

HUD

**Moderator: Ginny Sardone
January 24, 2012
1:30 pm ET**

Operator: Good day; welcome to the HOME Proposed conference call. As a reminder today's conference is being recorded.

Your line will be muted throughout today's presentation and you will have an opportunity to ask questions via the web later in the presentation.

At this time, I would like to turn the conference over to Miss Ginny Sardone, please go ahead.

Ginny Sardone: Good afternoon everyone and welcome to HUD Office of Affordable Housing Program's webinar on the HOME proposed Rules. My name is Ginny Sardone; I'm the acting director of the Office of Affordable Housing Program.

I'm joined today by Marcia Sigal the director of OAHP's program policy division. We will be your presenters today.

We're also joined today by Peter Huber, OAHP's director of financial information services division and Kathy Bialas the Assistant General Counsel for community development and the chief home program counsel.

Peter and Kathy are here to help us with any questions in the question and answer portion of today's webinar. We will break for questions at the middle and at the end of the presentation.

Due to the number of attendees, we will not be able to answer all the questions received. We will only answer questions on the topics we cover during the webinar.

We will not be answering questions on general HOME rules or proposed changes to the HOME rules that are not covered in the webinar today.

We'll only be taking written questions during this webinar. In order to ask a question, please change your status in Live Meeting from green to purple. Type your questions in via the Q&A box located on the Live Meeting toolbar.

Change the status back to green after the question has been answered. Before we review the content of the HOME proposed rule it would be useful to touch briefly on the history of this rule making.

The HOME program was created by the Cranston Gonzalez National Affordable Housing Act of 1990. The first funding was appropriated for fiscal year 1992 and the first HOME grants were made to state and local participating jurisdictions or PJs as we call them in March 1992.

The program initially operated under a series of seven interim rules that were issued to make quick adjustments to the program as it got off the ground and to implement a series of statutory changes that congress made to the program in the first two to three years of its operation.

HUD conducted its last major rule making for HOME when it issued the first final rule in September 1996. A lot has changed since then.

HOME quickly became a lynchpin of the affordable housing finance system in the US, it was a critical source of gap financing, sometimes the final piece of the financing puzzle and just as often the first source of secured financing that allowed affordable housing developers to shop other funders.

In 20 years, HOME has produced more than one million units. Both HUD and PJs have learned many lessons about best practices in administering an affordable housing block grant during that time.

Even more importantly the nation's housing market has been transformed in recent years by major changes that have made it more difficult than ever to develop affordable housing for low income persons.

As a result, HUD began considering a variety of potential changes to improve program operations. In January 2010, HUD held two public listening sessions to solicit the input of state and local PJs, other program participants, low income housing advocates and public interest groups on possible changes to the HOME program.

Before finalizing a proposed HOME rule for publication, HUD published two other proposed rules for the national housing trust fund which will be administered as part of the HOME program.

In the HTF proposed program rule, HUD tested a number of different approaches that were under consideration for incorporation into the larger HOME program rule.

With public comments on HTF in hand, HUD began finalizing the HOME proposed rule for publication. A comprehensive set of program improvements and clarifications were published as a proposed rule on December 16, 2011.

Public comments on the HOME proposed rule are due to HUD on February 14, 2012. HUD plans to issue a combined final rule for HOME and HTF in the fall, however today's webinar focuses only on the content of the HOME provisions published last month.

The HOME proposed rule changes were aimed at enhancing and improving PJ's accountability for their programs and the performance standards HUD applies to them, incorporating best practices used by many PJs around the country into the regulations as required procedures for administering HOME activities.

Thereby raising the floor for all PJs, addressing total capacity and performance issues that continue in many PJs despite 20 years of capacity building effort, updating the HOME property standards for each HOME activity, new construction, rehabilitation, acquisition and clarifying HUD's expectations regarding inspections during development, at completion and during the period of affordability.

And improving PJ monitoring and oversight of funded entities and projects, facilitating financial and physical workouts for troubled rental projects during their required periods of affordability without the necessity of granting project specific waivers for the most commonly employed techniques.

The rule would also require PJs to design home buyer programs so that they provide the best chance of sustaining home ownership over the long term.

The rule proposes greater PJ scrutiny of underwriting and the market need for projects seeking HOME funding. And finally the rule would add a number of provisions that would strengthen required HOME written agreements to ensure that they are more effective enforcement tools for PJs.

The rule also seeks to clarify a number of existing provisions that HUD is determined to be generally misunderstood by a number of PJs or other program participants.

To name just a few, HUD is issuing clarifications on these existing provisions, the required content of resale and recapture provisions, required lease terms and prohibited lease terms for rental units, rules applicable to special needs housing including how the cross cutting Section 504 regulations affect the eligibility and operation of housing for the disabled.

HUD is also adding greater specificity in the eligible activities and eligible cross sections of the rule. There are dozens of changes in the HOME proposed rule, so many in fact that time will not permit us to go through them all today.

HUD has published a summary of the significant changes and posted it on its website, the URL for that is www.hometa.info.

Today we'll be focusing on the most significant changes in the HOME rule, those that will have the greatest impact on the administration of the program and the operation of PJs, state recipients, sub recipients, CHDOs and other developers. Let's get started.

The existing HOME regulations at Section 92250A state that HOME PJs are responsible - excuse me, that's 504A, state that HOME PJs are responsible for the day to day operations of their programs ensuring that HOME funds are used in accordance with all program requirements and written agreements and taking appropriate action when performance problems arise. It also makes clear that the use of state recipients, sub recipients or contractors does not relieve the PJ of this responsibility.

Finally the existing rule requires that PJ review the performance of each contractor and sub recipient at least annually.

To increase the accountability of PJs and improve their oversight of their HOME programs and projects, HUD proposes to revise this section of the rule to establish specific policies and procedures that PJs would be required to adopt.

Specifically PJs would be required to develop and follow policies and systems for administering all aspects of their HOME program. HUD's monitoring of HOME PJs has found a correlation between a lack of policies and procedures, inadequate policies and procedures or failure to follow policies and procedures and non-compliance with basic HOME regulations.

Requiring each PJ to develop and follow adequate procedures for carrying out their HOME programs and activities will greatly improve program compliance.

In addition the rule would require PJs to develop and implement a system for assessing the relative risks of activities and projects and assist them for monitoring both the performance and compliance of entities to which they provide HOME funding to ensure that HOME requirements are met.

HUD envisions PJs developing systems similar to its own annual risk assessment process and monitoring protocols.

PJs should be aware that OAHP has developed both a written guide and classroom training addressing both PJ risk assessment processes and PJ monitoring practices.

HUD proposes to expand existing subsidy layering requirements which are located at 92.250B and apply only when HOME funds are combined with other forms of public funds to all home rental and home buyer projects irrespective of the sources or level of funding.

Consequently the paragraph in the regulation that is currently titled subsidy layering is renamed underwriting in subsidy layering.

HUD's intention is to ensure that every project and every developer receive an adequate level of scrutiny from the PJ as the HOME funder. I should note that it is not HUDs intention that these standards be applied to owner occupied rehab projects.

These projects are subject to cost reasonableness provisions but there's no developer and therefore no developer fees associated with such projects.

The proposed regulation would require each PJ to adopt guidelines for determining a reasonable level of profit or return on an owner and developer's investment in the project.

As with existing subsidy layering requirements, the rule would require PJs to evaluate projects against these standards before committing HOME funds to them.

The PJ's provisions must ensure that it will not invest more HOME funds alone or with other governmental assistance than is necessary to provide quality affordable housing that is financial viable for a reasonable period of time at a minimum the HOME period of affordability.

Or that the governmental assistance provides a return that exceeds the PJ's established standards for the size, type and complexity of the project. PJs will be required to develop a specific standard for appropriate return on a project.

Different standards would be adopted for small versus large projects, home ownership versus rental projects, the complexity of the project and the level of the developer's risk in other words the developer's money in the deal.

In addition to specifying appropriate levels of owner or developer return, the PJ must ensure that the guidelines that it develops and implements require an examination of the sources and uses for each project and a determination that project costs are reasonable.

And at a minimum, the guidelines must assess the market conditions of the neighborhood where the project will be located.

In other words, the PJ must determine if there is a market need for the project and ensure that the units will be occupied or sold timely.

The guidelines require assessment of the housing development experience and financial capacity of the developer. What is the past track record and current capacity of the developer to successfully complete a project of the size and scope of the project for which HOME funding is being sought.

Does the developer have adequate cash flow and cash reserves to ensure that it can complete the project successfully even in the face of unanticipated delays or obstacles.

Finally the guidelines must ensure an assessment that firm financial commitments exist for the project. HOME funds should not be committed for purpose of HOME program rules to a project until all other sources of funding to complete the project have also been firmly secured.

