

Day 1

# HOME Project Development

*presented by*

Rural Community Assistance Corporation  
*in collaboration with*

*sponsored by:*

HUD Offices of Community Planning and Development:  
Denver Regional Office

State of Montana  
Department of Commerce, Housing Division



Rural Community  
Assistance Corporation

MONTANA  
Department of Commerce

## Today's Presenters



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## Purpose

- **Learn key steps in the affordable rental housing development process from site selection and financing to asset management.**
- **Provide information for CHDOs to carry out project development with HOME funds.**

## Course Objectives

- **This course will:**
  - Describe the development process from start to finish.
  - Explain how to effectively use the HOME program as part of your affordable housing projects.
  - Describe the regulations that govern the HOME program and CHDOs.
  - Provide resources to reference.



In general, the development process follows these steps whether it is an affordable or market rate development. Read off steps. Each of these steps involves many tasks, many things to keep track of, and many people. Things will not always be linear, and sometimes you may have to circle back to earlier stages as things change. We'll be spending the next two days filling in details of these steps, and letting you know how requirements specific to the HOME program impact each step along the way.

# Day 1: The Development Process

**1:00**

- **Welcome and Introductions**
- **HOME Overview**
- **Project Concept and Development Capacity**
- **Feasibility Analysis**
- **Site Control**

**4:30**

- **Adjourn**

## Day 2: Housing Development with HOME

**8:30**

- Welcome Back
- Budgets and Financing
- Construction
- Pre-Occupancy and Property Management
- CHDO Program Requirements

▪ **4:30**

- Adjourn

## Remember

- **Please ask questions!**
- **Share techniques and advice.**
- **Sticky questions board.**
- **Please, please, please turn off cell phones!**

# Logistics

- Breaks
- Restrooms



## **Section 1**

# **HOME Program Overview**



# HOME Program Overview

- Program Objectives
- Key Terms
- HOME Roles
- Eligible Activities
- Program Rules
- Match Requirements
- Technical Assistance/Resources



## Home Investments Partnerships (HOME) Program

- **Created by the 1990 National Affordable Housing Act (NAHA), and amended by subsequent legislation.**
- **The HOME Program is a Federal Block Grant administered by the Department of Housing and Urban Development (HUD).**

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The HOME Program divides funds into two pots, one is for State Recipients, the other for Community Housing Development Organizations (CHDO's)

CHDOs are a special brand of Not-For-Profit organization, it has certain characteristics which at their heart have the purpose of making the entity accountable to the low-income community it proposes to serve through it's activities, to be independent from governmental and For-Profit developer control and to be competent and capable of appropriately using the public resources entrusted to its care. The characteristics and requirements of a CHDO are set forth in the Definitions section of the HOME Program Final Rule, 24 CFR 92.2 and in the California State HOME Program regulations.

If you are not a CHDO you are a State Recipient or possibly a subcontractor subrecipient to a SR.

**Change Slide**

## HOME Program Objectives

- **The intent of the HOME Program is to:**
  - Provide decent affordable housing to lower income households.
  - Expand the capacity of nonprofit housing providers.
  - Strengthen the ability of state and local governments to provide housing.
  - Leverage private sector participation.

It's not an acronym!

## HOME Program Key Terms

- **Community Housing Development Organization (CHDO)** – A private nonprofit, community based housing organization that meets a series of qualifications of the HOME program to develop decent, safe, and affordable housing for the community it serves.
- **Participating Jurisdiction (PJ)** – A state or local unit of government that administers the HOME program. PJ's certify CHDOs indicating that they meet HOME Program requirements and that they are eligible for HOME funding.

## HOME Program Key Terms

- **HOME Funds** – All appropriations for the HOME program, plus all repayments and interest or other returns on investment.
- **Project** – A site or an entire building or two or more buildings that are under common ownership, management and financing and are to be assisted with HOME funds as a single undertaking.
- **Affordability** – The requirements of the HOME Program that relate to the cost of housing both in initial occupancy and over established timeframes.

## HOME Roles

- **State recipient**
  - Unit of local government that runs a local program for the state.
  - State can also work directly with developers.
- **Subrecipient**
  - Manages program on behalf of PJ.
  - Can be public or nonprofit.
  - Different definition than CDBG
- **CHDOs**
  - Creates affordable housing.

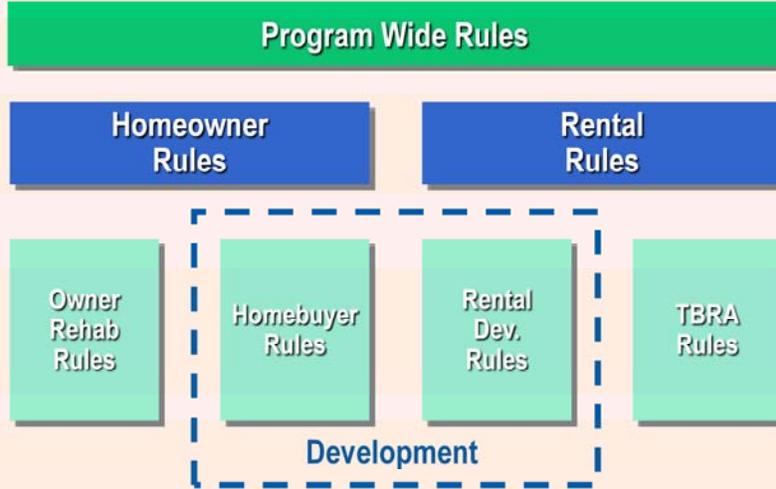
## HOME Roles

- **Developer**
  - Creates housing
  - Can be for-profit or nonprofits
- **Third Party Contractors**  
(i.e., general contractor, management company, etc.)
  - Perform a specific finite function
  - Contracted through procurement

## HOME Eligible Activities

- **The HOME Program is four housing programs in one, each with its own rules:**
  - Homeowner Rehabilitation
  - Homebuyer Housing
    - Acquisition, Acquisition & Rehab, New Construction
  - Rental Housing
    - Acquisition, Acquisition & Rehab, New Construction
  - Tenant Based Rental Assistance (TBRA)
    - Rental Subsidy

# HOME Program Rules



## Ineligible Activities

- **Development or modernization of public housing.**
- **Acquisition of PJ owned property.**
- **Payment of delinquent taxes, fees, or charges.**
- **Project reserve costs.**
- **Match for other federal programs.**

## Commitment of Funds

- **Upon receiving HOME funds a PJ has:**
  - 24 months to commit the funds.
  - 5 years to spend the funds.
- **CHDOs must comply with PJs timelines.**
- **Construction must begin within 12 months if:**
  - A property is acquired using HOME funds.
  - A structure is demolished using HOME funds.

## HOME Subsidy Layering Review

- **Required for projects that use HOME in combination with local, state, or federal assistance.**
- **Recommended for projects using HOME only.**
- **PJ/State Recipient must review sources and uses, proforma, development budget.**
- **Looking for reasonableness of costs and rate of return, no excess subsidy.**

The subsidy layering review may serve as an indirect subsidy limit. PJ is likely to look at some of the same financial feasibility tests we discussed earlier. If you've created reasonable budgets, you'll pass the test. If you started by maximizing debt, and only then seeking subsidy, you won't be oversubsidized.

See CPD Notice 98-1



## Long Term Affordability

- **To ensure that HOME investments yield affordable housing over the long term, HOME imposes an affordability period based on the amount of its investment.**
  - Period of affordability = period of compliance.
  - Amount of HOME \$ establishes time period:
    - Big HOME investment = long period of time.
    - Small HOME investment = shorter period .

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See chart in Tab 3

Compliance Period: Remember that the monitoring/compliance component lasts as long as the affordability period. The PJ needs to ensure that the HOME requirements for that activity are met. There are different requirements by project type, but there is a monitoring component for all. PJs should make sure they take monitoring requirements into account when analyzing subsidies and affordability for their programs.

## Affordability Period

- **Applies to development activities.**
- **Affordability period is same regardless of whether assistance is loan or grant.**
- **Period starts when PJ enters project completion data into IDIS.**
- **PJs can establish longer period of affordability, if desired.**

Congress wanted a return on their investment so they introduced the concept of “affordability” in the HOME Program. The period varies depending on how much money goes into each unit.

Affordability applies to the development activities (homebuyer and rental programs).

No affordability period for rehab.

Period of time is discussed on the next slide.

## Affordability & Compliance

HOME \$ per Unit	Length of Affordability/Compliance
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
More than \$40,000	15 years
Refinancing Rental Housing	15 years
Rental New Construction	20 years

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The chart refers to the affordability periods for homebuyer and rental programs.

The length of time depends on the amount of HOME funds provided per unit.

There is no affordability period for homeowner rehab and TBRA.

## **Income Eligibility**

**All HOME-assisted households  
must earn  
less than 80%  
area median income.**

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This will be discussed further in budgets and financing. The planned income mix of your residents will be a major factor in the budgets and financing of your rental project.

## Income Eligibility: Rental Projects

- **Program wide**—90% of assisted households in rental units must earn 60% AMI or less.
- **Project specific**—For rental projects with 5 or more HOME units, 20% of the HOME units must be occupied by households at or below 50% Area Median Income.

The “program wide” rule means that the PJ has to comply across their whole annual HOME allocation (Across their HOME program) for all rental units and TBRA.

The “project specific” rule is specific to each HOME-funded rental project, and counts HOME-assisted units, not all the units in the project.

Tenant incomes must be verified with source documentation initially. For rental and TBRA, must recertify annually, but only need source documentation to verify every six years.

## Income Verifications

- **HOME Program allows PJ's to choose among three definitions of income.**
  - Section 8 Program annual income
  - IRS form 1040 annual income
  - US Census long form income
- **Gross annual income determines eligibility:**
  - Adjusted income used for TBRA payment
- **Anticipate income for next 12 months.**
- **Income is based on household in residence at time of assistance not just immediate family.**

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Other funders may use other definitions of income...LIHTC uses Section 8 program definition of income.

Not up to CHDO, but might ask PJ if possible if you have another funder requiring a different definition

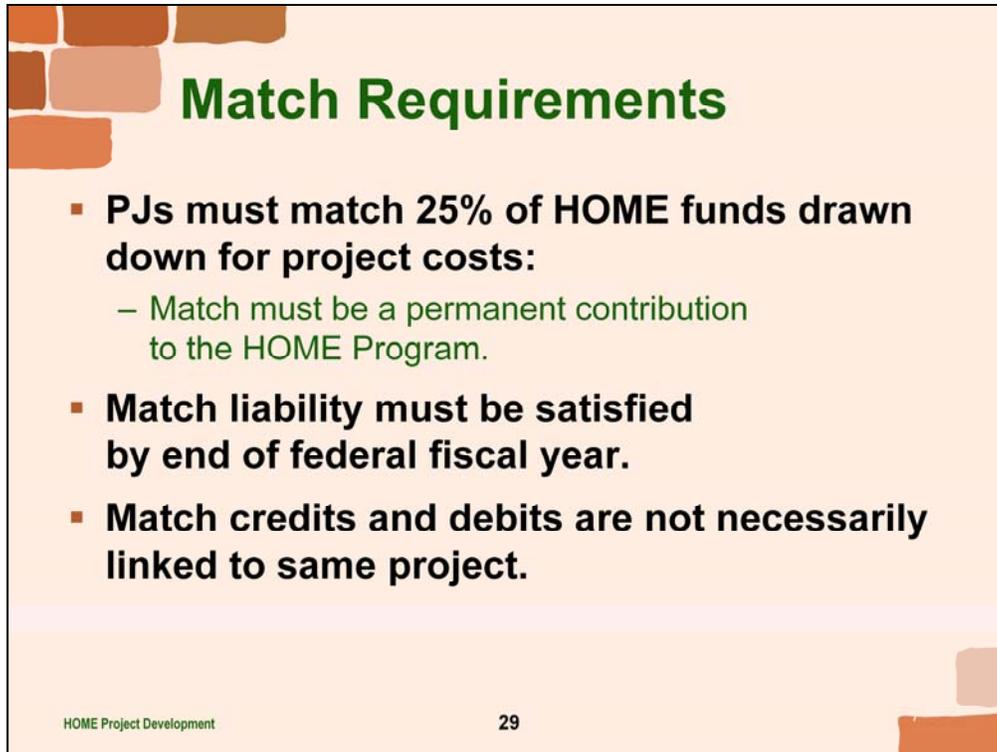
These are some basic points about income:

Gross Income: is what you calculate to determine the eligibility. Gross income is also what you calculate to determine the household's payments, such as for TBRA or over-income tenants in a rental project.

Anticipated income: must review what the household's expected ability to pay rather than past earnings when estimating housing assistance needs.

Remember this is for household income (all adult members of the house over the age of 18, including adult children). Everyone has some sort of income-a PJ should never put a "0" down as income.

May also want to mention the resource, "Work Number," which is available by phone or online. Users of this service pay a fee to verify income for large employers such as Wal-Mart.

A presentation slide with an orange background and a decorative pattern of brown and orange squares in the top-left and bottom-right corners. The title "Match Requirements" is in green. The content consists of three bullet points in black, with a sub-bullet in green. At the bottom left, it says "HOME Project Development" and at the bottom center, "29".

## Match Requirements

- **PJs must match 25% of HOME funds drawn down for project costs:**
  - Match must be a permanent contribution to the HOME Program.
- **Match liability must be satisfied by end of federal fiscal year.**
- **Match credits and debits are not necessarily linked to same project.**

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The HOME program has a match requirement – this is one type of subsidy-specific limitation or requirement. No match needed for admin or planning costs, for CHDO operating, CHDO capacity building, nor predevelopment loans for projects that don't go forward. In recent years, HCD has had enough match baked that it has waived match requirements for applicants.

PJ may require match from each contract with State Recipients or CHDOs

Excess match can be “banked” by PJ for future years

Match is a HUD program-wide requirement, not project-specific

## HOME Match Resources

- Exhibit 3 of the 2009 HOME Program Application Guidelines describes the matching contribution requirements. This can be found at:
- <http://housing.mt.gov/includes/hm/guidelines/2009exh-03.doc>

## HOME Monitoring

During the affordability period, the PJ will conduct on-site monitoring visits as follows:

Total Number of Units	Minimum Schedule
1–4 units	3 years
5–25 units	2 years
26+ units	Annually

## HOME Monitoring

- **Income Requirements**

- CHDOs must continuously monitor income eligibility in order to determine if households are low-income or very low-income.
- Tenant income recertification must start 120 days prior to the tenant's anniversary date and must be completed by the recertification anniversary date.

- **Lease Requirements**

- Lease agreements (compliance with HOME Provisions).
- HOME rents.

Back to the purple book and Part 5

## HOME Monitoring

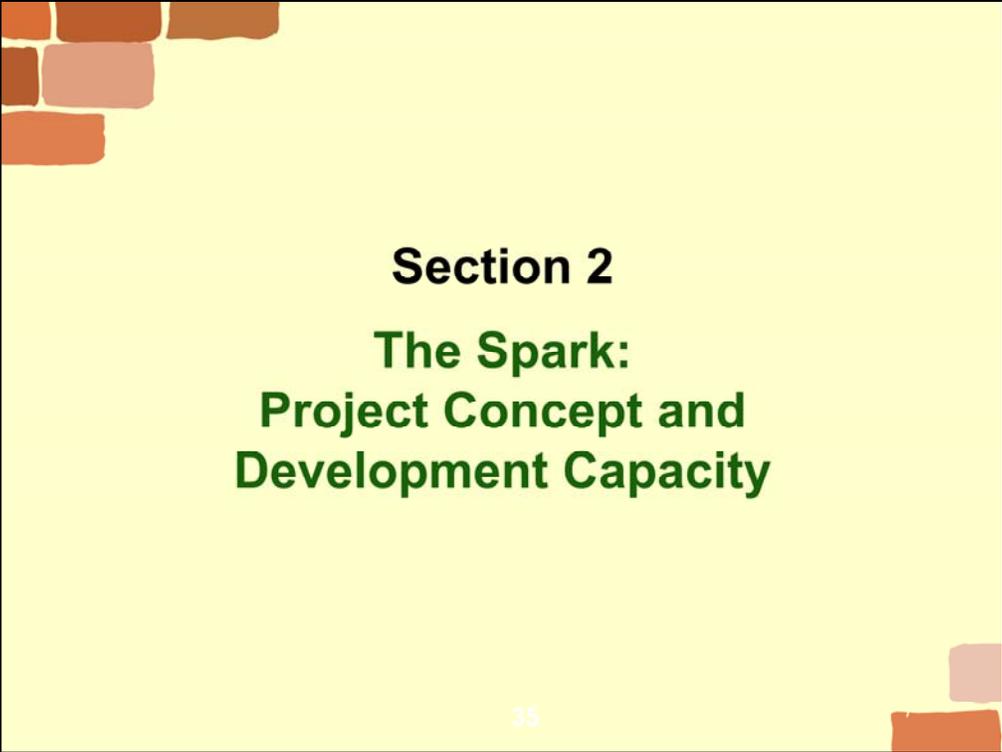
- **PJ will also monitor:**
  - Deposits to and use of reserves
  - Continuance of hazard and liability insurance
  - Debt service payments
  - Affirmative Marketing
  - Property standards
  - Number of HOME units

HUD Monitoring Guidebook

<http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/2030.cfm>

## Technical Assistance / Resources

- **Technical assistance is available to assist using the HOME program to accomplish community development goals.**
- **HOME Technical Assistance may be provided to PJs.**
- **CHDO Technical Assistance may be provided to CHDOs when supported or requested by the PJ.**



**Section 2**  
**The Spark:**  
**Project Concept and**  
**Development Capacity**

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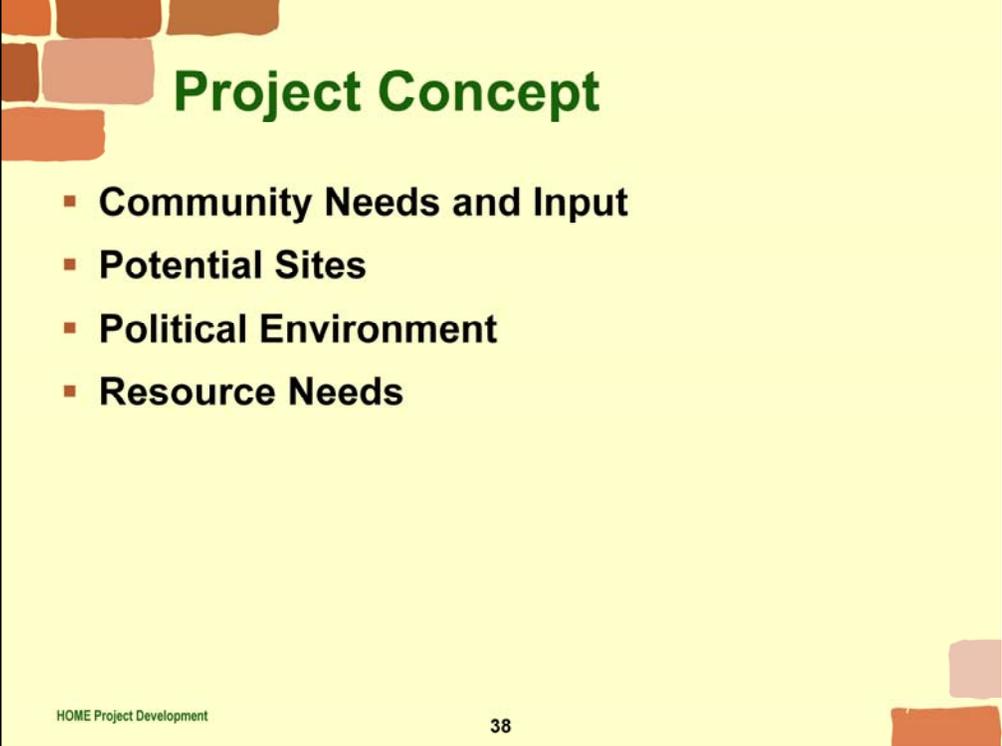
## Section Objectives

- **This section will:**
  - Identify the factors to consider before pursuing housing development.
  - Describe the key roles on a development team.
  - Provide guidance on procuring consultants



## Project Concept

**How do you decide  
that your community needs  
affordable housing?**



## Project Concept

- **Community Needs and Input**
- **Potential Sites**
- **Political Environment**
- **Resource Needs**

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Very preliminary stage: little or no quantitative analysis, just a “gut feeling”

## Community Needs and Input

- **Are housing costs too high for some in the community? Why?**
- **Is their sufficient diversity in the type and price range in the community's housing stock?**
- **Are certain populations having trouble finding housing?**

Is not enough housing being produced to keep people housed? Only very expensive housing stock being developed? Are specific populations (elderly, large families, etc.) not given enough housing appropriate to their needs? Housing costs outstripping wages?

