BIG Changes to HUD’S HOME Program

by Lisa Hoffmeyer

It has been more than 20 years since any real revisions were made to the HOME Program, and this past March HUD unveiled some significant changes to the Final Rule and solicited public comments. Visit [http://www.hud.gov/offices/cpd/affordablehousing/homeproposedrule/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/homeproposedrule/index.cfm) to see a copy of the proposed rule. While most of these changes have yet to be finalized, some major revisions have already taken effect and must be applied to projects receiving 2012 HOME funds. Below is a summary of the changes, more detailed guidance has been issued through CPD Notice 12-007 available at: [http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/](http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/)

**CHDO Staff Experience**

A Community Housing Development Organization’s (CHDO) mission is to produce affordable housing units, either as an owner, sponsor or developer. In the past, some CHDOs have relied on the use of consultants to provide the development expertise needed to complete a project. The new guidance requires CHDOs acting as a Developer to have internal development capacity via a staff person rather than relying on a consultant’s credentials. The staff person must have development experience equal to the size, scope and level of complexity of the proposed HOME funded project. For example, an employee who has expertise in single family new construction would likely not meet the experience requirement for a 20 unit rental rehabilitation project. These staff members must be responsible for day to day operations of the CHDO and cannot be board members, volunteers or consultants.

This may be problematic for CHDOs who are seeking to expand their business lines and don’t have in house development staff with wide ranging experience. One solution is, of course, to hire new staff, but that might be difficult due to budget constraints. Another option is to partner with another CHDO that does meet the staff experience requirement, or to think about actually merging with another nonprofit or CHDO, strengthening both agencies as a result.

The Participating Jurisdiction (PJ) has the ultimate responsibility of determining CHDO capacity. PJs must now develop and implement written policies and procedures for the capacity evaluation and CHDOs may wish to be a part of this process. The PJ must also retain capacity determination documentation as well as certify the experience requirement in IDIS.

**Four Year Project Completion**

All HOME projects must be completed within four years of the commitment date. HUD will require repayment of HOME funds for projects that do not meet this deadline! The commitment date is the date the HOME funding agreement/contract is fully executed. Completion date means that all necessary construction work is done and a Certificate of Occupancy (CO) is issued or, in the absence of a CO, a local certification is obtained that shows construction or rehabilitation is complete and the property is ready for occupancy. In the case of an owner occupied rehab, a final inspection must be performed by the PJ or its designee and the owner must approve and accept the work via a signoff.

HUD will distribute reports to PJs based on IDIS data to identify any projects in danger of not reaching the 4 year completion deadline. PJs should also develop an internal tracking system to monitor the status of projects so they know which projects are stalled and why so that technical assistance can be provided as soon as possible.

A PJ may request a one year extension from HUD on a case-by-case basis. If approved, the extension will be 12 months from the date the written agreement
was executed, not the funding date entered into IDIS. Extensions will only be available to projects that have been delayed for reasons beyond the PJ's control.

**Assessment of Project Underwriting, Developer Capacity and Market Need**

The best defense is a good offense, so to prevent funds from being recaptured, PJ's should carefully evaluate proposed projects and commit dollars only to financially viable and marketable projects undertaken by organizations and developers with sufficient expertise to see them through completion in four years.

PJ's must now do a complete evaluation of 2012 HOME acquisition, construction, rehabilitation and down payment assistance activities projects prior to committing funds. They must:

- Underwrite the project or evaluate underwriting done by another funder;
- Assess the development capacity of the developer;
- Evaluate fiscal soundness of the developer;
- Consider market conditions to ensure project need; and
- Following the evaluation, if favorable, complete the certification in IDIS.

Projects not meeting PJ prescribed benchmarks for the above should not be funded. Activities involving only Tenant Based Rental Assistance, Homeowner Rehabilitation and CHDO operating assistance are exempted from the new requirements.

PJ's must develop written policies and procedures surrounding the above criteria. The policies should be both quantitative and qualitative. There should be threshold items (Example—Applicants who have defaulted on a Federally funded project in the past 5 years are not eligible for HOME funding) as well as a scoring mechanism (Example—5 points for 5+ years’ experience, 3 points for 2 years, 1 point for less than 2 years). These factors and others should be evaluated by PJ staff and/or selected third parties who have a good understanding of real estate development, program and project analysis and who have no conflicts of interest. A good practice is to have the review team score each project independently, and then average to obtain a final score.

Here are some of the things which must be considered before committing funds:

- Is there a market for this product? If it's built/rehabbed will it sell or rent? At what price? To what income bracket or demographic group? How long will it take to rent or sell? Will the target market want to live in this location? In this type of housing? In a unit of this size?
- Does the developer have the financial capacity to complete the project? A complete evaluation of financial statements is warranted. What other documents will be reviewed? Does PJ staff have the ability to do this or will you need to contract with someone else to do this work? What measurable criteria will be used to evaluate fiscal soundness?
- Does the developer have the necessary experience and capacity to complete the project? Who is on staff and what is their work experience? Who will be the managing the project? What is the organization's track record? What size and type of development have they successfully completed in the past? Is that experience relevant to the HOME project being proposed?
- Is the project financially viable? What sales prices/rents need to be attained? How does this square with the market? Are proformas and budgets accurate? Are reserves funded? What debt service coverage ratio is acceptable? Are vacancy rates acceptable? Is the time frame to complete reasonable? What other funding sources are proposed? Are there firm commitments? If not, are the funding sources realistic? What is the developer fee? Is it reasonable and customary for your market and the type and size of the project? What type of return is the developer receiving and is it reasonable?

When PJ's are unable to underwrite these sometimes complicated deals, experienced third party underwriters and market analysts can be, and often are, contracted to do this work, and the cost can be paid from HOME funds.

**Conversion of Homebuyer Units to Rental Units**

It will be more important than ever that developers only undertake homeownership projects that will meet a market need. Any 2012 HOME funded homebuyer unit that has not been sold to an eligible homebuyer within six months of completion, must be converted to a HOME rental unit. “Sold” is defined as having a ratified
sales contract within six months of completing project construction. “Completion of project construction” means all necessary construction work is done, project has a CO or other local certification indicating that construction or rehab is complete and the project is ready for occupancy.

This has big ramifications for organizations who cannot comply, as owning and operating rental housing is a completely different business than selling homebuyer units. In the next Capacity Corner we will highlight ways to help your organization adapt to these new requirements. HUD will identify 2012 HOME funded homebuyer activities that are in final draw per IDIS or that have more than 90% of funds drawn, yet no draws in the past six months. Reports detailing these activities will be posted on the HUD website.

The experts at the Florida Housing Coalition are available to provide technical assistance to help get you prepared for these big changes to HOME. We can assist with program design, project development, policies and procedures, feasibility analyses and more. Call us at 850-878-4219 or email: info@flhousing.org and let us help you! HNN