

2013 HOME Final Rule Requirements Applicability Charts

On July 22, 2013, HUD published a [new HOME final rule](#) (Final Rule). The attached checklists summarize the changes and clarifications contained in the Final Rule, and clarify the applicability of these requirements to Participating Jurisdictions' (PJs') existing and/or new HOME projects. The provisions have been classified into one of three separate categories, based on the type and applicability of the requirements:

- **Category #1: requirements to clarify or codify existing requirements**

The requirements under this section remain substantially unchanged from what was required under the pre-2013 HOME Rule, except that the new Final Rule clarified or codified existing HUD guidance or requirements into regulations. PJs were always required to comply with these requirements, and as such they are applicable to all of the HOME projects in a PJ's portfolio (regardless of when funds were committed). PJs must ensure that their programs and projects comply with these requirements and must correct any instances of noncompliance.

- **Category #2: new project requirements applicable to new projects only**

The requirements in this category are new requirements imposed by the new Final Rule. These requirements are applicable only to new projects to which HOME funds were committed on or after the effective date of the provision (see [24 CFR 92.3](#)). Most of the Final Rule requirements became effective August 23, 2013; however, a few provisions have delayed implementation dates. PJs must update written agreements and policies and procedures to ensure that all new projects comply with these requirements.

Note: When a PJ amends a written agreement to add additional HOME funding to the project, all of the effective new Final Rule requirements become applicable to that project, even if the initial project commitment occurred prior to August 23, 2013.

- **Category #3: new requirements applicable to the PJ's program and all projects**

The requirements in this category are general administrative requirements of the PJ. As such, once effective, these requirements are applicable to the PJ's program and to all projects in the HOME portfolio (regardless of when the HOME funds were committed).

Please note that it is not HUD’s intention to impair existing written agreements. However, for administrative efficacy, PJs may wish to implement certain new Final Rule provisions across the jurisdiction’s HOME portfolio. This may be possible in certain circumstances; here are a number of different scenarios and what the PJ must consider before incorporating Final Rule requirements into existing projects:

- For written agreements executed before the effective date of the Final Rule provisions (and that subsequently lack language implementing the new project requirements (Category #2)), PJs are permitted, but not required, to amend the agreements with the owners and apply the new provisions.
- For written agreements executed before the Final Rule provisions took effect and that include language which references in general terms only certain sections of the HOME regulations, PJs retain discretion whether to continue to enforce the pre-2013 rule requirements or to apply the Final Rule requirements under the existing agreement language.
- For written agreements that predate the Final Rule provisions and include language that specifically references or broadly incorporates regulatory requirements and subsequent amendments, PJs must apply the Final Rule provisions regardless of whether they amend the written agreements.

The requirements have been organized into separate charts by topic. Within each chart, requirements are further organized by Category/Applicability:

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For further information, please contact your local HUD Field Office.

GENERAL PROGRAM & ADMINISTRATION

	REQUIREMENT	EFFECTIVE DATE	NOTES
CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS			
Applicable to all HOME projects in portfolio (regardless of when funds were committed)			
Definitions	Housing §92.2	Halfway housing, dormitories, and all types of student housing are excluded from the definition of housing.	These are ineligible for HOME funding.
	Low and very low-income families (students) §92.2	Excludes students who do not qualify as a low-income family on their own, or are not part of a low-income family, from participating independently in the HOME program.	If tenant currently living in HOME unit is a student who is not part of a low-income family, or does not qualify individually as a low-income family, PJs must correct this non-compliance by treating the tenant as an over-income tenant.
	Program income §92.2	Excludes gross income from the use, rental, or sale of real property received by the project owner, developer or sponsor unless they paid it to the PJ or subrecipient/State subrecipient.	
	Project completion §92.2	A project is considered complete when it meets certain conditions, including: construction completion, title transfer, property standards met, funds disbursed and drawn, completion info entered into IDIS (homebuyer projects require beneficiary data, while rental projects can be completed as "vacant").	
	Subrecipient §92.2	Subrecipients receive HOME funds to carry out programs not to undertake specific projects.	Entities that qualify as subrecipients can also receive funding for a specific local project, but they are not functioning as a subrecipient for that project.
Distribution of Assistance	Joint project §92.201(a)(2)	Further defines what constitutes a "joint project" that serves residents of two jurisdictions. Both jurisdictions must make substantial contributions.	

		REQUIREMENT	EFFECTIVE DATE	NOTES
Income	Household income §92.203(d)(1); §92.254(a)(3)&(b)(2)	PJs must count the income of ALL persons in the household (including nonrelated individuals) when establishing eligibility.		If non-compliance found, PJs must re-calculate income eligibility based on all persons in the household. If over-income, must treat as over-income tenant.
Other Federal Requirements	Environmental review §92.352	The applicability of environmental review is based on the type of HOME project or activity, not the cost paid with HOME funds.		
Eligible Activities & Costs	Housing & property standards §92.205(a)(1)	Activities and costs are eligible only if housing meets property standards at §92.251.		
	Vacant land and & demolition §92.205(a)(2)	Acquisition of vacant land or demolition is not an eligible stand-alone activity.		
	Alternative forms of assistance §92.205(b)(1)	HUD must approve in writing alternative forms of HOME assistance not identified in the regulations.		
	Refinancing §92.206(b)(1) & (b)(2)	Rehabilitation must be primary activity; cost must exceed debt refinanced		
	Audit costs §92.206(d)(3)	Project audits and fees for cost certifications are eligible costs.		
	Terminated Projects	Terminated projects §92.205(e)(1)	PJ must repay HOME funds invested in projects terminated before completion.	
Prohibited Activities & Fees	Administrative fees §92.214(b)(1)	PJ cannot charge administrative fees to program participants to cover their administrative costs.		
	Charging soft costs to beneficiaries §92.206(d)(6); §92.207(b); §92.214(b)(1) & (3)	With the exception of homebuyer counseling, PJs cannot charge low-income families for project-delivery costs. Customary and reasonable fees such as §92.214(b)(1)(ii) and (iii) are okay.		
Conflict of Interest	Financial interest or benefit §92.356(b)	Covered conflicts include <i>financial</i> benefit or <i>financial</i> interest and covered familial relationships are limited to <i>immediate</i> family members.		

