

# HOME Regulations: Changes and Comments

A briefing on HUD's proposed rule for the HOME Investment Partnerships program

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January 23, 2012

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**NATIONAL LOW INCOME  
HOUSING COALITION**

# National Low Income Housing Coalition

- Dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.
- Materials for today's presentation available at: [www.nlihc.org](http://www.nlihc.org).
- Webinar will be archived and presentation e-mailed.

# Overview

- Why proposed regulation changes now?
- Key changes from NLIHC perspective.
- Questions and comments.

# Areas of Proposed Change

- CHDOs
- Troubled Rental Projects
- Public Housing
- Tenant Protections and Selection
- Tenant-Based Rental Assistance (TBRA)
- Affirmative Marketing
- Eligible Activities
- Two Rental Property Provisions
- ConPlan
- Disasters
- Enhanced Performance
- Quality Assurance
- Homeownership
- Property Standards

# Community Housing Development Organizations (CHDOs)

- Require HUD to reduce/recapture CHDO funds not spent within five years. [§92.500(d)(1)(C)]
- Require jurisdiction to certify that organization meets CHDO definition, and document capacity each time CHDO funds are committed to it. [§92.300(a)]
- Require CHDOs to have paid employees with housing development experience (not allow use of consultants to show CHDO has capacity). [§92.2, CHDO definition, paragraph (9)]
  - FY12 Appropriations Act requires a CHDO to “demonstrate” that it has staff with “demonstrated development experience”.

# Troubled HOME Rental Projects

- To preserve financially troubled rental projects, allow additional HOME funds in the project.
  - Could be used for recapitalization of project reserves and/or rehab.
  - HUD “may” (not “must”) extend affordability period.

[§92.210(b)]

# HOME and Public Housing

- Allow HOME to develop HOPE VI units, if no public housing Capital Funds are used.
  - HOME/HOPE VI units could get public housing Operating Fund.
  - HOME/HOPE VI units could get Capital Funds for modernization and rehab in future years.

[§92.213]

# Tenant Protections and Selection Part 1

- Require lease for all rental units and units rented by HOME tenant-based rental assistance (TBRA) recipients. [§92.253(a)]
- Supportive services cannot be mandatory. [§ 92.253(b)(9)]
- Prohibit owners from charging tenants certain fees (origination, parking, and laundry room access). [§92.504(c)(3)(xi)&214(b)(2)]



# Tenant Protections and Selection Part 2

- Prohibit jurisdictions and subrecipients getting HOME from their state to impose fees on beneficiaries to cover administrative costs (construction management, underwriting, etc.). [§§92.206(d)(6),207(b),&214(b)(1)]
- Owners must comply with jurisdiction’s affirmative marketing requirements. [§92.253(d)]
- Not a “protection”: Allow tenant’s failure to follow a transitional housing services plan as reason for terminating tenancy/refusing to renew tenancy. [§92.253(c)]

# Tenant-Based Rental Assistance (TBRA)

- Allow TBRA program requiring households to participate in a self-sufficiency program.
  - Could not terminate TBRA if household fails to continue participation in self-sufficiency, but TBRA renewal could be denied.
  - People with disabilities may not be required to participate in medical or disability-related services as part of a self-sufficiency program.

[§92.209(c)(2)(iii)]

# Affirmative Marketing

- Delete language exempting jurisdiction from affirmative marketing procedures for households with TBRA or vouchers.

[§92.351(a)(2)]

# Eligible Activities

## Predevelopment Costs

- Architectural, engineering, other professional services costs incurred not more than 18 months before HOME is committed could be paid for.  
[§92.206(d)(1)]

## Fees

- Allow jurisdiction to charge fees to rental project owners to cover jurisdiction's monitoring costs during affordability period.  
[§92.214(b)(1)(i)]

# Rental Property Provisions part 1

## Utility Schedule

- Require jurisdiction to annually update maximum monthly utility allowances.
- Require jurisdiction to use HUD Utility Schedule Model, or determine utility allowances based on utility type.