Why do you believe there is a problem?

How do you engage the community in finding the answers to these questions?

## Potential Sites

- **Where is housing needed most?**
- **Where is land available?**
- **What land is affordable?**
- **What location will be convenient and desirable for residents?**
- **Do sites have an existing use on them already?**

Get input from community about where housing should go?

Start exploratory conversations with government staff, real estate reps and other affiliated positions about where land is available, what its price is, and political environment for creating affordable housing.

## Political Environment

- **Is affordable housing a priority in the community?**
- **Will NIMBY be an issue?**
- **Are there local land use requirements?**
- **Are some sites slotted for other uses?**

Does everyone know what NIMBY means?

## Resource Needs

- **Project Financing**
- **Community Support**
- **Development Team**

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What resources do you need to get a project off the ground?

Community and political support-are you known in the community, do you know how to gain their support, do you know the political figures that can help you?

Project Financing: Do you have the ability to pull together funding? Good standing with funders and finance institutions?

Do you have adequate staff (numbers and skills) to form a development team that can take a project from start to close?



## Development Capacity

**Does your organization  
have the capacity to develop  
affordable housing?**

## Developer Responsibilities

- **Project Quality and Timeline**
- **Legal Responsibilities**
- **Written agreements**
- **Conflict of Interest**
- **Developer fees and compensation**
- **Community Relations**

As a non profit you are additionally responsible for meeting your mission. You need a development team that can make sure you meet all these responsibilities adequately and without putting yourself at risk.

## Key Development Partners

- **Your Board of Directors/Council**
  - Ensure project meets the mission of organization.
- **Your Local Government**
  - Ensure project receives necessary permits and meets required codes.
- **Your Participating Jurisdiction (PJ)**
  - Ensure your project meets program requirements.

PJ if using HOME or CDBG funds



## The Development Team

- **Project Manager**
  - Point person for the rest of team.
  - Responsible for most of the pre-development tasks.
  - Oversees all the moving parts.
- **Attorney**
  - Handles contracts, partnerships and other legal responsibilities.
  - Advises developer on legal liabilities and avoiding risk.
- **Architect**
  - Designs project.
  - Draws up specifications for construction.

## The Development Team *(continued)*

- **Engineer**
  - Works with architect to create project specifications.
  - Tests site for Environmental Impact.
  - Plans site for construction.
- **Contractor**
  - Manages construction process.
  - Ensures all inspections and requirements are met.
- **Accountant**
  - Oversees budget and cash flow.
  - Documents receipts and expenditures.

## The Development Team *(continued)*

- **Loan Officer**
  - Representative of lending institution.
  - Evaluates project for financial feasibility.
  - Ensures loan terms are met.
- **Real Estate Broker**
  - Find sites for project.
  - Facilitates purchasing process with seller.
- **Consultants**
  - Supplement necessary skill areas.

Common consultants an organization might hire will do the market analysis, or lease up the project upon completion

## Procuring a Consultant

- **Release a Request For Proposals (RFP)**
  - Solicit proposals from an adequate number of qualified sources.
  - Must be widely advertised and open to public bids.
  - Identify all evaluation factors and points assigned.
- **Scope of Work**
  - Have clearly defined role and project objectives.
  - Clear and exact schedules and project delivery dates.
  - Require qualifications and references.
  - Request they submit a budget for work.

Project receiving any federal funds, including HOME require that consultants and contractor's are hired through a procurement process. If no federal funding, the procurement process is still a best practice to ensure you get the best work for the lowest cost.

If you determine you need a consultant:

Release and RFP/RFQ for competitive proposals

Requirements under 24CFR 85.36 for local governments

Requirements under 24 CFR 84.40 for nonprofits

## Consultant Selection Criteria

- **Awards should be made to the firm whose proposal is the best value to your organization**
  - Qualifications and experience
  - References
  - Staff assigned to project have appropriate skills and experience
  - Resources
  - Cost

## Conflict of Interest Provisions

### **Every organization receiving federal funds must:**

- Maintain written standards governing the performance of employees engaged in awarding and administering contracts.
- Include provisions for penalties, sanctions or other disciplinary actions for violations.

### Exceptions

- Public Disclosure Procedures
- Opinion from counsel
- State law
- HUD approval

No exceptions can be made to the provisions of Parts 84 and 85

92.356 allows for exceptions based on proper disclosure in accordance with state law

## Conflict of Interest Provisions

- **According to HOME guidelines, no employee, officer, or agent may:**
  - Participate in the selection, award, or administration of a contract supported by Federal dollars if there is a conflict of interest (24 CFR 85.36).
  - Solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements (24 CFR 85.36).
  - Obtain a financial interest or benefit from a HOME assisted activity for themselves or any with whom they have financial ties during or for one year after their tenure. (HOME Final Rule 92.356).



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Two sets of conflict of interest provisions apply to state recipients and CHDOs  
24 CFR 85.36 a (state recipients) and b (CHDOS)  
HOME Final Rule 92.356

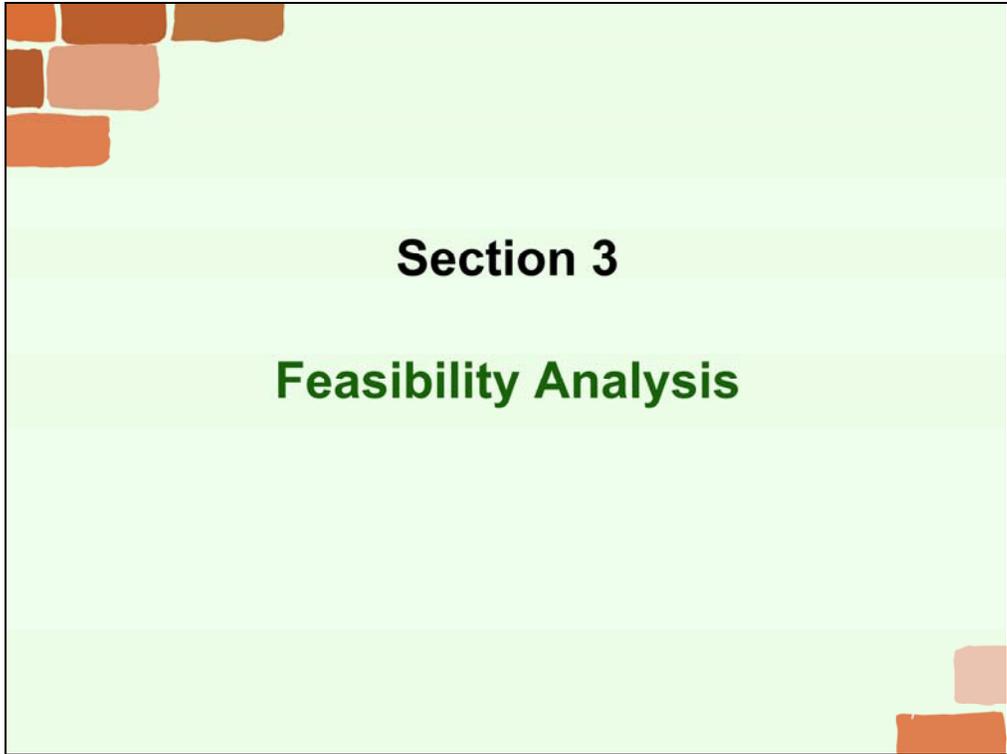
A conflict of interest applies to the following people:

Employee, agent or officer of the PJ or CHDO

Any member of an employee's, agent's or officer's immediate family

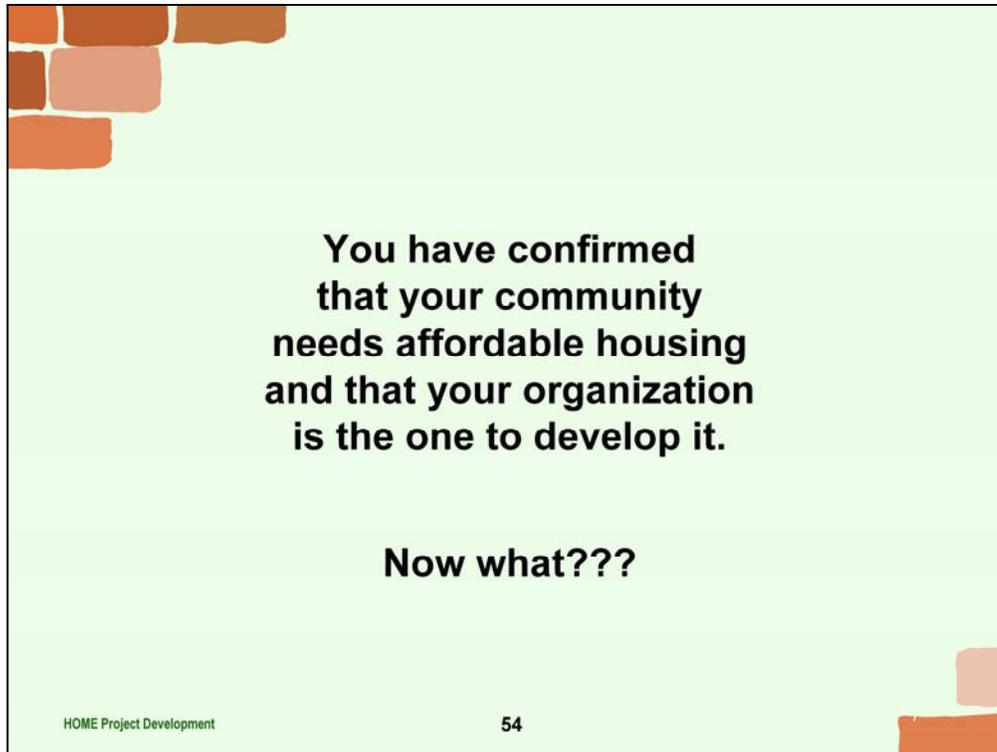
An employee's, agent's or officer's partner

An organization that employs or is about to employ any of the above



## **Section 3**

### **Feasibility Analysis**



Now you enter pre-development. That's the stage in which you make sure you really have a good project and in which you take care of everything that needs to happen before you can start building. It can be the longest stage of your project or the shortest depending on a lot of things outside your control like how fast you get permits and funding.



## Section Objectives

- **This Section will:**
  - Provide information about how to identify a site and assure it is viable.
  - Explain how to determine if there is a market demand for a project.

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You and your community agree you need affordable housing, but how much and what kind do you need? Furthermore where should it go?

A market study and a site analysis will give you the answers to these questions.

Once you know what your project should really be, you will begin the process of acquiring land by gaining site control on the parcel that best fits the needs for your project. This section will tell you how to do all of these things.

## Feasibility Analysis

- **Identify the site**
  - Site must offer competitive amenities and access to services attractive to target population.
- **Perform a market study**
  - Site and project specific.
  - Project must fill unmet need in order to be successful.

The purpose of the market study is to evaluate a proposed project in relation to the existing market situation. A good market study will provide an estimate as to the viability of the project given the conditions with which it will compete.



## Search for Land

- **Find available parcels of land and gather initial information**
  - Realtors
  - Planning and Building departments
  - Tax assessors office
  - Public works
  - Newspaper / Internet
  - Other developments
  - Word of mouth
  - Drive arounds



## Identify the Site

- **Site specific and project specific:**
  - Location
  - Zoning ordinances
  - Subdivision requirements
  - Environmental and other restrictions
- **Assess and compare each parcel previously identified.**
- **Prioritize parcels from best to worst.**

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Based on the needs in your community, you know what your project is likely to include or “look like.” You’ve made sure you are building the right type of project and that there is sufficient demand.

Now you need now to find a site that allows these things.

Land has eight primary characteristics: size, topography, soils condition, existing and prior uses, surrounding uses, zoning and location. In addition to assessing the physical characteristics you should assess each parcel for a variety of effects and how these will support or detract from your project.

Short list the sites you’ve identified as available by their size and ability to support your project. What is the site’s compatibility with housing generally as well as the type of housing you will build, begin looking into the amenities and services that are around them and how compatible those are with your target population (busses, schools, parks, senior centers, etc.) This begins the site analysis:

The site analysis is Site Specific and Project Specific

It is site specific analyzing the viability of a particular type of project located at this place compared to existing projects there, and there, and there. Different sites have different characteristics: access, distance to/from services, esthetics (view, usability). Any of these may well impact the desirability of living in the project. As an example, a recent study reports that an additional 12-15 miles of traveling to work can result in transportation costs exceeding housing costs. So, the location of the project in relation to work becomes a factor affecting the project’s competitiveness.

It is also Project Specific. The number of units, unit sizes and mix, rents, amenities, occupancy restrictions are compared to other existing projects. Sure, your project may be newer and more energy-efficient but everyone else has beautiful sparkling pools and you do not. How much of a premium do tenants put on those beautiful pools? Or maybe your unit sizes are significantly smaller in square footage. Or maybe you have garages and all the other projects have uncovered parking. All these factors affect the competitiveness of your project.

After narrowing available sites to those 2-3 that that look most promising, a site analysis can reveal which is the best match for your project.



## Select the Site

- **Competitiveness Analysis**
  - Evaluates project and site against comparables
    - Proximate location
    - Similar target market
  - Identifies strengths and weaknesses of potential sites
    - Near-by amenities
    - Access to jobs, services, and convenience needs
    - Served by transportation
    - Surrounding uses / community
    - Aesthetics

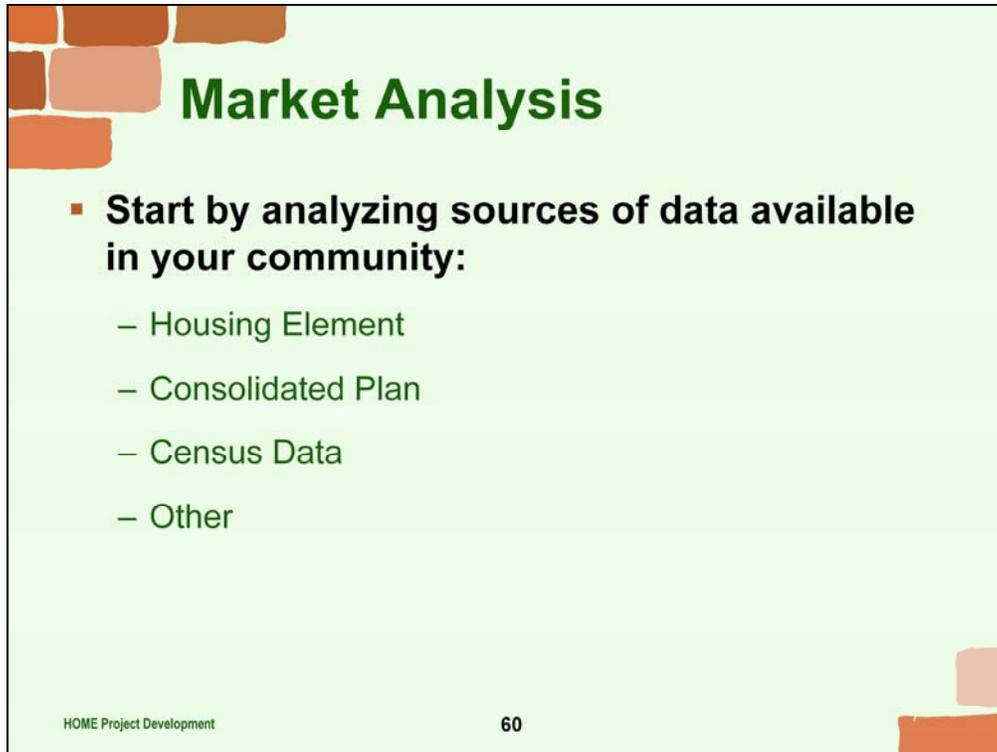
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You can begin to gather information for the competitiveness analysis for your project:

The competitiveness analysis gives you the bottom line for the best site.



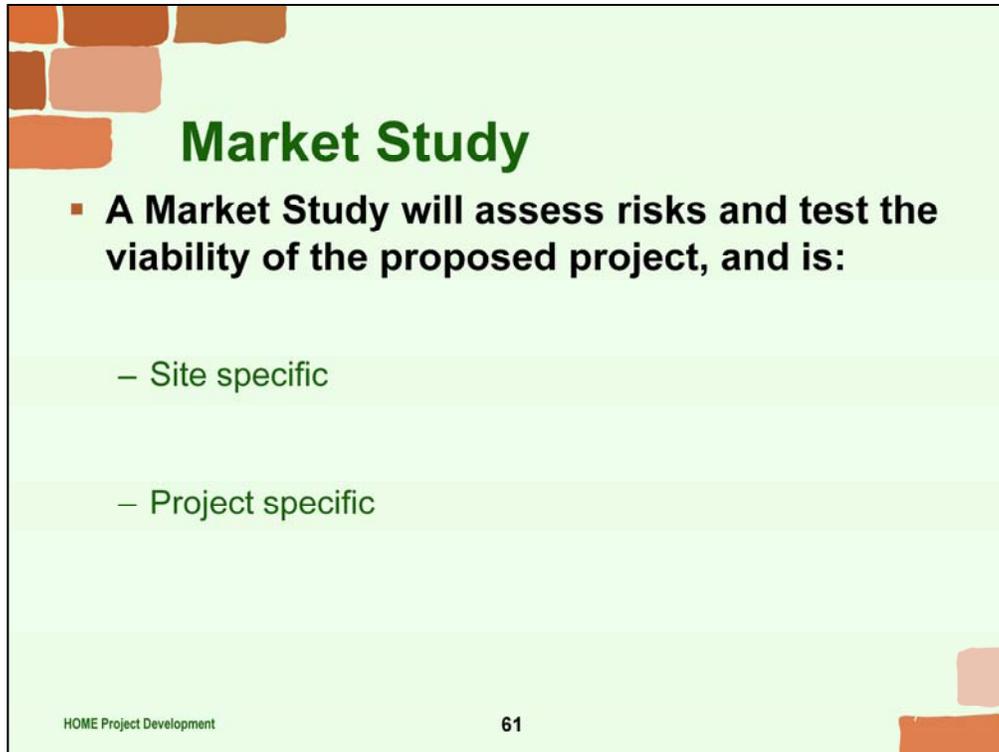
## Market Analysis

- **Start by analyzing sources of data available in your community:**
  - Housing Element
  - Consolidated Plan
  - Census Data
  - Other

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Brainstorm as a group other sources of data:

Department of Motor Vehicles, Local government studies, surveys, Local building department/code enforcement, Local public utility, County assessor, Local school district, Social services, food bank, other nonprofits, Senior Center, Chamber of Commerce, Local realtors, Local newspaper realty/rental section, Windshield survey, Community meetings



## Market Study

- **A Market Study will assess risks and test the viability of the proposed project, and is:**
  - Site specific
  - Project specific

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An analysis of the local market is a crucial element of the feasibility analysis process. Besides being a necessary element of a HOME application to HCD, a careful analysis, carried out by a truly independent third party, will help you identify issues and weaknesses, position the project for success and give you, your Board and all funding sources confidence that the project will be successful. You will need to hire a consultant to conduct the study for you.

