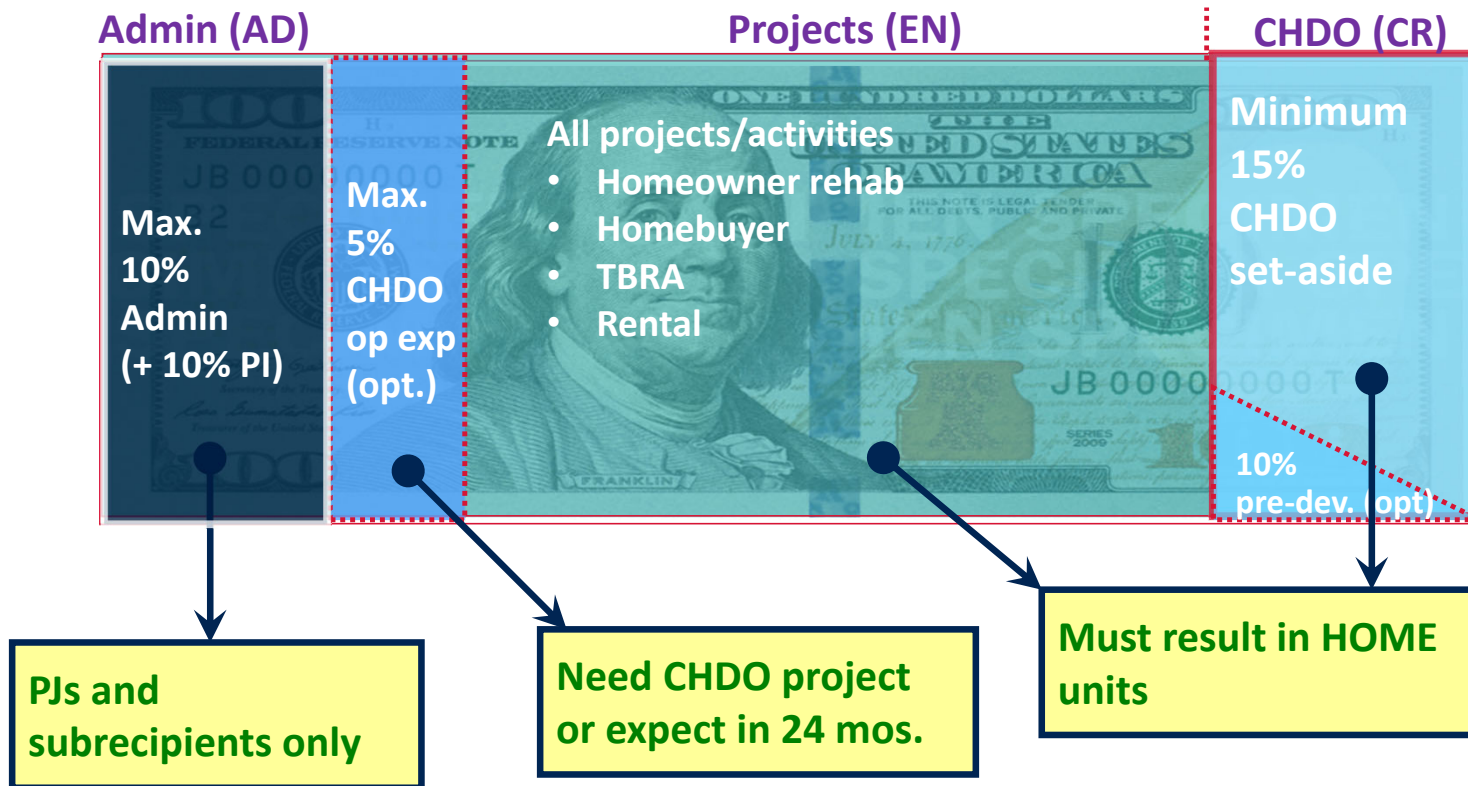


Allocating HOME Funds

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



PJ Annual Allocation Breakdown



Admin v. Project Delivery Cost

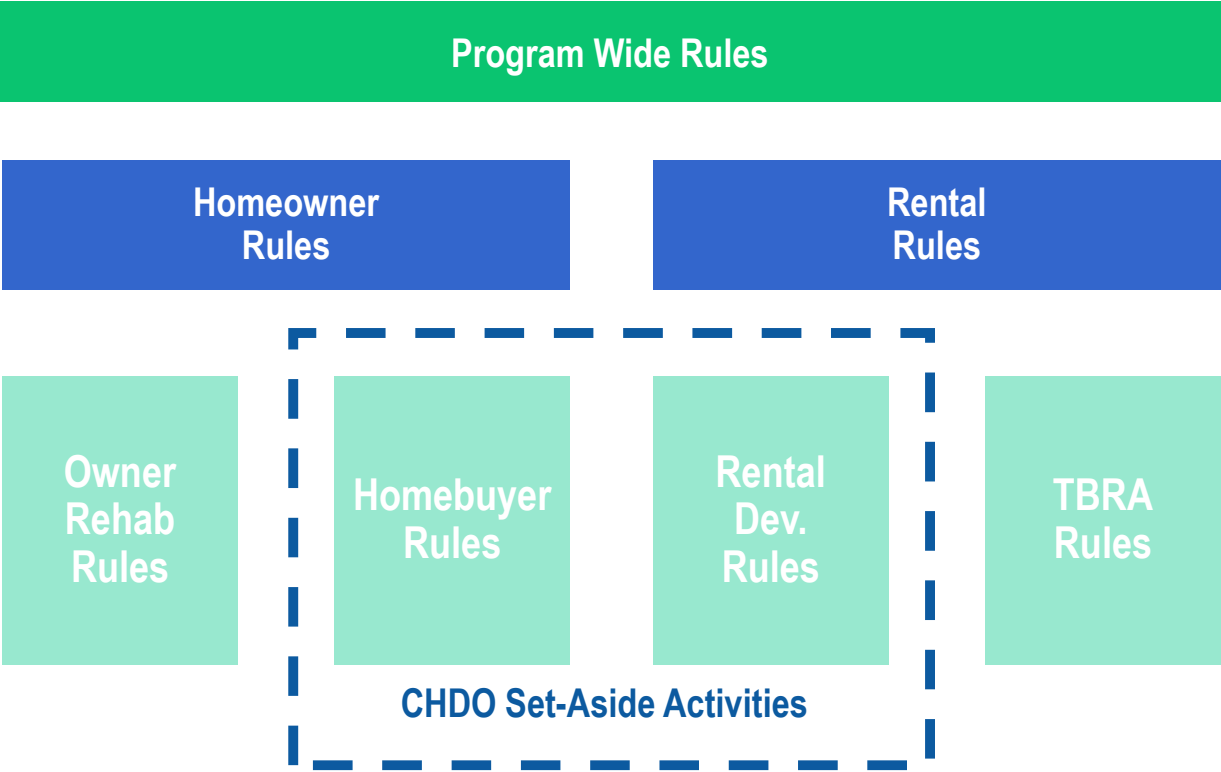
Administrative cost

- 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

HOME Rules & Activities



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

Disbursement Rules

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

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)

Eligible Match Sources

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



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



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+ HAUs