		REQUIREMENT	EFFECTIVE DATE	NOTES
Written Agreements	Agreements with contractors §92.504(c)(4)	A written agreement is required with contractors that are administering all or some of the PJ's programs AND for contractors who are undertaking specific services for one or more programs.		
CATEGORY #2: NEW PROJECT REQUIREMENTS				
Applicable to all new projects to which HOME funds are committed on/after the effective date of the requirement				
Definitions	Commitment §92.2	Amended to clarify that certain actions/requirements must be met to meet definition. When committing funds to a specific local project, the PJ <u>must</u> have: <ul style="list-style-type: none"> • an identifiable project • secured all necessary financing • a budget and schedule • completed underwriting • a reasonable expectation that construction will begin within 12 months 	8/23/2013	Prior to committing funds to a project, PJs must also meet all of the applicable subsidy layering and underwriting requirements of §92.250(b) .
	Uniform Physical Condition Standards §92.2	Newly adopted property standards for the acquisition and rehabilitation of exiting housing and ongoing standards for rental projects without local code standards.		PJs are not required to apply the entire UPCS list of inspectable items and areas; HUD will specify through guidance what portions of UPCS are applicable to HOME projects. UPCS is not applicable to TBRA or new construction.
Deadlines	Project completion deadline §92.205(e)(2)	PJs have 4 years to complete a project or the project will be terminated and funds must be repaid. PJ must achieve full project completion, in accordance with the definition of "project completion" at §92.2.	8/23/2013	The FY2012/2013 Appropriations requirements established a 4-year project completion deadline for all 2012 and 2013 HOME projects not subject to the new Final Rule. For information on this requirement, please see CPD Notice 14-08 .
Property Standards	New construction §92.251(a)	Requires compliance w/ State and local codes, ordinances, and zoning requirements (in their absence the International Residential (or Building) Code of the International Code Council	1/24/2015*	

	REQUIREMENT	EFFECTIVE DATE	NOTES
	<p>applies). Includes accessibility and disaster mitigation requirements.</p> <p>Rehabilitation §92.251(b)</p>	1/24/2015*	
	<p>Acquisition of standard housing §92.251(c)</p>	1/24/2015*	
	<p>Manufactured housing §92.251(e)</p>	1/24/2015*	

	REQUIREMENT	EFFECTIVE DATE	NOTES
	Installation Standards) and the requirements at §92.251(b), as applicable.		
	Construction documents and cost estimates §92.251(a)(2)(iv); §92.251(b)(2)	For new construction and rehabilitation: the PJ must review and approve written cost estimates and determine costs are reasonable. The construction contract and documents must be in sufficient detail to conduct inspections and ensure compliance with all property standards requirements.	1/24/2015*
	Progress and final inspections §92.251(a)(2)(v); §92.251(b)(3)	For new construction and rehabilitation: progress and final inspections are required.	1/24/2015*
Underwriting & Subsidy Layering	Subsidy layering and underwriting requirements §92.250(b)	For each project, <u>prior</u> to committing HOME funds, PJs must: evaluate return to owner/developer (in relation to the PJs standards for reasonable return); examine sources & uses and determine that costs are reasonable; assess neighborhood market demand for project; assess developer experience and financial capability; require firm written financial commitments.	8/23/2013 The FY2012/2013 Appropriations requirements require that, for all 2012 and 2013 HOME projects not subject to the new Final Rule, the PJ must underwrite the project, assess the capacity and fiscal soundness of the developer, and assess the neighborhood market demand. For information on this requirement, please see CPD Notice 14-08 .
Conflict of Interest	Occupancy of HOME-assisted units §92.356(f)(1)	Certain persons (e.g., owners, developers, employees, elected officials) and their immediate family members are prohibited from occupying HOME units.	8/23/2013
Written Agreements	Project commitments §92.504(c)(3)	Required provisions in a PJ's written agreement committing funds to a for-profit or nonprofit housing owner, sponsor, or developer for a specific project.	8/23/2013 PJs do not need to amend agreements executed prior to August 23, 2013 to comply with these requirements.
On-site Inspections	Completion inspections §92.504(d)(1)(i)	PJs must conduct on-site completion inspections to confirm that all contracted work is complete and property standards are met.	8/23/2013 PJ must complete and document prior to completing project in IDIS.

