

Date: August 10, 2023

Title: 081023-848663-HUD-PRO

Speaker #1: Landon

[00:00:00] Welcome everyone to the Pathways to Removing Obstacles to Housing or PRO-Housing Notice of Funding Opportunity Webinar series #2, covering the NOFO appendices and legal requirements. My name is Landon Laven Jones. I'm a Community Development and Planning Specialist here with HUD, and I'll be your MC for today's webinar.

Next slide please.

I'll cover a few general housekeeping rules before we get started. Today's webinar will be a hybrid session with both live and recorded materials. Please keep in mind that in the left bottom corner of the screen, participants can turn on closed captioning. If they have difficulty with hearing our presenters, all participants will be muted. We ask that you submit all questions using the chat feature, and make sure you send your question to all presenters so that our presenters may be able to see it and respond.

Today's agenda will have HUD Program Counsel providing an overview of the legal requirements, and we will leave time at the end for live Q and A.

Next slide, please.

As I mentioned, this is the second in a series of weekly webinars covering HUD's PRO-Housing NOFO. These webinars are intended for potential pro-housing applicants and provides participants with an overview of pro-housing and the application requirements. Webinar recordings will be posted on the PRO-Housing HUD webpage as well as the links to future webinars.

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[00:01:29] Next on the agenda, we have Matthew Santiago and Maureen Hartshorn, Attorney Advisors in the Community Development Division of the Office of Assistant Housing and Community Development within HUD's Office of General Counsel. Looking forward to hearing your presentation, Matt and Maureen.

Speaker #2: Maureen

[00:01:44] Thank you. So in this presentation, we're going to walk through the legal framework supporting the new PRO-Housing competition. Some parts of this presentation may sound familiar if you participated in the previous PRO-Housing webinar training. Hopefully with some more specific information on the legal requirements for the competition. Our goal is to leave some time for general questions following the presentation and any more detailed questions that might come up will be addressed in a forthcoming FAQ.

[00:02:17] Next slide, please.

[00:02:22] Okay. So, to lay the groundwork for what PRO-Housing is. The PRO-Housing Program is born out of language from the most recent Appropriations Act. The Consolidated Appropriations Act of 2023 made \$85 million available on a competitive basis for additional activities under Title 1 of the Housing and Community Development Act for the identification and removal of barriers to affordable housing production and preservation.

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[00:02:53] Per the Appropriations Act, eligible uses of PRO-Housing grants include activities to further develop, evaluate, and implement housing policy plans, improve housing strategies, and facilitate affordable housing production and preservation. The Act directs HUD to prioritize applicants that demonstrate progress and a commitment to overcoming local barriers to facilitate the increase in affordable housing production and preservation, and also applicants that demonstrate an acute demand for affordable housing for households with incomes below 100% of the area median income. The ACT also describes the statutory and regulatory provisions that can be waived to implement PRO-Housing grants.

[00:03:41] Importantly though, one requirement of the PRO-Housing grants that cannot be waived per the Appropriations Act, is the priority to serve low and moderate income people. And finally, in addition to the state and local governments that are already familiar with Formula CDBG assistance, Metropolitan Planning Organizations or MPOs, we'll refer to them in this presentation and you'll see that also in the NOFO, and multi-jurisdictional entities are also eligible recipients of PRO-Housing funding.

[00:04:15] According to what's outlined in the NOFO, an MPO has the same meaning as is defined in section 8 of the Federal Transit Act of 1991. And a multi-jurisdictional entity is any association of local governments or public agencies which are bound by a collective agreement such as an MOU, A Joint Powers authority, or the like, such that HUD determines that the entity is authorized and has administrative capability to carry out the activities under the NOFO on behalf of its member jurisdictions.

[00:04:51] Next slide please.

[00:04:57] All recipients of PRO-Housing grants are subject to the requirements of the Appropriations Act, the FY 23 PRO-Housing NOFO, and applicable regulations that govern the CDBG program at 24 CFR Part 570 unless they've been modified in the NOFO or other Federal Register notices. Multi-jurisdictional entities and MPOs will be subject to the CDBG entitlement regulations unless the NOFO states otherwise. And most references to CDBG entitlement communities that you see in the NOFO generally also include Multi-jurisdictional Entities and MPOs.

[00:05:41] Next slide, please.

[00:05:46] The same national objective requirements that apply for Formula CDBG apply also to the PRO-Housing Program. So each activity, other than general administration and planning, that's proposed to be carried out with PRO-Housing Assistance must meet a CDBG national objective pursuant to Section 101(c) of the Housing and Community Development Act. So those national objectives are benefiting low and moderate income persons, preventing or eliminating slums or blight, and meeting an urgent need.