The analysis is Site Specific and Project Specific

It is site specific analyzing the viability of a particular type of project located at this place compared to existing projects there, and there, and there. Different sites have different characteristics: access, distance to/from services, esthetics (view, usability). Any of these may well impact the desirability of living in the project. As an example, a recent study reports that an additional 12-15 miles of traveling to work can result in transportation costs exceeding housing costs. So, the location of the project in relation to work becomes a factor affecting the project's competitiveness.

It is also Project Specific. The number of units, unit sizes and mix, rents, amenities, occupancy restrictions are compared to other existing projects. Sure, your project may be newer and more energy-efficient but everyone else has beautiful sparkling pools and you do not. How much of a premium do tenants put on those beautiful pools? Or maybe your unit sizes are significantly smaller in square footage. Or maybe you have garages and all the other projects have uncovered parking. All these factors affect the competitiveness of your project.

The purpose of the market study is to evaluate a proposed project in relation to the existing market situation. A good market study will provide an estimate as to the viability of the project given the conditions with which it will compete.



# Market Study

- **Market Study Components**
  - Project description
  - Site analysis
  - Market area definition
  - Market conditions
  - Capture rate
  - Absorption rate
  - Competitive analysis

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From the market analysis you get a general idea of what your community needs and can support. An analysis of the local market is a crucial element of the feasibility analysis process. Besides being a necessary element of a HOME application to HCD, a careful analysis, carried out by a truly independent third party, will help you identify issues and weaknesses, position the project for success and give you, your Board and all funding sources confidence that the project will be successful. You will need to hire a consultant to conduct the study for you.

Here are the things to look for, and to require your consultant to include.

A market analysis, commonly referred to as a market study, should have these components.

**Project Description** – This section defines the project’s attributes as influenced by the market conditions. We expect a description of the project and the intended or targeted market group. Components include a discussion the number and mix of units by type, unit sizes in square footage, project and unit amenities (swimming pool, BBQ, basketball hoops, green space, granite countertops, dishwashers, and so on), unit sales or rental prices, any special service enrichments, target market group and income levels.

**Site Analysis** – description of all elements of the site: location, topography and special features, surrounding uses, accessibility and transit, availability of commercial and social services, potential of future development in and around the site

**Market area** – Analysis of where the target market population will come from, description of the geographical area within which the project will compete. Factors which will be considered include population centers, employment centers, transportation corridors and modalities, commuting patterns, geographic barriers, development patterns.

**Market conditions** – This section describes and analyzes the current and near-term condition of the market within which the proposed project will compete. Items considered and assessed differ slightly between home sales and rental projects.

**Capture rate** – A determination of the portion of the market needed in order to absorb the new units coming on line. It is a calculation of the number of units divided by the number of qualified households. Qualified households are calculated according to household size, income and location.

**Absorption rate** – This is the estimated rate of unit disposition (sales or rental). Comparable projects are analyzed for performance as an estimate of the larger market performance. The absorption rate gives us an estimation of the time needed to market the project and informs our marketing plan and strategy.

**Competitive analysis** – This element integrates all the information and data from the previous sections to assess and evaluate the likelihood of successful operation in the market after construction completion. This is the bottom line, as it were.



**Market Study**

- **Evaluation of Market Study**
  - Qualifications and experience
  - Underlying assumptions
  - Data used
  - Breadth and depth of comparables
  - Quality of discussion and analysis
  - Reasonableness of conclusion

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A market study is only as good as the quality of the data used and the analysis conducted. Market studies are not intended to be an exercise of gathering data which supports the developer's desired outcome. As with the old complaint about appraisals as being "Made As Instructed" market studies have a checkered history, thus the requirement that these reports be conducted by independent third parties. Having reports produced by third parties is no guarantee that the conclusions drawn are realistic. We should not accept blindly the conclusions drawn, after all the study provided by the developer will always indicate that the project is viable.

When reviewing a market study we should evaluate these criteria:

**Qualification and experience** – What is the experience of the report producer,

**Underlying assumptions** – are there any unusual directions or requirements imposed on the report, do the underlying assumptions skew the information sources, analysis or results? Are the assumptions correlate with the actual project design?

**Data** – Is it recent or stale, what resources were used, is the raw data included as an appendices or is it only summarized.

**Comparables** – are there many or few, are they cherry-picked, is the raw data summarized or only the final results? How recent is the information?

**Quality of discussion and analysis** – Does the discussion address all the issues raised by the data? Are weaknesses in the data acknowledged, are drawbacks or problems identified, are risks highlighted or buried in the report? Does the discussion gloss over problems?

**Reasonableness of conclusions** – do the conclusions drawn comport with the analysis discussion and the underlying data?





## Section Objectives

- **This Section will:**
  - Explain due diligence and its related processes.
  - Identify NEPA requirements
  - Describe the mechanisms for gaining site control short of buying the land.

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You and your community agree you need affordable housing, but how much and what kind do you need? Furthermore where should it go?

A market study and a site analysis will give you the answers to these questions.

Once you know what your project should really be, you will begin the process of acquiring land by gaining site control on the parcel that best fits the needs for your project. This section will tell you how to do all of these things.



## Due Diligence

- **Due Diligence describes the process of investigating all risks associated with a major transaction.**
- **In real estate transactions, due diligence investigations include:**
  - Title Issues
  - Development Conditions
  - Environmental Hazards
  - Environmental Impacts
  - Value

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Once we have identified a particular site we have to conduct some investigations. Commonly referred to as “due diligence” investigations, we need to gather and analyze information about the site. We have all heard of cases involving the discovery of a significant site problem, usually environmentally related, after site work or construction has started. The consequences usually involve lengthy delays and significant costs.

**Title** – we are concerned with the quality of the title we acquire. What is the state of the title ownership of the seller, is the purported seller the appropriate owner, are their clouds on the title, are there encumbrances on the property which must be resolved, are there liens which will remain after transfer?

**Development conditions** – is the zoning appropriate for the intended use, what are the design requirements for streets and units, are there limitations on unit densities, are there required mitigations for environmental impacts, what are the infrastructure requirements? Is the site subject to historic preservation?

**Environmental hazards** – Conduct a variety of studies including Phase I/II environmental assessments.

Phase I: site history, inspection, limited review of soil and/or groundwater

**Environmental impacts** - NEPA (and CEQA) assessments of the impacts on the larger community environment. NEPA requires that an environmental review must be conducted for all Federally assisted activities

Flood plains

Airport runway clear zones

Air pollution

Endangered species

**Before taking a physical action on a site, or making a commitment or expenditure of federal funds for a choice limiting action, the environmental assessment must be completed.**

Other state and local requirements may affect your project (CEQA). You are responsible for ensuring those requirements are satisfied

**Value** – Since all lenders and finance sources limit the amount of the loan to some percentage of fair market value, we want to be sure that we are not committed to pay more than the worth of the property.



## Title Issues

- **Inspect the title for issues which will detract from the quality of the title we acquire.**
  - Is the purported seller the appropriate owner?
  - Are there clouds on the title?
  - Are there encumbrances on the property which must be resolved?
  - Are there liens which will remain after transfer?

## Development Conditions

- **Relocation of Persons or Businesses**
  - Are there people living on the site?
  - Are there businesses on the site?
  - If so, can they stay?
  - Do they need to be relocated?
  - How will relocation costs affect our project budget?

Federal funds in a project commonly trigger relocation requirements if the site is already occupied. The HOME program relocation guidelines will be discussed in more depth tomorrow.



## Development Conditions

- **Zoning Requirements**
  - Permitted / required uses
  - Density
  - Setback
- **Infrastructure**
  - Streets, traffic
  - Curb, gutter, sidewalk
  - Landscaping
  - Utilities
- **Work with Architect and engineer to design and create specifications for your project that take these conditions into account.**



## Environmental Hazards

- **Phase I Environmental**
  - Site history
  - Inspection
  - Limited review of soil and/or groundwater
- **Phase II Environmental**
  - Soil and ground water testing
  - Surface sampling in suspect areas
  - Occurs if previous knowledge of contamination or Phase I indicates the site might be contaminated

# Environmental Impacts

The National Environmental Policy Act  
(NEPA) of 1969  
ensures that environmental information  
is available to public officials and citizens  
*before* decisions are made  
or actions are taken

**NO TRIGGER LEVEL**

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National Environmental Policy Act of 1969

Federal agencies implement NEPA with their own regulations

NO TRIGGER LEVEL – All levels of funding are covered

The goals of NEPA include:

Ensure that the environmental impacts of Federal actions are taken into account

Ensure that environmental concerns are identified and address before a project is undertaken

Protect residents, neighborhoods, and communities, and land, air, and water

Enhance and preserve cultural and natural resources whenever possible

Allow for public input in the decision making process

You should begin the review process as soon as you determine the use of Federal funds in the proposed activity

## Environmental Impacts

**NEPA requires that you look at all federal laws that address the environment including:**

- **Air**
  - Clean Air Act
- **Water**
  - Sole Source Aquifers
  - Wild and Scenic Rivers Act
  - Clean Water Act (Wetlands)
  - Coastal Barrier Resource Act
  - Coastal Zone Management Act
  - Flood Disaster Protection Act
  - EO 11988, Floodplain Management
  - EO 11990, Protection of Wetlands

For a list of legislation see: 24 CFR 58.5 and .6 (regulation that specifically discusses and identifies the requirements and procedures to be used when an entity other than HUD conducts an environmental review)



# Environmental Impacts

**NEPA requires that you look at all federal laws that address the environment including:**

- **Land**
  - Farmland Protection Policy Act
  - National Historic Preservation Act (historic structures and archaeological sites)
- **Flora/Fauna**
  - Endangered Species Act
- **Human health and safety**
  - EO 12898, Environmental Justice
  - Noise Abatement and Control
  - Siting near Explosive or Flammable Operations
  - Airport Clear Zones
  - Runway Clear Zone or Clear Zone
  - Toxic Substances and Radioactive Materials



# Environmental Impacts

- **Begin the review process as soon as you know you will use Federal funds in the activity.**
- **Levels of review:**
  - Exemption
  - Categorical Exclusion
  - Environmental Assessment (EA)
  - Environmental Impact Statement (EIS)
- **Public Notices:**
  - Finding of No Significant Impact (FONSI)
  - Finding of Significant Impact (FOSI)
  - Request for Release of Funds/Certification

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**Responsible Entity (RE)** assumes Federal responsibility for compliance with NEPA and related laws and authorities. RE is ultimately responsible for completion of the environmental process and all notices

HCD (State PJ) is the Responsible Entity for CHDOs

CHDOs are responsible for the preparation of the environmental review

Certifying Officer for CHDOs is Tom Bettencourt

The RE must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions (§58.32)

The Environmental Review Record Describes the specific activities to be undertaken in whole or in part with Federal Funds

Identifies the person completing each document and the Certifying Officer (CO)

Contains supporting evidence and all relevant documents, notices, determinations, and specifies the level of clearance for the project

Environmental Review Record (ERR) must be available for public inspection and comments

Public Comment Periods

Clock starts at 12:01AM – Next day

Certifications

Authority to Use Grant Funds

Environmental Mitigations

Noise

Drainage

Density

Wetlands and open spaces

Affect development conditions...

Remember: Never expend or obligate funds prior to completing environmental review process

Document, document, document!

Don't be afraid to ask for help:

When in doubt – call HCD for guidance



# Environmental Impacts

- **Environmental Mitigations**

- Noise
- Drainage
- Density
- Wetlands and open spaces



# Site Control

- **Mechanisms to Obtain Site Control**
  - Option to purchase or Lease
  - Long term lease – 99 years
  - Development and Disposition Agreement
  - Land sales contract
  - Exclusive right to negotiate agreement
  - Fee Simple

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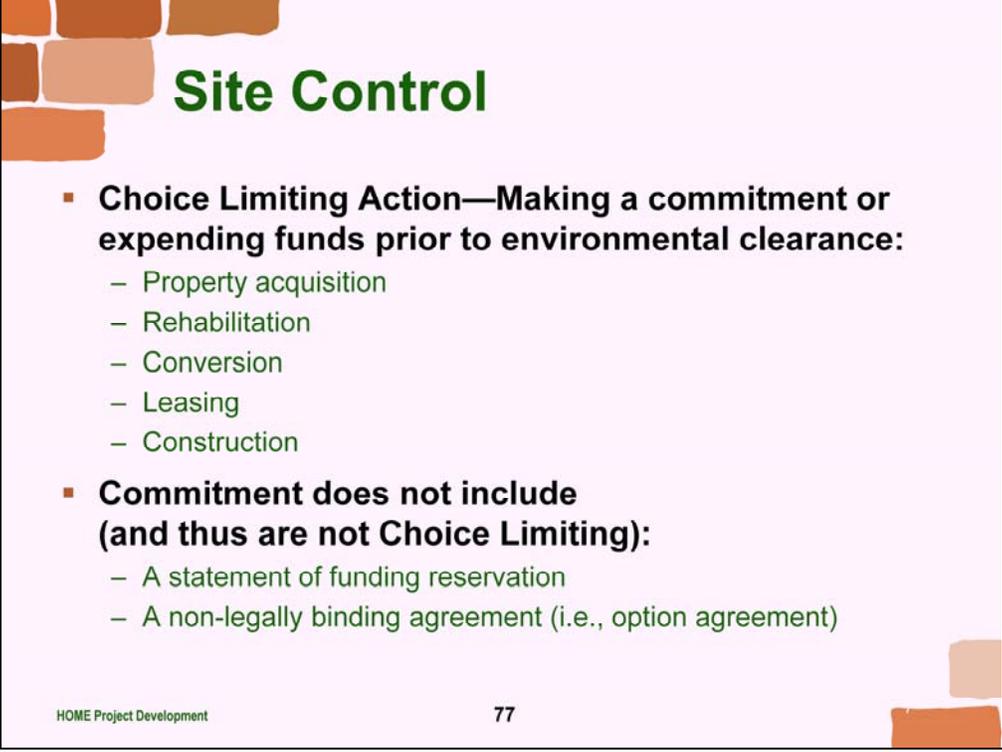
Site control is the ability to control or even direct the how and when land is developed and/or disposed. These are the forms of site control acceptable to HCD for the HOME Program.

Negotiations – preparation of proposal, determination of seller motivations, structuring of proposal to meet seller motivations

Negotiations – determine BATNA Best Alternative to Negotiated Agreement. What is your bottom line

Consider owner/seller motivation and needs, structure your negotiations to meet those needs

Develop Talking Points before making first approach



## Site Control

- **Choice Limiting Action—Making a commitment or expending funds prior to environmental clearance:**
  - Property acquisition
  - Rehabilitation
  - Conversion
  - Leasing
  - Construction
- **Commitment does not include (and thus are not Choice Limiting):**
  - A statement of funding reservation
  - A non-legally binding agreement (i.e., option agreement)

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During Due Diligence, we do not want to over commit ourselves by performing a “choice limiting action”

Neither a recipient nor any participant may commit or expend non-HUD funds (even local \$) on an activity prior to approval IF:

- the activity would have an adverse environmental impact or
- limit the choice of reasonable alternatives

Recipients considering applications from prospective subrecipients or beneficiaries must ensure actions are not taken prior to receiving HUD approval

For land acquisition projects, an option agreement (to purchase land) is allowable prior to PJ approval only when:

- It is subject to a RE determination of environmental desirability, and
- It is of a nominal amount

*One exception* – When required by 24 CFR Part 42, relocation funds may be committed before approval of the certification

## Uniform Relocation Act (URA)

Federal law establishing minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

**49 CFR, Part 24** is the government-wide regulation that implements the URA.

The objectives of the Act are:

**Equal treatment** to persons whose real property is acquired or who are displaced as a result of federally funded projects (in whole or in part)

**Prevent families from displacement** unless decent, safe and affordable housing is available and affordable

**Improve housing for displaced families** that live in substandard housing

## Section 104(d)

- **of the Housing and Community Development Act of 1974**
  - Requires that HOME or CDBG grantees certify that they are following a residential anti-displacement plan and relocation assistance plan.
  - Requires relocation benefits (60 months) to be provided to low-income persons who are physically or economically displaced as a result of a CDBG or HOME assisted project.
  - Requires replacement of low-income housing which is demolished or converted.

**HUD Handbook 1378** provides HUD policy and guidance on implementing the URA and 49 CFR Part 24 for HUD funded programs and projects

Some things to consider when planning development:

**Minimizing Displacement:** HUD requires that all reasonable steps be taken to minimize displacement as a result of a HUD assisted project.

**Budgetary Implications:** Planning is essential to ensure that sufficient funds are available to comply with all applicable requirements. Plan early so that project budgets will include realistic estimates for acquisition and relocation expenses **Coordination of the Project:** The grantee should take steps to coordinate activities and facilitate cooperation among government agencies, neighborhood groups, and persons affected by the project. This will ensure that the project can proceed efficiently and with minimal duplication of effort

**Determining Resource Needs:** During the planning stage, HUD recommends that the grantee review applicable relocation policies, staffing needs, and training or other capacity building needs to anticipate any issues that may hinder the acquisition and relocation process.

**Administrative Requirements:** Grantees must adhere to HUD administrative requirements involved in the planning for acquisition and relocation projects



## Displacement

- **Occurs when a person or their property is displaced as a DIRECT RESULT of federally-assisted acquisition, demolition, or rehabilitation.**
  - As a result of demolition of permanent housing units.
  - As a result of converting permanent housing units to other uses (including a shelter).
  - As a result of increasing rents to above Fair Market Rent.
  - The owner, developer or agency requires a move without taking the necessary steps.

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Necessary steps:

No offer is made of a decent, safe, or sanitary unit in the project

Bad or unreasonable treatment is part of a permanent or temporary move

The necessary notices are not given or provided in a timely manner and the person moves for any reason

Displacement does not occur if:

Persons that are evicted for cause . . . but not if the eviction is taken to avoid providing relocation assistance

No legal right to occupy

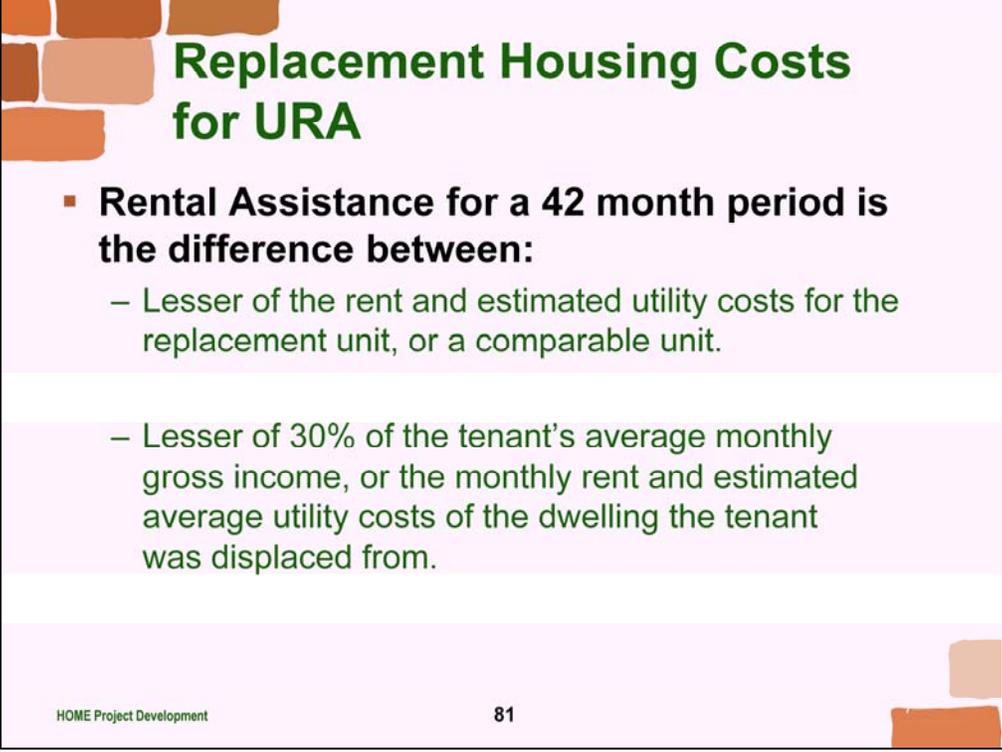
Rented for the purpose of obtaining relocation benefits

Families that retain the right of use and full occupancy after acquisition

Folks that waive their rights (be very careful)

Persons displaced temporarily from their dwelling for less than 12 months while it is being rehabilitated ...unless?