		REQUIREMENT	EFFECTIVE DATE	NOTES
Record Keeping	Project records §92.508(a)(3)	Maintain project records that correspond to new requirements.	8/23/2013	Project files must contain documentation of compliance.
CATEGORY #3: NEW PROGRAM REQUIREMENTS				
These are general administrative requirements of the PJ and become applicable to the PJ's entire program and portfolio of HOME projects when effective (regardless of when funds were committed)				
Income Determination	Source documentation §92.203(a)(1)(i) & (a)(2)	All income verifications must use at least 2 months source documentation.	8/23/2013	Applies to all new determinations and renewals
	Elimination of Census Long Form §92.203(b)	Use of the Census Long Form income definition is no longer permitted.	8/23/2013	Applies to all new determinations and renewals
	One definition per program §92.203(c)	PJs may use only one definition of income for each HOME-assisted program or rental project.	8/23/2013	
Eligible Activities & Costs	Cost incurred before commitment §92.206(d)(1)	PJs can permit HOME funds to pay for certain soft cost incurred within 24 months before project commitment.	8/23/2013	Can apply to projects to which funds were committed prior to August 23, 2013, but PJs must amend existing written agreements to cover these costs. If a PJ amends a written agreement to account for soft costs incurred prior to commitment, all of the 2013 HOME Final Rule requirements become applicable to that project (regardless of whether additional funds are added or when the original commitment of funds was made).
Match	Match reduction §92.222(b)(1)	HUD must consider the extent of the disaster's fiscal impact when determining the amount and duration of any match reduction.	8/23/2013	Applies to all match reduction requests made on and after August, 23, 2013.
Affirmative Marketing	Affirmative marketing §92.351(a)(1)	Affirmative marketing requirements now apply to all projects with 5 or more HOME-assisted units <u>AND</u> to all HOME-funded programs (such as TBRA and downpayment assistance programs)	8/23/2013	Applies to the administration of all programs on and after August, 23, 2013.
Written Agreements	State recipient agreements §92.504(c)(1)	Required provisions in the written agreement between a State PJ and a State recipient	8/23/2013	The requirements of the PJ flow down to the State recipient. As such, PJs <u>must</u> amend written agreements executed with State

	REQUIREMENT	EFFECTIVE DATE	NOTES
			recipients to undertake a program to comply with all New Rule requirements (this includes all State recipient agreements executed prior to August 23, 2013).
	Subrecipient agreements §92.504(c)(2)	Required provisions in the written agreement between a PJ and a subrecipient 8/23/2013	The requirements of the PJ flow down to the subrecipient. As such, PJs must amend written agreements executed with subrecipients to undertake a program to comply with all New Rule requirements (this includes all subrecipient agreements executed prior to August 23, 2013).
Record Keeping	Program records §92.508(a)(2)(i), (ii), (iii)	Maintain program records that correspond to new requirements 8/23/2013	
	Administrative records §92.508(a)(6)(i)	Maintain administrative records that correspond to new administrative requirements 8/23/2013	
Financial Management	Interest bearing account §92.500(c)(1)	Local HOME accounts must be interest bearing. 8/23/2013	
	Reporting program income §92.502(a)	PJs must report all program income earned on HOME funds in IDIS. 8/23/2013	
	IDIS access §92.502(e)	Only PJs and State recipients permitted by their state may access IDIS to request disbursement. 8/23/2013	
	Repayments §92.503	When required to repay HOME funds, HUD will instruct the PJ whether to repay funds to the Treasury account or the local HOME account. 8/23/2013	Contact HUD before repaying HOME funds
PJ Management Responsibilities	Policies, procedures, systems §92.504(a)	PJs must develop and follow written policies, procedures, and systems to ensure HOME requirements are met. This includes a risk-based system of monitoring funded entities. 7/24/2014	

***HUD will issue guidance with a new effective date for this provision.**

RENTAL PROGRAMS

	REQUIREMENT	EFFECTIVE DATE	NOTES
CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS Applicable to all HOME projects in portfolio (regardless of when funds were committed)			
Definition	Project completion §92.2	Rental housing projects can be completed in IDIS with vacant units.	PJs must complete projects in IDIS in a timely fashion, and do not need to wait for units to be occupied. Beneficiary data must be entered into IDIS but can be done after the project is completed in IDIS.
Eligible Activities	Multi-unit housing §92.205(d) & (1)	HOME can only pay for eligible costs in a multi-unit development.	
	HOME & public housing §92.213 (a)(b)(c)(d)	Sets limitation on the use of HOME in public housing; provides exception with HOPE VI funds.	
Leases	Required lease §92.252; §92.253(a)	Tenants must have a written lease for at least one year, or less if mutually agreed upon.	
Rents	Rent limitation §92.252(a)	HOME rents include both rent and actual utilities or rent and the utility allowance.	
	Additional rent limitation §92.252(b)	PJs may designate more than the required minimum HOME units as Low HOME rent units.	Additional rent limitations must be in the written agreement with the project owner.
	SRO rents §92.252(c)(1)	For SRO units with both sanitary and food preparation facilities: the maximum HOME rent is the zero-bedroom fair market rent.	
	SRO rents §92.252(c)(2)	For SRO units with no sanitary or food preparation facilities (or only one of the two): the maximum HOME rent is 75% of the zero-bedroom fair market rent.	
Period of Affordability	Repayment obligation §92.252(e)(1)(i); §92.252(e)(4)	Termination of affordability restrictions on a project does not relieve a PJ of its repayment obligation because the project failed to meet its period of affordability.	