[00:06:21] Next slide, please.

[00:06:26] Each proposed activity must be eligible pursuant to Section 105(a) of the Housing and Community Development Act and applicable program regulations at 24 CFR part 570 as applied and modified by the PRO-Housing NOFO, or they must receive an eligibility waiver for the activity. And there are instructions at Appendix A of the NOFO as to how an applicant submits a waiver request. Those requests should be submitted along with the application. And so just to reiterate, the activities that the applicant proposes must also identify and seek to remove one or more barriers to affordable housing production and preservation. And each proposed activity must do one or more of the following, must

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further develop, evaluate, and implement housing policy plans, must improve housing strategies or must facilitate affordable housing production and preservation.

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[00:07:30] Because PRO-Housing is a competitive program, HUD is treating a grantee's use of its PRO-Housing grant independently of the consolidated plan and annual action plan process that exists typically for CDBG. However, for any PRO-Housing applicant that is a recipient of funding under Title 1 of the Housing and Community Development Act, and this includes any members of a Multi-jurisdictional Entity, the entities must certify that the PRO-Housing activities are consistent with the strategic plan in the state's or the local jurisdiction's consolidated plan. So for MPOs and multi-jurisdictional entities, that are not recipients of other HUD funding, the consolidated plan requirements at 24 CFR 91 are not applicable, including the certification of consistency with the consolidated plan. In addition, HUD is waiving the consolidated plan regulations to the extent necessary to adjust the reporting process so that it fits the requirements of the Appropriations Act and to allow the use of the Disaster Recovery Grant Reporting or DRGR system.

[00:08:49] Next slide, please.

[00:08:54] The Appropriations Act requires that HUD obligate all funds on or before September 30th, 2026. A grantee must expend funds in a manner that meets all PRO-Housing program requirements, including reporting by the end of the period of performance, which is the end of fiscal year 2029. Grantees must comply with 2 CFR 200.305 and therefore may not draw down funds in advance of the need and pursuant to 24 CFR 570.200(k) and 570.480(h) for states, any unended funds in a grantee's account will cancel on September 30th, 2031.

[00:09:43] Next slide, please.

[00:09:48] So to begin the expenditure of PRO-Housing Funds, the following steps are necessary. The applicant must first conduct public participation in accordance with the PRO-Housing NOFO, and this includes at least one public hearing and at least 15 days for public comment. We'll have a little more detail on public participation in just a bit. Um, second, the applicant must respond to the public comments and submits its application and certifications to HUD. HUD will then review all of the applications in accordance with the rating factors that are in the Pro Housing nofo and will select the highest scoring applicants for awards. And once that's done, HUD sends awardees a letter outlining next steps.

[00:10:37] Next slide, please.

[00:10:41] There's a lot of text packed on this slide, but it's some important information, so I'll try to go slowly through this. The Appropriations Act authorizes waiver and alternative requirements for any provision of Title 1 of the Housing and Community Development Act, except for requirements related to fair housing, non-discrimination, labor standards, environment, and requirements that activities benefit persons of low and moderate income. Upon a finding that any such waivers or alternative requirements are necessary to expedite or facilitate the use of funds authorized for the identification and removal of barriers to affordable housing production and preservation. So, HUD has already determined that some waivers are necessary just to implement the program. And so this includes waivers of application related requirements, but also a waiver to allow new housing construction. PRO-Housing funds can be used for

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new construction of affordable accessible housing subject to the same requirements that apply to rehab activities under the provisions of Section 105(a)(4) of the Housing and Community Development Act and 24 CFR 570.202(b). The waivers and alternative requirements apply only to PRO-Housing funds, not to the use of annual formula allocations of CDBG funds or to other HUD community planning and development funds, even if those funds are used in conjunction with PRO-Housing funds for a project. And as mentioned earlier, there are instructions on how to request eligibility waivers. Those instructions are at Appendix A of the PRO-Housing NOFO if an applicant needs to do that.

[00:12:33] Next slide, please.

[00:12:38] To structure an application process for PRO-Housing HUD to waive requirements for CDBG action plans, and they're seen here in red. Instead each grantee must submit to HUD an application for PRO-Housing. So for each program or activity that will be carried out, the application must describe the projected use of the PRO-Housing funds, including the entities administering the program or activity, budget and geographic area, the proposed start and end dates, how the projected use will meet CDBG eligibility criteria, and also a national objective and an estimated performance outcome. For states that decide to use a method of distribution to allocate funds to local governments, the state must describe in its application all the criteria that was used to determine the distribution, including relative importance of each criterion. And at the time of submission, application should include any waiver requests an applicant anticipates needing as was mentioned earlier. The application ultimately becomes the basis for the PRO-Housing Action Plan.