Illegal aliens—The URA prohibits providing relocation assistance to persons not lawfully present in the U.S.



## Replacement Housing Costs for URA

- **Rental Assistance for a 42 month period is the difference between:**
  - Lesser of the rent and estimated utility costs for the replacement unit, or a comparable unit.
  - Lesser of 30% of the tenant's average monthly gross income, or the monthly rent and estimated average utility costs of the dwelling the tenant was displaced from.

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Rental assistance payments are based on a 42 month period. This amount may exceed the \$5,250 limitation on payments

Last resort housing – Comps cannot be found (housing not more than 30% of household's average income)

104 (d) – 60 months



## Relocation Benefits

- **Moving expenses:**
  - Transportation up to 50 miles
  - Packing, crating, and unpacking of personal property
  - Storage
  - Utility disconnect and reconnect charges
  - Security deposits and credit checks
- **Displaced households may choose to receive payment for moving and related expenses or a fixed payment.**



## Relocation Advisory Services

- **Financial assistance**
- **Referrals to comparable replacement sites**
- **Housing counseling**
  - Explain benefits
  - Lists of comparable properties
  - Establish trust and minimize hardships



## Comparable Replacement Units

- **Assurance of available comparable replacement sites that are:**
  - Decent, safe, and sanitary.
  - Functionally equivalent to (and equal or better than) your current home.
  - Affordable and accessible to work, schools, shopping, etc.
  - Not subject to adverse environmental conditions.
  - Available to all persons, regardless of race, color, religion, sex, national origin, or familiar status.



## Relocation Planning— At a Minimum...

### Your Plan Should:

- Estimate of the number of households to be displaced.
- Estimate of the number of comparable replacement dwellings and price ranges.
- Consider impacts on minorities, elderly, large families and persons with disabilities.
- Consider special advisory services that may be needed.
- Include housing counseling.

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Failure to comply:

Will be costly and very time consuming

Use of a relocation consultant that specializes in HUD relocation is a good idea

Remember that project planning should include relocation

Remember to work with HCD and HUD Staff during the project planning phase . .  
**.not** after the activity has been funded!

When does the clock start?

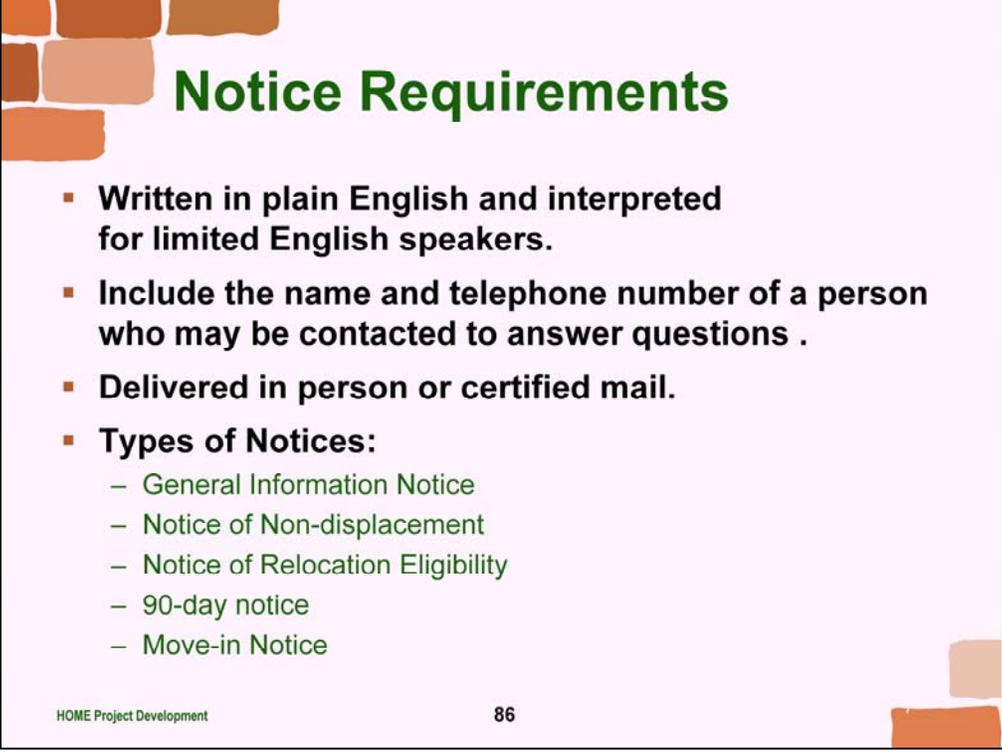
Acquisition:

When a Recipient (Grantee) delivers the initial written offer

In Acquisition: If the Recipient makes an “offer” without providing notice of intent to acquire and a tenant moves after that, but before the delivery of the “initial written offer”, the date of the initiation of negotiations is the actual date that the tenant moved from the property

Rehab

if the Recipient owns the property: the execution of the Standard Agreement



## Notice Requirements

- **Written in plain English and interpreted for limited English speakers.**
- **Include the name and telephone number of a person who may be contacted to answer questions .**
- **Delivered in person or certified mail.**
- **Types of Notices:**
  - General Information Notice
  - Notice of Non-displacement
  - Notice of Relocation Eligibility
  - 90-day notice
  - Move-in Notice

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(GIN)– Informs occupants of a possible project and their rights under the URA. This notice is required to be given to all tenants **whether they will or will not be displaced**. This notice should be given no later than the time of the Notice of Funding Availability (NOFA) application

Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move

**Notice of Nondisplacement** – This notice explains the reasonable terms and conditions which a person may lease and occupy the property upon completion of the project. Failure to provide this notice may result in the tenant moving permanently and claiming relocation assistance as a displaced person

**Notice of Relocation Eligibility (NOE)** - Must be issued promptly after the ION and must describe the available relocation assistance, the estimated amount of assistance based on the displaced person’s individual circumstances and needs, and the procedures for obtaining assistance. This Notice must be specific to the person and their situation so that they will have a clear understanding of the type and amount of payments and/or other assistance they may be entitled to claim.

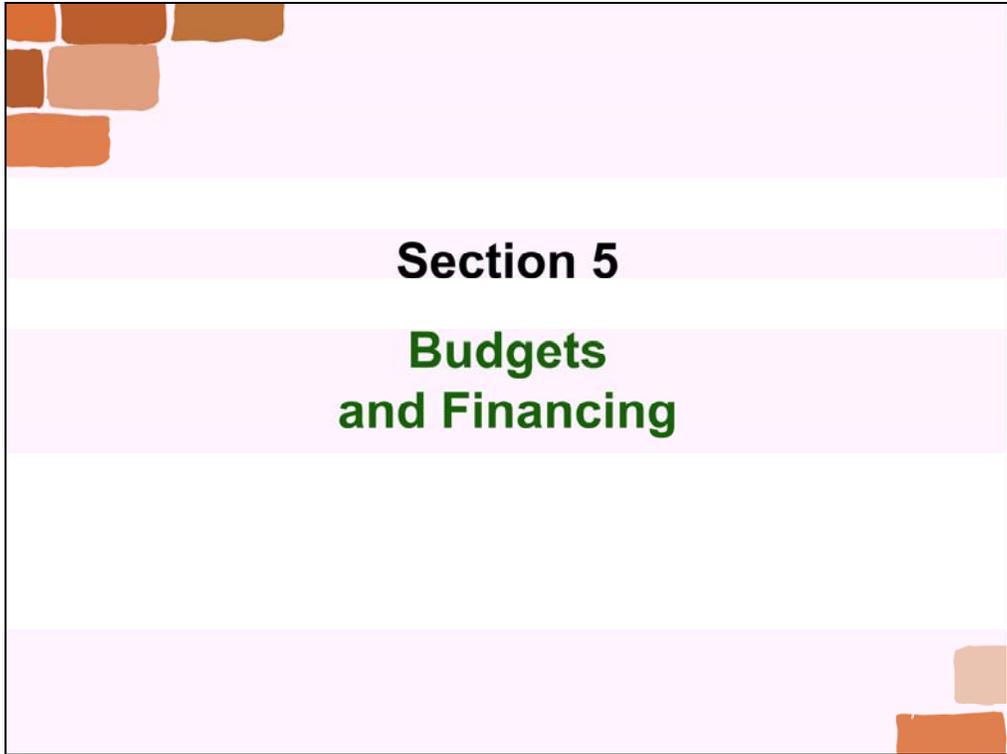
90 day notice shall not be given before a person is issued a notice of eligibility (NOE)

**90-day notice** – notice that the resident must move within 90 days from the date they receive the notice. A person to be displaced shall not be issued a 90 day notice before a comparable replacement unit has been made available



## Keeping Records

- **Keep accurate records for each tenant.**
- **Keep contact phone numbers and addresses.**
- **Keep copies of all notices given.**
- **Ensure that all Notices are signed and dated.**



**Section 5**

**Budgets  
and Financing**





## Section Objectives

- **This section:**
  - Defines the terms used in project budgets.
  - Gives equations to estimate income and costs.
  - Shows how to answer the question, “Is this project financially feasible?”
  - Explains the types of financing you need and where to find it.
  - Describes financial feasibility layers.

## Creating a Project Budget

- **A proforma is a development and operating budget for a project.**
- **The key aspects of an affordable housing proforma are:**
  - Affordable rents
  - Revenues
  - Operating expenses
  - Available debt / mortgage
  - Development costs
  - Subsidies

We are using the term budgets here. For purposes of this class we mean both development budgets and operating budgets, which are often called proformas. We are using a catch-all terms here to mean the lists of numbers you'll need to develop. We are going to walk through the process of developing budgets from scratch. This way, you'll learn how to do it yourself, or how to read budgets that developers or consultants provide to you.



## Creating a Project Budget

- **Defining your project:**
  - How many units?
  - What size/type of units?
  - What else do you need to build or rehabilitate?

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Now, break into small groups. Take just 5 minutes to think up a rental project you'd like to practice on today. Using the workbook page (What is Your Project Vision), define some broad parameters for your project. As we move through these, I'd like everyone to try the math themselves, and compare with your table mates. I know how easy it is to watch someone else try it, think you get it, and then find you missed something when you are back at your office trying it alone.

What factors into how many units? (Need, size of site, management issues, funding)

What factors into size/type? target population, local market

What else do you need to build? (Community building, tot lot, infrastructure, retail space)

## Creating a Project Budget

- **Determining revenue:**
  - Rental income for all units.
  - Other income – laundry machines, late fees, interest on operating bank account.
  - Deduction for projected vacancy rate.

Now let's work look at how to approach a rental project. Start with revenue for the project. Revenue includes the rents and other kinds of income.

HCD Uniform Multifamily Regulations (UMR) requires 5%.

## Estimating Rental Income

$$\text{Household Income} \times 30\% \text{ (or .30)} = \text{Affordable Housing Payment}$$

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Show the equation, and explain that 30% is HUD standard for affordability, continue calculation on flipchart. However, most funding programs don't have you adjust the rent or price for each household, rather you set costs to be affordable to a target income level. Starting with this calculation is just a way for you to conceptualize what will be affordable for your target population.

Also, This is simply a standard equation. For very low income households, or households with significant bills, the 70% of income that's left may not cover all other household expenses.

There is more information on housing cost in your handouts.

Now use the worksheet titled Affordability Calculation and work out the affordable cost for the Pinks.

## Rent Requirements

- **HUD publishes maximum HOME rents annually:**
  - **High HOME rent**
    - Lesser of:
      - Fair Market Rent as published by HUD, or
      - An amount that does not exceed 30% of the income of a household at 65% AMI.
  - **Low HOME rent**
    - Lesser of:
      - Fair Market Rent as published by HUD, or
      - An amount that does not exceed 30% of the income of a household at 50% AMI.

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Look to HCD's website for annual HOME rents.

High HOME rent applies to all HOME assisted rental units.

Low HOME rent applies to the same 20% of HOME units in each rental project that are subject to that "project specific" rule we discussed a few slides back. Those units have to be both income restricted to 50% AMI and rent-restricted to the low HOME rent.

Now look at project revenue sheet. In Yolo County, what is the High Home rent for a 2 bedroom apartment? \$719.

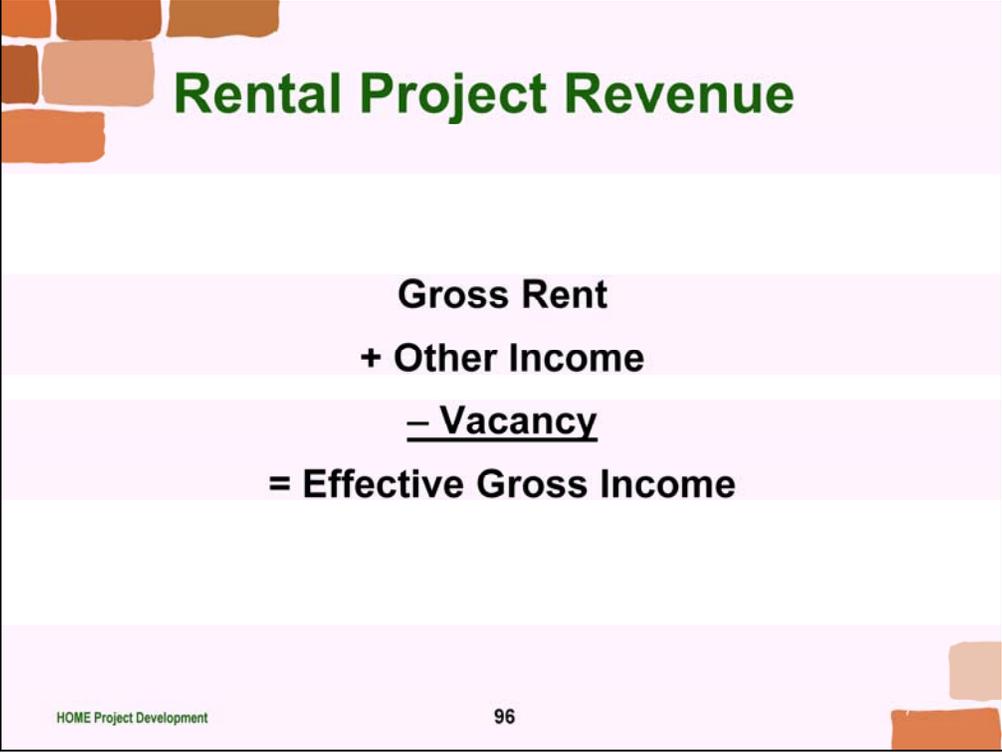
What is the Low HOME rent for a 2 bedroom apartment? \$580.

The only exception to these maximums is when a household in a HOME unit is receiving rental subsidy, such as Section 8, and the household is paying no more than 30% of their income for rent. Then, the rent can be whatever is allowed under the rental subsidy program.

## Rent Requirements *(continued)*

- HOME rents include a utility allowance.
- All HOME-funded rental units must be at or below the High HOME Rent.
- In projects with 5 or more units, 20% of HOME-funded rental units must be at or below the Low HOME Rent.
- Project owners may always offer lower rents.

If the rent for the unit does not include utilities, then the rent collected by the owner has to be reduced by the amount of a utility allowance.



## Rental Project Revenue

$$\begin{aligned} & \text{Gross Rent} \\ & + \text{Other Income} \\ & - \text{Vacancy} \\ & = \text{Effective Gross Income} \end{aligned}$$

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Go over this calculation briefly (read slide) . Now, using your sample project, and the workbook page titled Project Revenue, calculate your rental income, other income, and subtract for vacancy to get to effective gross income.

Start by choosing a rent level for the size units you need. You can calculate your own based on what's affordable to your target population, or you can choose a rent level from the chart on the worksheet. Use a utility allowance of \$50 (normally these would differ by bedroom size, but we're keeping it easy today).



# Creating a Project Budget

- **Determining Operating Expenses**
  - Staff
  - Management fees
  - Building operations
  - Building maintenance
  - Taxes and insurance
  - Legal
- **Holding Reserves**

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Operating expenses – to keep a manager working, lights on, building maintained.

See list of potential operating expense categories at the back of tab 6.

Staff – manager, maintenance person, payroll taxes, benefits

Management fees – if using a third party management company

Operations – phone, electric, water, sewer, gas, office supplies

Maintenance – routine repairs, repainting and repairs between tenants

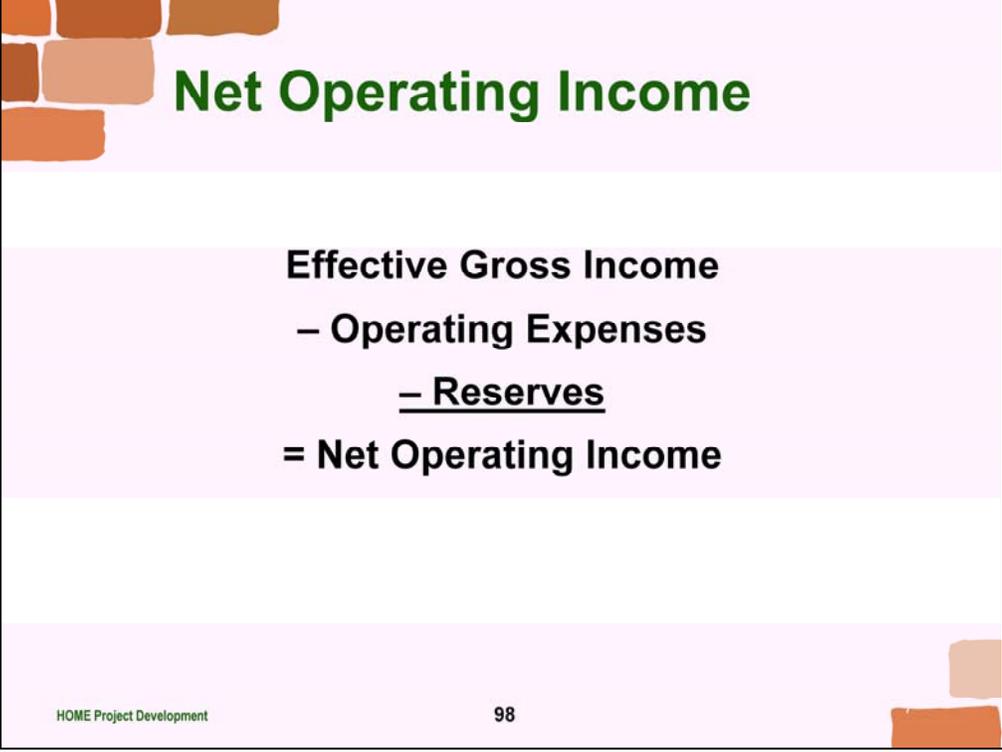
Taxes and insurance

Legal – evictions, or claims by tenants

Reserves – lease-up reserve, operating reserve (required by HCD), replacement reserve (required by HCD), maybe debt service reserve.

Bottom of operating cost sheet at back of tab 7 shows factors to consider when using expense data gathered from other sources.

Now, look at the samples in your workbook on the worksheet titled Project Operating EXPENSES, and choose a project similar to yours. What operating costs will you choose? What reserves will you choose?



# Net Operating Income

$$\begin{aligned} &\text{Effective Gross Income} \\ &\quad - \text{Operating Expenses} \\ &\quad \quad - \underline{\text{Reserves}} \\ &= \text{Net Operating Income} \end{aligned}$$

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Now go to the next worksheet Calculate Net Operating Income and do that calculation.