		REQUIREMENT	EFFECTIVE DATE	NOTES
Prohibited Lease Terms	Mechanism to secure affordability §92.252(e)(1)(ii)	Added language to clarify that a use agreement is a permissible mechanism for recording the required affordability restriction.		Keep copies of use restrictions on file
	Recordation §92.252(e)(1)(iii)	All mechanisms (deed restrictions, covenants and use restrictions) used to record affordability restrictions must be recorded in accordance with State recordation laws.		Keep copies of recordation on file
	Mandatory supportive services §92.253(b)(9)	Clarifies that supportive services cannot be mandatory for tenants of HOME-assisted units (except supportive services provided in transitional housing).		Supportive services related to a disability can never be mandatory (this is consistent with Section 504).
Tenant Selection	Affirmative marketing §92.253(d)	Project owners must comply with affirmative marketing requirements at §92.351(a).		
	Very-low and low income families §92.253(d)(1)	Written tenant selection policies and criteria must limit rental housing to low- and very low-income families.		
	Applicants §92.253(d)(2)	Written tenant selection policies and criteria must be reasonably related to the applicant's ability to perform the obligations of the lease.		
Rental Conversion	Tenant selection §92.252(k); §92.253(d)(3)	Project owners may limit eligibility or give preference to target group if permitted in written agreement.		Limitations or preferences must be described in PJ's Consolidated Plan/Annual Action Plan.
	Nondiscrimination §92.253(d)(3)(i)	Any limitation or preference must not violate nondiscrimination requirements in §92.350.		
	Tenant preferences §92.253(d)(3)(ii)	Preferences may be given to disabled families who need services offered at a project, only if certain conditions are met.		
	Converting rental to homeownership §92.255(a)	Project owner cannot evict tenant or refuse to renew the lease if tenant refuses to buy housing.		

	REQUIREMENT	EFFECTIVE DATE	NOTES
	Period of affordability (POA) §92.255(b)	If additional HOME funds are used to assist a tenant to purchase their unit, then the POA is based on §92.254(a)(4); if no additional HOME funds are used, then the POA remains the rental POA.	

CATEGORY #2: NEW PROJECT REQUIREMENTS

Applicable to all new projects to which HOME funds are committed on/after the effective date of the requirement

Definition	SRO §92.2	In order to be eligible, a project’s designation as a SRO project must be consistent with the building’s zoning and building code classification.	8/23/2013	If a project must be designated as a group home based on local zoning or building classifications, than it must meet all requirements for group homes under the HOME program; if it must be designated as a facility, than it is ineligible for HOME funding.
Prohibited Activities & Fees	Monitoring fees §92.214(b)(1)(i)	PJs may charge project owners a reasonable annual fee to monitor.	8/23/2013	
Property Standards	New construction §92.251(a)	Please see ‘ Property Standards ’ on the “General Program & Administration” chart.	1/24/2015*	
	Rehabilitation §92.251(b)	Please see ‘ Property Standards ’ on the “General Program & Administration” chart. In addition, for rental housing, PJs must estimate the remaining useful life of major systems. Capital needs assessments are required for rental projects with 26+ total units. If the remaining useful life of any system is less than the period of affordability, the PJ must ensure that a replacement reserve is established to cover eventual repair/replacement.	1/24/2015*	
	Acquisition of standard housing §92.251(c)	Please see ‘ Property Standards ’ on the “General Program & Administration” requirements chart. In addition, for rental housing: --if newly constructed or rehabilitated <u>less than 12 months</u> before the date of commitment, the property standards for		

	REQUIREMENT	EFFECTIVE DATE	NOTES	
Ongoing Property Condition Standards	“new construction” (at §92.251(a)) and “rehabilitation” (§92.251(b)) apply, respectively. --if newly constructed or rehabilitated <u>more than</u> 12 months before the date of commitment, the “rehabilitation” property standards at §92.251(b) apply.			
	Manufactured housing §92.251(e)	Please see ‘Property Standards’ on the “General Program & Administration” requirements chart.	1/24/2015*	
	Establish property standard §92.251(f)(1)	PJ must establish property standards for rental housing that apply throughout affordability period.	1/24/2015*	
	State and local code, UPCS §92.251(f)(1)(i)	Property must be maintained to meet all applicable State and local codes or UPCS.	1/24/2015*	
	Health and safety §92.251(f)(1)(ii)	PJ’s standards must require the housing to be free of all health and safety defects.	1/24/2015*	
	Lead-based paint §92.251(f)(1)(iii)	PJ’s standard must require the housing to meet the lead-based paint requirements at 24 CFR part 35.	1/24/2015*	
	Standards for older projects §92.251(f)(2)	Projects funded before January 24, 2015 must meet all applicable State or local codes or in their absences, HQS at 24 CFR 982.401.		
	Onsite inspections §92.251(f)(3); §92.504(d)(1)(ii)(A)	New requirements related to timeframes and schedules for inspections. Inspection required within 12 months of project completion and then once every three years thereafter.	1/24/2015*	While not required, PJs may consider amending existing written agreements to reflect this requirement in order to align inspection frequency across the entire portfolio.
	Corrective and remedial actions §92.251(f)(4)	PJ must have procedures for ensuring project owners address deficiencies in a timely manner.	1/24/2015*	
	Inspection procedures §92.251(f)(5) §92.504(d)	PJs must establish written inspection procedures which include: detailed inspection checklists, details on who will conduct inspections and how, procedures	1/24/2013*	Inspector qualifications must be on file. While not required, PJs may consider amending existing written agreements to reflect this requirement in order to align inspection