- Ongoing homebuyer monitoring:
 - Principal residency & resale



HUD IDIS Performance Reports

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

Program Income & Other Funds

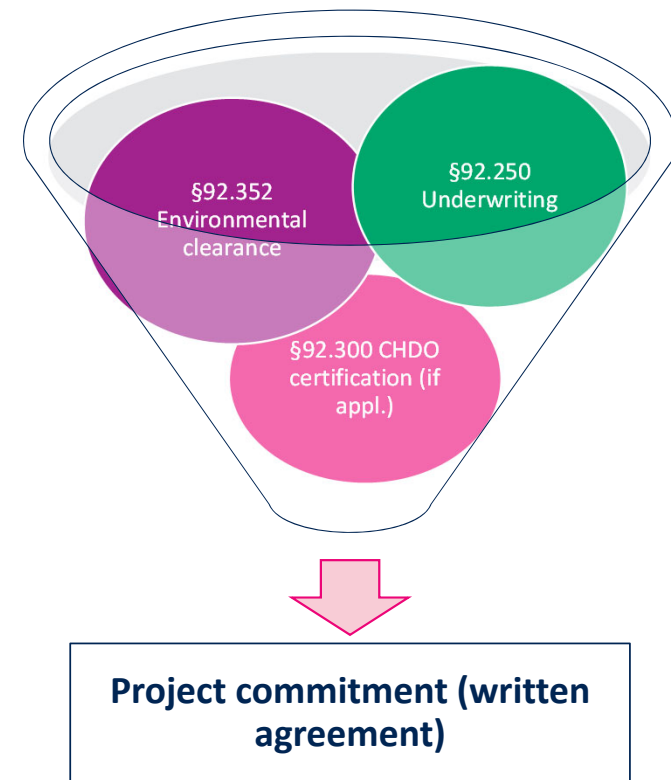
- Program income – local account, 10% admin
- Recapture – local account, no admin
- Repayment – local account, no admin
- CHDO proceeds – PJ may allow CHDO to keep
 - 1st reuse for HOME or other LI housing in written agreement
- 12/2/16 Interim Rule changes required reuse
 - PJ accumulates for next Annual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

General Project Requirements



Project Commitment

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



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)