## Uses of Net Operating Income

$$\begin{aligned} &\text{Net Operating Income} \\ &\div \text{Debt Coverage Ratio} \\ &= \text{Maximum Debt Payment} \end{aligned}$$

*and*

$$\begin{aligned} &\text{Net Operating Income} \\ &- \text{Maximum Debt Payment} \\ &= \text{Cash Flow} \end{aligned}$$

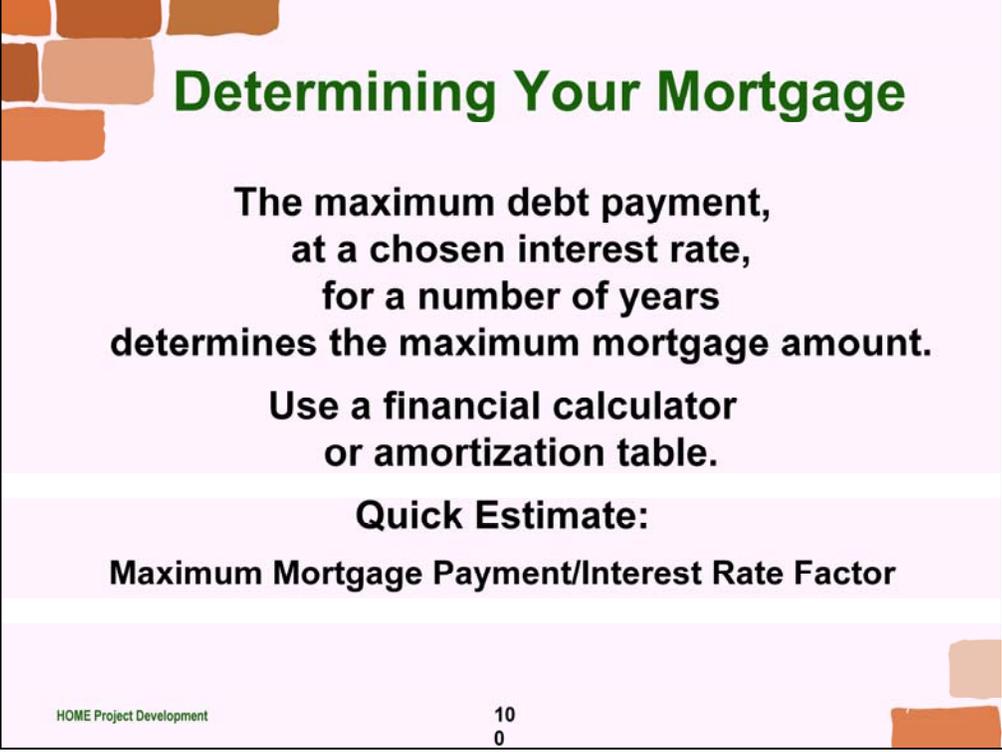
HOME Project Development 99

Net Operating Income or NOI plays into two things – debt and cash flow.

Debt coverage ratio – your lender wants you to have more money left each month than you owe them as insurance against months you might be short. They want you to have 110% or 120% of what you owe them, and they say it in terms of a ratio – 1.10 to 1. HCD requires this to be between 1.1 and 1.2 in the first year.

Market rate developers call this profit. Nonprofits tend to call it cash flow. Some funders give you a loan with no set payment, but make you repay it by sending them all of your cash flow or ‘residual receipts’. HCD requires that 50% of anything left after payment of expenses, reserves, mandatory debt payments, developer fee payments, and mandatory fees comes back to HCD as payment against your HOME loan.

Use the worksheet titled Uses of Net Operating Income to calculate debt payment and cash flow for your project.



## Determining Your Mortgage

**The maximum debt payment,  
at a chosen interest rate,  
for a number of years  
determines the maximum mortgage amount.**

**Use a financial calculator  
or amortization table.**

**Quick Estimate:**

**Maximum Mortgage Payment/Interest Rate Factor**

HOME Project Development 10  
0

Use a financial calculator or payment book/amortization tables, or excel spreadsheets, or online mortgage calculators. Valuable to have low-tech way of doing this in the field, over lunch, wherever. Please calculate your maximum mortgage amount for your project on the worksheet titled Maximum Mortgage Amount.

Please use 30 year term. Ask the group what the interest rate ought to be. Trainer help with financial calculator.

## Calculate Maximum Loan Amount

- **Interest Rate Factors - 30 Year Loan**

5.5% - .00568	7.5% - .00699	9.5% - .00841
6.0% - .00600	8.0% - .00734	10.0% - .00878
6.5% - .00632	8.5% - .00769	10.5% - .00915
7.0% - .00665	9.0% - .00805	11.0% - .00953



# Single Family Housing Development

**Define Your Project**

- Determine Development Cost Per Unit**
- Identify Permanent Financing Per Unit**
- Perform Affordability Analysis**
- Determine Gap Financing**

HOME Project Development

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2



Use a financial calculator or payment book/amortization tables, or excel spreadsheets, or online mortgage calculators. Valuable to have low-tech way of doing this in the field, over lunch, wherever. Please calculate your maximum mortgage amount for your project on the worksheet titled Maximum Mortgage Amount.

Please use 30 year term. Ask the group what the interest rate ought to be. Trainer help with financial calculator.



## Define Your Project

### Defining your project:

- How many units?
- What size/type of units?
- What is your target AMI?

## Single Family Housing Development

**What is the target Area Median Income?**

**Housing Payment Affordability =  
Target Household Income  
x 30% (or .30)  
= PITI (Principal, Interest, Taxes, Insurance)**

**Note: Lenders Ratios may differ.**

HOME Project Development

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4

Use a financial calculator or payment book/amortization tables, or excel spreadsheets, or online mortgage calculators. Valuable to have low-tech way of doing this in the field, over lunch, wherever. Please calculate your maximum mortgage amount for your project on the worksheet titled Maximum Mortgage Amount.

Please use 30 year term. Ask the group what the interest rate ought to be. Trainer help with financial calculator.

## Determine Per Unit Financing

### First Mortgage

+ Second Mortgage (Soft Second such as Down Payment Assistance from HOME funds)

+Third Mortgage (Any additional grant funds)

+Homeowner Down Payment =

### Total Permanent Financing Per Unit

HOME Project Development

10  
5

Use a financial calculator or payment book/amortization tables, or excel spreadsheets, or online mortgage calculators. Valuable to have low-tech way of doing this in the field, over lunch, wherever. Please calculate your maximum mortgage amount for your project on the worksheet titled Maximum Mortgage Amount.

Please use 30 year term. Ask the group what the interest rate ought to be. Trainer help with financial calculator.



## Creating a Project Budget

- **Determining Construction costs:**
  - What did the last project cost per unit?
  - What did the last project cost per square foot?
  - Ask an architect, engineer, or other developer what similar units typically cost.

HOME Project Development

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6

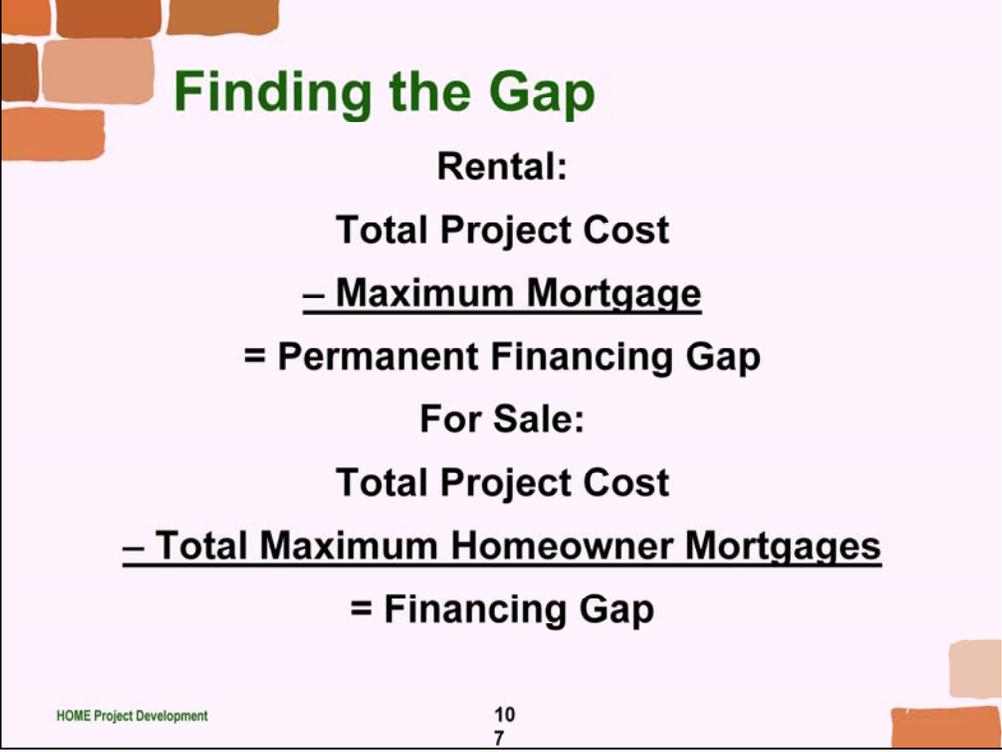


We now have estimates of our rents, our expenses, and how much mortgage we can support. The main thing we still don't know is what our project costs.

Look at the samples in your workbook and choose a project similar to yours. What project costs will you start with, and will you adjust them? Use the worksheet titled Project Cost.

Don't try to start with details, like the cost of snow removal and the monthly sewer fees. Instead, just try a total like \$3,000 per unit per year.

There is a handout at the end of the section with common components of project costs and ways to adjust estimates you gather from others.



## Finding the Gap

**Rental:**

$$\begin{aligned} & \text{Total Project Cost} \\ & - \text{Maximum Mortgage} \\ & = \text{Permanent Financing Gap} \end{aligned}$$

**For Sale:**

$$\begin{aligned} & \text{Total Project Cost} \\ & - \text{Total Maximum Homeowner Mortgages} \\ & = \text{Financing Gap} \end{aligned}$$

HOME Project Development

10  
7

Now that you know your cost and your mortgage amount, let's see if you have a gap. Please use the worksheet titled Financing Gap to calculate whether you have a financing gap.

We went very quickly from knowing very few numbers, to the answer as to how big the financing gap is, and maybe whether the project is worth trying.

The budgets we created are the first of a thousand budgets you would do for an actual project. Every time you get more information, you'll refine your budgets. Budgets this basic don't prove a project is feasible, because you just don't know enough yet. However, they do give you an indication of whether you should move forward or not.

ASSUMING ALL ESTIMATES ARE RIGHT

Can we fill the gap?

## Filling the Gap

- **There are a variety of ways to fill a financing gap:**
  - Lower Construction Cost
  - Lower Operating Cost
  - Greater Revenue
  - Debt
  - Subsidies

How often does anything really cost less?

With Affordable housing, can't charge above a certain rent, so either mix in market rate or add another use that generates income

Only a maximum amount of debt lenders will allow you to take on

Subsidies are often the answer



# Financing Your Project

- **Leverage**

- All funders want you to maximize debt financing first.
- All funders want their funds to leverage other funds.
- Maximize debt first, then find subsidies to fill the gap.

- **Start with:**

- Commercial Loan (Rental Projects)
- Homebuyer Financing (For Sale Projects)



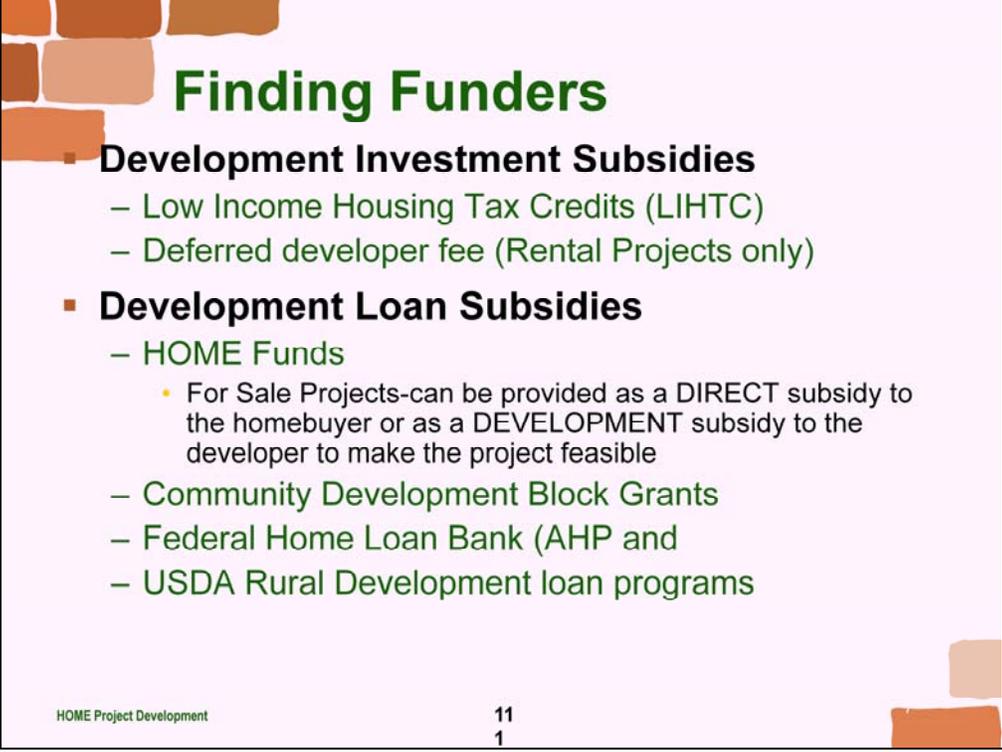
# Financing Your Project

- **Subsidies**
  - Development subsidies
    - Investments
    - Loans
    - Grants
  - Operating subsidies for Rentals
    - Rental assistance

HOME Project Development

11  
0

Some of the ways to fill the financing gap are various sorts of subsidies.



## Finding Funders

- **Development Investment Subsidies**
  - Low Income Housing Tax Credits (LIHTC)
  - Deferred developer fee (Rental Projects only)
- **Development Loan Subsidies**
  - HOME Funds
    - For Sale Projects-can be provided as a DIRECT subsidy to the homebuyer or as a DEVELOPMENT subsidy to the developer to make the project feasible
  - Community Development Block Grants
  - Federal Home Loan Bank (AHP and
  - USDA Rural Development loan programs

HOME Project Development

11  
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Refer to handout about sources, and hit highlights.

HOME and CDBG are most commonly structured as forgivable loans but can sometimes be structured as grants



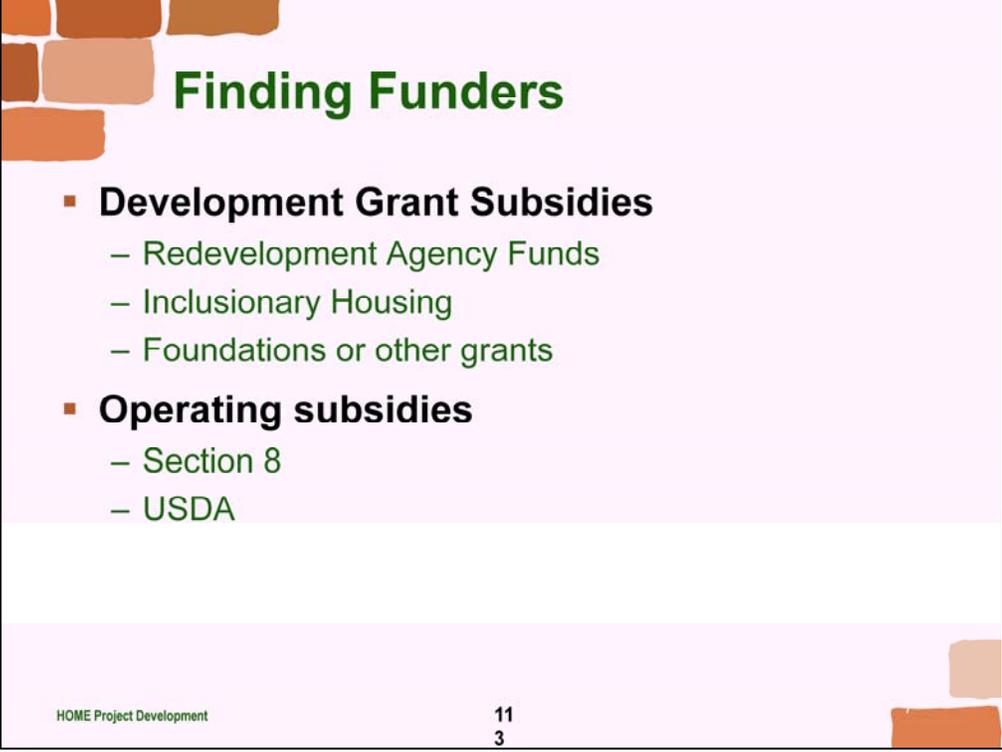
# Finding Funders

- **Development Loan Subsidies** *(continued)*
  - Montana Board of Housing loans
  - Socially motivated lenders
  - HUD financing programs

HOME Project Development

11  
2

Either verbally explain which source is good for what type of housing, or provide brief handout



## Finding Funders

- **Development Grant Subsidies**
  - Redevelopment Agency Funds
  - Inclusionary Housing
  - Foundations or other grants
- **Operating subsidies**
  - Section 8
  - USDA

HOME Project Development

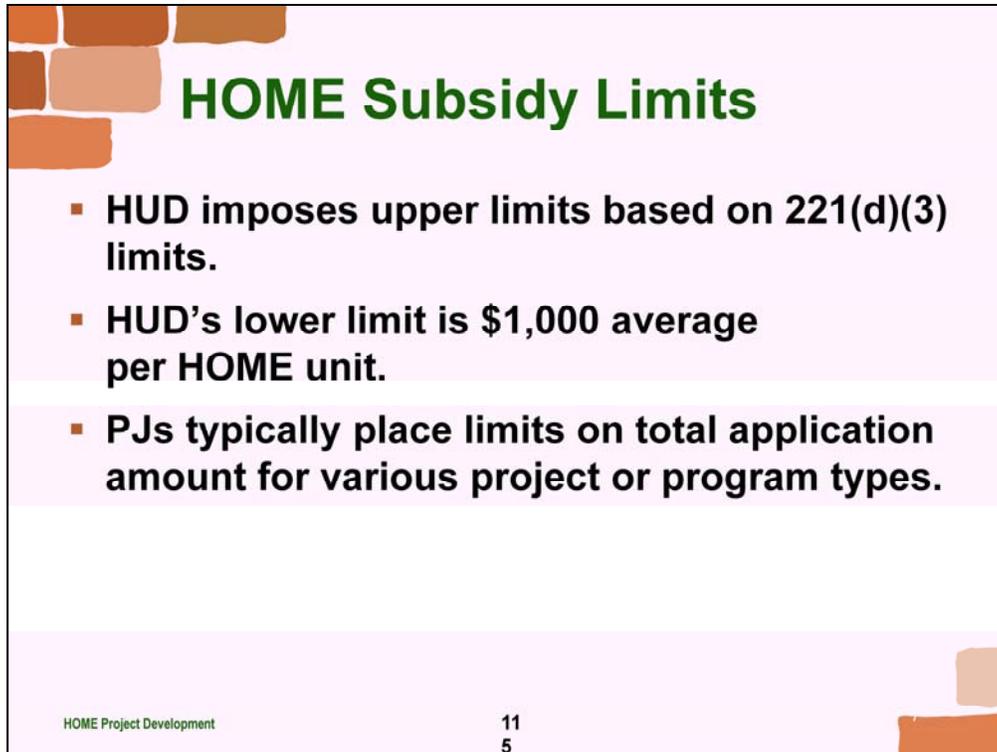
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Redevelopment often gives land grants to affordable housing developers but sometimes subsidy will be another type of grant or loan.



## Finding Funders

- **Will Subsidies Fill the Gap?**
  - Do you need more than is allowed for each funding source?
  - Do you need more than is typical for each funding source?
  - When can you apply for funding?
  - What is the competition?
  - Will the project be competitive?

A presentation slide with a light pink background and orange decorative elements. The title "HOME Subsidy Limits" is in green. It contains three bullet points in black text. At the bottom left, it says "HOME Project Development". At the bottom center, it says "11" over "5".