		REQUIREMENT	EFFECTIVE DATE	NOTES
		for training and certifying qualified inspectors, and a description of inspection frequency.		procedures across the entire portfolio.
Occupancy	Initial occupancy of vacant units §92.252	HOME units must be occupied within six month of project completion or HUD will require a marketing plan; HUD will require repayment of HOME funds if units are not occupied within 18 months of project completion.	8/23/2013	Rental housing projects can be completed in IDIS with vacant units. Project files must contain marketing plan for lease-up.
Utility allowances	Utility allowance §92.252(d)(1)	PJs must use HUD Utility Schedule Model or otherwise determine a project's utility allowance based upon utilities used at the project.	1/24/2015*	
Unit Designation	Fixed or floating §92.252(j)	PJ must state in written agreement whether HOME units are fixed or floating.	8/23/2013	Applicable to all new written agreements
Leases	Termination of tenancy §92.253(c)	Leases in transitional housing can be terminated for failure to follow any required transitional housing supportive services plan.	8/23/2013	Applicable to new leases
On-site Inspections	Inspections at project completion and during period of affordability §92.504(d)(1)	PJ must inspect unit at project completion and during period of affordability for compliance with property standards of §92.251.	8/23/2013	
	Completion inspection §92.504(d)(1)(i)	PJs must conduct on-site completion inspections to confirm that all contracted work is complete and property standards are met.	8/23/2014	PJ must complete and document prior to completing project in IDIS
	Ongoing periodic inspections §92.504(d)(1)(ii)	During period of affordability, PJ must inspect rental unit according to established procedures and determine compliance with property standards of §92.251; PJ must also verify the information submitted by owners.	1/24/2015*	

	REQUIREMENT	EFFECTIVE DATE	NOTES
Financial Oversight	Frequency of inspections §92.504(d)(1)(ii)(A)	On-site inspection must occur within 12 months after project completion and at least once every 3 years thereafter.	1/24/2015* While not required, PJs may consider amending existing written agreements to reflect this requirement in order to align inspection frequency across the entire portfolio.
	Correcting deficiencies §92.504(d)(1)(ii)(B)	PJ must conduct follow-up, on-site inspection to verify any deficiencies have been corrected within 12 months; PJ must establish guidelines for verification of all types of corrections and adopt inspection schedule accordingly.	1/24/2015*
	Annual certification §92.504(d)(1)(ii)(C)	Property owners must submit an annual certification to the PJ that each building and all HOME-units are suitable for occupancy.	1/24/2015*
	Inspection sample §92.504(d)(1)(ii)(D)	Inspection must be based on a statistically valid sample of units appropriate for the size of the HOME project; PJ must inspect 100% of one-to-four HOME units and inspectable items.	1/24/2015* While not required, PJs may consider amending existing written agreements to reflect this requirement in order to align inspection samples across the entire portfolio.
	Financial oversight §92.504(d)(2)	PJs must examine at least annually the financial condition of projects with 10 or more HOME units to determine financial viability and must take action to correct problems.	7/24/2014 HUD encourages the financial review of all projects in a PJ's portfolio.

CATEGORY #3: NEW PROGRAM REQUIREMENTS

These are general administrative requirements of the PJ and become applicable to the PJ's entire program and portfolio of HOME projects when effective (regardless of when funds were committed)

Troubled Projects	Additional HOME funds §92.210(b)	PJs may invest additional HOME funds in financially troubled projects.	8/23/2013	Memorandum of agreement is required
	Reduction of HOME units §92.210(c)	PJs may reduce number of HOME units if project contains more than the required minimum.	8/23/2013	Must be approved in writing by HUD HQ
	Reducing HOME units §92.205(d)(2)	Projects with all HOME units may convert one unit to a manager's unit.	8/23/2013	Does not require HUD approval

		REQUIREMENT	EFFECTIVE DATE	NOTES
Rents Approvals	Rent approvals §92.252(f)(2)	The PJ must review and approve the rents for each project annually.	8/23/2013	This is a requirement of the PJ. Owners have always been required to annually provide the PJ with information on rents and occupancy, so applying this to the entire portfolio will not impair any existing written agreements.
Affirmative Marketing	Affirmative marketing §92.351(a)(1)	Affirmative marketing procedures apply to tenants with Section 8 assistance or HOME-funded TBRA.		

***HUD will issue guidance with a new effective date for this provision.**

TENANT-BASED RENTAL ASSISTANCE PROGRAMS

REQUIREMENT

EFFECTIVE DATE

NOTES

CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS

Applicable to all HOME projects in portfolio (regardless of when funds were committed)

Definition	Project completion §92.2	Project completion means the final drawdown has been disbursed for the project.	
Eligible Costs	Utility deposits §92.209(a)	Utility deposit assistance in conjunction with TBRA or security deposits is HOME eligible.	
Tenant Selection	Tenant selection §92.209(c)	PJ's tenant selection policies and criteria must be based on the local housing needs & priorities established in the Consolidated Plan/Annual Action Plan.	
	Targeted assistance §92.209(c)(2)(i)	PJs may establish preferences for individuals with special needs, including the disabled, based on local housing needs and priorities established in the Consolidated Plan/Annual Action Plan	
	Setting preferences §92.209(c)(2)(ii)	PJs may establish a preference for a specific category of individuals with disabilities based on local housing needs and priorities established in the Consolidated Plan/Annual Action Plan.	
	Protection for people receiving preferences §92.209(c)(2)(v)	Prohibits the exclusion of persons who receive TBRA from participating in other programs.	
Self-Sufficiency Program	Self-sufficiency §92.209(c)(2)(iii)	Participation in self-sufficiency programs can be a required condition for selection to receive TBRA. Failure to continue participation in the program cannot be grounds for terminating assistance but may be grounds for not renewing the assistance.	Written agreements/contracts for assistance with beneficiaries must reflect this requirement.