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

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

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

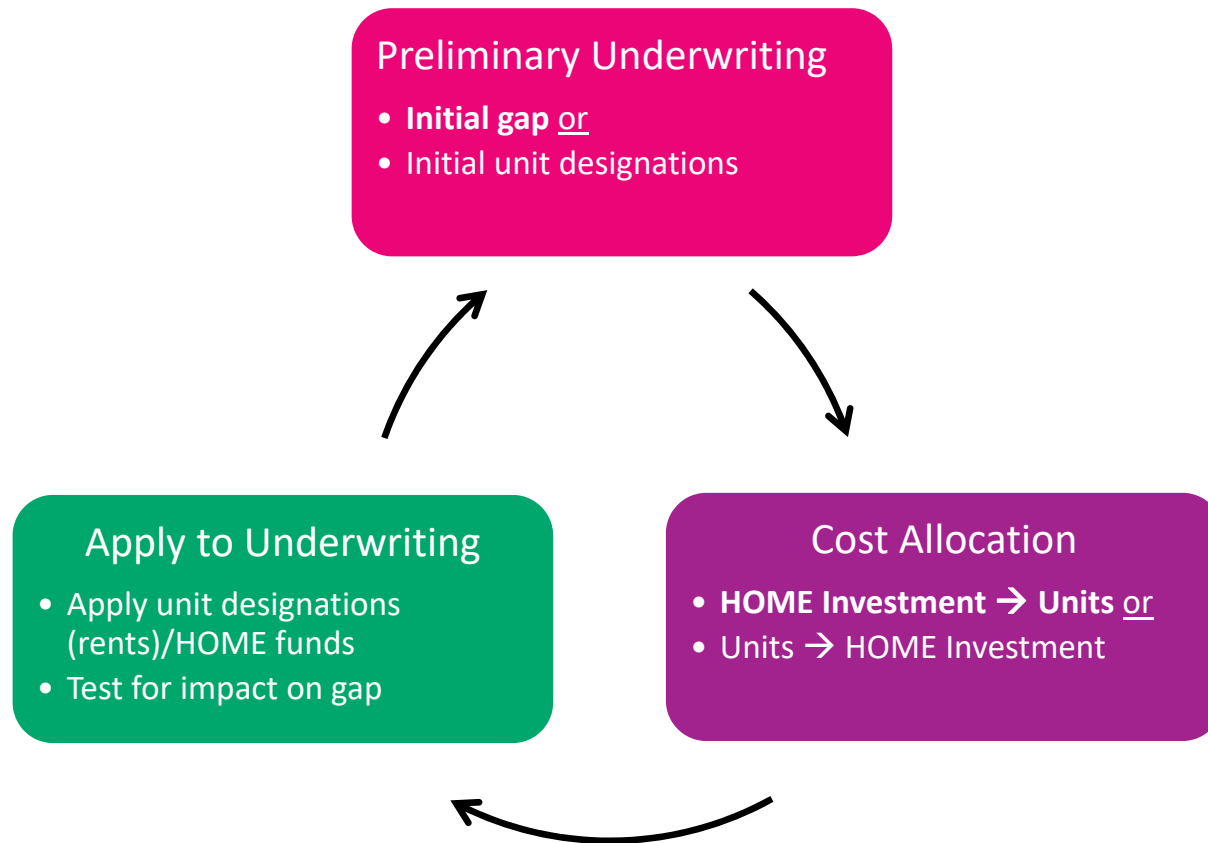
Subsidy Layering

- 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

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

Cost Allocation & Underwriting

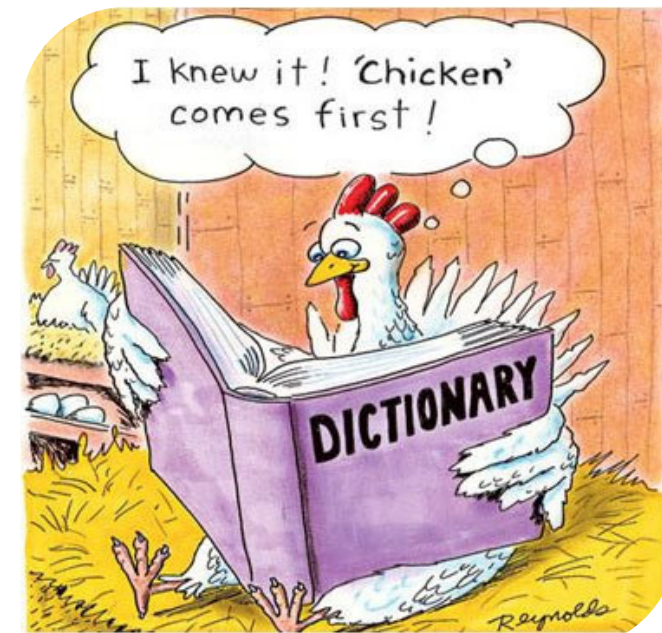


Environmental Review

- 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

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



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