Many PJ's are in the process of repaying HOME funds committed and expended on a project that was in the pre-development phase and which was not completed.

However it's important for PJs to understand that it is not possible to meet current regulatory requirements for project commitments before a project has all funding in place.

The proposed language would make this even clearer by requiring an examination of those commitments and a determination of the project has financing in place to ensure completion.

Each time a PJ commits HOME funds to a project it will be required to certify in IDIS that the underwriting and subsidy layering process has been completed.

The certification will include the name of the staff person responsible for completing this underwriting and assessment process.

This will be in addition to the subsidy layering certification that the PJ must submit each year in its consolidated plan or annual action plan.

A new deadline for the completion of individual projects is proposed at Section 92.205E. PJs would be required to complete a rental home buyer or occupied rehab project within four years of the date the funds are committed to the project.

Failure to complete the project would result in HUD designating the project as terminated before completion. Under the existing provisions of Section 92.503B2 HOME funds invested in a project that is terminated before completion must be repaid to the PJ's HOME account.

The proposed regulation permits HUD to grant a one year extension of the project completion deadline.

To obtain an extension the PJ would be required to submit detailed information about the status of the project, a description of the steps that the PJ has taken or will take to overcome obstacles that have delayed completion, proof of adequate secured financing to complete the project and a schedule for completion including milestones that the PJ would report on and HUD would monitor if the extension is approved.

Any extension beyond five years would only be granted by a waiver. HUD expects that such waivers would only be granted in extraordinary circumstances, such as fires or natural disasters that seriously affected the progress of the project.

PJs should note that the law that made appropriations for HUD's 2012 budget makes this four year deadline applicable to HOME projects funded with fiscal year 2012 HOME funds.

The law does permit HUD to extend this deadline by one year but there is no possibility of a waiver beyond that point.

HUD will address this and several other requirements applied by the 2012 appropriations bill in operating guidance to be issued in March.

HUD also proposes to impose a deadline for initial occupancy of rental units assisted with HOME funds.

A HOME assisted unit is only considered to be eligible if it is occupied by an income eligible household. Consequently HUD is proposing to require that HOME units be rented to an income eligible tenant within three to six months of being made available for occupancy as indicated by a certificate of occupancy, or the date of the PJ's final sign off on rehabilitation.

If the unit has not been rented to an initial tenant within the designated time frame HUD would require the PJ to submit information regarding the existing marketing efforts to lease the HOME unit.

HUD may require the PJ to put a more aggressive marketing plan in place to ensure that units are occupied timely. If a unit has not achieved occupancy within 18 months the PJ would be required to repay the HOME funds invested in the unit.

HUD is specifically soliciting comments on the appropriate period of time that may elapse before the PJ is required to submit its marketing plan and possibly set up its marketing efforts.

The preamble states that the period would not be less than three months or more than six months.

The proposed rule would establish a six month deadline for transferring a unit that was acquired rehabilitated or newly constructing to provide a housing opportunity to a new home buyer.

A HOME home buyer unit is not defined as completed or considered to be an eligible activity until it has been transferred to a low income household.

If a unit has not been sold to an eligible home buyer under HOME resale recapture provisions within six months of construction completion or an offer for sale the PJ would be required to convert the unit to a HOME rental unit and operate the unit under the HOME rental provisions in Section 92.2502 for the affordability period applicable to rental units for example for 20 years if the unit is new construction.

Because the conversion of an intended home buyer unit to rental would prove complicated in many instances, HUD recommends that PJs very carefully consider the market need for proposed home ownership units before committing HOME funds to such projects.

It would be advisable to enter into sales contracts with qualified home buyers before beginning construction or rehabilitation of a home buyer unit with HOME funds.

This deadline is another provision that congress included in HUD's FY2012 appropriations law. Consequently this six month deadline for transfer of a unit will apply to home buyer units funded with FY2012 HOME funds.

HUD will not have the ability to grant exceptions or waivers to this provision because it is statutory. This provision will also be addressed in HUD's upcoming FY2012 HOME operating guidance.

HUD has proposed several additions to the HOME rule for the purpose of ensuring that home buyers assisted with HOME funds are able to sustain home ownership over the long term.

These changes are made largely in response to lessons learned from the foreclosure crisis. Fortunately the foreclosure rate for HOME assisted home buyer units remains substantially lower than in the unassisted or even in the FHA inventory due to the efforts of PJs across the country to ensure sustainable home ownership, even in the midst of the predatory lending epidemic.

However HUD believes this proposed rule presents an opportunity to raise the floor and ensure that every HOME funded home buyer program is designed with both cost reasonableness and sustainability in mind.

The Dodd Frank Act that was passed in 2010 requires HUD to ensure that counseling is provided to home buyers assisted to its program.

The act requires that the counseling cover at a minimum selection, financing, ownership and resale of a home.

This act is the subject of a separate proposed rule making process at HUD. This rule will apply to the HOME program and HOME assisted home buyers when it is published for effect.

Consequently HUD strongly encourages PJs and other program participants to review and comment on that proposed rule to be issued to implement Dodd Frank when it is published.

HUD has proposed a provision at 92.253A3 of the HOME proposed rule that would make home buyer counseling mandatory for every home buyer receiving HOME assistance to purchase a home.

Previous evaluations performed by HUD's office of policy development and research have found that the overwhelming majority of HOME assisted home buyers receive home buyer counseling in connection with their home purchase.

This provision would again be aimed at raising the floor by targeting the small number of programs that do not already require housing counseling for home buyers.

HUD has not specified the extent or form of the mandatory home buyer counseling. HUD encourages PJs to provide the most comprehensive counseling that is feasible including post purchase counseling.

However HUD recognizes that mandating post purchase counseling could create an undue burden on PJs.

Because the statutory requirement for disbursement of HOME funds within 15 days makes it impossible to fund post purchase counseling with HOME funds.

The proposed rule at Section 92.254F would add a number of other mandatory program design elements to PJ's home buyer programs.

First PJs would be required to develop written policies and procedures implementing underwriting standards for home ownership programs.

At a minimum these standards must take into account the housing debt and overall debt of the household, in other words the front end and back end ratios.

The students must also take into account the appropriateness of the amount of homes and any other assistance being provided.

The PJ must ensure that the amount of assistance to be provided is neither more than is required to permit the home buyer to purchase the unit nor less than is required to ensure sustainable home ownership.

The PJs standards must also examine the assets that the household has to acquire the housing. If the low income household has substantial cash assets, will realize a return from sale of a previous residence or owns other real estate the PJ must consider the amount of these assets that the household should be expected to contribute towards the purchase of the new unit.

Finally the PJ standards must consider the financial resources that the household has available to sustain home ownership.

This would include a consideration of fixed, recurring costs that are not housing debt, such as daycare costs, court ordered child support payments or fixed medical costs.

It would also include a consideration of the minimum amount of assets that the household should be permitted to retain in order to ensure that unanticipated housing or other costs do not threaten the sustainability of ownership in the short term.

Next the PJ must adopt anti-predatory lending policies to ensure that other mortgage debt on the home unit carries reasonable terms such as initial and ongoing interest rates, any adjustments in the minimum payment during the term of the mortgage, late payment penalties or pre-payment penalties.

The PJ must determine that the terms of other mortgage debt are not predatory and may not provide home assistance in combination with such financing.

Finally the PJ must develop and adopt resubordination policies to ensure that the terms of any loans that refinance debt to which HOME funds are subordinated are reasonable and consistent with sustainable home ownership.

This provision would require PJs to examine proposed refinancings and determine whether the new loan is appropriate. HUD cautions PJs against adopting a simple no resubordination policy as this will prevent home buyers from taking advantage of better terms and interest rates that are currently available for refinancing.

For some time HUD has been telling PJs that a change to the existing HOME regulations has been necessitated by changes to the FHA's single family mortgage limits, also known as the 203B limit.

The HOME statute states that HOME funds can only be invested in home ownership units that have a value or sales price that does not exceed 95% of the area median purchase price.

This statutory provision was intended to ensure that HOME assisted home ownership housing be modest in nature.

Since the inception of the HOME program, HUD has used the 203B limit as a proxy for the actual 95% of area median purchase price in the HOME regulation.

However changes in the 203B limits over time and very significant changes in a series of laws passed over the past four years have created a situation in which HUD's continued use of the 203B limit in lieu of the actual 95% of purchase price constitutes a violation of the HOME statute.

HUD has issued an interim policy in 2008 to minimize the effect of changes in the 203B limits on homes.

To bring the home regulations back into compliance with the HOME statute, HUD proposed to eliminate the 203B limits from Section 92.254A23 of the regulations.

PJs will now be required to use the actual 95% of area median sales price for the MSA or county as the sales price limit or after rehabilitation value limit for single family home ownership housing.