		REQUIREMENT	EFFECTIVE DATE	NOTES
Lease-Purchase Programs	Lease-purchase programs §92.209(c)(2)(iv)	TBRA may be used to pay for monthly rental payments in lease-purchase programs but cannot be used to pay for downpayment assistance.		
Leases	Tenant leases §92.209(g); §92.253(a)	Tenants must have a written lease for at least one year or less, if mutually agreed upon.		
Rent Standards	Rent Standard §92.209(h)(3)(ii)	PJs can set rent standards using local market conditions or based on rent standards established in 24 CFR 982.		
Property Standards	Housing Quality Standard §92.251(d); §92.504(d)(1)(iii)	TBRA units must meet HQS at 24 CFR 982.401.		

CATEGORY #3: NEW PROGRAM REQUIREMENTS

These are general administrative requirements of the PJ and become applicable to the PJ's entire program and portfolio of HOME projects when effective (regardless of when funds were committed)

Eligible Costs	Unit inspection §92.209(a)	The cost of inspecting TBRA units is an eligible project cost.	8/23/2013	PJs can pay for any TBRA unit inspection as a project-related soft cost on/after August 23, 2013. If State recipients/subrecipients are undertaking a TBRA program, written agreements must be updated to permit this flexibility.
	Income determination §92.209(a)	The cost of income determinations for TBRA recipients is an eligible project cost.	8/23/2013	PJs can pay for income determinations as a project-related soft cost on/after August 23, 2013. If State recipients/subrecipients are undertaking a TBRA program, written agreements must be updated to permit this flexibility.

HOMEBUYER PROGRAMS

REQUIREMENT

EFFECTIVE DATE

NOTES

CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS

Applicable to all HOME projects in portfolio (regardless of when funds were committed)

Definitions	Homeownership §92.2	Contracts for deed, installment contracts, or land contracts are not eligible forms of homeownership
Resale/Recapture	Resale restrictions §92.254(a)(5)(i)	PJs must define “fair return on investment” and “affordable to a reasonable range of low-income buyers” in their restrictions.
Tenant Purchase	Tenant purchase of HOME unit §92.255	Project owner cannot evict tenant or refuse to renew the lease if tenant refuses to buy housing.

CATEGORY #2: NEW PROJECT REQUIREMENTS

Applicable to all new projects to which HOME funds are committed on/after the effective date of the requirement

Definition	Homeownership §92.2	Housing located on land owned by a community land trust must have a leasehold interest for at least 50 years. Manufactured housing must be on a ground lease at least equal to the period of affordability.	8/23/2013	
Fees	Homebuyer counseling fees §92.214(b)(1)(iii)	PJs, subrecipients, and State recipients may charge homebuyers a reasonable fee for the cost of housing counseling.	8/23/2013	
Match	Match credit §92.221(d)	Further clarifies what qualifies as Match when there is a contribution to the development of homebuyer housing.	8/23/2013	PJs must apply this requirement to all Match incurred on projects to which funds were committed on/after August 23, 2013
Underwriting & Subsidy Layering	Subsidy layering and underwriting requirements §92.250(b)	For each project, <u>prior</u> to committing funds, PJs must: evaluate return to owner/developer (in relation to the PJs standards for reasonable return); examine sources & uses and determine that costs	8/23/2013	The FY2012/2013 Appropriations requirements require that, for all 2012 and 2013 HOME projects not subject to the new Final Rule, the PJ must underwrite the project, assess the capacity and fiscal

	REQUIREMENT	EFFECTIVE DATE	NOTES
	are reasonable; assess neighborhood market demand for project; assess developer experience and financial capability; require firm written financial commitments. **for downpayment assistance only, a market analysis or evaluation of the developer is not required.		soundness of the developer, and assess the neighborhood market demand. For information on this requirement, please see CPD Notice 14-08 .
Property Standards	New construction §92.251(a)	Please see ' Property Standards ' on the "General Program & Administration" requirements chart.	1/24/2015*
	Rehabilitation §92.251(b)	Please see ' Property Standards ' on the "General Program & Administration" requirements chart. In addition, for homebuyer housing, major systems must have a remaining useful life for a minimum of 5 years at project completion, or the system must be rehabilitated or replaced as part of the scope of work.	1/24/2015*
	Acquisition of standard housing §92.251(c)	Please see ' Property Standards ' on the "General Program & Administration" requirements chart. In addition, existing housing that is acquired for homeownership (i.e., downpayment assistance) must be decent, safe, sanitary, and in good repair. At a minimum, the property must meet state and local housing quality standards and codes and HUD proscribed UPCS inspection protocols.	1/24/2015*
	Manufactured housing §92.251(e)	Please see ' Property Standards ' on the "General Program & Administration" requirements chart.	1/24/2015*
Homeownership Value Limits	Value limits §92.254(a)(2)(iii)	Elimination of the 203(b) limit. HUD will calculate limits for 95% of the area median purchase price for newly constructed housing and existing housing.	8/23/2013 HUD limits are updated and published annually. The limits applicable to a project are the limits effective at the time the project specific commitment is made.