## HOME Subsidy Limits

- HUD imposes upper limits based on 221(d)(3) limits.
- HUD's lower limit is \$1,000 average per HOME unit.
- PJs typically place limits on total application amount for various project or program types.

HOME Project Development

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5

First HOME-specific limitation or requirement is the limitation on the amount of HOME funds that may be used. Upper limit is the maximum HOME funds allowed per unit, project cost can be higher. Lower limit is calculated as an average across all HOME units in a single HOME project.

For HCD, ranges from \$2 million to \$5 million maximum for rental projects depending on project type. Bring print out of current HCD application limits.

When creating your project budget make sure your expected HOME subsidy does not exceed these limits.

# Financing Your Project

- **Financial Feasibility**
  - Layer One
    - Total sources = Total uses
  - Layer Two
    - Underwriting standards met
  - Layer Three
    - Subsidy specific limitations met

HOME Project Development 11  
6

These are the intuitive ones, about having enough cash to cover needs.

1: Income covers operating expenses and debt service

2: Underwriting Standards imposed by funders such as:

Vacancy rate

Operating expense per unit

Rate of annual increase

Reserve requirements

Debt coverage ratio

Loan to value ratio

3: subsidy specific limitations met

Intended uses are eligible uses

Source type appropriate for intended use: Acquisition, predevelopment, construction, bridge, permanent

Sources available when needed

Compatibility among sources

## Financial Feasibility

- **Avoid pushing the numbers around without thinking about what it means.**
- **When budgeting your project, always remember:**
  - Nothing ever costs less than estimated.
  - You get what you pay for.
  - Projects that barely work on the first run will cost you money in the long run.
  - Not all projects are worth doing.

## Affordability & Compliance

HOME \$ per Unit	Length of Affordability/Compliance
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
More than \$40,000	15 years
Refinancing Rental Housing	15 years
Rental New Construction	20 years

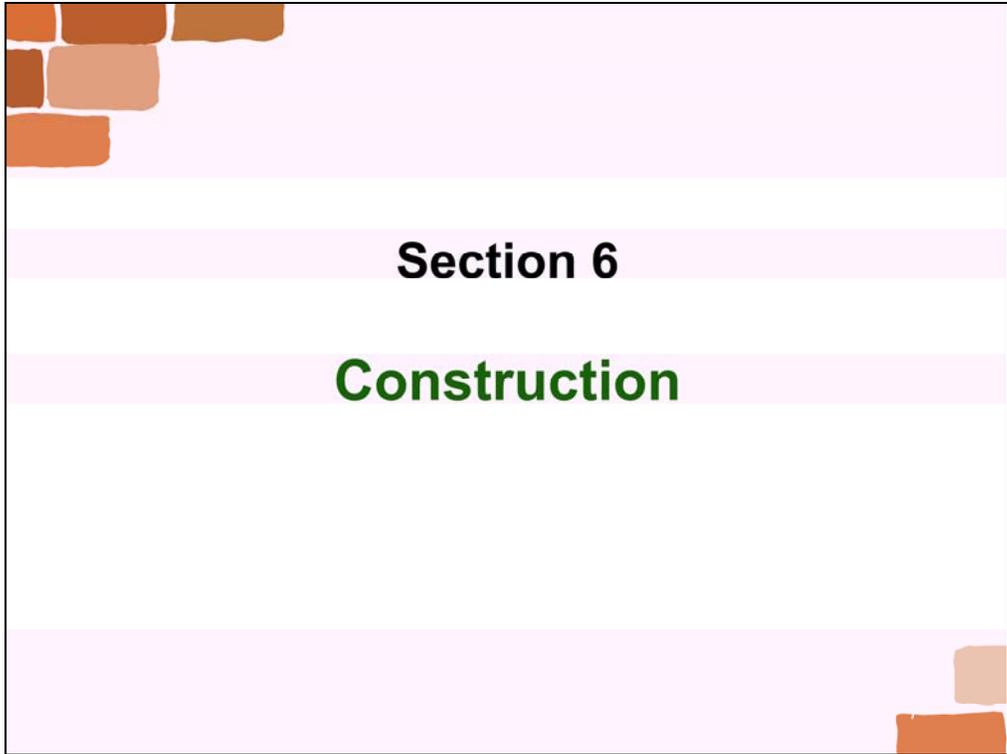
HOME Project Development

11  
8

The chart refers to the affordability periods for homebuyer and rental programs.

The length of time depends on the amount of HOME funds provided per unit.

There is no affordability period for homeowner rehab and TBRA.



**Section 6**

**Construction**



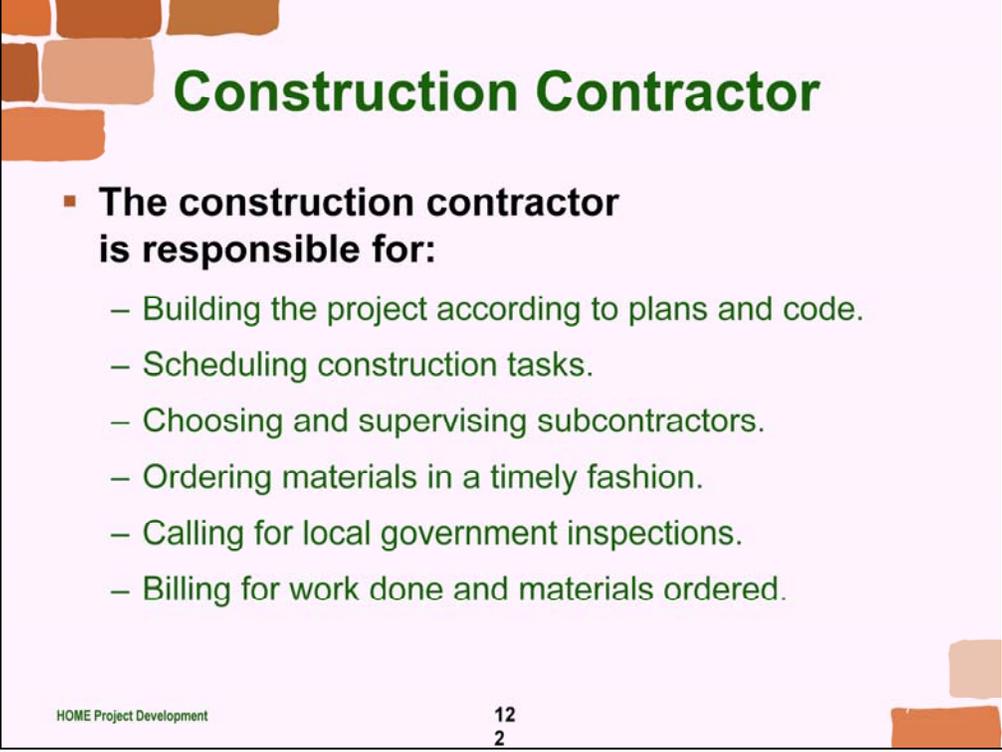
## Section Objectives

- **This section:**

- Defines the role of the contractor.
- Identifies roles of other development team members during construction.
- Discusses common construction pitfalls.
- Identifies key documents needed during and after construction.

## Closing the Deal

- **Closing the construction financing to begin construction includes:**
  - Title and Escrow
    - The title company will record all documents, disburse funds for site acquisition and predevelopment expenses, issue title insurance
  - Lender Requirements
    - Lenders will require a clean title report, a *pro forma* title insurance policy, and priority position
  - Insurance
    - Owner will need liability and course of construction insurance



## Construction Contractor

- **The construction contractor is responsible for:**
  - Building the project according to plans and code.
  - Scheduling construction tasks.
  - Choosing and supervising subcontractors.
  - Ordering materials in a timely fashion.
  - Calling for local government inspections.
  - Billing for work done and materials ordered.

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2

While the owner should ensure each of these steps are being done through monitoring, it is the contractor who is responsible for all these steps. The owner intervenes only when there is evidence something is not being done properly. Since the contractor has liability for the finished construction, the contractor must have control over the schedule, the subcontractors, the inspectors and the billing.

It is preferable to have a cooperative relationship with the contractor, but for liability purposes, it is best if the distinction between the roles of owner and contractor are clear.

If the owner suspects a problem with code or the plans, the owner should work through the architect to address the problem. The owner should not direct the work of any subcontractor or contractor employees on the site. The owner may recommend a subcontractor, but should not require a certain subcontractor. The owner should not contact the subs directly. The owner should not order materials. The owner should not call for inspections, since the work may not be ready to be inspected.



## Construction Contract

- **The owner must ensure the contract addresses:**
  - Payment and performance bonds
  - Completion dates
  - Compensation
  - Procedures for change orders
  - Special requirements if using HOME

HOME Project Development

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3



Bonds for two things – bid security –can they really deliver that price. Also performance – finishing the job.

The contract needs to spell out duties time frames, communication, compensation, change orders, etc.

If using HOME, there will be special contracting language to be included, governing such things as hiring and wages. This will be discussed more later in the training.

Also if using HOME, the procurement and conflict of interest provisions mentioned earlier apply to the selection of the construction contractor.



# Construction Inspections

- **Monthly construction inspections are conducted by:**
  - Local government
  - Architect
  - Engineer
  - Construction lender

HOME Project Development

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4



Construction inspections are carried out by the local government to ensure compliance with code.

Construction inspections are also carried out by the architect to ensure conformance with plans and specs.

The engineer inspects for conformance, and also for quality of structural elements like compaction of soils and strength of concrete.

The construction lender inspects to ensure their financial interests and security. Checking to be sure the amount completed is in line with the amount billed, and that materials billed are present. Also may comment on quality of construction as that affects their security.

## Construction Monitoring

- **Monthly progress meetings should:**
  - Include all parties
    - Such as contractor, owner, architect, engineer, lender
  - Review progress
  - Anticipate problems
  - Approve bills
  - Assign accountability

Monthly meetings are critical. The CHDO and any other owner partners ought to be there, the financial consultant, the architect, engineer, general contractor, construction lender, lender's inspector, and any other funders who want to attend. These make sure everyone is on the same page and informed. Go over current issues, anticipate any upcoming issues, get all to agree and sign contractor's progress report and draw request. Assign accountability for cost overruns, change orders, mistakes, etc. Rely on expertise around the table to solve problems.



## Construction Funding

- **It is the owner's responsibility each month to:**
  - Draw down construction funding
  - Pay bills
  - Track budget changes

HOME Project Development

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6



Submit billing package to construction lender each month. Includes contractor bills, subcontractors bills, professional bills, government fees, etc.

Pay bills. Along with a payment to the general contractor, who will pay the subs and suppliers, you'll directly pay engineers, architect, maybe utilities, lawyer, etc.

Coordinate how much money is drawn from each funding source and in what order. Keep good records. Keep track of any budget changes, whether any line items are running over, whether there is enough contingency to cover it.



## Construction Pitfalls

- **The common problems a project may face are:**
  - Cost overruns
  - Change orders
  - Liens

## Construction Liens

- **Construction liens:**
  - Are a legal, enforceable claim for payment recorded against the property.
  - Show on the title report.
  - Are unacceptable to lenders, who may halt further funding until the lien is cleared.

Lenders take unpaid bills as a sign that their money released the prior month may have gone astray. Lenders may require a “date-down” of the title report each month from the title company, so they can see the title is clear and no liens have been filed.



## Construction Lien Releases

- **Owners should request:**
  - Partial and final lien releases from all subcontractors and materials suppliers.
  - Partial and final lien releases from the general contractor.

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9

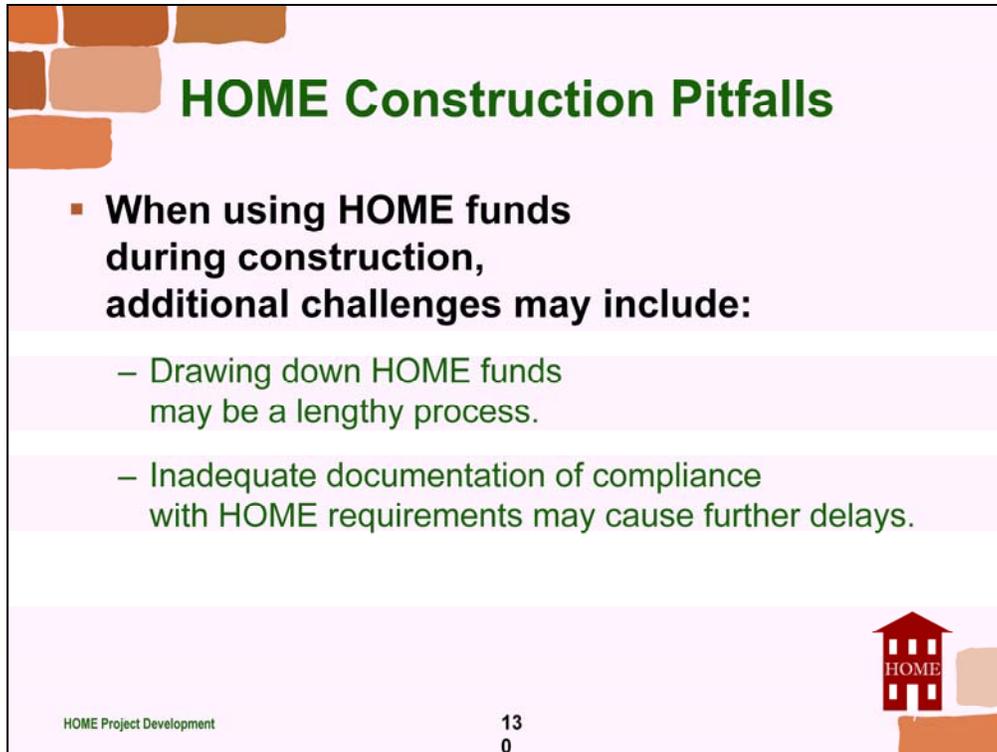


A partial lien release is also called a progress payment lien release. It shows the amount paid to date and removes the right of the payee to file a lien for that amount. Some subs or suppliers may only complete a final lien release because they bill for 100% of the work all at once, for example the cabinet supplier. Others, like the carpentry subcontractor, will be on site for months and will submit several bills.

The contractor should provide photocopies of all lien releases each month to show payment and releases for previous month's bills. Typically submitted with the new billing package each month.

The lender is likely to demand copies of all lien releases each month, and will check them against the prior month's bills.

Some of this depends on the financial strength of the contractor, and the reputation of the contractor. Contractors who are well known to the bank may not be required to provide as much paperwork.

The slide features a light pink background with a decorative header of orange and brown rectangular blocks. The title 'HOME Construction Pitfalls' is in green. A main bullet point is in black, followed by two sub-bullets in green. At the bottom left is the text 'HOME Project Development', at the bottom center is the number '130', and at the bottom right is a red house icon with 'HOME' written on it.

## HOME Construction Pitfalls

- **When using HOME funds during construction, additional challenges may include:**
  - Drawing down HOME funds may be a lengthy process.
  - Inadequate documentation of compliance with HOME requirements may cause further delays.

HOME Project Development

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PJ may have long process for releasing funds, such as PJ staff submits bills to county treasurer, county manager must sign off, etc.

Must be able to document compliance with procurement and conflict of interest rules which you'll need to follow when selecting a general contractor

A host of compliance requirements that will come into play during construction. Brainstorm what items might apply? Debarment, Davis-Bacon, state prevailing wage, Section 3 hiring, MBE/WBE. You'll need to watch to be sure that your contractor is actually following all of these things. Just including all of it in the contract language is not enough.



## Certificate of Occupancy

- **A Certificate of Occupancy is:**
  - Permission from the local building department to allow occupancy and use of the building.
  - Required by lenders as a sign of project completion.
  - Different than a Notice of Completion from the contractor.

HOME Project Development

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1



Local government issues Certificate of Occupancy. Nobody can move in until you have a certificate of occupancy. Make lots of copies, since most or all of your funders will want to see it.

Notice of Completion from the contractor is the contractor saying that all work promised in their contract is done. This may happen before or after C of O. The Notice of Completion is not sufficient to allow people to move in.

For example, you may get a C of O when the walls are not painted, so your construction contract is not really complete. Alternately, your contractor may feel they are complete, but the city feels something was not done to code and so you cannot have a C of O.



## Final Construction Documents

- **The owner should keep the following documents for the life of the project:**
  - Building plans and specifications
  - Construction warranties
  - Equipment and fixtures warranties

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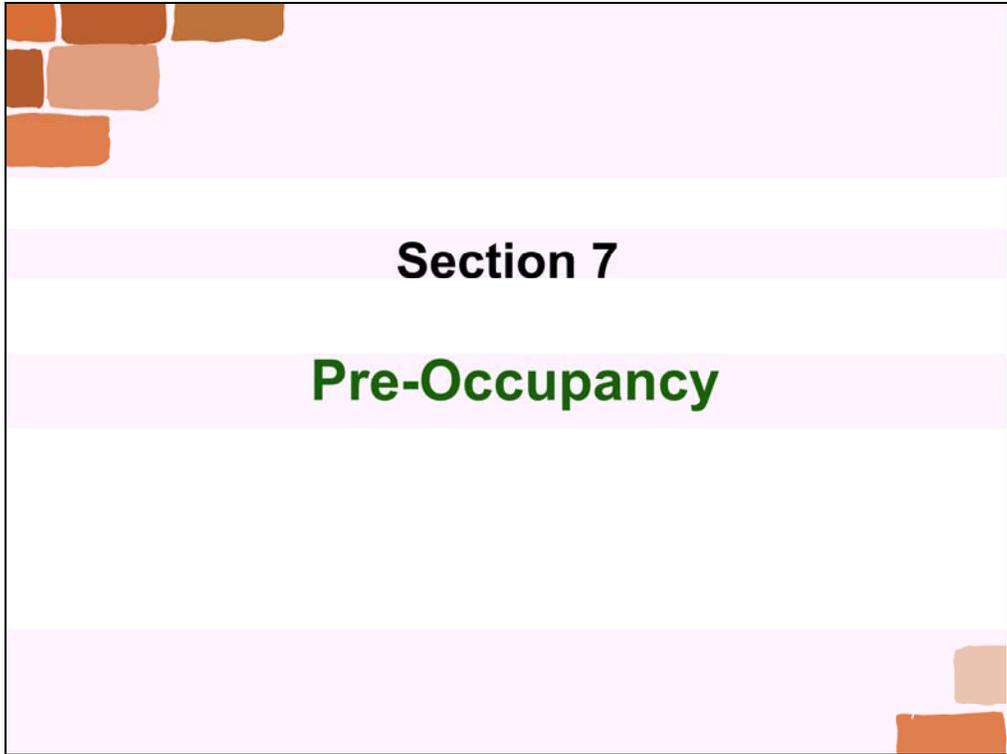
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Ideal to get as-built plans, which show any changes from the original drawings. These documents help property managers with repairs in the future, because they'll be able to locate hidden systems, such as electrical boxes and plumbing joints.

Construction warranties are typically for one year, so it is a good idea to review all systems in month 9-10 in case there are any warranty claims to be made.

Equipment and fixtures will have warranties lasting from months to years. Again, management can review the performance of all fixtures and equipment before warranties expire.



**Section 7**

**Pre-Occupancy**





## Section Objectives

- **This section:**
  - Identifies the management team.
  - Defines the role of the property management company.
  - Offers tips for selecting a property management company.
  - Lists the forms and policies needed.
  - Provides guidance on fair housing marketing.
  - Tells why you should have a grand opening.



## Transition from Development

- **The transition from the development team to the management team includes:**
  - Providing all financing documents.
  - Providing all monitoring and reporting requirements.
  - Providing all restrictions and requirements.

## Preparing for Occupancy

- **Key steps in preparing for occupancy are:**
  - Assemble the management team.
  - Select a management company.
  - Set management systems and forms in place.
  - Marketing.
  - Grand Opening.