[00:13:55] Next slide, please.

[00:14:00] So, once the grantee receives DRGR systems access, the grantee will enter into DRGR, the approved activities and narrative information and HUD will ensure that the information is consistent with the application. Again, the information is the grantee's PRO-Housing Action Plan, and it must be published on the grantee's official website or websites in an accessible format. HUD will monitor the grantee's activities and use of funds for consistency with the PRO-Housing Action Plan and all other requirements including performance and timeliness.

[00:14:41] Next slide, please.

[00:14:46] So section 104(e) of the Housing and Community Development Act, requires that the Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner, whether the grantee's activities and certifications are carried out in accordance with the requirements and the primary objectives of the Housing and Community Development Act and other applicable laws, and whether the grantee has the continuing capacity to carry out those activities in a timely manner. The PRO-Housing NOFO waives the requirements for submission of a performance report pursuant to 24 CFR 91.520, and instead requires that the grantees enter information in the DRGR system in sufficient detail for HUD to review performance on an annual basis and to enable remote review of data to assess compliance and risk.

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[00:15:54] So, HUD will use data that's entered into the DRGR PRO-Housing Action Plan and the annual performance report, transactional data from the DRGR system, and other information to provide reports

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to Congress and to the public, as well as to monitor for anomalies and for performance problems, to reconcile budgets, obligations, funding draws and expenditures, to calculate expenditures to determine compliance with program caps and the overall percentage of funds that benefit low and moderate income persons, and to analyze risk. Grantees must use the DRGR system to draw funds for each activity and also to track program income receipts, disbursements, and revolving loan funds. If a grantee permits local governments or sub-recipients to retain program income, the grantee must establish program income accounts in the DRGR system. The DRGR system requires grantees to use program income before drawing additional grant funds.

[00:17:03] Uh, for the APR, each grantee must submit an APR through the DRGR system no later than 30 days following the end of the fiscal year. Within three days of submission to HUD, each APR must be posted on the grantee's official website. The grantee's first APR is due no later than 30 days following the end of the fiscal year in which the grant award is made. So, for example, if a grant award is made in April, an APR is due by October 30th. APRs must be submitted on an annual basis until the grant program is completed and meets the criteria for closeout.

[00:17:46] Next slide, please.

[00:17:51] To ensure PRO-Housing grants proceed in a timely manner, HUD has waived some of the standard requirements that apply for public participation, and has replaced them with alternative streamlined requirements, that will go through here and on the next slide. The streamlined requirements mandate at least one public hearing at the applicant's level of government for the application and for each substantial amendment, and require at least 15 days notice and opportunity for public comment and ongoing public access to information about the use of grant funds. HUD realizes that some pro housing grantees span wide areas, so to accommodate the public hearing must be at least an in-person hearing, but can incorporate some virtual access to be a hybrid meeting as well. And just to note that the public participation process is distinct from stakeholder engagement scoring criterion that is discussed elsewhere in the nofa.

[00:18:55] Next slide, please.

[00:19:00] Before the applicant submits the application or a substantial amendment to the PRO-Housing Action Plan, the applicant must publish the application or action plan amendment in its entirety for public comment. It has to be prominently posted on the applicant's official website or websites, and must afford the public, affected local governments, and other interested parties, a reasonable opportunity to examine the plan or the amendment's contents. Again, applicants are required to hold at least one public hearing to solicit public comments and on the application submission, and one hearing before a submitted substantial amendment request. Applicants are also encouraged to notify affected parties through electronic mailings, press releases, statements by public officials, advertisements, public service announcements, and so on. In the target areas or the neighborhoods. Applicants must ensure that the public has equal access to information about the programs. So this includes persons with disabilities and limited English proficiency. Information must be available in the appropriate languages for the geography served and in an accessible format for persons with disabilities. Once the application is published, the applicant must provide a reasonable timeframe for comments on the submission and a summary of all of the comments must be submitted to HUD but this summary does not count against the application page limits that are prescribed in the nofo. Note that all meetings must be held in

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facilities that are physically accessible to persons with disabilities. I'm going to hand things off to my colleague, Matt now, who will start with some information on amendments.

Speaker #3: Matthew Santiago

[00:21:06] Thanks, Maureen, and thanks for changing the slide. I will continue the topic here on public participation. Now, on the topic of amendments, it is critical for grantees to understand the difference between a substantial amendment and a nonsubstantial one because the status of the amendment will determine whether or not public participation is necessary. So for a substantial amendment, essentially we can find that an amendment is substantial in consideration of many different factors, but what we're primarily looking for is whether or not the amendment would change the responses to rating factors under the program and under the NOFO. Some factors that might be relevant here are, for example, if the change is relating to program benefits beneficiaries or eligibility criteria, if the allocation or reallocation would account for more than 10% of the award, or if an activity is being changed substantially, such as being added or deleted from the application.

