

## COMPLYING WITH THE HOME PROGRAM'S NEW REQUIREMENTS



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In July 2013, HUD issued a Final Rule amending the HOME program regulations, the first update in 16 years. The new HOME rule instituted several major changes, including new underwriting and oversight responsibilities for Participating Jurisdictions (PJs), a more stringent definition of Community Housing Development Organizations (CHDOs), and new requirements for timely completion and occupancy of developments. Some changes have already taken effect, while others will become effective in July 2014 or January 2015. The new HOME rule imposes substantial new responsibilities on PJs and CHDOs, but is ultimately intended to help communities allocate HOME funds more efficiently and ensure project viability.

### PJ OVERSIGHT: UNDERWRITING, PROPERTY STANDARDS, AND INSPECTIONS

Participating Jurisdictions are now required to underwrite all HOME projects to ensure that they are not oversubsidized, assess developer capacity and financial soundness, and ensure the marketability and financial viability of proposed developments. However, projects for which HOME funds are provided as down payment assistance only are exempted from these requirements, as are homeowner rehabilitation projects (unless HOME assistance is provided as an amortizing loan). PJs must also underwrite homebuyer applications for assistance, examining factors such as the household's monthly debt and expenses, their financial resources and assets, and the reasonableness of the assistance requested.

Additionally, the new rule revises property standards for HOME developments, and greatly increases PJs' oversight responsibilities during project development, upon completion, and during the affordability period. For new construction projects, the PJ must review cost estimates for reasonableness, and approve construction documents to ensure that they provide a sufficient baseline for progress inspections. The regulations for rehabilitation projects, meanwhile, contain greater detail about standards a PJ should institute. For example, standards for rental rehabilitation must require that the PJ estimate the remaining useful life of major systems (e.g. roofing, HVAC). These changes go into effect on January 24, 2015.

For rental developments, the new rule prescribes additional oversight requirements during the affordability period. PJs are required to develop ongoing property standards for rental housing, including checklists for inspections and procedures for property owners to correct deficiencies. The rule prescribes a schedule for inspecting properties after completion, and determining a sample size of units to inspect. PJs must also evaluate the financial condition of rental developments with 10 or more units on an annual basis.

The new inspection and financial oversight requirements will take effect on July 24, 2014, and PJs must update their property standards to reflect the new rule by January 24, 2015.

## CHDO CAPACITY

HOME provides funding to CHDOs to serve as owner, sponsor, or developer of affordable housing units. In the past, some CHDOs have used consultants, board members, or staff donated from other agencies to demonstrate capacity for their intended role in a housing development. The new rule requires that a CHDO have in-house paid staff with sufficient experience and qualifications for the development to be funded. An exception is made for organizations in their first year of operation as CHDOs, when they may use a consultant to demonstrate capacity. Each time a PJ awards HOME funds to a CHDO, it must certify that the CHDO has sufficient capacity.

PJs must review the process on how CHDOs are selected and funded, and what activities a CHDO can carry out with the 15% set aside to ensure compliance with this requirement. CHDOs with experience and capacity in single family developments will have a difficult time meeting this requirement if they want to develop rental housing. CHDOs can no longer venture into unknown territory using HOME funds.

## TIMELY COMPLETION AND OCCUPANCY

The maximum time between commitment of home funds and project completion was decreased from 5 years to 4 years, although HUD may grant 1-year extensions on a case-by-case basis. Additional rule changes aim to ensure that the units produced are occupied as quickly as possible by eligible households. Rental units must be occupied within 18 months, after which HOME funds must be repaid for any units that have never been rented.

Homebuyer units, meanwhile, must be sold within 9 months of completion, after which the units must be converted to rental- or the HOME funds repaid. Proper

planning requires CHDOs and other subgrantees to develop contingency plans for converting their new homes from sales into rentals in case they do not sell. However, they must carefully think through the implications of doing so, since rental property ownership and management is very different from developing ownership homes.

The rule also imposes new requirements for commitment and expenditure of CHDO set-aside funds. A PJ, within 24 months of receiving an allocation of HOME funds, must commit the CHDO set-aside funds to specific projects, rather than simply “reserving” the funds for projects that have yet to be identified. In an effort to encourage PJs to reallocate set-aside funds from low-performing to high-performing CHDOs, HUD is also instituting a 5-year expenditure deadline for CHDO funds.

## WE'RE HERE TO HELP!

Whether you're a new or prospective CHDO trying to build capacity, an established CHDO seeking to expedite your HOME fund expenditures, or a PJ refining your policies and procedures to comply with the new rule, the Florida Housing Coalition is available to provide training and technical assistance.

We provide workshops on CHDO certification and one-on-one technical assistance with HOME administrators in local government, addressing topics such as program design, project development, policies and procedures, and feasibility analysis.

Call us at 850-878-4219 or e-mail [info@flhousing.org](mailto:info@flhousing.org) and let us help you! We're also hosting a workshop on the new HOME rule at our annual Affordable Housing Conference, held this year from September 7 to 10 at the Hilton Orlando. 