



THE HFA INSTITUTE



HOME Essentials

Presented by Monte Franke

January 7, 2018

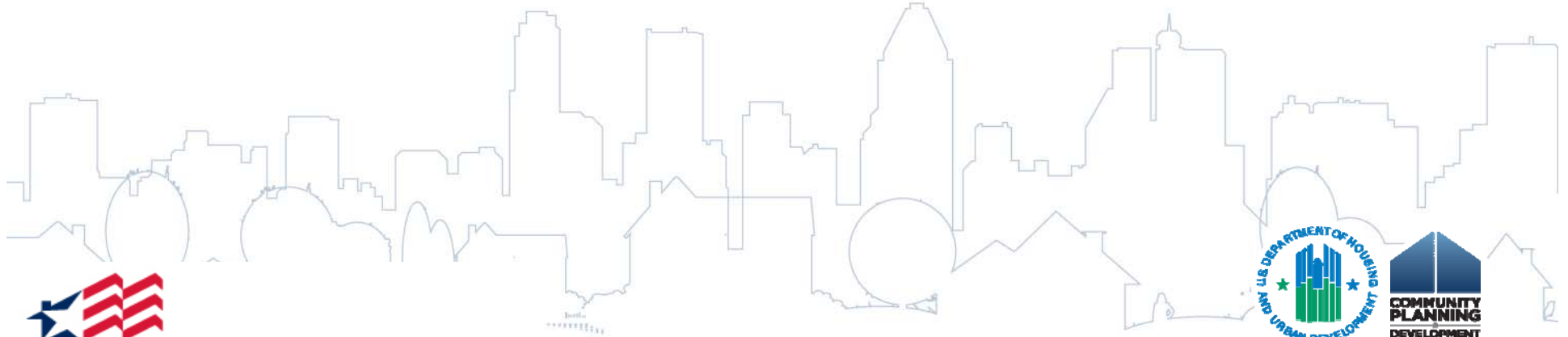
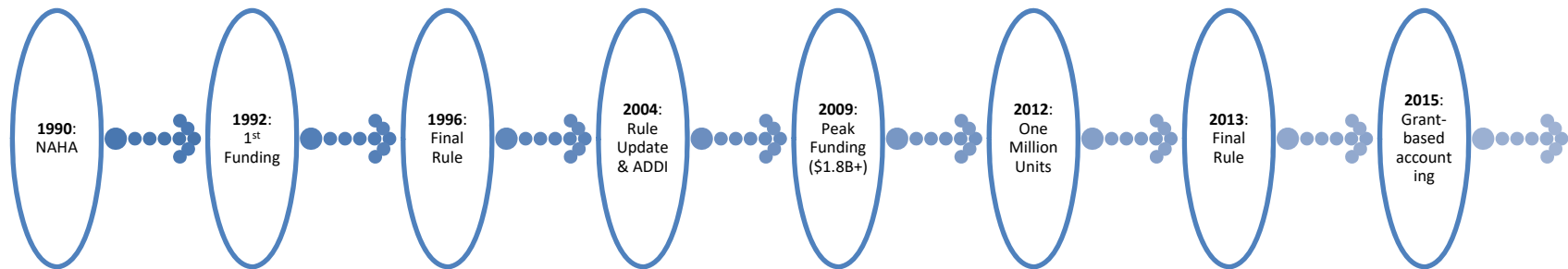


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Slide 1



Program History



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2013 HOME Final Rule

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



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HUD Guidance

- No major issuances in 2017
- Most recent Notices:
 - Disaster Recovery CPD-17-06 (pre-award costs & DR)
 - Cost allocation CPD-16-15
 - Underwriting & subsidy layering CPD-15-11
 - Commitments CPD-15-09
- HOMEfires: Utility Allowances (vol 13 no 2), updated Max Subsidy Limits (vol 12 no 1)
- www.hudexchange.info/programs/home/

Other Recent Rules

- Interim Final Rule on commitments 12/2/16
 - Pre/post FY15 commitment/expenditure deadline
 - Revisions to reuse PI/Recapture/Repayment
- VAWA rule 11/16/16; effective 12/16/16
 - HOME is covered; PJ is covered housing provider
 - Owner disclosure; lease addendum
 - PJ report; emergency transfer plan (6/14/17)
- Final Rule Housing Counseling: eff. 1/13/17
 - Counseling only by HUD-approved counselor



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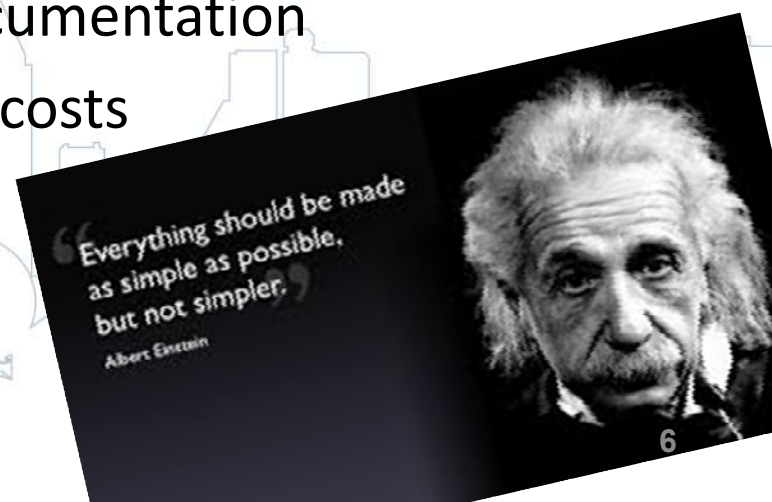