[00:22:14] So these are cases in which public participation would be necessary for the amendment. These aren't all the circumstances, but just some of them. And it's also important to note as well, that if it is a nonsubstantial amendment, then you won't require the public participation, but in either case, you will still require HUD to provide approval of the change. So even if, for example, if there's a substantial amendment, HUD will still have to agree to the amendment in writing, um, to make sure that it would still score in the fundable range. And if it was a nonsubstantial amendment, HUD will still need to do the same even if public participation wasn't engaged in.

[00:22:59] Next slide please.

[00:23:02] So moving onto the topic of post-award requirements. These will sound pretty similar to some of the other requirements we were just discussing in the streamlined process but still worth going over again here for the post award scenario. So first of all, the public participation plan does need to be updated, as needed, to reflect the requirements of the PRO-Housing NOFO. And so this is important for a variety of reasons. But mainly, we want to ensure that the public is notified properly of the complaint and the response processes that are relevant for this program. We want to make sure that they have access to as much information as needed and that they are aware of how to gain that information, and also to understand, as well, how amendments might take place for this program. So keeping the plan up to date for this reason, helps to keep the public up to date.

[00:24:01] And this update for the public participation plan can be done simultaneously when the application is published as well. Now, there are some additional regulations here that are relevant, particularly under 24 CFR 91.105 and 115. And they will essentially pertain to the citizen participation plan requirements that are normally applied to local governments and states. So they will be important here, but important to also note where exceptions might apply, which will be communicated through the NOFO and also through other notices. And just as a general theme here for the end of this slide, again, information should be as accessible as practicable for the public. So that means making sure that the homepage can direct the public to where this information is the grantee's homepage, particularly also making sure that the grantee's website has the sufficient information on this award for the public. Making sure, of course, that persons with disabilities and those that don't speak English can also access and interpret that information. And once again, it's important that the grantee does give time of

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response to public complaints. Time of response being 15 working days from receipt of the complaint or practicable.

[00:25:27] Next slide, please.

[00:25:31] Okay, so moving on to the topic of grant administration. So, State's benefit from a significant waiver here on 42 U.S.C. 5306. This waiver allows states to carry out eligible activities directly instead of needing to go through a unit of general local government as CDBG requirements normally require states to do. And with this waiver, you'll notice going forward, there are going to be a number of changes to state requirements under CDBG to account for this adjustment. So this is one of the larger changes that has been enacted for the PRO-Housing Program. But firstly, knowing that states can administer these activities themselves, that also means that states also are able to delegate these responsibilities to other entities as appropriate. So they can be delegated. Firstly, eligible activities can be delegated to state employees through working contracts.

[00:26:38] They can also be delegated to sub-recipients through agreements and other recipients as well in their relevant geographic areas. And the important thing to note here, though, is that no matter how the state delegates these responsibilities, essentially these activities still need to be consistent with the PRO-Housing Action plan, and the state will still be held accountable for the compliance with federal requirements with the NOFO, particularly, and with this action plan. So this delegation does not change that fact. Also, for these grantees, there is some language to note here under 5305(a)(15) under CDBG. So this is an exception here where there are very particular entities that need to be performing these activities. Under 5305(a)(15), there are activities relating to neighborhood revitalization, community economic development, and energy conservation projects. Only the entities identified underneath that statutory language can essentially engage in those activities. So this won't be affected by what we stated earlier about states being able to take on the activity themselves. This will be more particular to what the statute directs recipients to do.

[00:28:07] Next slide, please.

[00:28:11] So, kind of a repeat of what I mentioned earlier. These grantees, even if it's a state, for example, delegating to other sub-recipients or sub-grantees, the grantee will always be the entity that is primarily accountable for the use of those funds. And grantees aren't able to delegate or contract out their inherently governmental responsibilities relating to the funds. Those activities can be, for example, just our general oversight of the federal award. Um, also the policy approvals or adoptions that may be enacted during the process, and also just general financial management of the federal award. Those will always stay with the grantee or with the state, for example. Even if they're delegating to other entities, those responsibility will not change. There are also some waivers to administrative caps that these recipients can benefit from. So there has been a, a general waiver of the cap for administration planning and technical assistance costs. And that means, for example, for states, that state CDBG grantees can now use up to 10% of their award on general admin costs and technical assistance costs. Non-federal match for the admin costs will no longer be required. And then for entitlement CDBG grantees, they can also use up to 10% for admin costs and technical assistance costs, and there won't be any limits to how much they can spend on planning activities.