[§92.252(d)]

# Rental Property Provisions part 2

## Underwriting and Subsidy Layering Analysis

- Require analysis of project's financial viability over affordability period based on reasonable return on investment not exceeding jurisdiction's guidelines, which must require jurisdiction to:
  - Examine sources and uses of funds, determine costs are reasonable.
  - Assess neighborhood market conditions, developer's experience and financial capacity, and solidity of financial commitment.

[§92.250(b)]
- FY12 Appropriations Act requires jurisdiction to certify that, for each project, it has:
  - Conducted underwriting review.
  - Assessed developer capacity and financial soundness.
  - Assessed neighborhood market conditions to ensure need for each project.

# HOME Changes to Consolidated Plan Regulations

- Allow limiting beneficiaries or giving preference to a segment of the population, such as police, teachers, or artists.

[§92.209(c)(2)]

# Disaster-Related Features

- Allow housing severely damaged and then demolished to be rebuilt as “reconstruction” on same lot if HOME committed within six months of damage.

[§92.2]



# Enhanced/Timely Performance part 1

## Project Completion

- Rental projects are designated “completed” once construction/rehab completed, even if not fully occupied. [§92.2]

## Leasing Up Rental Properties

- If multifamily housing is not occupied by eligible tenants within specified period after completion, jurisdiction must submit marketing information.
- Require HOME repayment for any unit not rented to eligible tenant 18 months after completion.

[§92.252]

# Enhanced/Timely Performance part 2

## Project Termination

- Project not meeting “affordable housing” requirements must be terminated, and HOME must be returned to jurisdiction’s HOME account. [§92.205(e)(1)]
- Project not completed within four years of commitment is deemed terminated, and HOME must be returned to jurisdiction’s HOME account.
  - May request 12-month extension by providing: project status, steps to overcome obstacles, proof of adequate funding, and schedule for completion. [§92.205(e)(2)]
  - FY12 Appropriations Act requires repayment if project not completed within four years of commitment. HUD may extend one year if failure to complete is beyond jurisdiction’s control.

# Enhanced/Timely Performance part 3

## Financial Oversight

- Require jurisdiction to annually examine rental project's financial condition.

[§94.504(d)(2)]

# Quality Assurance

## On-Site Inspections

- Reduced to every three years regardless of project size.
- If “observable deficiencies” found, must have follow up inspection within 12 months verifying deficiencies are corrected.
  - Health and safety deficiencies must be corrected immediately.

[§94.504(d)(1)(ii)]

# Homeowner Activities

- If homeowner unit not purchased within six months of completion, housing must be rented to eligible tenant. [§92.254(a)(3)]
- FY12 Appropriations Act requires homeownership unit not sold within six months of completion be rented.

# Property Standards

## Rehabilitation

- Jurisdiction must require capital needs assessment for multifamily projects with 26 or more units.
- Major systems must have remaining useful life of 15 years for rental housing and 5 years for owner-occupied housing.

[§ 92.251(b)]

## Manufactured Housing

- Requires manufactured housing be on permanent foundation.

[§92.251(e)]

# Send Comments to HUD

- Comments are due at HUD by February 14.
- It is best to send comments electronically if possible at [www.regulations.gov](http://www.regulations.gov).
- Refer to Docket No. FR-5563-P-01  
HOME Investment Partnership Program:  
Improving Performance and Accountability; and  
Updating Property Standards

# Additional Information

## NATIONAL LOW INCOME HOUSING COALITION

Learn more about HOME and other programs and policies in NLIHC's *2011 Advocates' Guide*,

<http://www.nlihc.org/template/page.cfm?id=274>.

Become an NLIHC member, [www.nlihc.org/join](http://www.nlihc.org/join).



# Contact NLIHC

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# Up Next

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