HOME Regulations: Changes and Comments
A briefing on HUD’s proposed rule for the HOME Investment Partnerships program

Ed Gramlich, National Low Income Housing Coalition
David Bowers, Enterprise Community Partners and NLIHC Board of Directors
January 23, 2012
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.

• 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

www.nlihc.org
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”.

www.nlihc.org
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)]

www.nlihc.org
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)]
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.
Enhanced/Timely Performance part 1

Project Completion

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

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.  
  \[\text{§92.252}\]

www.nlihc.org
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.
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)]

www.nlihc.org
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.

www.nlihc.org
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.

• 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


Become an NLIHC member, www.nlihc.org/join.
Contact NLIHC

Ed Gramlich
ed@nlihc.org
202.662.1530 x 314
Up Next

David Bowers
Enterprise Community Partners and NLIHC Board of Directors

www.nlihc.org