	REQUIREMENT		EFFECTIVE DATE	NOTES
Sales Deadline	9-month sales deadline §92.254(a)(3)	PJs must sell all homebuyer units within 9 months of construction completion (or convert the unit to rental or repay the HOME investment).	8/23/2013	The FY2012/2013 Appropriations requirements established a 6-month sales deadline for all 2012 & 2013 HOME projects not subject to the new Final Rule. For information on this requirement, please see CPD Notice 14-08 .
Housing Counseling	Housing counseling §92.254(a)(3)	All homebuyers that receive HOME homebuyer assistance or purchase a unit developed with HOME funds must receive housing counseling.	8/23/2013	PJs must establish a written standard, including required qualifications for the counseling provider, content of curriculum, delivery mechanism, duration, etc.
Resale/Recapture	Assumption of recapture §92.254(a)(5)(ii)	A subsequent low-income purchaser of a HOME-assisted unit can assume the existing HOME loan and recapture obligation (only when no additional HOME assistance is provided)	8/23/2013	PJs may apply to entire existing portfolio if PJ adopts this option in its recapture provisions, however written agreements with initial owners may need to be modified.
Homeownership Policies	Underwriting §92.254(f)	PJs must have and follow underwriting standards for homeownership assistance which address: housing debt, overall debt, appropriateness of assistance, available assets, monthly housing expenses, etc.	1/24/2014	PJs must underwrite all households receiving homeownership assistance on/after January 24, 2014 to these standards.
	Responsible lending §92.254(f)	PJs must have and follow a policy to protect against predatory lending.	1/24/2014	PJs must apply this policy to all homebuyer loans provided through agreements executed on/after January 24, 2014
	Refinancing §92.254(f)	PJs must develop policies which address the refinancing of private debt and ensure that the loan terms of any loans to which HOME funds are subordinated are reasonable and sustainable.	1/24/2014	

CATEGORY #3: NEW PROGRAM REQUIREMENTS

These are general administrative requirements of the PJ and become applicable to the PJ's entire program and portfolio of HOME projects when effective (regardless of when funds were committed)

Resale/Recapture	Approval of resale/recapture provisions §92.254(a)(5)	PJs must obtain HUD's specific, written approval of their resale/recapture provisions (which continue to be submitted	8/23/2013
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	REQUIREMENT	EFFECTIVE DATE	NOTES
Lender Relations			
	Providing assistance through lenders §92.254(e)	When downpayment assistance is provided through a nonprofit/for-profit that also provides first mortgage financing: the PJ must verify family eligibility and inspect housing for compliance with property standards; the lending organization is not permitted to charge fees.	8/23/2013 PJs are required to revise any existing written agreements with lenders to reflect these requirements.

***HUD will issue guidance with a new effective date for this provision.**

Homeowner Rehabilitation

	REQUIREMENT	EFFECTIVE DATE	NOTES
CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS			
Applicable to all HOME projects in portfolio (regardless of when funds were committed)			
Definitions	Homeownership §92.2	Contracts for deed, installment contracts, or land contracts are not eligible forms of homeownership	
CATEGORY #2: NEW PROJECT REQUIREMENTS			
Applicable to all new projects to which HOME funds are committed on/after the effective date of the requirement			
Definitions	Reconstruction §92.2	Permits reconstruction of units that were not standing at time of project commitment if the unit was destroyed by a disaster not more than 12 months prior to commitment.	8/23/2013
	Homeownership §92.2	Housing located on land owned by a community land trust must have a leasehold interest for at least 50 years. Manufactured housing must be on a ground lease at least equal to the period of affordability.	8/23/2013
Underwriting & Subsidy Layering	Subsidy layering and underwriting requirements §92.250(b)	For each project, <u>prior</u> to committing HOME funds, PJs must: examine sources & uses and determine that costs are reasonable and assess the firm written financial commitments. An underwriting analysis is required only when the HOME-funded rehab loan is amortizing.	8/23/2013
Property Standards	Rehabilitation §92.251(b)	Please see ‘Property Standards’ on the “General Program & Administration” chart. In addition, for homeowner rehabilitation, major systems must have a remaining useful life for a minimum of 5 years at project completion, or the system must be rehabilitated or replaced as part of the	1/24/2015*

		REQUIREMENT	EFFECTIVE DATE	NOTES
		scope of work.		
	Manufactured housing §92.251(e)	Please see ' Property Standards ' on the "General Program & Administration" chart. In addition, manufactured housing that replaces a substandard unit under the definition of "reconstruction" must meet the Manufactured Home Construction and Safety standards at 24 CFR Part 3280, must be on a permanent foundation, and must be connected to permanent utility hook-ups. For rehabilitation of existing manufactured housing, the foundation and anchoring must meet all applicable State and local codes, ordinances, and requirements (or in the absence of such codes, the Model Manufactured Home Installation Standards) and the requirements in paragraph (b), as applicable.	1/24/2015*	
Homeownership	Value limits §92.254(a)(2)(iii)	Elimination of the 203(b) limit. HUD will calculate limits for 95% of the area median purchase price for newly constructed housing and existing housing.	8/23/2013	HUD limits are updated and published annually. The limits applicable to a project are the limits effective at the time the project specific commitment is made.
Eligibility	Exceptions to qualification as "homeowner" §92.254(c)	PJs are permitted to provide rehabilitation assistance to an existing homeowner when the housing meets the definition of "homeownership" at §92.2, and in four additional situations: inherited property with multiple owners, life estate, inter vivos trust (living trust), and beneficiary deed.	8/23/2013	PJs must establish in their policies whether they will permit these forms of homeownership.