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[00:29:58] Now it's worth getting more into the topic of planning activities. In particular, relation to state grantees and for planning only activities. What we mean here essentially are these are the activities when the activity is the only activity for which the grant to an entity is given, or if the planning activity is unrelated to any other activity assisted by that grant. Now there was used to be a requirement here under 483(b)(5) and also under (c)(5) that related to planning only activities satisfying national objectives for low or moderate income individuals or for the elimination of slum and blight. And those requirements related to national objectives will no longer apply. But there are some alternative requirements that are worth mentioning. So firstly, states have to now comply with 208(d)(4), and 208(d)(4) would normally be utilized by communities or entitlement communities to essentially say that if their activities are meeting certain requirements under 24 CFR 570.205, those activities will be presumed to meet a national objective. And now states can take advantage of this too. So they can utilize the plethora of different kinds of planning activities under 205 and try to satisfy those requirements in order to say that under the prior regulation I mentioned, 208(d)(4), they in fact, meet a national objective. So normally used by entitlement communities now could also be used by states. And also, as I've mentioned before, for the entitlement communities for states as well. There won't be any cap on the costs for planning activities.

[00:32:06] Next slide please.

[00:32:10] Some other waivers here to mention as well that the state grantees benefit from. One of them being that there have been general waivers here that allow states to now distribute their funds to local governments that include, for example, entitlement communities and Indian tribes. Staying on the topic of entitlement communities, there used to be a regulatory requirement under 570.486(c) that essentially stated that if the entity were to use its funds in an entitlement area, that there would essentially need to be a contribution from the entitlement jurisdiction. And that has been waived. So now states are able to use their funds in these entitlement areas without the need for that contribution, and it's contemplated that they might use those funds in these areas either directly or indirectly through delegation to other units of general local government.

[00:33:09] Next slide please.

[00:33:13] Now, since states are able to directly carry out activities, that also means that we have to now modify some of the requirements to states to allow them to delegate responsibilities to subrecipients. There are requirements under 570.502, 503, and 500(c) that typically apply for subrecipients under the CDBG program, and those will be relevant here as well for states. But it's also important to note that certain requirements under 2 CFR part 200 are mentioned in these regulations, and they need to be included in the subrecipient agreements that states will utilize when they delegate their responsibilities to these sub-recipients. Now also turning to 570.589 and 570.502, states also need to make sure that they're abiding by the cost principles that are normally found under 2 CFR 200 Subpart E. And those cost principles would be familiar to those that have really been partaking in any HUD program.

[00:34:23] And they're going to be relevant here now for the states, since they'll be directly carrying out these activities. And that has to also be conformed with even if the states are once again delegating to their sub-recipients. So that won't change the facts that the states need to defer to those requirements. And referring here to a particular regulation about real property 24 CFR 570.489(j) used to have standards that pertains to the events when real property funded in whole and part of the program had a change of use. And for the case of states, there has to be an inclusion in this language because before it

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only accounted for general local government. So now any place in this statute or in this regulatory language rather, where it says unit of general local government now states need to be included in that as well.

[00:35:27] Next slide please.

[00:35:31] Now, turning to the topic of non-compliance. There used to be a regulation that applied to states for CDBG under 24 CFR 570.492. And essentially it framed the state to be the entity that was performing reviews and audits for units of general local government. But that's not going to be a perfect fit for this program because states can now directly carry out activities. So that language has been waived and some alternative requirements have been provided. So under the PRO-Housing program, states that receive a direct award will be responsible for making reviews and audits as necessary, and that does mean checking up on their sub-recipients, as well as any designated public agencies or units of local governments, as might be necessary to make sure that the requirements under 5304 are being met in terms of auditing and review for this program.

[00:36:43] So states will be responsible for still checking up on those that they delegate their responsibilities to. Now, when there has been a case of noncompliance, the state does need to be proactive in trying to take measures to reduce the deficiency. So any actions that might prevent a continuance of the deficiency, mitigate adverse effects, or prevent a recurrence should be enacted by the state. Upon such a finding, the states also need to establish remedies for non-compliance by those entities in which they have designated responsibilities to, once again, being the sub-recipients, public agencies or local governments.

[00:37:27] Next slide please.

[00:37:31] Now, in terms of record keeping, 24 CFR 570.490(b) has been waived. This language used to pertain to requiring the states to establish record keeping requirements for units of local government. And once again, as states are now directly carrying out activities that is no longer a perfect fit for this program. So that language has been waived. So instead, the state should be establishing and maintaining records as may be necessary to facilitate a review and audit under 570.493. Now, what's just a bit tricky about this regulatory language is that it still has some remnants of a different mechanism that's not being used here under 570.593. There's still language stating that states need to report on their distribution of funds to units of local government. And of course, that won't apply for a state that is directly carrying out its activities.