This change will not affect the PJ's ability to calculate the 95% of median purchase price figure within the boundaries of the PJ using recent sales price.

We'll be taking your questions at 2:15, please feel free to send them in now. During the January 2010 listening meetings that HUD held on the HOME rule and a number of other communications, PJs, particularly state PJs raised serious concerns about the effect that extremely low 95% median figures in rural areas or ex-urban areas would have on their program.

Because of the age features and poor condition of housing in these areas the limited number of sales in these areas and the number of - small number of new standard housing units built in these areas, PJs convinced HUD that imposing the actual 95% of median purchase price as the home ownership value limit would make it difficult to nearly impossible for PJs to expand the supply of new standard housing in these areas.

In examining data HUD found that the same problem would exist in the number of urban markets characterized by high levels of blight and depressed housing prices.

To address the situation HUD has proposed creating an alternate home ownership value limit for newly constructed housing. HUD proposes that for newly constructed housing units HOME PJs be permitted to use the greater of the HUD issued 95% of area median housing price or the census bureau's median sales price for single family houses sold outside of MSAs.

This figure which is currently \$179,900 would act as a floor on the 95% requirement for new construction. HUD is specifically soliciting public comment on the use of census bureau figure for newly constructing housing in this way.

HUD has already heard from a number of state PJs that they work in markets with the use of the actual 95% figure would all but eliminate the ability of HOME funds for owner occupied rehabilitation or acquisition and rehab projects due to extremely low median figures.

You may also wish to comment on this although HUD must state at the outset that our examination of the statute has found little additional flexibility on this point.

If you do wish to comment on that rehabilitation issue, HUD would appreciate receiving examples based on figures applicable in your area.

Now we turn our attention to total capacity. For some time HUD has been concerned about the capacity of CHDOs nationally where there are many areas in the country where a cadre of capable and creative CHDOs have developed, there are many other areas characterized by struggling CHDOs or no CHDOs at all.

In developing the original HOME regulations HUD recognized that many areas lack CHDO capacity and permitted the CHDO to rely on consultants who were also expected to train existing CHDO staff in order to meet the regulatory requirements that a CHDO have housing development capacity.

HUD is aware of numerous situations in which CHDOs continue to rely on consultants for many, many years, without ever developing internal development capacity or accomplishing the knowledge transfer that HUD expected when it permitted CHDOs to initially meet the capacity test based on consultant experience.

In addition HUD is aware of many CHDOs that are entirely staffed by volunteers or by persons who's services are provided by a parent organization. An example of this would be a PHA that spins off a CHDO, the CHDO has no paid staff or internal capacity and the PHA employees carry out the functions of the CHDO.

Twenty years into the HOME program HUD believes that all organizations that will receive CHDO set aside funding should have the in house capacity necessary to successfully carry out HOME projects.

Consequently HUD is proposing to revise the existing regulations so that the demonstrated capacity requirement for CHDO designation will no longer be met or could no longer be met through the use of a consultant and a staff training plan.

In addition the rule would clarify HUD's existing requirement which does not permit the demonstrated capacity requirement to be met by the use of volunteers or services of persons employed by another organization.

Under the proposed regulations to qualify as a CHDO an organization will be required to have paid staff with demonstrated housing development experience.

HUD is proposing that PJs must certify that an organization meets the definition of CHDO in Section 92.2 each time it commits HOME funds to a project. The current regulations require PJs to make this determination each time it funds a CHDO however the current rule does not require the PJ to make a certification to HUD as a set.

The proposed rule would also require PJs to specifically document that a CHDO has the capacity to own, develop or sponsor housing each time it commits HOME funds to the organization. It is worth noting this is another provision that congress included in HUD's FY2012 appropriations law.

These provisions will apply to FY2012 CHDO set aside funds, reserved or committed to a CHDO organization.

A very significant change in the HOME proposed rule relates to the concept of CHDO reservations and commitments. Up until now HUD has counted a general non-project specific reservation of funds to a CHDO towards both the 24 month deadline for reservation of CHDO set aside funds and the 24 month deadline for committing HOME funds.

This rule proposes to eliminate non-project specific fund reservations as a commitment of CHDO set aside funds or as a - and as a commitment of HOME funds for the purposes of meeting the 24 month CHDO set aside and HOME commitment deadline.

To be counted towards these deadlines the PJ would be required to commit funds to a specific CHDO project under a legally binding written agreement.

HUD is proposing an additional significant change to increase accountability and assure that funds committed to CHDO projects result timely in completed projects.

HUD proposes to establish a separate five year expenditure deadline for CHDO set aside funds. HUD would establish a deadline compliance process for expenditure of CHDO set aside funds that parallels the existing process used for commitments, CHDO reservations and overall expenditures.

However expenditures of CHDO set aside funds will be broken out from non-CHDO expenditures and measured separately. Any CHDO set aside funds not expended within five years would be deobligated from the PJ's HOME account.

This change is intended to reduce large unexpended balances of CHDO set aside funds that remain in many PJ accounts.

And ensure that these unused funds are deobligated and put to use for projects that will move forward timely. HUD is proposing several revisions to property standards applicable to the HOME specific properties. HUD is concerned that there is a misunderstanding about the applicability of codes and standards required by HOME regulations which has resulted in PJs not ensuring adequate levels of improvements to HOME assisted rental and home buyer housing.

Inadequate physical improvements could lead to problems with project viability and we all want to avoid problems that may threaten the viability of HOME projects during the period of affordability and beyond.

In addition many of the codes cited in the existing HOME regulations have been superseded or updated. HUD also notes that the substantial interest has developed in the housing industry in recent years in improving energy and water efficiency to conserve resources and reduce operating costs.

Therefore HUD will propose new standards for energy and water efficiency in a separate proposed rule.

The proposed rule will cover energy standards as well as standards for gut rehabilitation of HOME assisted properties. The proposed changes to Section 92.251 would reorganize this section and create separate requirements for projects involving new construction which can be found in Section 92.251A, rehabilitation which will be found in Section 92.251B, acquisition of standard housing which would be found in Section 92.251C, tenant based rental assistance which is found in 92.251D and manufactured housing in Section 92.251E.

HUD has not proposed any changes in the standards applicable to units occupied by HOME tenant based rental assistance recipients. Therefore the Section 8 housing quality standards found in 24CFR982.401 continue to apply.

Significant changes are proposed for the other types of HOME assisted activities and these changes will be the focus of our slides today.

HUD is also proposing new requirements regarding ongoing property condition standards for HOME assisted rental housing.

I believe we're ready to respond to some of the questions that have come in during the slides so far. Here we go.

Female: Okay, we have a number of questions that have come in. So we'll dive right into those. First question, do the new underwriting and subsidy layering guidelines dictate a specific level of HOME investment or could a PJ establish their own underwriting standards against which they review deals?

The new standards are very much like you know will work very much like the standards that are currently in place. HUD is not going to dictate specific levels of return to individual PJs or you know or nationally.

What we expect is that each PJ will establish their own levels of return based upon what is usual and customary in their markets for projects of different types, of different sizes, of different levels of complexity.

And they will review their deals against the standards that they establish for their program. So we're not dictating any specific level of return, we're simply expanding and beefing up to a certain extent the existing subsidy layering underwriting requirements that we have.

Female: Next question, we talked a lot about completion in - you know with respect to the deadlines in particular and this questioner has asked what is meant by completion given the proposed rule on project completion deadlines?

Is it time to IDIS or certificate of occupancy? This is an excellent question. Currently in the proposed rule - excuse me in the final rule, there is a definition at 92.2 of project completion.

And so I refer everyone to that definition in 92.2, however you also should look at the language in the proposed rule because we have made some clarifications to the definition in the proposed rule.

Essentially for a home buyer unit, completion means that a property or a project - construction has been completed. A certificate of occupancy has been issued and the property has been transferred to a low income home buyer.

So for a home buyer project completion does not take place until the property is transferred and occupied and owned by a low income family.

For home owner rehab, completion would occur with final inspection and sign offs on the rehab and that would be the point in time at which a PJ would go in and complete the project in IDIS.

For rental projects completion would take place after a certificate of occupancy or final sign off on rehab, once the property is made available for occupancy.

This has been - this area in particular for rental housing has been very commonly misunderstood provision in the HOME regulation. Currently many of our PJs are under the impression that a rental project has to be 100% rented up before the project can be completed in IDIS.

So there are specific things that have to happen in the real world in order for a project to be ready to be completed, but project completion is something that takes place in IDIS.

The status of the project is changed from open to complete, and beneficiary information is entered. But I do refer you to that definition in the changes to the definition in the proposed rule.

Female: Regarding home buyer unit sales, if a unit is not sold to an eligible home buyer within six months and it becomes a rental unit, could it later be sold to a tenant during the period of affordability.

This is an excellent question and one that we've actually received a number of times since we published the rule in December. If you cannot sell a home buyer unit within the six month period

of time, the expectation would be that the unit would be converted to a rental unit with the rental period of affordability for the HOME program meeting all of the rent and income requirements of 92.252.

However the existing regulations at 92.255 allow for a conversion of a rental unit to a home buyer unit for a tenant who wishes - an in place tenant who wishes to purchase the unit.

So yes, the answer is that if you must convert a home buyer unit to a rental unit, it is possible in the future to convert it back to a home buyer unit but given the fact that you would have to have an in place tenant who is willing and able to complete that purchase it's probably not something that you would want to plan on in terms of at the time that you make that rental conversion.

Another question that we've received has to do with home buyer counseling as Marcia mentioned we're requiring home buyer counseling in this proposed rule for all home buyer assisted with HOME money.

And the question is does the proposed counseling mandate the use of HUD approved counseling agencies or the counseling - or could the counseling be done by another sub recipient or by PJ staff.

We - HUD has not mandated either the provider or the content of the home buyer counseling that would be required in the HOME program.

As mentioned that - those things may be affected by the proposed rule making that HUD is undertaking to implement the provisions of the Dodd Frank act as we mentioned as we reviewed those provisions.

We have another question related to conversion of a home buyer unit to a rental unit because it didn't meet that six month deadline and the question is how long would it have to remain a rental unit.

And the answer to that is that the period of affordability applicable to rental housing would be imposed on that unit. So if it were a new construction unit even though you know it might have a lesser period of affordability as a home buyer unit under the rental provisions of 92.252.

That unit would have a 20 year period of affordability. We have a very good question that I want to read relating to commitments in the HOME program.

In terms of commitment of HOME funds and the requirement that other sources are firmly committed, many HOME projects also receive low income housing tax credit funds.

How can a PJ ensure that they meet the requirement to ensure firm commitment of HOME funds at the LIHTC application is due after the HOME application?

This is an excellent question and give us an opportunity to address what we think is - you know an issue that we currently have in the HOME program.

Essentially you know we do understand that PJs will need to issue reservations or conditional commitments to projects in order for those projects to qualify for or compete for other funding sources.

So we really envision a two step process here, there would be that general reservation or conditional commitment and then there would be the binding commitment of HOME funds under a legally binding agreement and set up of the project in IDIS.

So essentially we're trying address here is a situation where many PJs set up projects in IDIS and enter into written agreements before a project has other financing sources to permit completion of the project.

Not only does this result in the project being in IDIS for a very long time, it also results in the project being committed without the PJ meeting many of the existing requirements in the current HOME rules with respect to commitment.

Like a cost allocation that determines the number of HOME units, like the fact that there needs to be a budget and a schedule for completion of the project, like the subsidy layering requirement. So currently we have a situation where PJs put projects into our system prematurely.

And so this is really - this is a clarification in the regulations, that we think will result in PJs reverting to what should be a two step process which is that initial sort of commitment of funds and then the commitment of funds under the HOME regulation and in the HOME data system.

We have a question, another question with respect to the six month sale of requirement for selling housing, and this person asks does the mandatory six month sale of housing built or rehabbed applied to CHDOs?

Yes it does, it applies to all home buyer units acquired, rehabbed or constructed with HOME funds regardless of who the developer is.

We have a question with respect to CHDOs, does paid staff have to be full time? There is not a requirement that staff be full time, however there is a requirement that a CHDO have paid staff and not rely entirely on board members or volunteers.

We have a question regarding something, we're breaking our own rule here, we're addressing something that we didn't have on our slides but it's a good question.

Section 92.213 of the regulations basically put in - you know promulgate in the regulations the existing policy that we've had for many years now with respect to the use of HOME funds for public housing, because there are statutory prohibitions in the national affordable housing act regarding use of HOME for public housing.

And so the question is, in your change to 92.213 was the intent to prohibit the use of HOME funds for state and local public housing in addition to federal public housing or federal public housing only.

The questioner hopes not. And so the answer to the question is no, Section 92.213 which outlines the existing policy on the use of HOME funds for public housing purposes only applies to public housing assisted under the United States Housing Act of 1937.

It does not have any impact on state or locally funded or designated public housing that is not in part of the federal public housing program.

I think at this point in time I'd like to turn it back over to Marcia to complete the presentation and we will use that time to vet some of the additional questions.

Marcia Sigal: Okay, we're going to pick back up on property standards as the questions come in. We're on slide 26 everybody.

As I stated there are several new sections, new subsections in 92.251. The rule proposes new property standards for new construction projects.

The paragraph on new construction found in Section 92.251A would be updated to reflect that the three former model code issuing groups listed in the current rule building officials and code administrators, international incorporated, international conference of building officials and the southern building code congress international incorporated have all been merged to create the International Code Council which happened in 1994 to create a single set of comprehensive and coordinated national model construction codes.

The proposed rule would require that in the absence of an applicable state or local code for new construction, HOME assisted projects must meet the international code council's international residential code or international building code, whichever is applicable to the type of housing being developed.

PJs will be required to have written standards for methods and materials to be used for new construction. These standards must ensure that plans and specifications that describe the work to be undertaken are in compliance with state and local codes, ordinances and requirements as well as the PJ standards for methods and materials.

PJs must review and approve work write ups and written cost estimates for the construction work, determine that the costs are reasonable, conduct periodic inspections to ensure that the work is performed in compliance with all requirements and tie progress payments to the amount of work completed.

Where relevant, the housing must be constructed to rehabilitate to mitigate the impact of potential disasters such as earthquakes or hurricanes in accordance with state and local requirements or other requirements that HUD may establish.

The property standard requirements for rehabilitation found in Section 92.251B are also proposed to be substantially revised. HUD has found that many jurisdictions lack specific rehabilitation

codes or if they do have codes that govern rehabilitation these codes typically establish the requirements for methods and materials to be used in the rehabilitation work rather than a standard for determining what rehabilitation work is needed.

Because the HOME regulations prohibit additional investments of HOME funds during the period of affordability property identifying the rehabilitation work necessary in a HOME project is essential as future project viability may depend on it.

HUD recognizes that there's no one size fits all rehabilitation standard that would be appropriate for all PJs. Consequently the proposed rule would require each PJ to develop and follow its own rehabilitation standard.

These rehabilitation standards must provide the basis for determining what work is needed, establish the PJs requirements for materials and methods, written work write ups and cost estimates would also be required.

Initial progress and final inspections will be required for all HOME assisted rehabilitation projects. The PJ would be required to have written construction progress inspection procedures including a description of how and by whom the inspections will be carried out and a detailed inspection checklist reflecting all aspects of the property standards. A payment schedule is required and payments must be tied to progress in inspection.

The rehabilitation standards established by the PJ must be sufficient to ensure that after rehabilitation the housing would pass an inspection conducted using the standards established by the uniform physical conditions standards which is abbreviated UPCS.

HUD has proposed this minimum standard in order to ensure that the rehabilitated HOME assisted housing is free of all known health and safety defects and is in good repair. UPCS standards can be found at 24CFR Part 5.705.

UPCS is used in the majority of HUD housing programs and also with the low income housing tax credit program which is a frequent source of equity funding for HOME assisted rental projects.

To clarify the proposal to use UPCS does not mean that HOME will be added to the react system or that HOME projects will receive react scores or must use react inspectors.

As several other HUD housing use UPCS in conjunction with reacts, that would not be the case here.

HUD is incorporating the use of this standard for inspections because it is well known and has a comprehensive list of inspectable areas.

See Section 92.251B2 for more information about the HOME program requirements will incorporate UPCS.

In its rehabilitation standards a PJ would also be required to specify a useful life for each major system, that would be structural support, roofing, cladding, weather proofing such as windows, doors, siding or gutters.

For plumbing, for electrical and heating systems, ventilation and air conditioning systems, in rental housing. For rental housing rehabilitation the proposed rule would require that each major system have a remaining useful life of at least 15 years at project completion.

Each major system that does not meet the requirement must be rehabilitated or replaced so as to have the minimum useful life of 15 years for those components.

HUD chose the 15 year useful life standard because the amount of HOME funding for rehabilitation activities that is typically required to replace major systems will result in a minimum HOME affordability period of 15 years.

See Section 92.252 regarding HOME affordability periods for rental projects. PJs are allowed and encouraged to establish longer periods for the useful life of these major systems based on local conditions and typical warranties offered in their areas.

For owner occupied housing undergoing rehabilitation with HOME funds the PJ would be required to ensure that each major system have a remaining useful life of at least five years at the item of project completion.

This means that major systems with a useful life of less than five years beyond project completion must be rehabilitated or replaced as part of the rehabilitation activity.

Although periods of affordability are not imposed on owner occupied units, receiving HOME funded rehabilitation HUD believes this requirement will help ensure housing stability for low income households receiving HOME assistance.

And decrease the chance that these homeowners will be faced with unexpected and costly repairs. In addition to establishing rehabilitation standards, when awarding funds for the rehabilitation of multi-family rental projects, the rules require a capital needs assessment be performed for all multi-family rental projects with 26 or more total units.

A capital needs assessment which determines the long term physical needs of the project, HUD believes this type of assessment will improve PJs funding decisions by presenting an accurate picture of a project's capital needs and lead to consideration of the cost of adequately addressing those needs.

Requiring that major systems have a useful life of 15 years or more will reduce the number of projects rehabilitated with HOME funds that fall in to disrepair and need more rehabilitation work during the HOME affordability period.

A new paragraph, Section 92.251B28 is required to clarify that discretionary housing improvements is proposed to clarify - sorry, proposed to clarify that discretionary housing improvements beyond those required to meet property standards may include modest amenities and aesthetic features that are in keeping with housing of similar types in that community.

However luxury improvements such as air jet tubs, saunas, outdoor spas and granite countertops are prohibited, even if the market rate in the project has these types of items installed in them.

As mentioned earlier where relevant the housing must be constructed or rehabilitated to mitigate the damage or the potential damage of disasters such as earthquakes or hurricanes in accordance with state and local requirement or other requirements that HUD may establish.

In addition I wish to remind you that lead based paint and accessibility requirements will continue to apply as before, when undertaking rehabilitation with HOME funds or when newly constructing properties or units with HOME funds.

If the housing was newly constructed or rehabilitated less than one year before HOME funds are used to acquire the housing as rental housing, the housing would be required to meet the property standards for new construction found in 92.251A.

PJ would be required to document this compliance based upon review of approved building plans and certificates of occupancy and a current inspection that is conducted no earlier than 30 days before the current commitment of HOME assistance.

It's a typical and prudent business practice when acquiring any property be it market rate or assisted to obtain a physical inspection.

Other existing housing that has not been recently rehabilitated and is acquired with HOME funds would be required to meet the property standard requirements for rehabilitation and Section 92.251B.

Again the PJ would be required to document this compliance based on a current inspection conducted no earlier than 30 days before the date of commitment of HOME assistance, in accordance with the inspection procedures that PJ established pursuant to this section.

Existing housing that is to be acquired with HOME funds but does not meet the property standards established for rehabilitation in Section 92.251B would be required to be rehabilitated.

The current HOME regulation requires that in the absence of local laws or codes the installation of manufactured housing must comply with the manufacturer's written instructions for installation of manufactured housing units.

HUD proposes to require that manufactured housing must be placed on a permanent foundation. Proposed rule also would require that manufactured housing that is rehabilitated with HOME funds must meet the property standards requirements in Section 92.251B which establishes the rehabilitation requirements for all other forms of housing to be assisted.

The PJ must document this compliance in accordance with the inspection procedures that the PJ has established in Section 92.251 where applicable.

For example manufactured housing that is newly constructed must meet the requirements for new construction in Section 92.251A.

Several PJs have told HUD that they can effectively monitor their HOME rental projects through risk based monitoring plans. HUD is proposing changes to the required inspection schedule and sampling methodology of HOME assisted units that will provide flexibility to PJs with respect to the frequency of inspections.

These provisions would establish a risk based system for property inspections. This approach to inspection of HOME assisted units would enable PJs to align their inspection schedules with the inspections for other federally assisted units such as LIHTC units.

State or local codes will still apply. Please note UPCS, not HQS is proposed to be the minimum property condition standard that applies on an ongoing basis.

However UPCS does not take the place of state or local code requirements, the most stringent requirement will apply when conducting these inspections.

The onsite inspections must occur 12 months after project completion and at least once every three years thereafter during the period of affordability.

If there observed deficiencies for any of the inspectable items on the property standards used by the PJ a follow up onsite inspection to verify the deficiencies are corrected must occur within 12 months, or within a reasonable time frame established by the PJ depending on the severity of the deficiency.

Health and safety deficiencies must be corrected immediately. The PJ must adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.

The property owner must annual certify to the PJ that each building and all HOME assisted units in the project are suitable for occupancy taking into account state and local health, safety and other applicable codes, ordinances, and requirements and the ongoing property of standards established by the PJ to meet the property standard requirements of 92.251.

Inspections must be performed on a statistically valid sample of units. The PJ must select the sample.

For projects with one or more HOME assisted units the PJ must inspect the inspectable items which are the site, the building exterior, building systems and common areas for each building with HOME assisted units and 100% of the HOME assisted units must be inspected.

For projects with more than four HOME assisted units the inspectable item, once again the site, the building exterior, the building systems and common areas for each building with HOME assisted units and at least 20% of the HOME assisted units in each building must be inspected.

In every inspection a minimum of four HOME assisted units in each project and one HOME assisted unit in each building must be inspected.

HUD proposes to establish a new requirement that during the affordability period the PJ must examine regularly at least annually the financial condition of HOME assisted rental housing to determine the continued financial viability of the housing and must take actions to correct

problems to the extent feasible. HUD specifically solicits public comments on the appropriate threshold for triggering this requirement.

In the preamble to the rule HUD suggests applying this requirement to projects with ten or more HOME assisted units. This would limit the burden on PJs and focus PJ efforts on larger projects with greater investments of HOME funds.

To assist PJs in carrying out both asset management functions currently required under the regulations and the expanded asset management responsibilities proposed in this rule, HUD proposes to eliminate the prohibition against imposing fees on rental projects to cover the costs of ongoing compliance monitoring and physical inspections.

PJs would be permitted to charge reasonable annual monitoring fees to rental projects to which HOME funds are committed on or after the effective date of a rule making this change final.

Finally HUD is proposing to add a new Section 92.210 to the regulations addressing actions necessary for projects that become financially troubled during the HOME period of affordability. A troubled project is one which operating costs significantly exceed operating revenue.

HUD has engaged in work outs of a number of troubled HOME rental projects over the past several years. This new regulatory section would enable HUD to take certain actions to address troubled projects by entering into a memorandum of agreement with the PJ and without the need to waive certain regulatory provisions which adds time to the work out process.

The proposed rule would permit HUD to approve the investment of additional HOME funds in a troubled project as part of a financial work out and to use those funds for such costs as capitalizing operating reserves which is not an otherwise eligible cost under the HOME regulations.

HUD could also permit the number of HOME assisted units in a project to be reduced in cases where more than the minimum number of units required under 92.205D were designated as HOME assisted originally or approval reduction in the period of affordability, if it exceeded the minimum period requirement pursuant to 92.252E.

HUD headquarters would approve all MLAs implementing guidance would be issued by HUD on these provisions and the criteria for applying them after a final rule is issued.

That concludes the presentation portion of our webinar today and so we will turn it back over to the questions that we've been receiving from you during the presentation.

Female: I have a number of questions here that have come in and so we'll just continue to answer them as we receive them. We have a question with respect to subsidy layering and underwriting and the question reads in regard to the written procedures for subsidy layering and underwriting can a PJ rely on the underwriting standards described in its state QAP which is the qualification allocation plan for LIHTC.

You know the answer to that is very much that it depends. First of all for a state PJ that is also the tax credit allocating agency there probably already would be an alignment of subsidy layering and underwriting requirements for those two programs.

However if you remember the previous questions that we had in our presentation what we said is that the standards that the PJ needs to establish for return for owner or developer return need to be based upon the type of project, in other words a rental project versus a HOME buyer project, the level of complexity, the size of the project and the developers investment in the project.

So while certainly I believe a PJ could look to the standards that the state HFA establishes in its tax credit program, it's not likely that those standards would you know could look to those as indicative of market conditions in that state.

And what was typical levels of return in that state, it's not necessarily - doesn't necessarily follow that the state QAP and the underwriting standards described in a QAP would necessarily address all of the different types of projects that might be undertaken with HOME funds.

SO the answer to the question there is it depends. We have another question related to CHDOs, how do the PJs certify to HUD that an organization meets CHDO requirements each time it commits HOME funds in IDIS?

And the answer to that is yes, that certification would be added to IDIS and at the time that a project - the time that HOME funds were committed to a CHDO the PJ would make that certification in the system.

A related question, how will HUD look at newly certified CHDOs, for instance CHDOs certified this year or last year that do not meet the demonstrated capacity or staff criteria that are working to develop capacity.

Remember that that requirement is going to apply at the time that the PJ certifies - you know will certify this at the time that it commits funds.

So for projects that are already underway or reservations that have already been made those requirements would not apply to the CHDO at that time.

However if you were to make an additional commitment of funds to that CHDO at that time the CHDO would have to meet the requirement for staff capacity.

Okay we have another question about the six month deadline for selling home buyer units.

Regarding the six month deadline for sample home buyers, what exactly is the trigger for the beginning of the six months?

That's an excellent question; essentially we would be looking at either a certificate of occupancy in the case of a new construction unit or perhaps a unit where significant rehab had been taking place.

Or it could be simply the point in time where the unit was offered for sale because there may be - there might be other units that wouldn't necessarily have those kinds of construction related documents.

So certificate of occupancy, completion of rehab, offer for sale. Let's see, do lease up deadlines apply to all rental units in a project assisted with HOME funds or only to HOME assisted units?

In other words a pro rata share of units that corresponds to the amount of HOME funds in comparison to the overall financing. The lease up requirements would only apply to HOME assisted units in a project that didn't have 100% - where not all of the units were HOME funded.

Which actually might you know might influence your decision for which units might be designated as HOME assisted.

Female: We have another question with respect to the four year deadline for completion of projects. Just to clarify HOME funds must be spent on eligible activities within four years of the grant agreement date, correct?

No, not exactly. The project must be completed within four years of the date that you commit the project which would be either the date on the written agreement providing HOME funds to the owner or developer of the housing.

Or the IDIS project setup date, the date that it would obviously be easiest for HUD to track would be the date in IDIS.

We had a number of questions, a lot of questions actually from folks regarding the changes that we alluded to in our 2012 appropriations act and people asking which aspects of the proposed rule are now effective for those funds.

When you might expect guidance on those funds, how we will be applying those provisions. As I mentioned we're working on operating guidance right now for the fiscal year 2012 funds that we expect to have posted on our website within the next month or so.

To review the provisions that are in the proposed rule that congress also made applicable to the fiscal year 2012 HOME funds are the four year completion date, the completion deadline for the completion of HOME projects with the one year extension authority.

The second is the six month deadline for transferring home buyer units to an eligible home buyer family. The third is the certification that a CHDO has demonstrated housing development capacity.

So for - when you are reserving or committing your fiscal year 2012 CHDO funds you must make a certification at that point in time that that CHDO has demonstrated capacity in housing development.

Female: Okay, so those are the things that are in the 2012 appropriation. We will try to put at least on our website in the next week we will try and put at least a very basic summary of the - of those provisions up on the website so that folks can take a look at them and start thinking through how you might comply.

Another question that came in that says please explain the commitment requirement on slide 23, is the written agreement for specific projects required within 24 months of commitment or at the time of commitment?

A written agreement must be executed in order to demonstrate a commitment for a specific project. So that's the answer to that one and then another question that has come in, can PJs conditionally commit funds to low income housing tax credit projects given that the HOME commitment is necessary to obtain the low income housing tax credit funding?

As Janine said earlier PJs need to approach this by looking at some way of creating a reservation or award of funds that would demonstrate that the HOME funds will be available for the project in order to go forward with your low income housing tax credit project application.

We have a question with respect to subsidy layering certifications. The question is what is a subsidy layering certification and who is required to submit it and how often?

Good question, currently each time a participating jurisdiction submits their com plan or their annual action plan the chief elected official or whoever it is that has the authority within your jurisdiction to sign these certifications submits a certification that the PJ has subsidy layering guidelines and that before submitting - committing any HOME funds to a project the PJ will evaluate the project against the subsidy layering guidelines that it has established for its program.

That provision has been in place since 1992, that is a statutory provision so there is an overall subsidy layering certification for each grant that you receive.

What's being proposed in this rule is an individual certification made in IDIS that relates to each project and it simply is a certification that the PJ has performed a subsidy layering review, has assessed you know the financing, the sources of financing, the sources and uses in the project, the market demand for the project and the developer capacity.

And that would be an individual project by project certification made in IDIS.

Female: Speaking of IDIS there have been several questions about whether changes will be made in IDIS to incorporate these new requirements that are proposed and the answer of course is yes.

We can't go into all the specific changes that would be made to the specific IDIS screens but you will find that the answer to many of your questions will be that you will be entering this information in IDIS.

Another question that's come in about CHDO capacity that says will a CHDO that has paid staff with housing development expertise be allowed to continue contracting for a fiscal agent to provide accounting services.

The answer of course would be yes, the key housing development experience does not - to have it as the capacity requirements does not preclude you from contracting for accounting types of services as many PJs do as well.

Female: We have a question, just a general question from one of our listeners, are we able to provide feedback about the supposed rule, specifically the requirement that other funds are committed to a project before HOME funds can be committed.

This will constrict the ability of HOME funds to leverage other funds and produce units which is the goal of the program.

You know of course that is the goal of the program and that's the goal of I think everybody who's on the call with us today, it's certainly HUD's goal.

Yes, this is a proposed rule, it is out for public comment as I mentioned at the beginning of the presentation, public comments are due to HUD by February 14 2012.

If you look at the very beginning of the federal register version of the rule you'll see the instructions for submitting comments as well as the due dates so if you have specific comments on the rules, we certainly recommend that you send them in.

Female: Again related to staffing for CHDOs, the questions asks can a staffing requirement for CHDOs be met by the staff of an affiliated organization?

NO that's exactly the point of what's being proposed here, the actual CHDO that receives the funds to conduct HOME activities must have the required staff with the required experience within their own organization.

Female: We have a question with respect to the home buyer design provisions that are being proposed and the question is, for new home buyer underwriting requirements will HUD prescribe a specific fund and back end ratio similar to FHA?

Will there be inclusions and exclusions similar to FHA? HUD's expectation is that every participating jurisdiction will establish front and back end ratios for their home buyer program.

And you know and that they will do so in a way that has a reasonable result. However HOME is a block grant program and in the spirit of the flexibility that block grants provide HUD will not be dictating specific front or back end ratios.

Simply requiring that PJs do so for their program.

Female: We're still processing the questions.

Female: We have a lot of questions here that we're going...

Female: Has HUD taken into consideration the difficulty of converting HOME assisted condominium units into rentals? Yes, I - you know HUD does not underestimate the difficulty of converting what was supposed to be a home buyer unit into a rental unit.

You the developer even if it was a non-profit developer that built the unit may or may not have the skill set or the ability or the desire to manage home rental housing over a period of time.

You know we anticipate that there will be you know a lot of challenges with respect to converting you know home buyer units into rental.

And for that reason we are - you know we're asking that our participating jurisdictions really assess the market for home buyer units before they build them.

And I believe as we said in our presentation we highly recommend that units be pre-sold prior to construction to avoid some of the difficulties that are inherent in trying to convert a home buyer unit into a rental unit.

But the reality is there's a number of - there are a number of units out there that - home units that were built prior to you know the housing market crash and many of them remain on the market without the ability to sell them.

And we need to put those projects to productive use, not to mention making them eligible HOME activities that don't require repayment of HOME funds.

Female: And again just to reemphasize related to the conversion, another question came in that says does this six month conversion of a rental unit only apply for units constructed or rehabilitated with 2012 HOME funds or does it apply to existing units that have not yet been sold.

Well there's two parts to this. Okay there's the part that we have to implement related - because of this - the appropriations language that requires conversion and then there's the part that's being proposed in the rule.

So if the rule as proposed were adopted then it will apply to all projects, all units going forward.

Female: We have a very general question with respect to CHDOs, one of our viewers have asked with regard to CHDOs what does specific project mean?

And so I think this is a good time to sort of review that change which is you know probably one of the most major changes in this rule.

Currently, for the purposes of meeting the 24 month CHDO reservation deadline and the 24 month commitment deadline in the HOME program, PJs may make a general non-project specific reservation of funds to a CHDO.

So that's simply an agreement that states that I the PJ will provide \$250,000 of HOME funds to you the CHDO and you know generally it says you have a specific period of time to identify a specific project to undertake. The provision in the proposed rule would eliminate the ability to make these general reservations and have them count towards those 24 month deadlines.

So a specific project would be a specific project. A proposal to acquire, rehabilitate newly construct a specific housing project on a specific location.

And that's the essence of what that change is. Bear with us for a minute as we continue to look through many pages of questions that have been printed out and given to us.

Female: Okay, we have a question that asks does the written work write up for new construction has to be a project manual or can it be a set of prints.

Well for each project the written work write up would have to have the specificity that would contain enough information to ascertain whether the new construction was achieved in accordance with the written standards for materials.

So a set of prints may not have enough specificity but I can't totally answer that because I don't know you know what kind of print people necessarily propose.

Another question about property standards says what will the property standard be for acquisition, UPCS or just the building systems noted in UPCS, i.e. could a licensed state home inspector that address all the systems, address UPCS .

What about FHA minimum property standards for FHA finance units? Okay that was several questions, HQF will still apply for tenant based rental assistance and will continue to apply as long as Section 8 programs continues to use HQF.

As I stated earlier related to property standards for acquisition, a property that acquired would have to meet all of the - would have to be inspected as if using the UPCS list of inspectable areas.

And if there were deficiencies the deficiency would have to be repaired before it could be acquired.

So it will either be acquisition of existing housing with no rehab or it will be acquisition with rehab and UPCS will be the inspection floor if you will but as to whether or not could a licensed state home inspector address all the systems, address UPCS, we'll be issuing guidance related to that.

I did think that some people had also asked whether or not you have to use a certified react inspector, and the answer is no. It has to be somebody that can inspect using the checklist.

But it doesn't have to be a react certified inspector.

Female: We've received a number of questions with respect to property standards so I'm going to hand those over to Marcia and let her look at those while I answer a couple of the other questions that we've been asked.

And so let's see, in cases where HOME assisted units aren't rented or sold within the specified deadline can the PJ reduce the number of units if it still complies with the per unit subsidy limit, minimum number of low HOME rent units, etcetera.

You know once again the answer to this is going to be it depends. Remember that the per unit subsidy limits and the minimum number of low HOME rent units are not by a long shot the only things that you need to comply with.

When you committed the project, you conducted an underwriting review and subsidy layering that resulted in a determination about what the appropriate level of HOME funding was for that project.

And so simply reducing the number of HOME units in a project because you can't rent them or sell them is likely to at a minimum would require you to go back to the drawing board and conduct all of those reviews again.

Before you could make a determination as to whether or not the number of HOME units could be reduced.

So I would say that while it's not impossible that in some cases there might be an ability to reduce the number of HOME units in a project, the fact that that would change the amount of HOME funding that was reasonable to provide to the project would probably result in a repayment anyway.

So it's probably a circular you know it would probably be a circular exercise in a lot of cases. We do have a sort of a recurring theme here with respect to our questions.

So I'll try to paraphrase them, we have a lot of questions about when specific provisions in the rule will apply. You know whether things will apply to existing projects, to existing contracts, to existing funding.

So I'll just remind everybody that what we have here is a proposed regulation. It is not currently effective and HUD does not expect to issue a final reg for effect until the fall.

And at that point in time, you know essentially for each of these requirements and each of these proposed changes some of them would apply going backward, others would only apply going forward.

And it's HUD's expectation that in a preamble to the proposed - to a final rule, and probably in the rule itself we would have to provide language and guidance about the applicability of many of these different requirements.

Some it would be perfectly reasonable to apply, you know to projects that are you know currently have funds committed to them, others it would not.

So you know this is something that HUD would look at very carefully before issuing a final rule for effect.

Female: Okay, a question about the requirement that 15 years for useful life, the question is can a PJ get to the 15 year useful life by capitalizing a reserve at project closing or must any system with less than 15 years left be replaced at the point of rehab?

You answered your own question. Any system with less than 15 years left must be replaced at the point of rehab. You cannot capitalize a reserve to create - to meet the requirement at some point in the future.

Another question related to - there are a lot of questions about granite countertops because I used that as an example.

Okay it says granite kitchen countertops are less expensive than tile in southern California and should not be considered a luxury item but in fact a standard for rehab.

And then another question it says why is granite considered a luxury item if cost comparisons demonstrate a lower cost, and then another question related to granite countertops, does this apply to the whole project or just the HOME units?

Well we only have control over the HOME units and you know in your rehab standards, that you would establish if for some reason granite was a standard material as opposed to a luxury material I would recommend that you talk to your field office about that and see if you can include it in your written rehabilitation standard.

Female: We have a question with respect to policies and procedures. And the question is will this proposed rule need to be incorporated into the PJ's annual consolidated plan or action plan or can the PJ refer to a separate housing program manual where the execution of these new policies are elaborated in detail?

We certainly would not expect to see the policies and procedures necessary for running the HOME program in the actual action plan. I have seen in a number of cases you know in action plans where PJs provide a URL to a policies and procedures or program design manual that they've posted on line.

But we would - what HUD would expect is that there would be written policies and procedures for the program and that those would be housed in the PJ offices and not recited in the annual action plan.

Female: Question regarding housing standards for rehab, few states - the question is few states have a code for rehab. Bringing a 1930s house to today's standards seems silly.

Can PJs make a rehab standard that makes the house safe and healthy, energy efficient etcetera but not bring everything up to the 2012 code?

I'm just going to answer the question this way because it's the jurisdiction that you live in has a code that governs rehab then - or governs any kind of construction in the home then you need to meet that code, the current code, regardless of what you do - what else you do with the HOME funds to rehab the property.

I think that's what this question is asking. Yeah.

Female: We have a question from a very hopeful listener. In light of the increase in administrative tasks related to this proposed rule, will there be an increase in the HOME admin cap?

Don't - I'm sure that a lot of people are thinking that exact same thing, the 10% admin in the HOME program is statutory and it is not within HUD's authority to raise it.

We did however propose removing the prohibition, the existing prohibition on charging monitoring fees to rental projects to try and help with the cost of asset management related to HOME projects.

So - but unfortunately the answer to the question is no, it's not within HUD's ability to raise that. We also have a number of questions that sort of all are along the same thread so I'll paraphrase.

We have a number of PJs really that have written in and asked whether a PJ can enter into an MOU with another agency to perform some of the tasks that are - you know that are proposed in the new rule.

You know I've seen questions related to the subsidy layering, to physical inspections and compliance monitoring.

And the answer to that question is that a PJ can always contract with another party to perform aspects of its HOME program, whether it's you know administering a program on its behalf or you know performing underwriting, performing property inspections.

The key is that the PJ has to have a contractual relationship with that entity that makes - that establishes sort of a chain of responsibility and ultimately HUD will always hold the PJ responsible for compliance with the requirements.

So when a PJ uses a third party to perform any of these tasks, they're expected to oversee the performance and monitor the performance of that third party.

Female: Couple more questions related to property standards, with respect to the UPCS form that is now required to be used for inspecting HOME assisted rehab of single family homes, would HUD be willing to revise the forms so that the inspectable areas apply specifically to single family housing?

I guess I would answer that question by asking that you send in information about what items on the list of inspectable areas you specifically think do not apply to single family housing and what you would propose instead.

There seems to be a lot of questions kind of falling on something about contracting for services about PJs are concerned about the requirements to conduct progress and final inspections during construction, whether it's for new construction and people want to know can they contract you know for these services.

Because a lot of PJs and CHDOs do not have construction specialists on staff. Of course you can. And you should if you do not have people on your staff that have that expertise, that have experience and expertise in making those inspections or those types of inspections.

Female: We have a question, someone asking for clarification with respect to capital needs assessments. Is the requirement for a capital needs assessment for projects - total projects with a total of 26 or more units or with 26 or more HOME assisted units?

The reg proposes to apply the capital needs assessment requirement to projects with 26 or more units, total units. However you'll notice in the preamble I got - I started to question my own interpretation of that right before I answered - you'll notice that in the HOME proposed rule we have requested comments on what would be the appropriate threshold for requiring capital needs assessments.

So if you have a comment about that you're certainly welcome to send it in. I have a number of questions related to people who are already planning their monitoring fees that they're going to be charging.

And so we have a number of questions about what would HUD determine to be or consider to be a reasonable monitoring thing. You know as with most other aspects of the HOME program, HUD does not dictate what is a reasonable or acceptable cost or in this case fee.

I would you know however there are a number of agencies in any state you know that are already charging monitoring fees, you know so you might ask your tax credit allocating agency what they charge per unit per year as a monitoring fee.

So you know we would be looking for you to develop a fee that was reasonably related to the actual cost of doing property inspections and compliance monitoring related to rents and incomes.

And you know to try as much as possible to determine what other funders are charging for similar services.

Bear with us for one minute while we look at more questions. we do have a question related to financial oversight of rental projects.

Can you explain the rationale for proposing financial oversight of rental projects? If a project is already under water and subject to foreclosure by the primary lender, under what circumstances is it in the best interest of HUD and the PJ to invest additional federal funds?

You know I think that you know it's always worthwhile when you have a project that is troubled to determine whether there is a way to salvage it so that it continues as affordable housing.

You know the purpose for which the funding was originally provided, I can tell you that we have encountered cases and we will continue to encounter cases where we've made a determination that investment of additional federal funds is not the answer.

But certainly it is - you know it's in HUD's interest with respect to wanting to ensure that our projects remain affordable and to the people who - the low income and very low income people who are already occupying HOME assisted projects.

And it certainly is in the PJ's interest to try to avoid foreclosure if it can reasonably - if it's reasonably able to do so since determination of the affordability restrictions on the HOME project would trigger a requirement that the participating jurisdiction repay its HOME investment trust fund account for the money - the HOME funds that it expended on that project.

So you know I don't think that by proposing this section HUD is saying that in all cases we would enter into this kind of an MOA or that we would permit the investment of additional HOME funds.

But we are - you know I think it's in everyone's interest to try and maintain these projects as affordable housing if it's reasonably possible to do so.

Female: Still processing some of the questions that are coming in folks. Lot of very specific IDIS questions which we can't answer. Okay we have a question regarding progress inspections.

Can the developer do its own inspections or must the PJ do inspections and hire a rehab specialist to do those inspections?

Female: Okay, the purpose of the progress inspection is to tie it to progress payments and to make sure that all of the work that's being done is in compliance.

So assuming that the CHDO or the PJ or the sub recipient or the state recipient as the funder in other words would want to make sure that the project is inspected by an independent inspector, not necessarily the developer.

We have a similar question related to architect certification of certain requirements related to the materials and methods.

The slightly different but remember that the purpose of the inspection is to make sure the work's being done and also to track progress.

So it would really be up to the funder if we get the PJ, the CHDO, whoever is paying the developer to develop the project to make sure that the property is inspected and you would not just hand that responsibility over to the developer and accept the developer's word.

Female: Okay we have a question regarding the four year project completion requirement. And the - I think looking at the question it demonstrate a little bit of confusion between the project specific completion deadlines that are being proposed in the rule and the fund expenditure deadline that apply to HOME funds.

So the question is does the four year expenditure requirement take into account program income that may be received, example the PJ receives \$50,000 in program income but needs to spend \$50,000 to meet the four year expenditure requirement.

Would the jurisdiction be in violation of the expenditure requirement if the program income is not spent first. So clearly there's - I want to make sure that everyone on the call understands the distinction between the project completion deadline.

That four year deadline is not about expending the HOME funds for the project, it's about completing the project and making it available for occupancy.

And in this particular case the - our listener is confusing that with the expenditure deadline which is - you know which provides five years for participating jurisdictions to expend their HOME funds.

So those are two separate deadlines and they're not exactly related. One is a deadline for completion of a project and putting it into service.

The other is a deadline related to the expenditure of funds. So a project specific deadline and a programmatic deadline.

Female: One last question related to onsite inspections, the questioner wants to know do the onsite inspection requirements apply to owner occupied single family rehab during the period of affordability.

Let's separate those two, you - the onsite inspections to make sure that the work is being performed in accordance with the rehab standards established by the PJ.

Yes, that is a requirement for owner occupied rehab. There is no period of affordability for owner occupied rehabs so we're talking about conducting these inspections while the rehabilitation is being performed and you know at the end of that rehabilitation work, that the project is complete.

So you must do an ending inspection to make sure that all the work was performed properly before final payment is released.

That's what's meant when we talk about tying progress and final payments to inspections. We have about five more minutes where we're going to answer some questions and then we'll be ending up.

Several people have asked whether or not the slides will be available, yes they are already up on the www.hometa.info site. There's also a summary of the proposed rule, about 20 page summary of the proposed rule on that site as well.

And there is a link to the actual federal register notice containing the entire proposed rule all available to you on that site.

Female: Okay we have a question regarding the six month requirement for transfer of a HOME ownership unit rather than converting to rental can the PJ just pay back the HOME investment?

Well yes, the PJ could in fact repay its HOME investment if it's un - and actually would be required to repay its HOME investment if it's unable to convert the project to a rental project, if it's unable to find an owner or property manager for the property.

So that is a very real possibility which once again gets back to the point that we're making that it's really important to assess the market for a project before committing funds, before beginning construction.

And we would highly recommend that PJs pre-sell or pre-identify buyers for their home buyer units before they break ground.

Okay asked for comments in the proposed rule related to the threshold for examining the financial condition of rental projects with at least ten HOME assisted units, the question is does the supply to 2012 forward or retroactive to existing projects?

If this proposed rule change becomes effective it will apply to all existing projects, your entire portfolio.

Another question regarding inspections, I think there's a couple of things that I said related to codes that maybe I need to clarify. UPCS uniform physical condition standard is a property condition code that you use to inspect units that are built, that are done, to ascertain whether they meet a minimum standard for habitability for an existing unit.

When I was talking before about new construction international residential code, the new construction building codes, I was referring to the types of codes that are in place that many states and localities adopt and that there are national standards for related to building codes for new construction which definitely contains requirements related to materials and methods for construction.

Some places have rehabilitation codes, I think another questioner asked about that, I don't know - we haven't been able to ascertain how many states or localities have a separate code for rehabilitation versus building codes.

But that is the difference between UPCS and the international residential code.

Female: We have a question once again that gets back to the six month deadline for sale of HOME ownership units and it reads will the new six month HOME ownership sale requirement result in the prohibition of the use of HOME funds for infrastructure development, supporting affordable housing development?

We have often used this method to support Habitat for Humanity developments.

Now remember that the six month deadline for HOME ownership units is six months from project completion of the project and you know making it - getting a certificate of occupancy or putting the market - the unit up for sale and six month to sell it to an eligible home buyer.

What actually would be applicable in the HOME proposed rule to this scenario is the four month - excuse me, the four year project completion deadline. So certainly there is no impediment to - or any plan on HUD's part to prohibit the use of HOME funds for acquisition of land or development of infrastructure.

However when a PJ commits funds to acquire vacant land or to install infrastructure it really needs to keep in mind first of all the existing requirement in the HOME rule that there be a reasonable expectation that construction begin within 12 months.

And now you know on 2012 funds and assuming that this provision in the proposed rule becomes permanent, the four year deadline for completing construction.

So there's you know certainly HOME funds can continue to be used for acquisition of land and installation of infrastructure. But a PJ should only do so if there are you know - if there's an expectation that the project will be going to construction imminently.

And that's - and that would be required with respect to the subsidy layering and underwriting requirements as well because you'd have to ensure that there's firm financing to complete the project.

So all of these different components in the rule existing provisions in the rule and some of the new provisions all fit together and really emphasize that the purpose of the HOME program is to fund projects that are ready to go forward to construction and to be on line as quickly as possible.

Female: Some final information about UPCS, first of all if you want to review the entire list of inspectable areas for UPCS, UPCS was created and established in regulation at 24CFR 5.705, this is what is described in the proposed rule in the preamble.

And appendix one and two of a notice published in the federal register in November of 2001 actually lists the entire - describes the entire standard and creates the entire list of inspectable areas.

So I recommend that you go to the proposed rule, look at the citation and look at what's in appendix one and two to see the kind of standards and inspection that we are referring to.

It's way too long to go through on the webinar, but there is another question that somebody asked that says many local jurisdictions have housing or property maintenance codes such as the IPMC, the international property maintenance code which defines safe, habitable conditions of residential property.

Would HUD consider allowing the use of the local ordinance as the standard for rehabilitation instead of the UPCS? These ordinance often exceed UPCS.

Yes and that is what I said in the presentation and what is in the rule, that this is the floor. The PJ can certainly and should use whichever code it is using at the local level that's already been established as long as it is more stringent than UPCS.

Female: Okay we're about out of time for questions. Before we wrap up our presentation I do want to stress that unfortunately we given the constraints of time were only able to cover the dozen or so provisions in the proposed rule that we thought would have the greatest effect on PJs and other program participants.

There are many, many other changes in the rule and unfortunately we probably would need to do four more webinars to go over them all.

There is a summary of the proposed rule that has been posted on the HOME TA website, once again the URL for that is www.hometa.info. If you look at that site you'll find a summary, it's a 20 page summary of all of the changes, large and small down to corrections of regulatory citations.

Every single change in the HOME proposed rule is summarized in that document. So highly recommend that you familiarize yourself with that.

The deadline for comments on the rule is February 14. Once again I don't have the address in front of me but I refer you to the very beginning of the preamble of the proposed rule for the procedures for submitting any comments that you do have.

I do recommend that you occasionally check in at hometa.info, if we are finding trends in questions or you know just common requests for clarification we may at some point in time publish an FAQ or some kind of a Q&A to help people better understand the provisions in the rule.

So I would recommend that you check in there, as Marcia mentioned this webinar has been recorded and the recording and the slides will be available on that website.

So I know at one point in time we had 1100 people on the webinar and there's very possible that there were people who were not able to get in. And so please tell your colleagues and your neighbors that the HOME webinar is available on our - on the hometa.info website.

Female: Again send in your comments so that we can consider them when we make the final changes and issue the final rule. That concludes the webinar for today, thank you so much for your participation everybody.

The fact that we had so many people on the line demonstrates that the HOME program is quite popular and that you all are quite dedicated to affordable housing. Thank you.

Female: Thank you very much; we look forward to receiving your comments.

Operator: This concludes today's presentation, thank you for your participation.

END