## Management Team

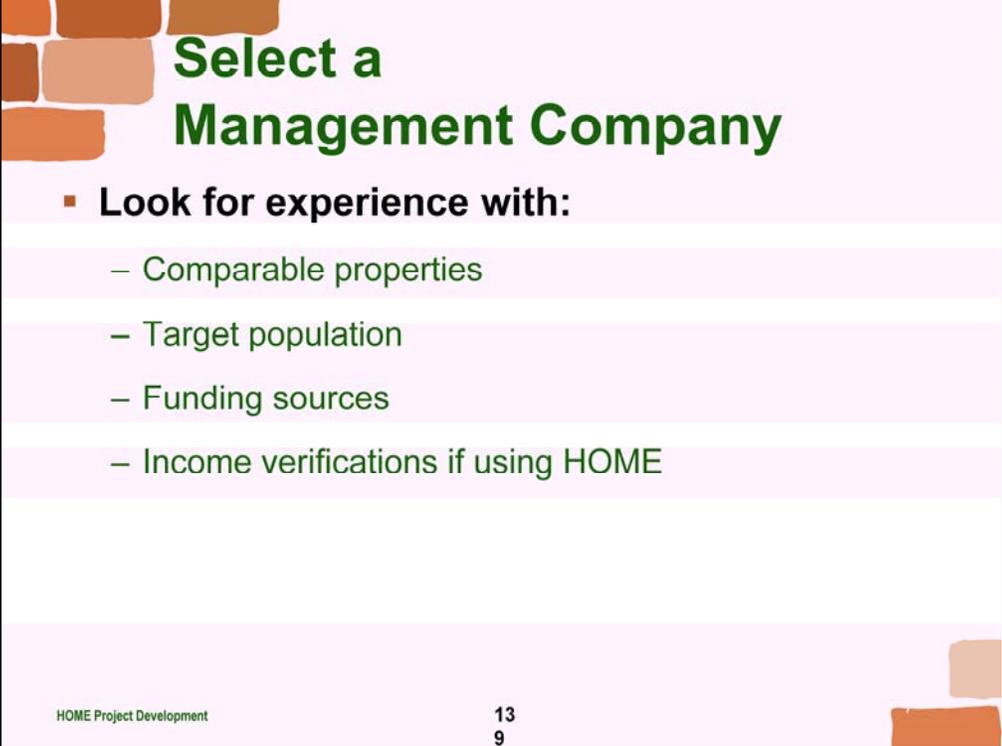
- **The management team for a project includes:**
  - Property owner
  - Management company or staff
  - Asset manager

We'll talk about the management company now, and the asset manager later.



## Property Management Company

- **The role of the property management company is to:**
  - Supervise the on-site manager.
  - Supervise the maintenance staff.
  - Qualify and interact with tenants.
  - Make day to day decisions.
  - Collect rents and pay bills.
  - Comply with the management plan.
  - Provide reports to the owner.



## Select a Management Company

- **Look for experience with:**
  - Comparable properties
  - Target population
  - Funding sources
  - Income verifications if using HOME

HOME Project Development

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9

These are also the requirements you'd need on your own staff if you choose to manage it yourself.



## Select a Management Company *(continued)*

- **Look for the following training:**
  - Fair housing law
  - State landlord tenant law
  - Compliance with funding sources
  - Affirmative fair housing marketing if using HOME



## Select a Management Company *(continued)*

- **Ask to see samples of:**
  - Affirmative marketing materials
  - Job descriptions
  - Rental application
  - Lease
  - Property management plan
  - Property maintenance schedule
  - Management reports to owners



## Select a Management Company *(continued)*

- **Check out third party information:**
  - Client references
  - State Department of Real Estate



## Select a Management Company *(continued)*

- **Recommend following HOME procurement procedures which require:**
  - Open and free competition
  - Promote hiring small business, minority-owned, and women-owned
  - Promote Section 3 hiring
  - Written description of services desired

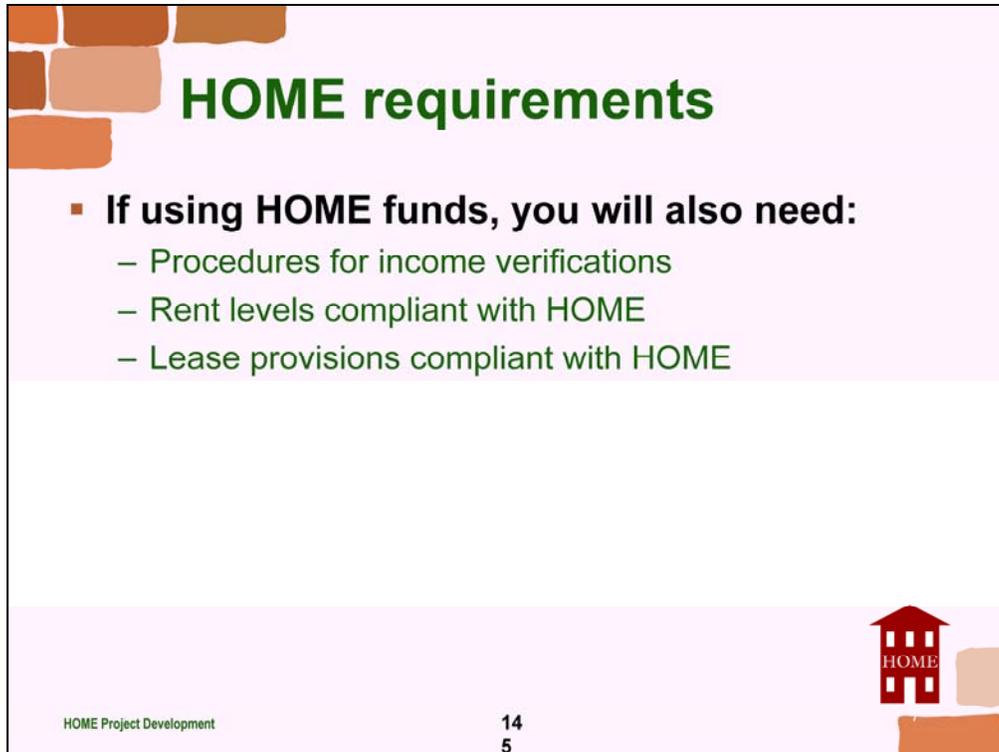


If using HOME, in 24CFR Part 84.40 through 84.48



## Management Systems and Forms

- **Prior to lease up you will need:**
  - Tenant selection policies
  - Application form
  - Property rules and regulations
  - Eviction policies

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## HOME requirements

- **If using HOME funds, you will also need:**
  - Procedures for income verifications
  - Rent levels compliant with HOME
  - Lease provisions compliant with HOME



We will talk more about these later.

## Income Verifications

- **Tenant incomes must be verified initially, and annually thereafter**
  - Compare income to published low-income limits to determine eligibility.
- **Initial income verification must include source documentation of anticipated income, such as:**
  - Paycheck stubs.
  - Bank statements.
  - Employer verifications.
  - Verifications of other payments – SSI, child support, etc.

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6

Verify: PJs should not take the “word” of the applicant about their income. A written release must be obtained from the applicant before information can be obtained from a third party. PJs must receive 3<sup>rd</sup> party documentation either in written or verbal format. If info is received verbally from 3<sup>rd</sup> party, the PJ must document the conversation in the file.

Review: Sometimes income may be determined by reviewing pay-stubs and documents the applicant brings to the PJ, however it is often not sufficient information such as discovery of bonuses and tips. Therefore it is recommended that 3<sup>rd</sup> party verifications be sought. Can obtain employer information from “Work Number,” which is available by phone or online ([www.worknumber.com](http://www.worknumber.com)). This service is free to non-profit agencies. Other users of this service pay a fee to verify income for large employers, such as Wal-Mart. You can also obtain employer information by asking for tax returns for last three years. Share common techniques among group. Tax returns are not solely sufficient.

Compare: Income limits are set for each jurisdiction by HUD. HUD produces income charts and usually issues them in February or March of each year.

Recertify: Some HOME Programs such as Rental and TBRA require that tenants’ income be reviewed on an annual basis. More information regarding this process will be discussed in the Rental and TBRA chapters. For rental, we document it on every 6<sup>th</sup> year of the affordability period.

## Lease Requirements

- HOME program requires lease term of at least one year unless mutually agreed upon by owner and tenant 24 CFR 92.253 (a).
- Lease termination only for “serious or repeated violation” of the lease and requires 30 days advance written notice to the tenant prior to termination of tenancy 24 CFR 92.253 (c).
- See prohibited lease provisions at 24 CFR 92.253 (b).

Note that LIHTC only requires lease of 6 months – must go with HOME since it is more restrictive. This one year clause also aligns with HOME’s focus on permanent housing and not shelters and other temporary housing.

Cannot do “no-cause” evictions with HOME.

## Begin Marketing

- **Marketing efforts are meant to:**
  - Advertise availability
  - Advertise quality and amenities
  - Attract applicants
  - Turn applicants into residents
- **“Build it and they will come” needs marketing to make it true**

Marketing starts with informing people, and goes through getting them to sign a lease. Ads may get them to call, but they must be treated well and shown what's in it for them at all steps through the process. The way they are greeted, the information provided, the tour, the process for applying, the follow up communications are all part of marketing. A bad experience at any step will cost you residents.

## Fair Housing Requirements

- **All housing, regardless of funding, must comply with:**
  - The Fair Housing Act – Title VIII of 1968
  - State Civil Rights Laws
  - Local Law
- **Any housing receiving federal funds must additionally comply with:**
  - Executive Order 11063
  - Section 504
  - Executive Order 13166

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Fair housing is the law of the land, regardless of what funding sources you are using. What do I do and what are the limiting regulations to get ready to fill the project when it is built? Here are a few of the other Fair Housing laws and executive orders you must comply with when receiving HOME funds.

Title VIII, law of the land. Covers race, color, national origin, religion, sex, familial status, and disability.

Title VI of Civil Rights Act – started with protections for race, color or national origin for programs and activities receiving federal assistance.

Exec order 11063 dates from 1962 and prohibits discrimination in sale, renting or leasing of housing that is federally owned, insured or funded.

Section 504 – prohibits discrimination based on disability in programs with federal assistance. Requires certain accessibility features in HOME-assisted housing.

Limited English Proficiency- Executive Order 13166 – eliminates English proficiency as a barrier to participation in federally funded programs and activities.

See laundry list of laws with links explaining each at <http://www.hud.gov/offices/ftheo/FHLaws/>

## Fair Housing Advertising

- **Section 804(c) of Fair Housing Act says it is:**
  - Unlawful to make, print, or publish statements or advertisements for housing that indicates any preference, limitation, or discrimination.
    - Because of race, color, religion, sex, handicap, familial status, or national origin.



## Fair Housing Advertising

- **24 CFR Part 109 provides guidance on:**
  - Definitions
  - Uses of words, phrases, symbols and visual aids
  - Use of Equal Housing Opportunity statement, slogan, and logo

HOME Project Development

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1



24 CFR Part 109 provides guidance on advertising to meet requirements at 804(c) of the Fair Housing Act.

As a group, look over part 109 guidance in the binder



## **Equal Housing Opportunity Statement**

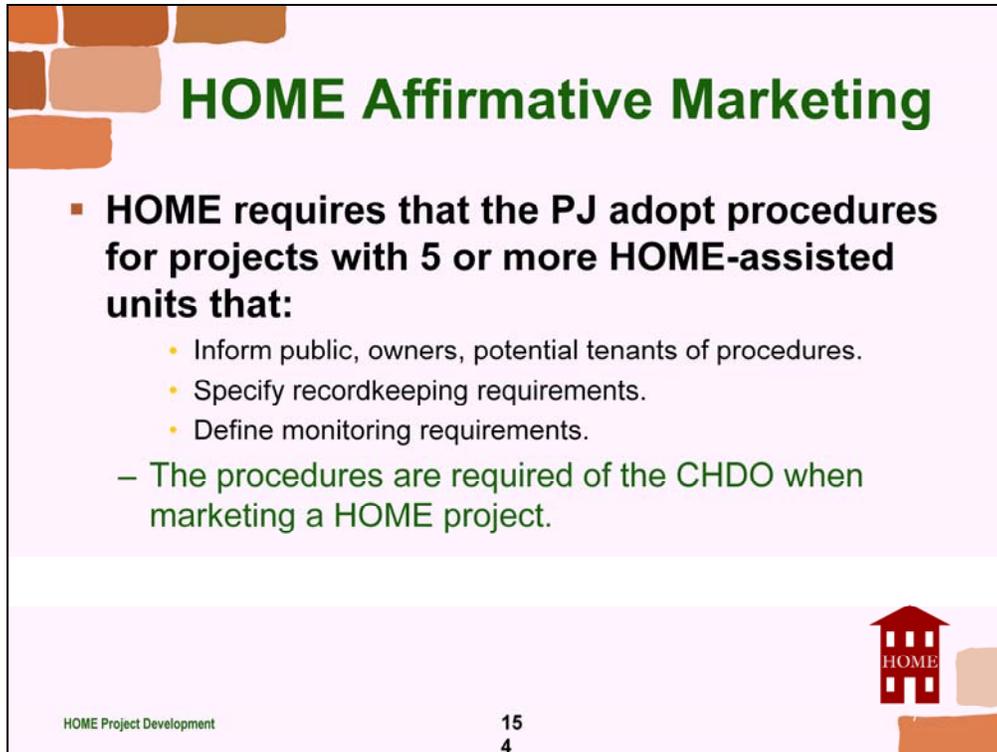
**“We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing campaign in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.”**

# Equal Housing Opportunity Logo and Slogan



EQUAL HOUSING  
OPPORTUNITY

**“Equal Housing Opportunity”**

The slide features a light pink background with a decorative header of orange and brown squares in the top left. The title "HOME Affirmative Marketing" is in green. A main bullet point in black text is followed by three sub-bullets in yellow and a final note in green. The footer includes the text "HOME Project Development", the number "15" above "4", and a red house icon with "HOME" written on it.

## HOME Affirmative Marketing

- **HOME requires that the PJ adopt procedures for projects with 5 or more HOME-assisted units that:**
  - Inform public, owners, potential tenants of procedures.
  - Specify recordkeeping requirements.
  - Define monitoring requirements.
- The procedures are required of the CHDO when marketing a HOME project.

HOME Project Development

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4



The PJ must adopt certain procedures as required by 24 CFR 92.351, so as a CHDO, you can expect the PJ to require certain things of you. These things can help you develop your Affirmative Fair Housing Marketing Plan.

PJ procedures must describe what project owners must do, such as use of Equal Housing Opportunity logo or slogan, use of media, community contacts.

Procedures also must describe special outreach for those not likely to apply such as use of community organizations, places of worship, employment centers, fair housing groups, housing counseling agencies.

PJ must inform project owners and sponsors of recordkeeping requirements, and how those efforts will be monitored and assessed annually.

Note: These procedures do not apply to families with Section 8, nor TBRA.

The slide features a light pink background with a decorative header of orange and brown squares in the top left. The title "HOME Affirmative Marketing" is in green. A bulleted list of three items is centered, with each item on a separate light pink background strip. At the bottom left is the text "HOME Project Development", at the bottom center are the numbers "15" and "5", and at the bottom right is a red house icon with "HOME" written on it.

## HOME Affirmative Marketing

- **The affirmative marketing procedures must:**
  - Inform and attract eligible persons in the housing market area
  - Be without regard to race, color, national origin, sex, religion, familial status, or disability
  - Inform and attract persons not likely to apply without special outreach

HOME Project Development

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The affirmative marketing procedures adopted by the PJ must inform and attract everyone, and also have special efforts to inform and attract those least likely to apply.

Great guide for HOME program PJ's, but very useful for CHDO's at <http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/200510.pdf>



## Special Outreach Efforts

- **Special Outreach efforts are designed to:**
  - Identify groups that are least likely to apply for housing
  - Develop special outreach efforts to inform identified families of housing opportunities
  - If no groups will need special outreach -

**MAJOR RED FLAG**



HOME Project Development

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If your organization believes that no single group will need special outreach, indicate that in the plan and explain *in detail* the reasons for the determination. Be careful. THIS IS A MAJOR RED FLAG DURING A COMPLIANCE REVIEW.



## Special Outreach Efforts

- **May be needed because of:**
  - Discriminatory practices or policies such as exclusionary zoning, rental, sales, advertising, lending, appraisal
  - Language barriers
  - Racial/Ethnic composition of the area
  - Handicap



HOME Project Development

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Special outreach efforts may be necessary because of the following



## Special Outreach Efforts

- **These may include:**
  - Community organizations
  - Community contacts
  - Places of worship
  - Print or electronic media
  - Brochures and materials



HOME Project Development

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Special outreach efforts may include:

**Community organizations such as** Fair Housing organizations, local nonprofit housing organizations, and housing counseling agencies

League of United Latin American Citizens (LULAC)

National Association for the Advancement of Colored People (NAACP)

Organizations which advocate for families with children

Organizations which advocate for persons with disabilities

Print or electronic media that is identified as reaching a particular group

Brochures and materials in other languages, or delivered to places reaching particular groups.



## Affirmative Marketing Records

- **Records to be maintained are:**
  - Records that demonstrate your efforts to affirmatively market your program
  - Your annual review of affirmative marketing efforts



HOME Project Development

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Such as copies of fliers, brochures, ads placed in newspapers, letters sent to community agencies, lists of places you left fliers and when. Basically, keep proof of everything you do.

In your annual review, review your community contacts too. Are they effective in reaching the people you need to reach?

HCD has a an Annual Affirmative Marketing Analysis Report that asks about affirmative marketing efforts, results, and fair housing advertising. Reading it before you design your plan and start your advertising will help you be in compliance. It can be found on HCD's website on the HOME Monitoring page



## Good Faith Effort

- **Organizations documenting the following have put forth a “good faith effort” to attract those least likely to apply for housing**
  - Recorded activities, documented outreach, and developing brochures or handouts for those identified as least likely to apply for housing.
  - Advertising in print and electronic media that is likely to reach those identified as least likely to apply.
  - Involvement with or marketing to specific community, religious, or other organizations frequented by those least likely to apply.





## Section 504

- **Section 504 applies to federally assisted housing and addresses:**
  - All newly constructed housing of five or more units
  - Substantially rehabilitated housing of fifteen or more units
  - Mobility, vision and hearing impairments
  - Accessibility according to Uniform Federal Accessibility Standards (UFAS)



## Limited English Proficiency

- **Executive Order 13166 requires that you:**
  - Provide meaningful access (assistance) to persons with limited English proficiency
  
- **Limited English Proficiency means:**
  - Persons who do not speak English as their primary language
  - Persons with limited ability to read, speak, write, or understand English



CHDO's and satet recipients must comply when receiving HOME funds



## Affirmative Fair Housing Marketing Plan

- Required for many HUD and USDA subsidized or insured housing programs
- Not required by HOME Program
- Form HUD-935.2A for multifamily housing
- HUD Handbook 8025.1 –Implementing Affirmative Fair Housing Marketing Requirements

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3



May be required to do AFHM plan if have a “number” program such as 202, 811, Section 8, USDA 515 funding.

Note:Form 935.2B is for single family housing for HUD mortgage insurance

HUD Handbook 98025.1 can be found at  
<http://www.hud.gov/offices/adm/hudclips/handbooks/fheh/80251/index.cfm>

Must inform and attract all minority and non-minority groups in the housing market area

Without regard to race, color, religion, sex, national origin, disability or familial status

Inform and attract persons not likely to apply without special outreach



## Affirmative Fair Housing Marketing Plan

- Must inform and attract all minority and non-minority groups in the housing market area.
- Without regard to race, color, religion, sex, national origin, disability, or familial status.
- Inform and attract persons not likely to apply without special outreach.

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4

Affirmative marketing does not limit choices...it expands choices to include those that might not otherwise be considered because of past discrimination



## Grand Opening

- **The grand opening serves several purposes:**
  - Can be effective marketing.
  - Get local media to be active participant.
  - Good press for affordable housing.
  - Allows your supporters to see tangible results.

Thank your funders!