The Rule: 24 CFR Part 92

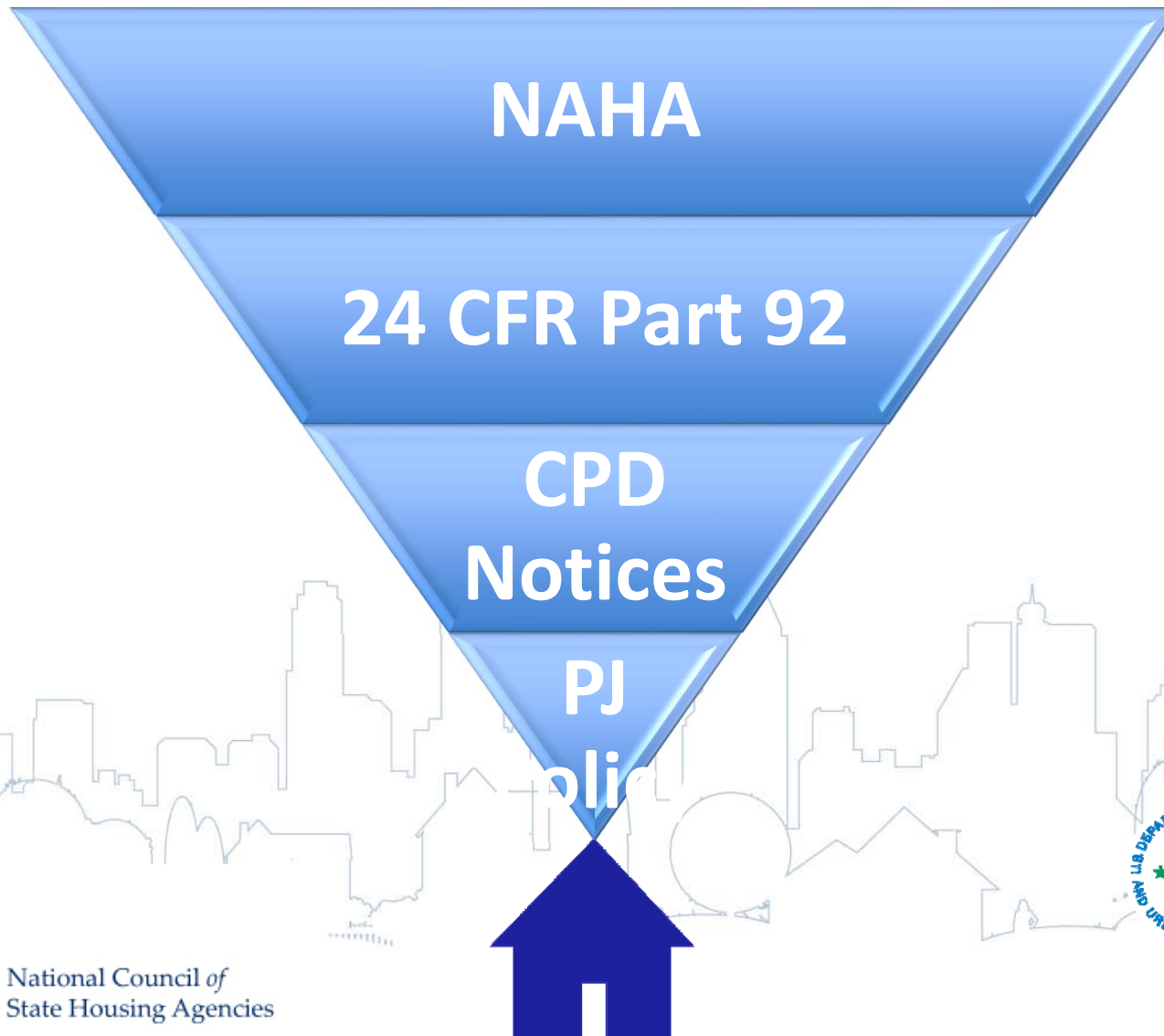
- Key sections to read first!
 - 92.252: rental requirements
 - 92.253: lease requirements & prohibitions
 - 92.254: homeownership requirements
 - 92.250: project underwriting & max subsidy
 - 92.251: property standards
 - 92.203: income methods & documentation
 - 92.206/.214: eligible/ineligible costs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



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The HOME Policy Pyramid



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**COMMUNITY
PLANNING
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DEVELOPMENT**