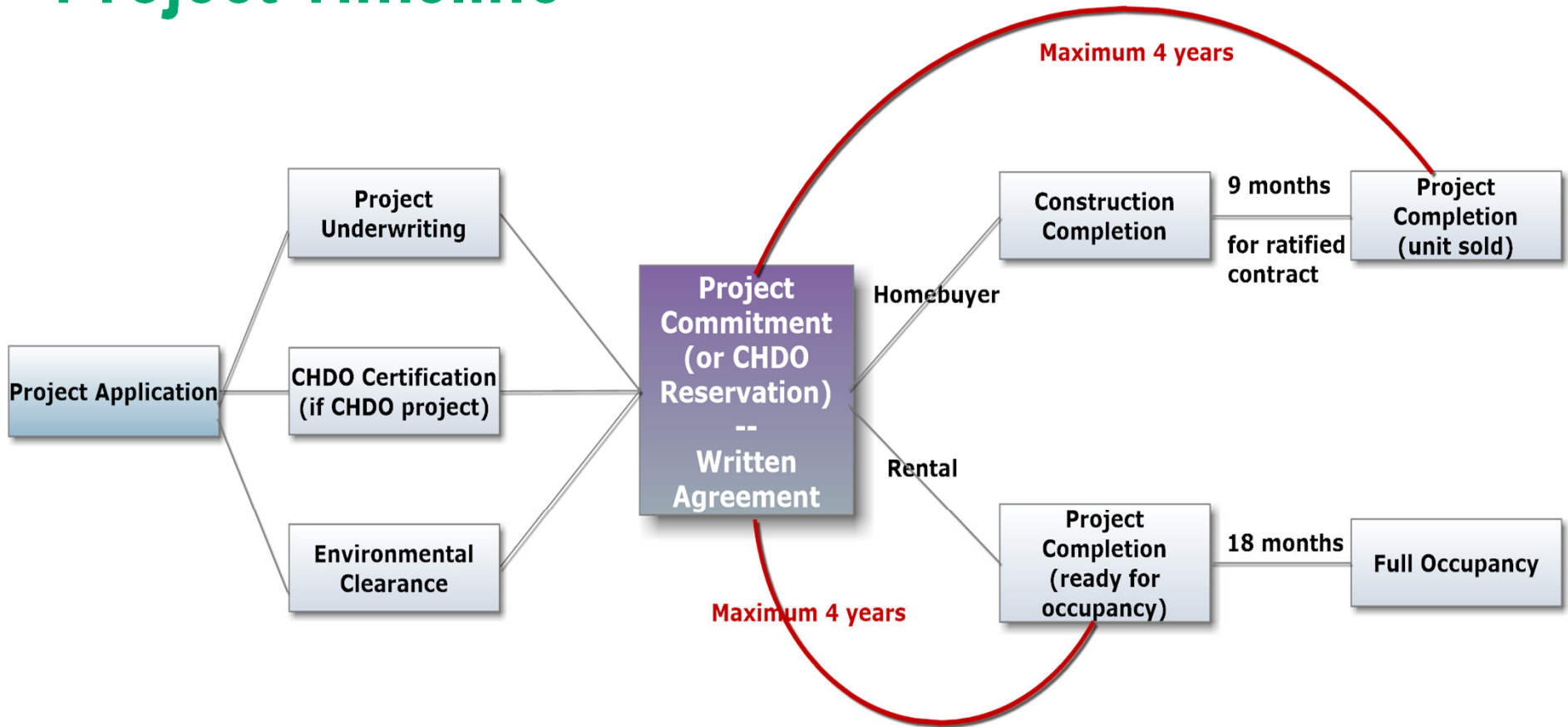
Required Documents

- 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

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

Project Timeline



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

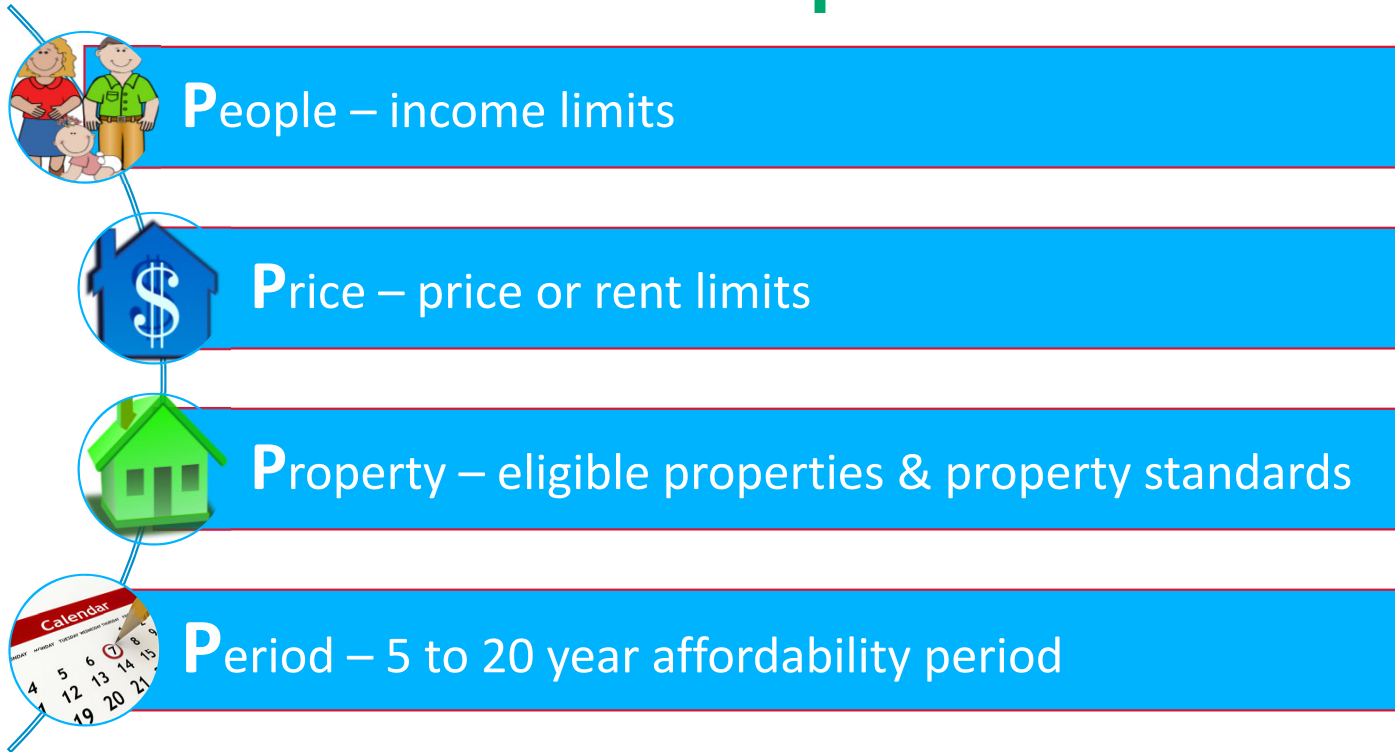
Assisted Unit Requirements



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

The P's of HOME Unit Compliance

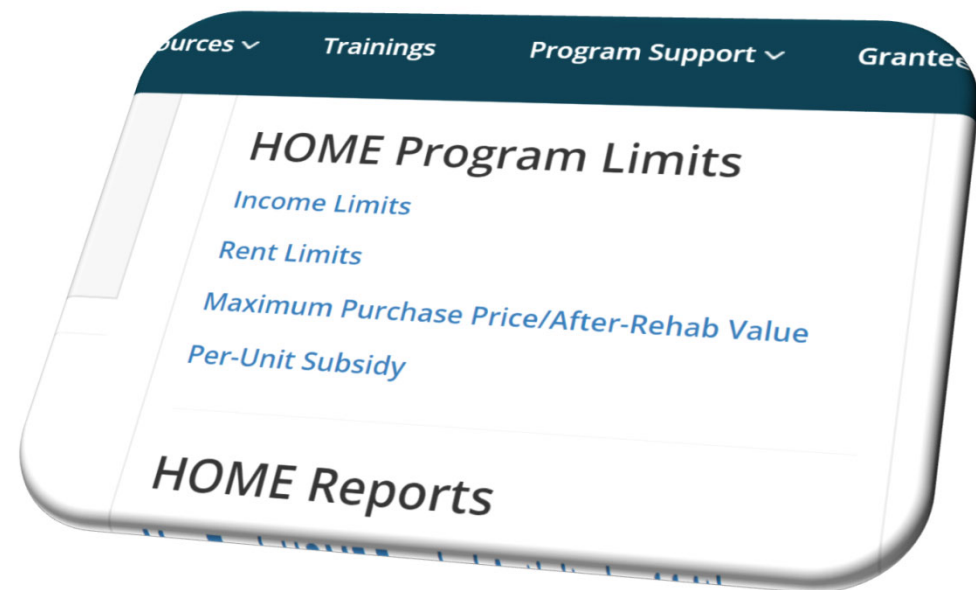


People: Income Eligibility

- All HAUs 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

Price: Affordability

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



Property: Property Standards

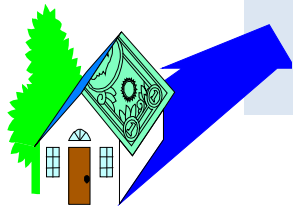
- All units must meet property standards to ensure decent & sustainable housing:
 - New Construction
 - Rehabilitation
 - Acquisition of Standard Housing
 - Manufactured Housing
 - Ongoing Rental
- PJ inspection requirements

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

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

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



Requirements by Activity Type

Homebuyer Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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

Different Approaches to Buyer Assistance

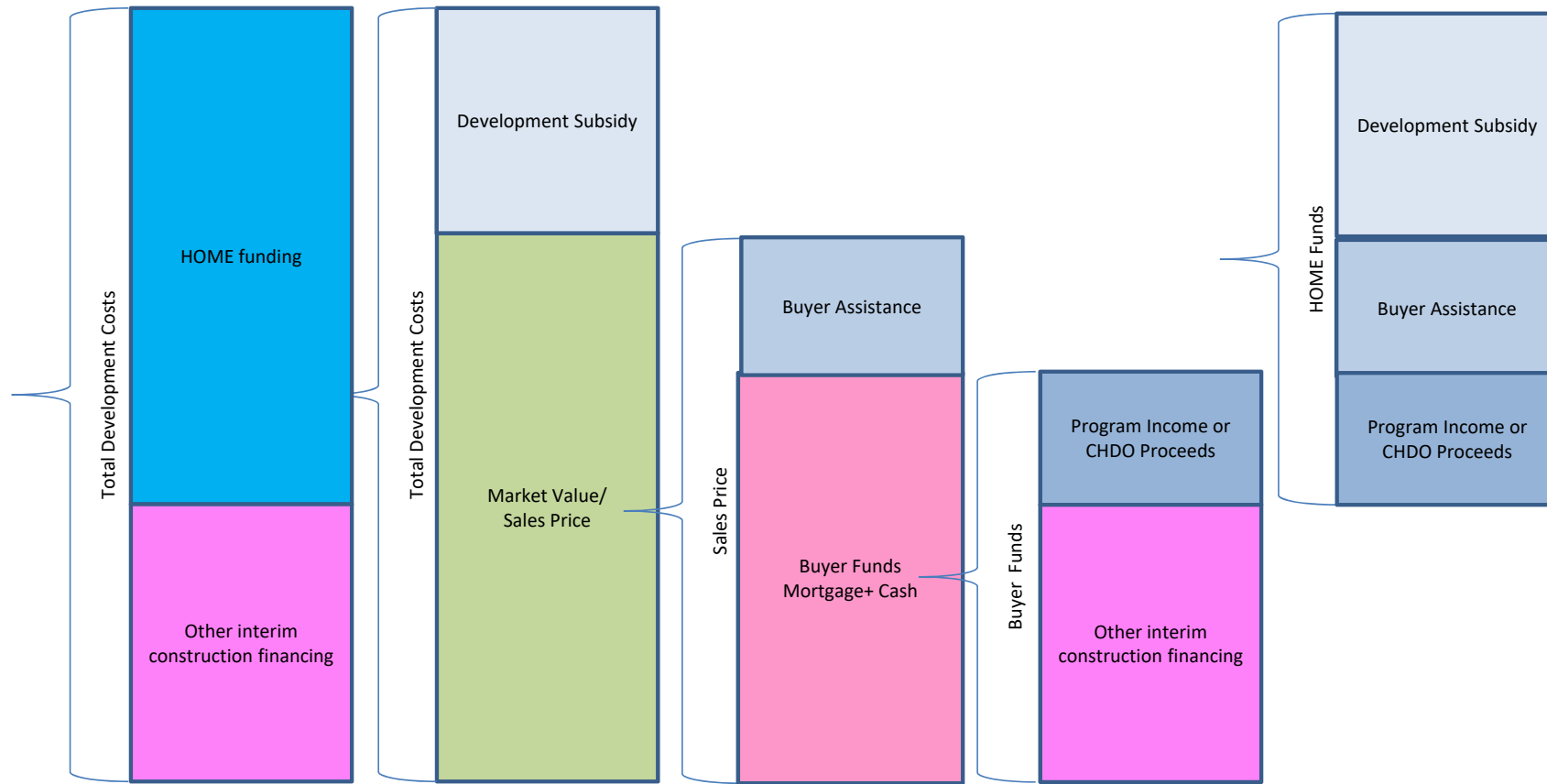
1. Direct buyer assistance

- Downpayment assistance
- Closing cost assistance
- 2nd mortgage gap assistance

2. 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

Amount of Assistance



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

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

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

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

Owner-Occupied Rehab Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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)

Rental Housing Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



Eligible Rental Activities

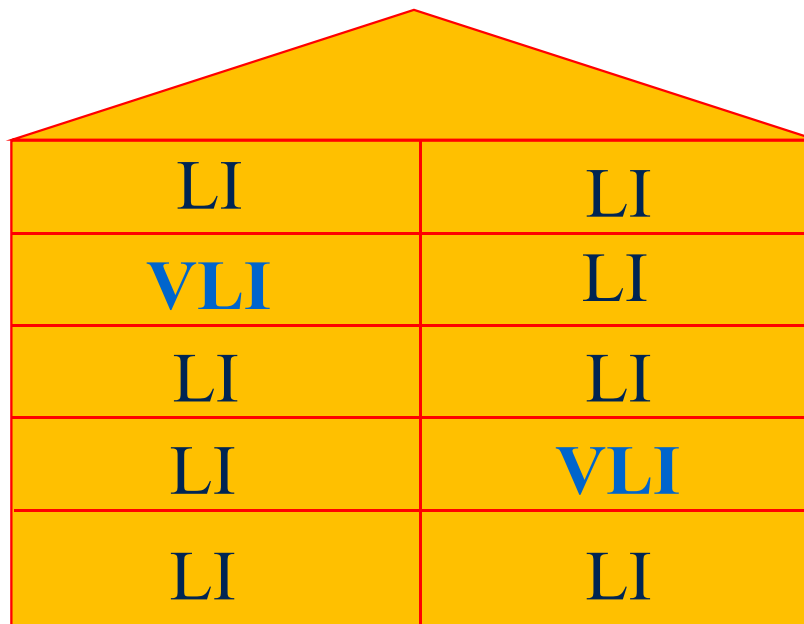
- Acquisition
- Rehabilitation
- Acquisition & rehab
- New construction

- Transitional or permanent, not temporary housing or facilities

The 1st P: People

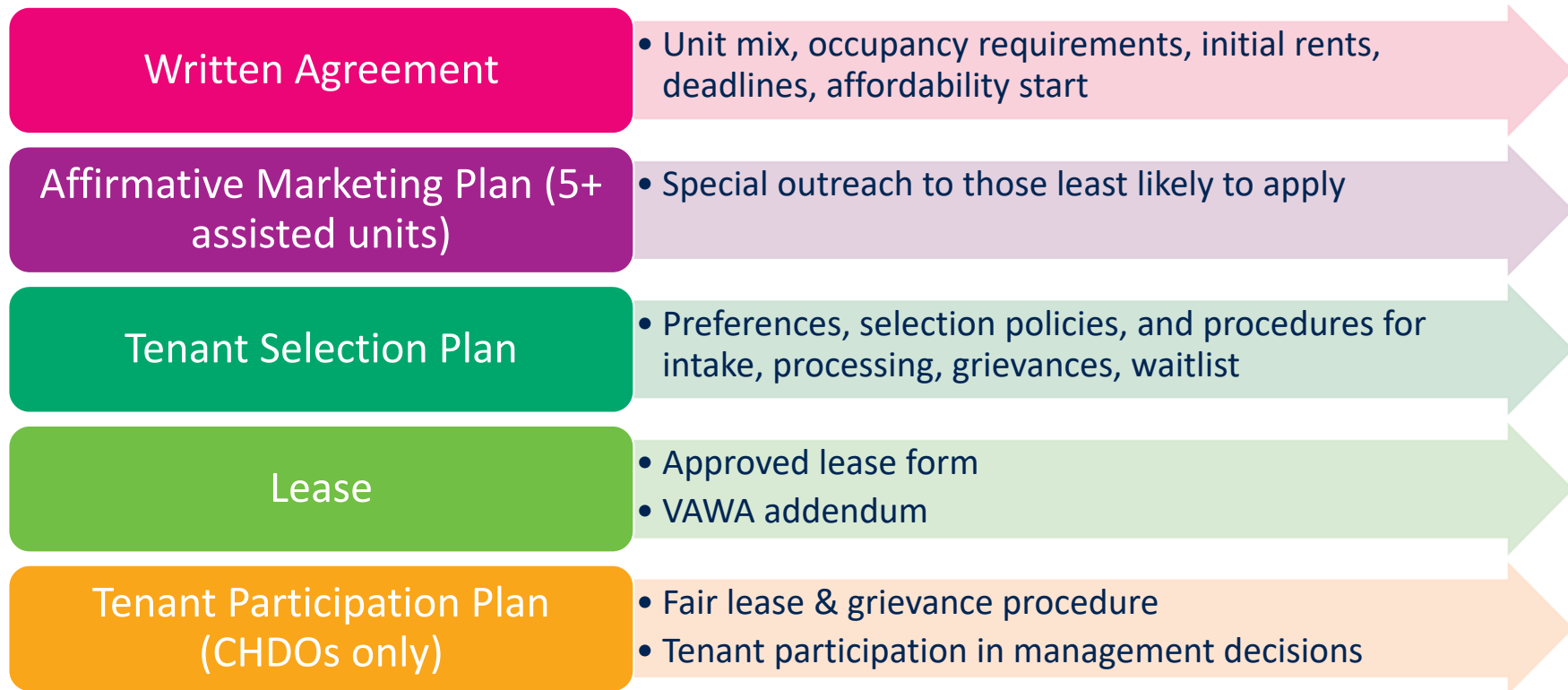
- All assisted units at 80% AMI (LI)
- (if 5+ units) 20% @ 50% of AMI (VLI)
- 90% of initial occupants at 60% AMI
 - Program requirement annually (IDIS/CAPER)
 - Does not apply to recertifications & turnovers
- 18 months to lease assisted units (or repay)
 - HUD requires reporting after 6 months
- Getting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

A HOME Rental Project...



| | |
|------------|------------|
| LI | LI |
| VLI | LI |
| LI | LI |
| LI | VLI |
| LI | LI |

Initial Occupancy Prerequisites



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)

The 3rd P: Property Stds

- Ongoing: state/local codes & HUD standards (notice coming)
- Lead-based paint & accessibility
- HAUs 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)



The 4th P: Period of Affordability

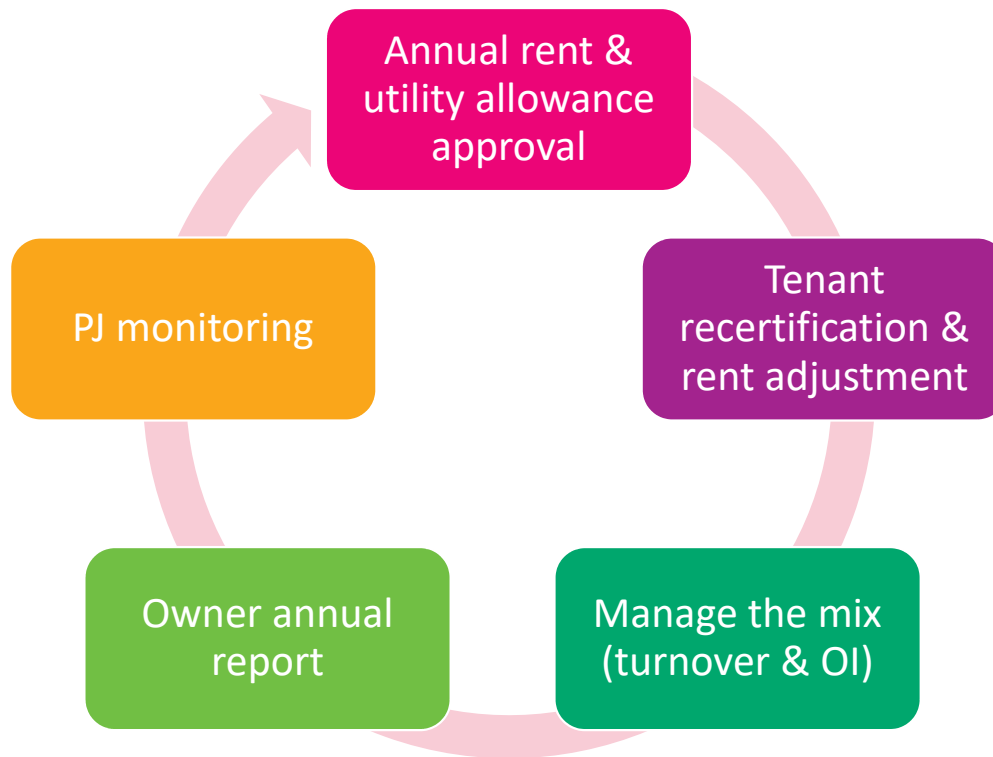
- Deed restriction
- Minimum affordability period
 - Less than \$15,000 HOME/un 5 yrs
 - \$15,000 - \$40,000 10 yrs
 - Greater than \$40,000 (or refi) 15 yrs
 - New construction 20 yrs
- During compliance period:
 - Income certs, rent limits, report (prop stds cert)
 - File review/unit inspections (within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