[00:38:35] But nevertheless, the records that they establish and maintain should be sufficient enough for HUD to make an assessment of compliance with 570.493, even if the language has some parts in there that might not directly apply to a state that is directly carrying out activities. Also on this topic of record keeping for fair housing and equal opportunity purposes, as applicable, these records should include data on racial, ethnic, and gender characteristics of persons who are applicants or participants or beneficiaries of this program. And when it comes to record keeping requirements, local governments, MPOs and multi-jurisdictional entities should default to 24 CFR 570.506 for their record keeping requirements.

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[00:39:39] Now, on the topic of program income. There are ordinarily program income requirements that we would see under the statute at 42 U.S.C. 5304(j), and under the regulations at 570.500(a) and (b), 504, and 489(e). And these have been waived to give more flexibility to the PRO-Housing program. So we'll discuss some of the alternative language that will be relevant for this topic. And for PRO-Housing, we want to be cognizant of what is and is not considered program income in this context. So under this program, program income will mean, program income that is generated from the use of PRO-Housing funds and received by the state, local government or tribe, or a sub-recipient of those entities, unless it's excluded from the definition that's provided under the NOFO. Now, under the NOFO, there are two different exceptions that are described. One is that there will be an exception for those funds which amount to less than \$25,000 that are received and retained in a single year. So there's a threshold there, essential of \$25,000 that grantees should be made aware of. And there's also another reference of, under these exceptions to 105(a)(15) of the HCDA Act, and that again pertains to certain activities relating to neighborhood revitalization, community economic development, and energy conservation projects. So essentially activities that are connected to these projects that generate income will actually not be considered program income for the purposes of this program.

[00:41:30] Now when this income is generated by an activity that's only partially assisted with program funds, that program income will be prorated to reflect the percentage in which is PRO-Housing. And also important to note here that if program income is received either before or after the closeout of the grant and that program income is still used for the continuance of activities under this program, then those funds will more likely to not be treated as additional PRO-Housing grant funds that are subject to the same requirements as any other program funds under the NOFO and also under the action plan.

[00:42:15] Next slide please.

[00:42:19] Now turn to the topic of reimbursement under 24 CFR 570.489(b). The states normally have the ability to reimburse themselves for what are otherwise considered to be allowable application related costs incurred by themselves or by sub-recipients on or after the date of publication of the NOFO and Entitlement grantees will have a similar ability as well to reimburse themselves for otherwise allowable costs on or after the date of the publication of the NOFO. But it is important to note here that for both states and entitled grantees, both sides will still need to take a look at 570.200(h) and 570.489(b) for additional requirements that apply to pre agreement activities in this topic. Essentially, these will still apply to these grantees when they hope to reimburse costs that were incurred prior to the execution date of the grant agreement.

[00:43:34] Next slide please.

[00:43:38] Now, just addressing environmental requirements as we can for these grantees. Similar to other HUD programs, they will need to complete an environmental review pursuant to 24 CFR Part 58, as applicable, and they will not be able to draw down funds until they have submitted and gotten an approval for a Request For a Release of Funds and as a certification, as well, as will be applicable to those grantees. And for the states, if they are, in fact, directly carrying out these activities, that means that they will have to undergo this process the same as any other entity that is receiving funds. So the state will, in fact, need to submit a certification and a Request For Release of Funds as well for HUD approval. Also talking quickly about historic preservation reviews is important to note what the NOFO states here about SHPOs and THPOs.

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[00:44:43] So essentially, HUD strongly encourages grantees to allocate some general admin funds to support the capacity of the State Historic Preservation officer or the SHPO or the Tribal Historic Preservation Officer to review PRO-Housing projects.

[00:44:59] Next slide please.

[00:45:03] Now, shifting to the topic of procurement. States should default to some requirements under 570.489(d) and 489(g) for procurement requirements under this program. Essentially, these regulatory provisions require states to have fiscal and administrative requirements for expending and accounting for their funds, and states need to also establish certain procurement policies and procedures that can be utilized by local governments based on full and open competition. So local governments will need to abide by certain procurement policies and procedures. Depending on the state that they are receiving funds from, they'll have to defer to those policies and procedures. And states can satisfy this also by defaulting to requirements under 2 CFR Part 200 for these procurement matters as those regulations may be amended. And instead for local governments that are receiving grants from HUD should default to 2 CFR 200.318 through 327, as amended. So we encourage representatives of local governments to investigate and evaluate those regulatory provisions.

[00:46:23] Next slide please.

[00:46:27] Now for timeliness and capacity. So firstly, there are requirements under 494, 570.494 and 570.902 that have been waived here in terms of timely distribution because again, adjustments need to be made for the fact that not only do we need more flexibility for this program, but also for states as well. Their role has changed. So timelines and capacity has some alternative requirements to discuss. Now, HUD does expect to grantees to expeditiously obligate and expend their funds and carry out activities in a timely manner. And the way that HUD assesses this is essentially by evaluating the expenditure plan that the grantee has put forth. So if the grantee is complying sufficiently with their expenditure PR plan, it'll be presumed that there's substantial evidence to say that they are being timely with the performance of their activities.

[00:47:32] If HUD, however, finds that their timeliness requirements are not being met, then HUD does need to basically perform a further investigation into the grantee to determine whether or not they still have the capacity to carry out their activities in a timely manner. And there are some factors that are mentioned under the NOFO. Three of those are that HUD will first consider the nature and extent of the grantee's performance deficiencies, also the types of corrective actions to has already taken and the success of those actions or the likely success of those actions in the future.

[00:48:14] Next slide please.

[00:48:18] Now, if non-compliance is found, there are numerous corrective remedial actions that are at the grantee's disposal. So for states, corrective remedial actions can be found under both Subpart O and Subpart I of the CDBG regulations under Part 570. Subpart O is more general while Subpart I is more particular to state grantees. And so on that point, local governments should default instead to Subpart O when they are looking for corrective and remedial actions. And some of these actions might be familiar to those that have participated in HUD programs before. They include actions such as issuing a letter of warning, suspending the disbursement of funds for deficient activities, or even a requiring repayment of amounts that have been improperly spent. But for those actions that have to deal with the reduction,

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withdrawal, or adjustment of grant amounts, it is important that those affected are still properly notified and have an opportunity to have an informal consultation about these changes. And if, in fact, these changes do become necessary, they will only affect the funds that have been improperly spent or the activities that weren't compliant. So those funds that have been spent on eligible activities already won't be affected and won't require recapture.

[00:49:50] Next slide please.

[00:49:54] And finally, a quick note here that 24 CFR 91.325 and 225 previously had certification requirements that are now waived for the PRO-Housing program. So for states and local governments and also other applicants such as MPOs, non entitlement local governments, and multi-jurisdictional entities, they should all default to Appendix B for certification requirements. That essentially the language that's under Appendix B must be evaluated and submitted with the application when applying for the PRO-Housing funds.

[00:50:33:] Next slide.

[00:50:39] Right? And that concludes our legal walkthrough of the PRO-Housing program and some of its unique requirements. And at this time we'll be answering some questions as we're able.

Speaker #1: Landon Laven Jones

[00:50:49] Representative is Matt Santiago, who you just heard, who is our program counselor Counsel and Nicole Sanders, who serves as our Assistant general counsel. Other competitions are governed by the HUD reform. So the NOFO is definitive for all answers we cannot interpret, but we can tell you whether something in this NOFO, something is in the NOFO or the CDBG framework. We will answer the questions the best that we can but please make sure to tune in for future webinars. And so with that, we will go to our first question to Jessie.

[00:51:21] Is it possible to propose a project where regional planning organization set up and administer a grant program that disperses funds awarded under the Pro Housing grant to housing authorities and other public entities to develop new affordable housing units?

Speaker #4: Jessie Handforth Kome

[00:51:42] Just a second. I'm having a little trouble with the unmuting, sorry, gang. So we're going to do the, the NOFO states thing, which is the NOFO states that multi-jurisdictional entities must demonstrate partnership among all parties. The parties must demonstrate a may demonstrate a partnership by attaching relevant documentation such as an MOU or other foundational document to their application to, to fully answer the question though, we say that all CDBG eligible activities and means of carrying out the activities such as with grantee employees, contractors, loans, grants, or subrecipients are available for PRO-Housing. So you'd want to look at Section 105(a) of the Housing and Community Development Act and 24 CFR 570.200(f) as in Fox, for the means of carrying out and sections 570.201 to 207 for the eligible activities.

Speaker #1: Landon Laven Jones

[00:52:44] Thank you. And I

Speaker #4: Jessie Handforth Komes

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[00:52:46] And I suppose I should say that I am Jesse Handforth Komb the Director of the Office of Block Grant Assistance.

Speaker #1: Landon Laven Jones

[00:52:52] Awesome. Okay, second question, Matt. Does the State or local applicant have to be a CDBG recipient or can another entity that is responsible for planning for housing planning apply?