Eligible Activities & Costs



The Big Picture

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

Eligible Activity Categories



Homebuyer



Rental

Owner-occupied rehab



TBRA



Eligible/Ineligible Uses

- Eligible

- Capital costs
 - Acquisition/Site Improvements
 - Rehab/New Constr.
 - Project Soft Costs (2 year lookback limit)
- TBRA
- Homeless: permanent, transitional, SRO

- Ineligible

- Non-housing, inc:
 - Commercial
 - Accessory structures
- Non-low-income housing
- Shelters and facilities
- Off-site infrastructure
- Project reserves
 - Exc. Initial Op Deficits
- Public housing (92-213)



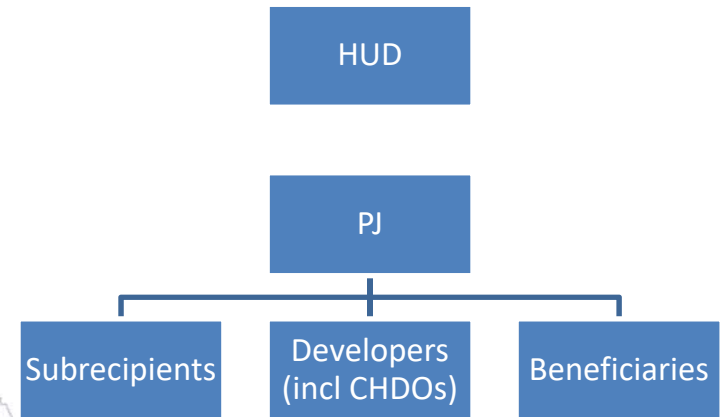
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Program Partners & Roles



Key Participants and Roles

- HUD funds/monitors PJ
- PJ can fund:
 - Subrecipients to run programs
 - Buyer DPA, HO rehab, TBRA
 - Developers (For-profit, nonprofit, CHDOs)
 - Low-Income beneficiaries



Subrecipients v. Developers

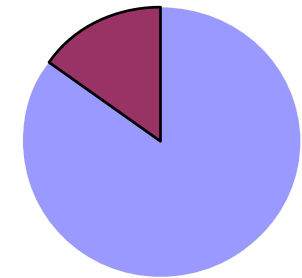
- Subrecipients
 - Not-profit or public agencies
 - Administrator; pass-thru assistance to others
 - Responsible for rules & uniform requirements (2 CFR 200)
 - Reimbursed for costs (admin & project delivery)
- Owner/Developers
 - For-profit or non-profit entity
 - Implements own projects
 - Only responsible for written agreement requirements
 - Fees as part of project costs



The CHDO Set-Aside

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

CHDO



Other HOME
85%

Eligible CHDO Activities & Roles

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



CHDO Certification at Funding

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

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

Other CHDO Assistance

- In addition to CHDO set-aside, a PJ may offer:
 - Operating assistance funds
 - Pre-development loan (forgivable)
 - PJ option; up to 10% of CHDO \$
 - CHDO retention of PI as CHDO proceeds
- CHDO Intermediaries & PJ TA & capacity building resources
- CHDO online training & materials



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Program Administration



3 Levels of Administrative Focus



Program
Administrative
Requirements



Project
Requirements

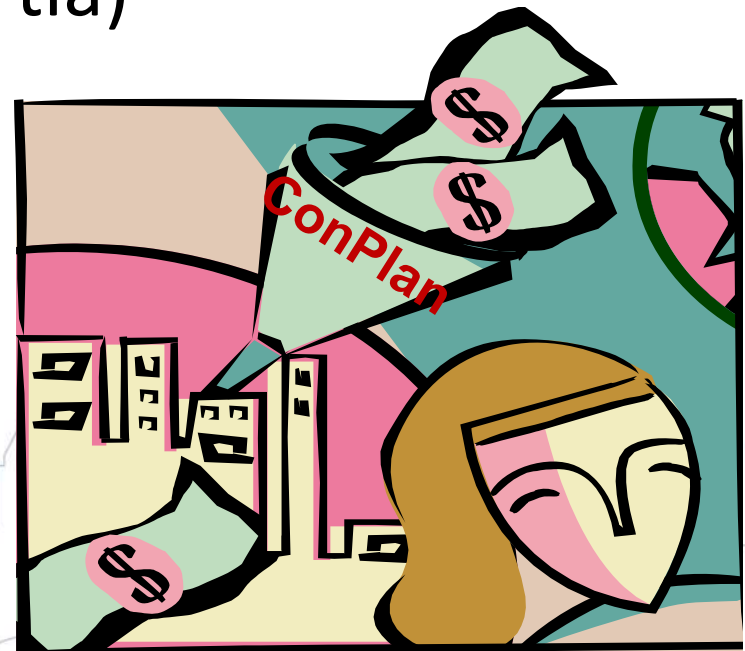


Assisted Unit
Requirements



Allocating HOME Funds

- Formula allocation
- State & local PJs (& consortia)
- ConPlan/Annual Plan



PJ Annual Allocation Breakdown

Admin (AD)

Max.
10%
Admin
(+ 10% PI)

Max.
5%
CHDO
op exp
(opt.)

Projects (EN)

All projects/activities

- Homeowner rehab
- Homebuyer
- TBRA
- Rental

CHDO (CR)

Minimum
15%
CHDO
set-aside

10%
pre-dev. (opt)

PJs and
subrecipients only

Need CHDO project
or expect in 24 mos.

Must result in HOME
units

Admin v. Project Delivery Cost

Administrative cost

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

Project delivery

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



HOME Rules & Activities

Program Wide Rules

Homeowner
Rules

Rental
Rules

Owner
Rehab
Rules

Homebuyer
Rules

Rental
Dev.
Rules

TBRA
Rules

CHDO Set-Aside Activities

HOME Expenditure Rules

- PJ program deadlines (Rule changes: 1/3/17)
 - Commitment: 24 mos subrecipient, project & CHDO res (& local account funds)
 - 36 mos (total) for subrecipient/SR projects
 - **Suspended for 2016-19 HOME funds, except CHDO**
 - Expenditure: 8/9 years from appropriation
 - 5 year expenditure deadline removed for 2015 and later grants
- Project deadlines:
 - Expect to draw w/in 12 mos; but no auto de-obligation
 - 48 months from commitment to completion
 - 9 months to sell; 18 months to rent



Disbursement Rules

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



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Match

- PJs must match 25% of HOME funds drawn down for project costs:



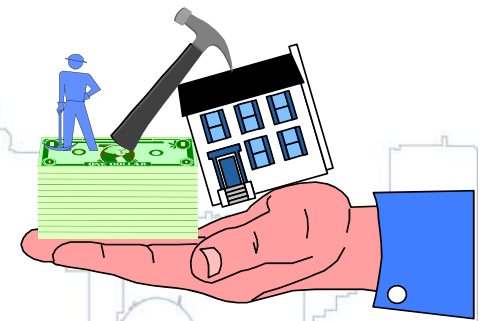
- Program requirement, not each project
- Must be a permanent non-Federal contribution
- No match: admin, CHDO OpExp/Pre-Dev forgiven

- Sources: 92.220 & CPD-97-03

- Match can be recorded for HOME-assisted & HOME-eligible projects (see CPD-97-03 p. 5)

Eligible Match Sources

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



Recordkeeping

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



Monitoring



- Recipients reviewed at least annually
 - PJ must develop risk-based monitoring plan
- Ongoing rental monitoring:
 - 92.252(f)(2): owners must provide info annually to PJ
 - Certify property standards
 - 92.504(d) on-site sample of files & prop inspections:
 - Within 12 months of completion & every 3 years (2015)*
 - 92.504(d)(2) annual financial oversight, 10+ HAUs
- Ongoing homebuyer monitoring:
 - Principal residency & resale

HUD IDIS Performance Reports

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



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Program Income & Other Funds

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

General Project Requirements



Program
Administrative
Requirements



Project
Requirements

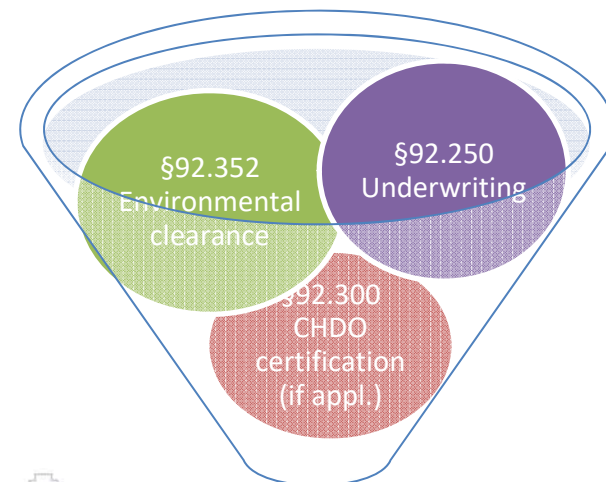


Assisted Unit
Requirements



Project Commitment

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



**Project commitment
(written agreement)**

Cost Effective Use of Funds

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

Project Underwriting

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

Underwriting Framework

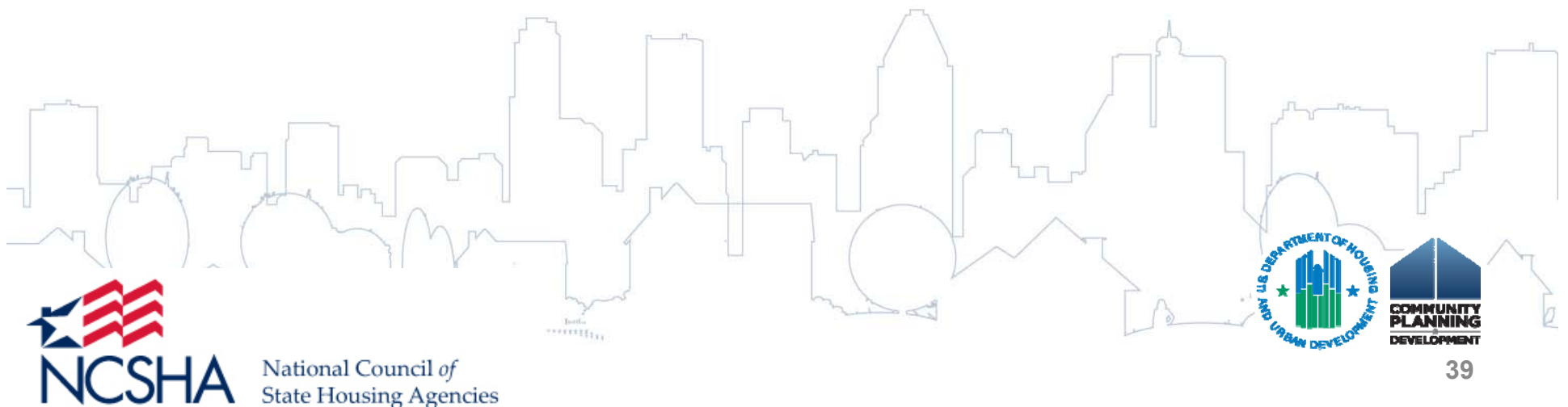
- HOME investment no more than necessary to provide quality, financially viable housing for at least affordability period
- Return/profit to developer/owner is reasonable and not excessive
- Sources and Uses balance, including that all costs are reasonable

Framework cont...

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

Subsidy Layering

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



Cost Allocation

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



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Cost Allocation & Underwriting

Preliminary Underwriting

- Initial gap or
- Initial unit designations

Apply to Underwriting

- Apply unit designations (rents)/HOME funds
- Test for impact on gap

Cost Allocation

- HOME Investment → Units or
- Units → HOME Investment

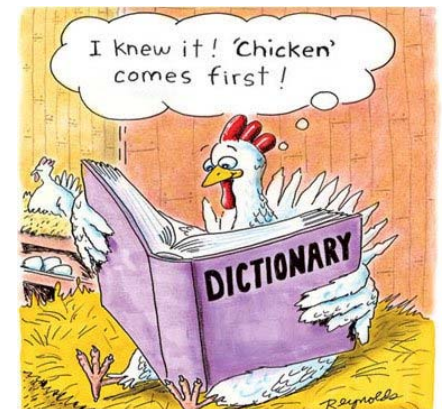
Environmental Review

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



Preliminary HOME Award

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



Form of Subsidy

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

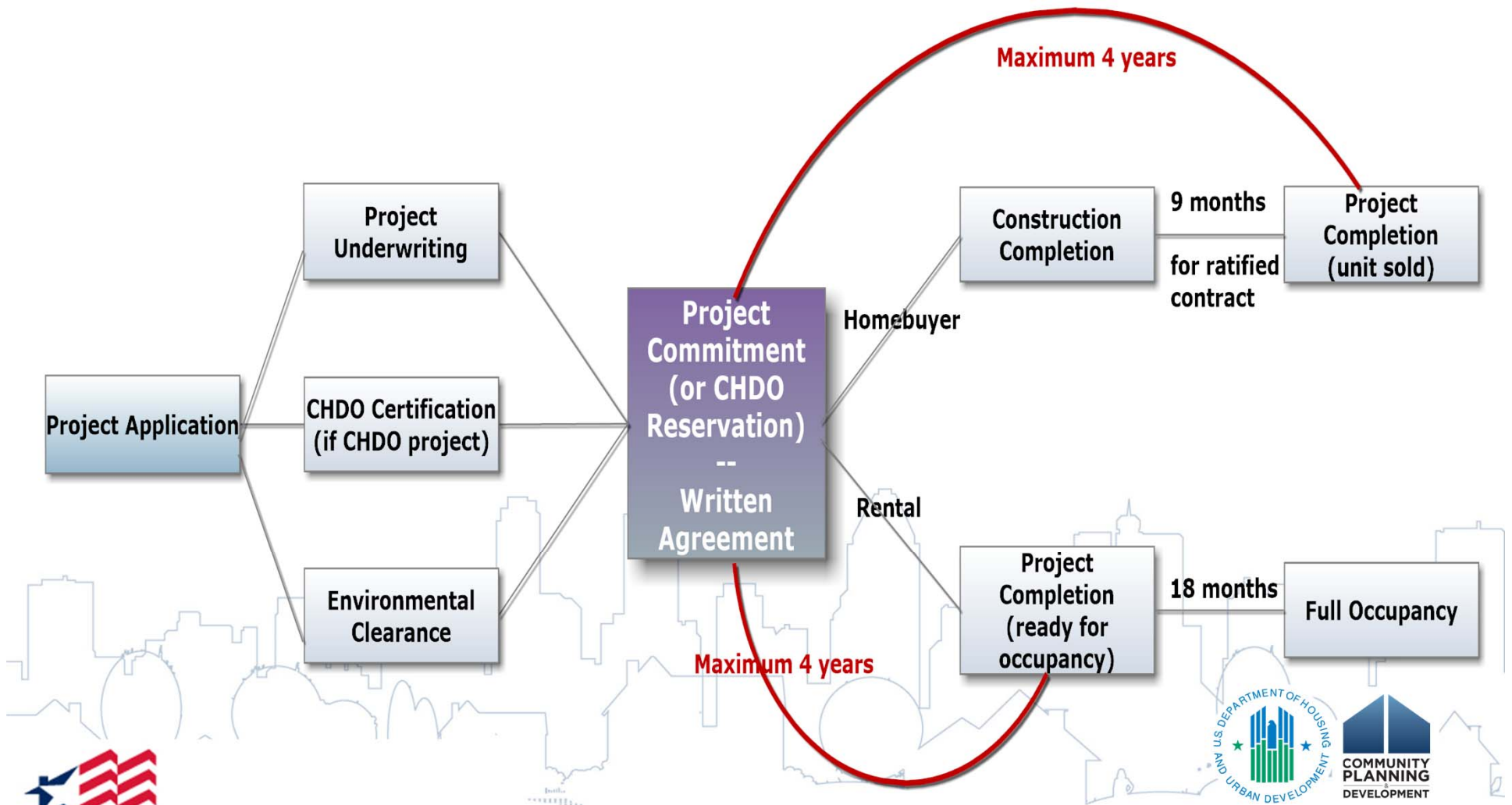
Required Documents

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

Project Deadlines

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

The New Project Timeline



Cross-Cutting Requirements

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



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Assisted Unit Requirements



Program
Administrative
Requirements



Project
Requirements



Assisted Unit
Requirements



HOME Assisted Unit

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

The P's of HOME Unit Compliance



People – income limits



Price – price or rent limits



Property – eligible properties & property standards



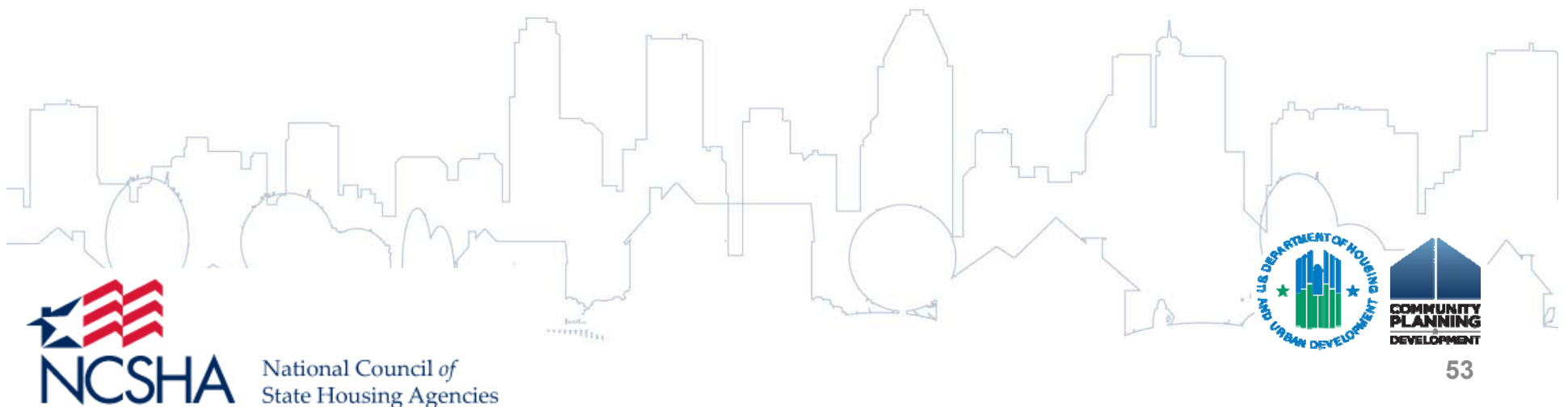
Period – 5 to 20 year affordability period

People: Income Eligibility

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

Price: Affordability

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



Property: Property Standards

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



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Property Standards, cont.

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



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Period: Min. Affordability Period

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



+ local extended use restrictions



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A 5th P? PJ Policies & Procedures

- Beyond the rules, PJs have discretion to impose additional requirements, e.g.:
 - Lower incomes
 - Lower rents/prices
 - More stringent property standards
 - Longer affordability periods
 - Other priorities



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Requirements by Activity Type



Homebuyer Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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Homebuyer Assistance

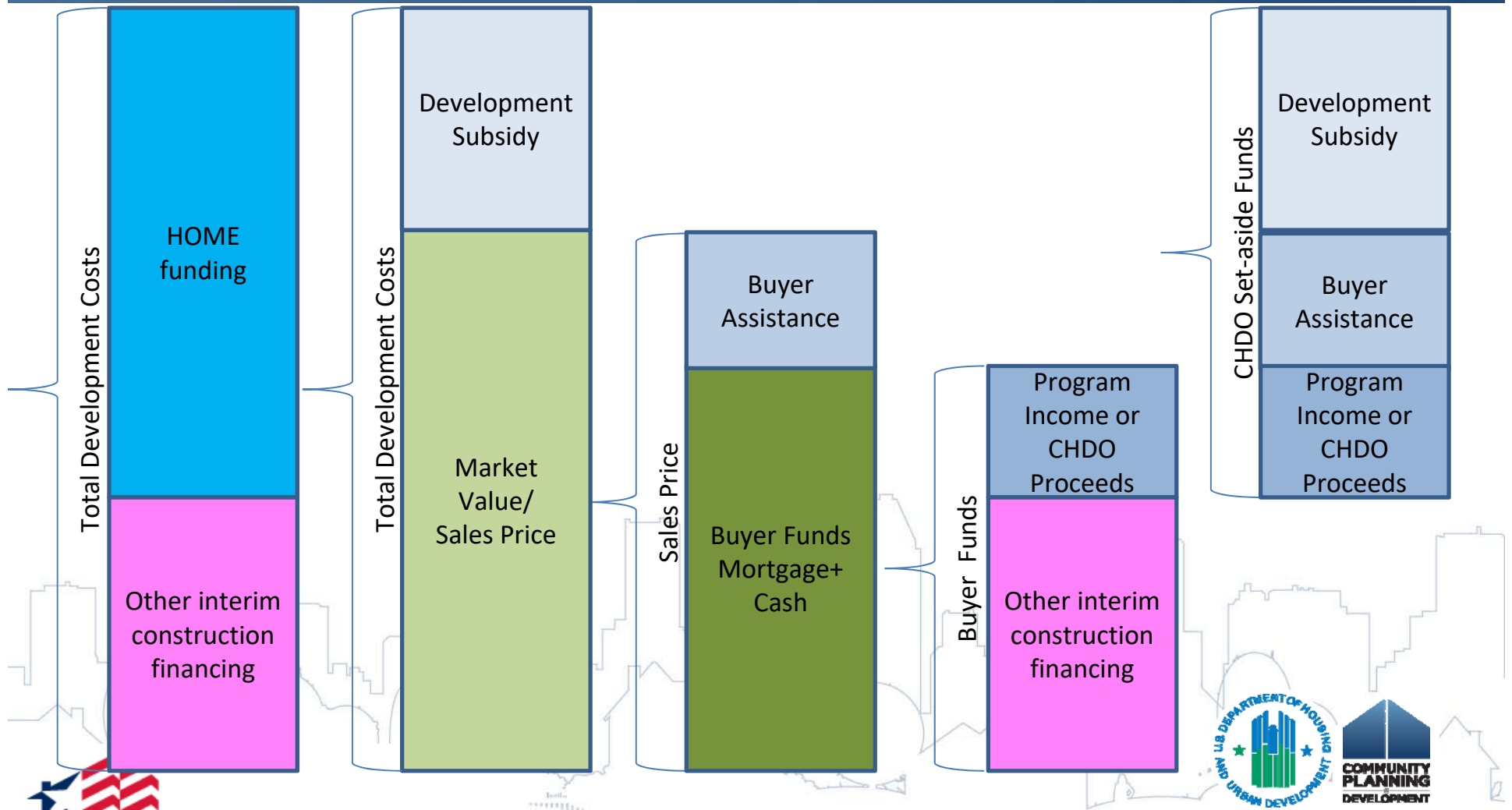
- Eligible activities
 - Acquisition assistance (not CHDO-eligible)
 - Acquisition & rehab
 - New construction
- Forms of assistance
 - Development subsidies
 - Grants, Loans
 - DPA/CCA
 - Loan guarantees & other approved by HUD



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Set-aside Funds in Homebuyer



Unit Compliance: The 4 P's

1. People: eligible buyers less than 80% AMI

- Principal residency (no land or installment contracts)
- Buyer underwriting & counseling required – HUD-approved counselor (effective 1/13/17)

2. Price:

- Price/value < 95% of area median value limit
 - Price or after rehab/construction value; see web site
- Lease-purchase: complete w/in 3 yrs.
- Sale (ratified contract) within 9 months completion
 - (6 mos: 2012-13 \$ before 8/23)
 - If not, convert to rental or repay



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The 4 Ps, cont.

3. Property:

- Single/family, 2 - 4 unit, coop, condo
- Applicable standards, incl. 5 year useful life if rehab
- LBP: Subpart K or J (if rehab)

4. Period:

- Compliance period: minimum 5 - 15 years
- Principal residency
- Resale to low income or recapture \$
- No ongoing inspections or income certification

Resale/Recapture Options

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



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Owner-Occ Rehab Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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Owner-Occupied Rehab

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



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Rental Housing Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



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Eligible Rental Activities

- Acquisition
 - Rehabilitation
 - Acquisition & rehab
 - New construction
-
- Transitional or permanent, not temporary housing or facilities

The 1st P

1. People:

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



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A HOME Rental Project...

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

Initial Occupancy Pre-requisites

Written Agreement

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

Affirmative Marketing Plan (5+ assisted units)

- Special outreach to those least likely to apply

Tenant Selection Plan

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

Lease

- Approved lease form (incl. VAWA addendum)

Tenant Participation Plan (CHDOs only)

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

The 2nd P

2. Price: rent limits

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



The 3rd P

3. Property (standards):

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

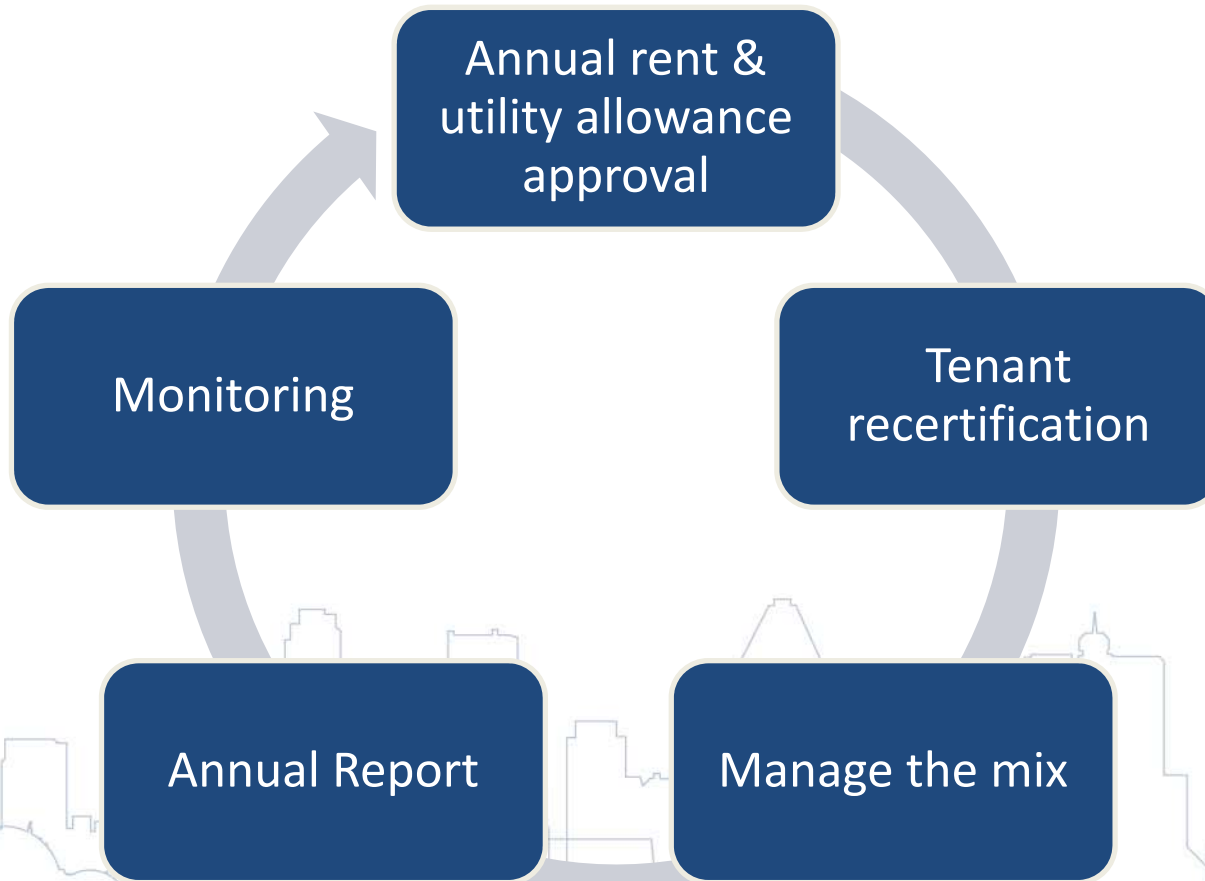


The 4th P

4. Period (of affordability):

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

Ongoing Compliance Annual Cycle



TBRA Requirements



Homebuyer



Rental

Owner-occupied rehab



TBRA



Eligible TBRA Activities

- Eligible

- Assist w rent, utilities, security/utility deposits
- Contracts up to 24 mos
 - May be renewed subject to availability of HOME \$
- May be administered by PJ, or under contract to PHA or subrecipient

- Ineligible

- Tying to specific project
- Coop or mutual housing units (unless rental)
- \$ for overnight or temporary shelter
- Duplicating rental assistance programs that already reduce rent to 30% of income



Eligibility & Assistance

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

Program Design Options

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



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Wrap Up



Final Thoughts

- The metric of HOME success is timely completed, occupied & sustainable units
- PJs depend on partners to perform
 - If they're not ready, you can't commit
 - If they can't complete on time, you must repay
 - If they can't occupy, you must repay
 - If they can't sustain, you must repay
- Grant-based accounting affects deadlines
- Document, document, document

HOME on the Web

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



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Wrap Up

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