***HUD will issue guidance with a new effective date for this provision.**

COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

	REQUIREMENT	EFFECTIVE DATE	NOTES
CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS			
Applicable to all HOME projects in portfolio (regardless of when funds were committed)			
Definition	Nonprofit status §92.2 (paragraph 4)	Codifies existing policy on IRS designation.	
Operating Expenses	CHDO operating expenses §92.208(a)	CHDO operating funds are not CHDO-set aside funds and are not intended to supplement project costs.	
Written Agreements	Developer of homeownership housing §92.504(c)(3)(x), §92.300(a)(6)(ii)(A)-(B)	The written agreement between the PJ and CHDO must specifically state: 1) if the CHDO will be allowed to retain the proceeds of the sale; 2) the required use of proceeds ; and 3) whether recaptured funds must be re-invested in HOME-assisted activities or returned to the PJ.	
CATEGORY #2: NEW PROJECT REQUIREMENTS			
Applicable to all new projects to which HOME funds are committed on/after the effective date of the requirement			
Definition	For-profit sponsors §92.2 (paragraph 3)	The officers or employees of a for-profit cannot serve as the officers or employees of a CHDO that it creates.	8/23/2013
	Governmental entities §92.2 (paragraph 5)	The officers or employees of a governmental entity cannot be the officers or employees of a CHDO. The Rule further defines “governmental entity” to include the PJ, other PJs, Indian tribes, public housing authorities, Indian housing authorities, housing finance agencies, or redevelopment agencies.	8/23/2013

		REQUIREMENT	EFFECTIVE DATE	NOTES
	Capacity & staffing §92.2 (paragraph 9)	A CHDO must have paid employees with experience relevant to the CHDO's role as owner, developer, or sponsor. Under the new rule, the capacity of consultants used to train staff can only be considered during the first year an organization is funded as a CHDO.	8/23/2013	The PJ must certify the CHDO has capacity <u>each</u> time it commits funds to the CHDO for a specific local project. The FY2012/2013 Appropriations requirements established a CHDO Capacity Requirement for all FY2012 & FY2013 CHDO set-aside funded projects. For information on this requirement, please see CPD Notice 14-08 .
Certification	CHDO certification §92.300(a)	PJs must certify that the CHDO meets the qualification requirements and has the capacity to own, develop, or sponsor housing every time it commits funds to the CHDO for a specific project.	8/23/2013	Applies regardless of when the general (non-project-specific) reservation was made.
Reservations	Project-specific reservations §92.300(a)(1)	Non-project-specific reservations no longer count towards commitment requirements. PJs have 2 years to commit CHDO set-aside funds to specific projects.	10/22/2013	HUD will implement for all commitment deadlines on/after January 1, 2015. PJs can still make non-binding preliminary awards to CHDOs, but they do not constitute HOME commitments.
CHDO Roles	Definitions of Own, Develop, Sponsor §92.300(a)(2)-(6)	New, and codified, definitions for CHDO as Owner, Developer, or Sponsor of housing. Includes a new role for CHDO as "owner" of rental housing that it does not develop.	8/23/2013	
	Removal for Cause §92.300(a)(4)(i)	Under the sponsor definition, if the LLC or LP agreement permits the CHDO to be removed as general partner or sole managing member, the agreement must state that the removal must be for cause and that the CHDO must be replaced with another CHDO.	8/23/2013	
	Developer of housing for homeownership §92.300(a)(6)(i)-(ii)	When a CHDO uses set-aside funds for direct homeownership assistance to buyers of HOME-assisted housing that it develops, the amount of assistance is limited to 10 percent of the HOME funds drawn down for development of the housing.	8/23/2013	
		In the written agreement with the CHDO, the		

		REQUIREMENT	EFFECTIVE DATE	NOTES
Operating Expenses		PJ must establish the actual sales price of the housing or the method by which the sales price will be determined.		
	Agreements for operating expenses §92.504(c)(6)	The written agreement with the CHDO must describe the uses of the funds, state that the CHDO is expected to receive HOME funds for a project within 24 months, and include the consequences for failure to receive set-aside funding for a project.	8/23/2013	

CATEGORY #3: NEW PROGRAM REQUIREMENTS
 These are general administrative requirements of the PJ and become applicable to the PJ's entire program and portfolio of HOME projects when effective (regardless of when funds were committed)

Expenditure Deadline	CHDO expenditure deadline §92.500(d)(1)(c)	Establishes a separate 5-year expenditure deadline for CHDO set-aside funds. Expenditures will be calculated on a cumulative basis.	1/1/2015	HUD will implement for all expenditure deadlines on/after January 1, 2015
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