Speaker #3: Matthew Santiago

[00:53:05] Thanks for the question. So, this program is not just limited to state or local. Just to refer back to the eligible applicants here, those eligible applicants are state governments and local governments. But that also includes, as well, Metropolitan Planning organizations or MPOs and multi-jurisdictional entities. And, local government also, to clarify here does include both entitlement CDBG grantees and non entitlement communities. So, it is a bit of a spectrum. So not limited to those two applicant categories.

Speaker #1: Landon Laven Jones

[00:53:42] Awesome. Thank you, Matt. So for our third question, we were asked where can we find the presentation documents? And naturally the questions that was answered in this chat, but HUD will be posting recordings and slides for our PRO-Housing presentations on the PRO-Housing HUD webpage within five to seven days. And so for our next question, if a county does not have a con plan that is that requirement, that requirement is waived, correct?

Speaker #3: Matthew Santiago

[00:54:10] Hey, this is Matt taking that question again and that is correct. So utilizing 24 CFRR 91, PRO-Housing applicants that are not recipients of their HUD funding are not subject to consolidated plan requirements and they won't be applicable to them including for the certification of consistency with the consolidated plan. However, for those PRO-Housing applicants that do have Con Plans, those entities do need to certify that their housing activities are undertaken with PRO-Housing funds and that that's consistent with the strategic plan in the state or local jurisdiction's Consolidated plan.

Speaker #1: Landon Laven Jones

[00:54:52] And follow up for that one, can non-entitlement grantees apply for these funds?

Speaker #3: Matthew Santiago

[00:54:57] Okay. So that's sort of connected to the previous question that I answered. So, yes they can. When I had mentioned earlier that local governments are an eligible applicant that did include both entitlement CDBG grantees and non-entitlement communities.

Speaker #1: Landon Laven Jones

[00:55:16] Thank you, Matt. Okay, our next question, regarding eligible activities. Eligible activities allows developing regional planning models for housing, transportation, and economic development. How should an applicant characterize such a broad scope while focusing on housing?

Speaker #4: Jessie Handforth Komes

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[00:55:35] Let me jump in here. This is a question that's asking for advice from HUD on an approach, and we can't do that. You have to read the NOFO and respond to the prompts. We are governed by the HUD Reform Act and we simply are not allowed to give advice on what would be a good approach.

Speaker #1: Landon Laven Jones

[00:55:58] Okay. And our next question. We'll send this over to Matt. Are only states allowed to use 10% for general administration? Do these waivers not apply to cities and MPOs?

Speaker #3: Matthew Santiago

[00:56:14] So to clarify, any PRO-Housing grantee can use that 10% of the award for their general administrative costs and for the technical assistance. We encourage applicants to refer to the NOFO preview where this is further detailed. Checkout section VI.E.v.a.8.

Speaker #1: Landon Laven Jones

[00:56:38] Thank you. Uh, Jessie, this is a question that comes from a PHA. We are a PHA within our local county government and serve Clackamas County and Oregon. In Oregon, Clackamas County is noted as a prioritization county within the PRO-Housing prioritization spreadsheet. Yet there are several cities within the spreadsheet that are within Clackamas County that are listed as priorities. With this, if we have a project that was based in one of the not prioritized cities, but was within the larger prioritized county, what does that mean? What does this mean in terms of applying for the PRO-Housing funds?

Speaker #4: Jessie Handforth Kome

[00:57:18] Your application has to primarily serve a priority geography or a priority geographies. Primarily is the key word there and serve. So, to receive the 10 points, the application must primarily serve a priority, geography or geographies. Applications primarily serving an identified geography will be scored based on the priority status of that geography in the need factor. So that's what the NOFO says. I added the plural because the NOFO says that elsewhere, but otherwise it's verbatim.

Speaker #1: Landon Laven Jones

[00:58:06] Okay. And our next question. Matt, Can you state directly... Can a state directly carry out some activities and also delegate others i.e. the sub-recipients contractors and UGLGs too?

Speaker #3: Matthew Santiago

[00:58:20] Um, the simple answer is yes to that. But we also encourage for further details on that ability for applicants to refer to section VI.E.5.a.4 of the NOFO preview.

Speaker #1: Landon Laven Jones

[00:58:33] Great. And since we're getting close to time, I'll make this the final question. What types of funding is eligible for leveraging the award?

Speaker #3: Matthew Santiago

[00:58:43] So, grantees may use their non-federal sources or other federal sources as financial leverage but only if a program is authorizing statute permits to that use.

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Speaker #1: Landon Laven Jones

[00:58:55] Great. And so with that, we are now at time. We'll have our next webinar next week, August 17th, on Wednesday (Transcription correction: Thursday). That will cover the PRO-Housing NOFO data resources, and tools. The link for that webinar is posted to HUDs PRO-Housing webpage. And with that, we hope to see you all next week, and we wish you a great day.