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

Ongoing Compliance Annual Cycle



TBRA Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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

Eligibility & Assistance

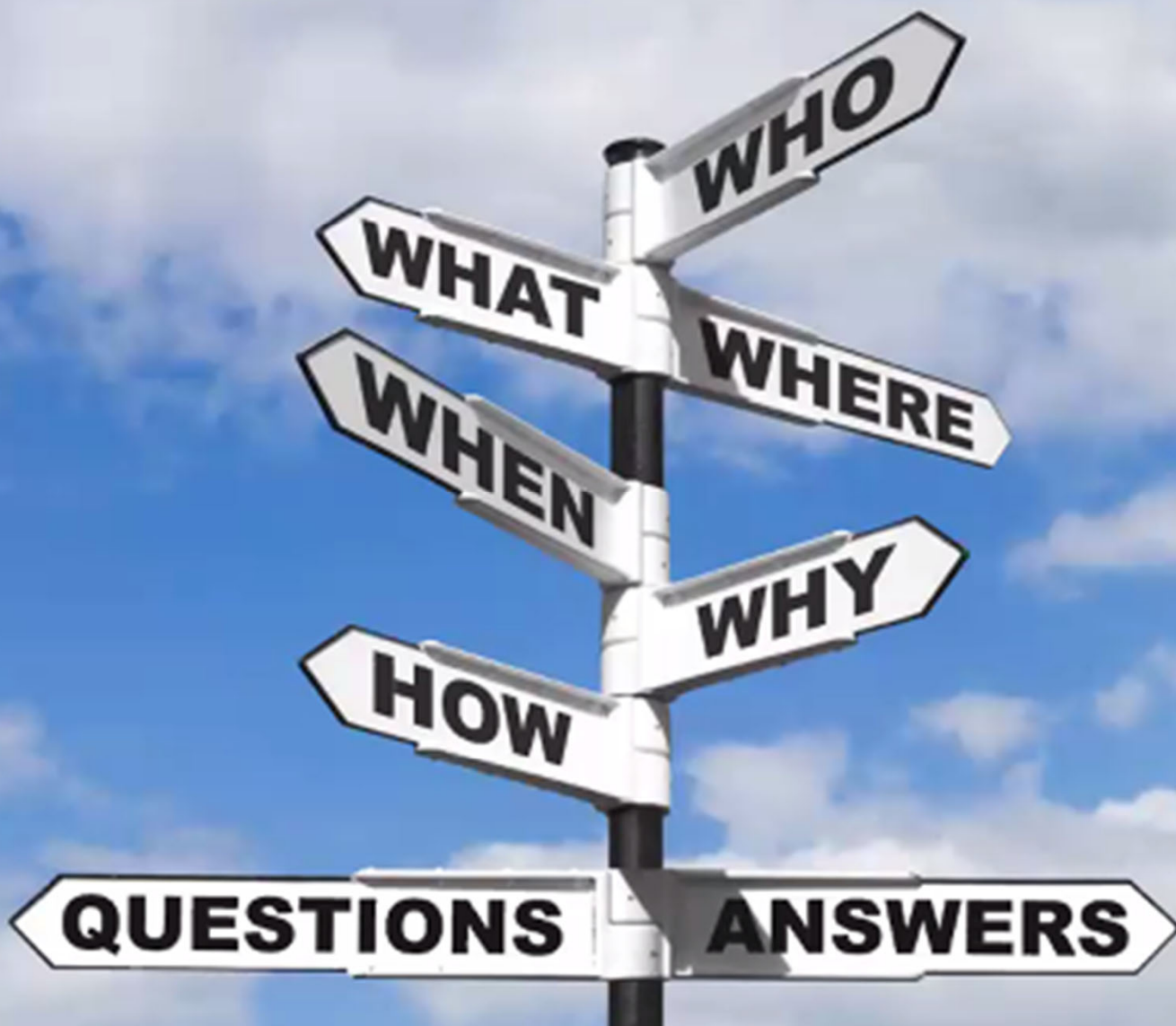
- Eligible households: < 80%, but TBRA part of 90% @ 60% program rule requirement
- Eligible units:
 - Public/private; no other rental subsidy
 - Reasonable rent
 - Property standards (Section 8 HQS)
- Assistance amount (up to 2 yrs):
 - Diff between payment std & 30% of income

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

Wrap Up





WHO

WHAT

WHERE

WHEN

WHY

HOW

QUESTIONS

ANSWERS

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

HOME on the Web

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

Thank you!



Questions:

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