**Section 8**

**CHDO Requirements**



## CHDO Overview

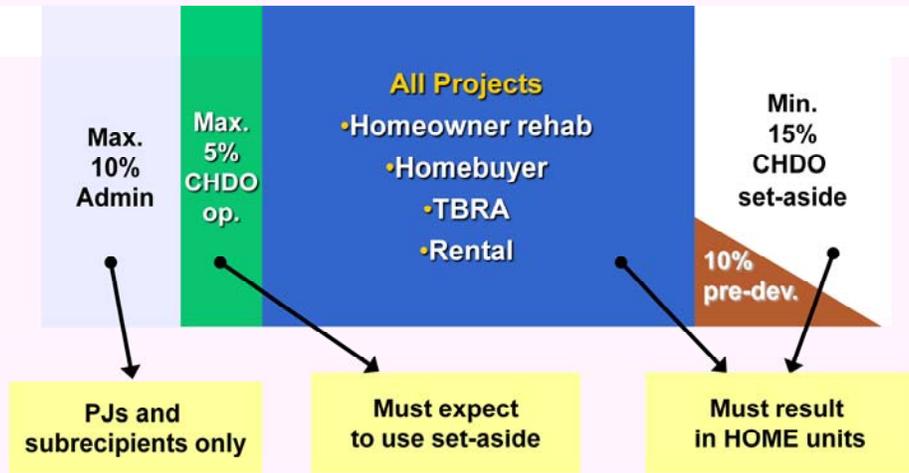
- **CHDO Set-Aside Funds**
- **Eligible Set-Aside Activities**
- **CHDO Roles**
- **CHDO Qualifying Criteria**
  - Organizational Requirements
  - Board requirements
  - Low Income Input
  - Capacity and Experience
  - Sponsored CHDOs
- **Key Questions**

## CHDO Set-Aside Funds

- **CHDO Set-Aside Requirement** – PJs must set aside a minimum of 15 percent of their HOME allocations for housing development activities in which qualified CHDOs are the owners, developers, and/or sponsors of the housing.
- **Of the total CHDO Set-Aside, up to 10% may be used for pre-development activities.**
- **PJs may use 5% of their allotment to provide CHDO operating support, at their discretion.**

If the project is determined unfeasible, pre-development funds do not need to be repaid

# CHDO Set-Aside





## Eligible CHDO Set-Aside Activities

- Acquisition and/or rehabilitation of rental housing
- New construction of rental housing
- Acquisition and/or rehabilitation of homebuyer properties
- New construction of homebuyer properties
- Direct financial assistance to purchasers of HOME-assisted housing sponsored or developed by a CHDO

## Ineligible CHDO Set-Aside Activities

- **Tenant-based rental assistance (TBRA)**
- **Homeowner rehabilitation**
- **Brokering or other real estate transaction**
- **Down-payment assistance**
  - Unless for a unit developed or sponsored by the CHDO with HOME funds.

## CHDO Roles

- **Owner** – Holds valid legal title or a long term (99-year minimum) leasehold interest in a rental property. CHDO may own the property with one or more entities.
- **Developer**—Either owns the property and develops a project,  
*OR*  
has a contractual obligation to a property owner to develop a project.

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2

\*A CHDO may own a property in a partnership with either a majority or minority interest, but in partnership with a wholly owned for-profit or nonprofit it must be the general partner with effective control (in decision-making authority) of the project.

## CHDO Roles (continued)

- **Sponsor**

- **For HOME-assisted rental housing—**

- The CHDO develops a project that it solely or partially owns and agrees to convey ownership to a second nonprofit at a pre-determined time.

- **For a HOME-assisted homebuyer's program—**

- The CHDO owns a property, then shifts responsibility for the project to another nonprofit at a specified time in the development process.

## CHDO vs. Subrecipients

- **CHDOs may take on the role of subrecipient:**
  - Not a CHDO set-aside activity.
  - May not receive HOME funds for a project through the subrecipient activity.
  - May get access to PJ's admin \$\$.
- **If CHDO is *running a HOME program* rather than acting owner/sponsor/developer of housing = subrecipient role.**

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Sometimes there is confusion when talking about CHDOs and Subrecipients.

A subrecipient is an agency or organization that administers a program “on behalf” of the PJ. For example, a non-profit running a down payment program for first time low-income homebuyers. Funds for subrecipient activities are paid for out of the “pot of money” used for all eligible projects.

CHDOs are not automatically subrecipients, however CHDOs may be a subrecipient.

While a CHDO is completing projects from a special “set-aside” pot of funds to undertake CHDO eligible projects (minimum 15% of HOME allocation).

Subrecipient and CHDO activities need to be kept separate.

## CHDO Qualifying Criteria

- **PJs certify the CHDO**
- **All CHDOs must meet requirements pertaining to their:**
  - Legal status
  - Organizational structure
  - Capacity and experience
- **PJs may adopt additional requirements**

## CHDO Legal Status Requirements

- **To be eligible, organization must:**
  - Be organized under state and local law.
  - Have as its purpose to provide decent and affordable housing to low income persons.
  - Provide no individual benefit.
  - Have a clearly defined service area.
  - Have an IRS non-profit status.

**\*Statement must be included in the Charter, Articles of Incorporation, By-Laws, or a resolution of the CHDO's Board of Directors**



## **Organizational Structure**

**A CHDO is expected to respond to a particular community's needs. Therefore, the structure of the board is viewed as the main indicator of community control over the CHDO.**



## Organizational Structure

- **CHDO board must have:**
  - At least 1/3 reps of low-income community.
  - No more than 1/3 reps of public sector.
  - Any remaining board members are unrestricted except when the CHDO is sponsored/organized by a for-profit.



## Low-Income Representation

- **Three ways to meet the 1/3 minimum low income representation requirement:**
  - Residents of low-income neighborhoods in the community.
  - Low-income residents of the community.
  - Elected representatives of low-income neighborhood organizations.



## Low-Income Representation

- **In rural areas, “community” may also cover a multi-county area. The board need not include low-income residents from each county in the multi-county area.**
- **Residents of low-income neighborhoods do not need to submit proof of their income in order to serve on the CHDO Board of Directors.**
- **Elected representatives of low-income neighborhood organizations may also serve on the CHDO Board of Directors.**



## Public-Sector Representatives

- **Public sector representatives include:**
  - Elected officials
  - Appointed officials
  - Public employees
  - Persons appointed by a public official
- **Low-income public officials count against the 1/3 public sector max.**

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You are a member of the Public Sector if:

**You are an elected official**—Council Member, County Supervisor, State Legislator, or School Board Member

**You are an appointed public official**—Member of a planning or zoning board or any regulatory board that members are appointed by a local official or State Recipient or PJ official

**You are an employee of the government that serves as the PJ**—Administrative assistant, police officer, school teacher, custodian

## Low-Income Input

- **CHDO must also provide formal process for low-income beneficiaries to provide input:**
  - Must be described in writing.
  - Must be in by-laws or resolution.
- **Ways to achieve this:**
  - Special committees or neighborhood advisory councils.
  - Open town meetings.

To maintain accountability among low income community residents CHDOs must also provide a formal process for gathering input on advising the organization in its decisions regarding the design, location, development and management of affordable housing.



## Capacity and Experience

- **Organization must:**
  - Have at least ONE YEAR of experience serving the community.
  - Demonstrate staff capacity to carry out planned activities.
  - Have financial accountability standards that conform to 24 CFR Part 84.21.
- **Capacity must be relevant to type of CHDO activity to be undertaken.**

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3



Need to demonstrate staff capacity to carry out the necessary activities. Board members can provide expertise but it needs to be shared.

There are certain things you need to develop housing:

- Market study
- Needs assessment (maybe)
- Financial resources
- Management, financial, feasibility study (underwriter), architect, design review committee, engineer, builder
- Realtor
- Lenders
- Property manager (need to select early on so they can help predict cost)
- Project manager
- Business planner to coordinate this project with other projects at your nonprofit
- If you have not identified all these people up front, you are not ready to develop the housing.
- Build houses based on market rather than need.
- Don't underestimate repair and upkeep costs.

## Capacity and Experience

- **CHDOs must demonstrate that it's staff has the relevant experience in order to perform the HOME-assisted activities through:**
    - Resumes and/or statements of key staff members that describe the experience of successfully completed projects similar to those proposed projects.

**OR**

  - A plan in place for experienced consultants to help plan and develop projects as well as train key staff.
- 
- **CHDOs must have their own professional staff. This means that the key staff required to demonstrate CHDO capacity cannot be:**
    - Municipal, county, or state employees; or
    - Consultants (paid or volunteer) not planning to train for the CHDOs key staff.



## Sponsored CHDOs

- **Nonprofits that have been sponsored by other entities may qualify as CHDOs, but additional requirements may apply.**

## Sponsored CHDOs

- **Local government sponsors**
  - A local or state government and/or a public agency cannot qualify as a CHDO, but may sponsor the creation of a CHDO.
  - Government officials and appointees of the government cannot exceed 1/3 of the members of the board.
  - All other CHDO rules apply.

## Sponsored CHDOs

- **Non-profit sponsor**

- Sponsor may appoint an unlimited number of the board as long as the minimum 1/3 community representation requirement is met and the maximum 1/3 public representation is not exceeded.
- If the sponsoring non-profit has one year history of service to the community it may count as the required experience for the CHDO.

- **Religious organization sponsors**

- Organizations that are faith-based are eligible, on the same basis as any other organization to participate in the HOME Program.

A one year minimum history of service to the community by the sponsoring nonprofit may help a new non-profit to qualify as a CHDO

## Key CHDO Questions

- **To determine if a non-profit has adequate *organizational* structure, ask yourself:**
  - What is the primary business of the organization?
  - Does the organization have a mission statement?
  - What is the composition of the board?
  - What is the relationship of the board to the staff?
  - How long has the organization been in operation?
  - How have the services or programs changed since the organization began?

Wannabe CHDOs should...



## Key CHDO Questions

- **To determine if a non-profit has adequate *experience*, ask yourself:**
  - Has the nonprofit produced successful affordable housing projects?
  - What is the current status of projects funded in previous years?
  - Are affordable past rental projects still occupied by lower-income tenants?
  - Are the past projects well maintained?
  - Are tenants pleased with the project development and management?

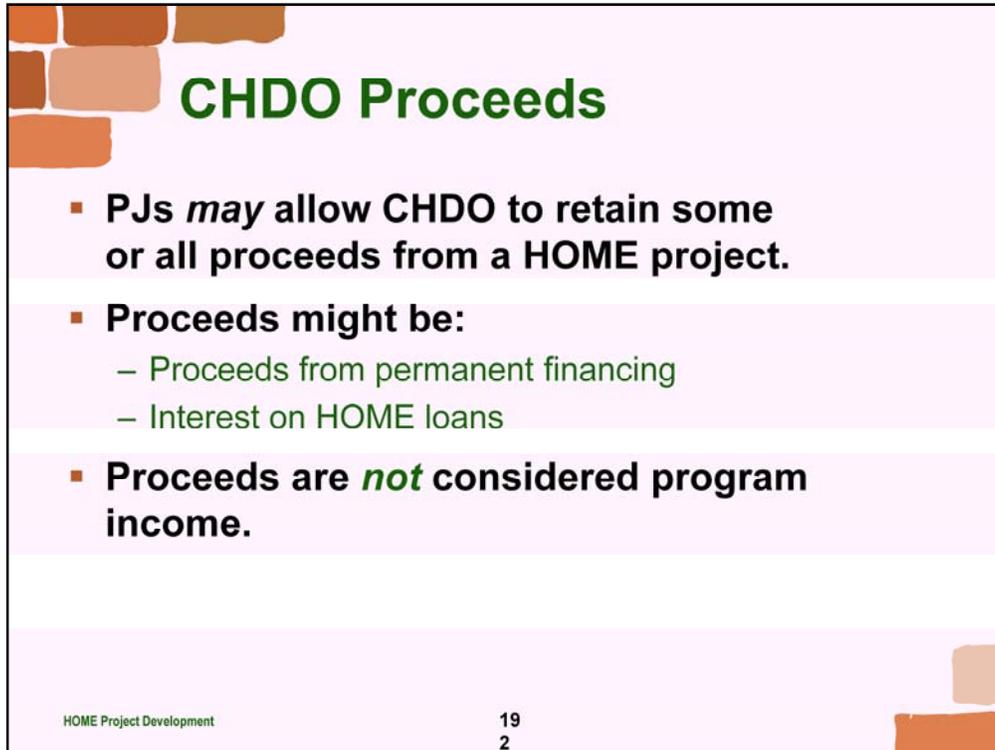
## Key CHDO Questions

- **To determine if a non-profit has adequate *capacity*, ask yourself:**
  - What is the current annual operating budget?
  - Operating funds come from what sources?
  - What is the status of future funding?
  - Is the organization audited by a certified public accountant?
  - Is the organization financially solvent?
  - Who maintains the accounting records?
  - Does the organization have D&O insurance?



## Key CHDO Questions

- **To determine if a non-profit has adequate *staff capacity*, ask yourself:**
  - What is the Director's level of experience and capabilities in housing development?
  - What is the number of full time housing staff?
  - What is the staff's experience with the HOME program?

A presentation slide with a light pink background and orange decorative elements in the top-left and bottom-right corners. The title "CHDO Proceeds" is in green. The content consists of three bullet points: "PJs may allow CHDO to retain some or all proceeds from a HOME project.", "Proceeds might be:" followed by two sub-bullets: "Proceeds from permanent financing" and "Interest on HOME loans", and "Proceeds are not considered program income." The footer contains "HOME Project Development", "19", and "2".

## CHDO Proceeds

- PJs *may* allow CHDO to retain some or all proceeds from a HOME project.
- Proceeds might be:
  - Proceeds from permanent financing
  - Interest on HOME loans
- Proceeds are *not* considered program income.

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If a CHDO receives and retains funds from a project (such as interest on a HOME loan or proceeds from permanent financing) they are considered project proceeds not program income. First time CHDO funds come in, there needs to be a written agreement defining what they will be used for. Should income come back at that point – they no longer have to track these CHDO proceeds. HOME rules no longer apply.

CHDO proceeds must be used for housing activities. This is much broader than what HOME encompasses, i.e. can use CHDO proceeds for homebuyer counseling.

CHDO proceeds can also be used as operating funds. The CHDO proceeds are not subject to the 50% operating expense cap.

Any money that comes back to the PJ from a CHDO is program income. CHDO proceeds are what you allow the CHDO to retain – if you put in a requirement to have it paid back then it is not a CHDO proceed or permissible.

Participants should refer to CDP Notices 97-11 and 97-09 for guidance on CHDO project proceeds.

PJs should ask for a line item budget to track where money is going.

## Use of Project Proceeds

- **Use of proceeds must be for:**
  - HOME-eligible activities.
- OR
- Other low-income housing activities, including CHDO operations.
- **Written agreement between the PJ and CHDO must include:**
  - Whether CHDO will retain any proceeds.
  - The specific use of proceeds.

The PJ determines how the project proceeds will be used.

The uses must be outlined in the written agreement the PJ has with the CHDO.

## Recordkeeping

- **CHDOs must document that all HOME Program requirements have been met throughout the affordability period.**
  - Project Planning
  - Notices and/or brochures
  - All contacts, phone, mail
  - Surveys
  - Etc.
- **PJs will use this information to track the progress of their HOME funds in IDIS.**

Failure to maintain records can be deadly

Integrated disbursement and information system



**Section**

**Other Federal Requirements:  
Labor Standards Requirements,  
Civil Rights Laws,  
and Section 3 Requirements**





## Other Federal Requirements

- **Labor Standards**

- Section 3
- Davis-Bacon
- Construction Contract Provisions
- Contract Work Hours and Safety Provisions
- Copeland Act



## Section 3

**Ensure that economic opportunities resulting from HUD financial assistance will be directed to low- and very-low income persons, particularly those persons receiving government assistance for housing.**

HOME Project Development

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Is race neutral

Preference provided by Section 3 is based on income and location

See 24 CFR Part 135



## Section 3 *(continued)*

- **Programs Covered**
  - Public and Indian Housing Programs
  - Housing and Community Development Programs,
  - Federal and HUD assistance
- **Beneficiaries**
  - Section 3 Residents
  - Section 3 Business Concerns

HOME Project Development

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### **Section 3 Resident**

PHA resident

or

Resident of metro area or non metro area where assistance is expended,  
and

Whose median income meets HUD limits- (80% of median income)

### **Section 3 Business Concerns**

51% or more owned by Section 3 residents

30% of employees are Section 3 residents

25% of subcontracts committed to Section 3 businesses

MBE's must be Section 3 Certified to receive preference



## **Your Section 3 Program Responsibilities**

- **Notify Section 3 businesses of contracting opportunities.**
- **Notify potential contractors of Section 3 requirements.**
- **Incorporate the Section 3 Clause in solicitations or contracts.**
- **Employ and/or train Section 3 Residents.**
- **Award contracts to Section 3 Businesses.**
- **Meet numeric goals established by the PJ.**



## Davis-Bacon

- **Requires the payment of prevailing wage rates to all laborers and mechanics on Federal government construction projects in excess of \$2,000.**
- **Construction includes alteration and/or repair, including painting and decorating of public buildings or public works.**
- **HOME – 12 or more units triggers the act.**

## Construction Contract Provisions

- **The Labor Standards Clauses.**
- **Responsibilities of the Contract Administrator:**
  - Obtaining Proper Wage Determinations
  - Payroll reviews
  - Employee interviews
  - Restitution
  - Reports and Recordkeeping
  - Debarred and Suspended Contractors



## **Contract Work Hours and Safety Standards Act**

**CWHSSA requires time-and-one-half pay  
for overtime hours (over 40 in any work week)  
on the covered project.**



## **Copeland Act (Anti-Kickback Act)**

**The Copeland Act makes it a crime  
for anyone to require any laborer  
or mechanic employed on a  
Federal or Federally-assisted project  
to kickback any part of their wages.**



## Executive Orders

- **Executive Order 11246, as amended**
  - Bars discrimination in federal employment because of race, color, religion, sex, or national origin.
- **Executive Orders 11625, 12432, and 12138**
  - Require the implementation of a minority outreach program to ensure the inclusion of minorities, women, and businesses owned by minorities and women in all contracts.



## Civil Rights Laws

- Title VI
- Title VIII
- Architectural Barriers Act
- Section 504
- Age Discrimination Act
- Americans with Disabilities Act

## Civil Rights Laws

- **Title VI of the Civil Rights Act of 1964**
  - Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.
- **Title VIII of the Civil Rights Act of 1968 (amended )**
  - Prohibits discrimination in the sale, rental, financing of dwellings, and other housing-related transactions, based on race, color, national origin, religion, sex, familial status, or handicap

HOME Project Development

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6

Title VIII (also called The Fair Housing Act) applies to all newly constructed multifamily housing (rental and homeownership) with four or more units

**Entrances, common spaces, and all ground floor dwelling units or non-elevator buildings, and all units of elevator buildings must be made accessible in accordance with the Fair Housing Standard.**

**Like title VIII, Executive Order 11063, as amended by EO 12259**

Prohibits discrimination against individuals on the basis of race, color, religion, sex, or national origin in the sale, rental, leasing, or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds

## Civil Rights Laws

- **Architectural Barriers Act of 1968**
  - Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.
- **Section 504 of the Rehabilitation Act of 1973**
  - Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

HOME Project Development

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7

Section 504 of the Rehabilitation Act of 1973 –The Act governs the design and construction of housing to ensure that Federal programs are operated to be fully accessible to persons with disabilities in accordance with the Uniform Federal Accessibility Standards (UFAS), and to ensure that a portion of housing developed with Federal funds are accessible to those with mobility, visual and hearing impairments.

**Section 504 applies to all newly constructed housing of five or more units, and substantially rehabilitated housing of fifteen or more units**

## Civil Rights Laws

- **Age Discrimination Act of 1975, as amended**
  - Prohibits age discrimination in programs receiving federal financial assistance.
- **Title II of the Americans with Disabilities Act of 1990**
  - Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities.

Americans with Disabilities Act – Prohibits discrimination against persons in all programs and activities sponsored by state and local governments

HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals