

Highlights of the Changes in the 2013 HOME Final Rule

Introduction

The 2013 Rule contains many new provisions and changes that will have substantive and broad-based impact on how participating jurisdictions administer HOME activities. The 2013 Rule also codifies existing policy guidance that has been previously issued by HUD, and addresses a number of technical and non-substantive “housekeeping” items within the HOME regulation.

The key substantive changes in the regulation are intended to:

- Accelerate the timely production and occupancy of assisted housing,
- Strengthen the performance of PJs and their partners in producing and preserving affordable housing units,
- Provide PJs with greater flexibility in the design and implementation of their programs, and
- Increase administrative transparency and accountability.

Timely Production and Occupancy of Assisted Housing

The 2013 Rule revised a number of commitment and completion deadlines and imposed new occupancy deadlines:

- **HOME projects must be completed within four years of commitment.** Any project that is not completed timely will be terminated and PJs will be required to repay HOME funds drawn. [*§92.205(e)(2)*]
- **HOME-assisted rental units must be occupied by income-eligible households within 18 months of project completion;** if not, PJs must repay HOME funds for the vacant units. Note, for units that remain vacant six months following completion, the PJ must identify and develop an enhanced marketing plan and report this information to HUD. [*§92.252*]
- **A homebuyer unit must have a ratified sales contract within nine months of construction completion,** or the PJ must either convert it to a HOME rental unit or repay the full HOME investment. [*§92.254(a)(3)*]
- **CHDO set-aside funds must be committed to specific projects within 24 months of the PJ receiving its HOME allocation.** The PJ can no longer “reserve” CHDO funds for projects that will be identified at a later date. [*§92.2 Commitment, §92.300(a)(1)*]
- **CHDO set-aside funds must be expended within 5 years** of when the PJ receives its formula allocation. [*§92.500(d)(1)(A) and (C), and §92.500(d)(2)*]

Strengthen Performance in Producing and Preserving Affordable Housing

The 2013 Rule provides regulatory guidance to strengthen PJs’ performance in the production and preservation of HOME- assisted projects. These changes relate to underwriting, property standards and construction oversight, CHDO qualifications and capacity, and long-term viability of projects.

Underwriting and Program Design

- **PJs must underwrite all HOME projects** to ensure that each project is financially sustainable over its affordability period. The underwriting review evaluates cost reasonableness, market demand, developer capacity, and the commitment of other funding sources. [*§92.250(b)*]

- **PJs must adopt program policies for homebuyer programs** that include underwriting guidelines to determine the appropriate amount of assistance necessary to assist the low-income buyer; assessment of a buyer's ability to purchase and remain in the home (e.g., housing and consumer debt ratios, anticipated income, and available assets); and anti-predatory lending and subordination policies. [*§92.254(f)*]
- **Homebuyers must receive housing counseling** before receiving HOME assistance (downpayment assistance) or purchasing a HOME-assisted unit. [*§92.254(a)(3)*]

Property Standards and Construction Oversight

- **Property standards are updated** to reference current national codes and to require that PJs establish standards that will sustain quality assisted housing for at least the affordability period. Within the 2013 Rule, property standards requirements are reorganized by project type – new construction, rehabilitation, acquisition without rehabilitation, and manufactured housing. [*§92.251*]
- **PJs must identify and plan for major systems repairs.** For rental rehabilitation projects with 26+ units, this must be done via a capital needs assessment. The PJ must require that the scope of rehabilitation work and replacement reserves deposits must be sufficient to ensure the useful life of essential building components throughout the period of affordability. For homeownership housing, major systems must have a useful life of at least five years upon project completion. [*§92.251(b)(ii) and (viii)*]
- **PJs must develop inspection policies and procedures**, including initial inspections of properties to be rehabilitated or acquired to determine the necessary scope of work to bring each property up to applicable standards; and progress and final inspections for all new construction and rehabilitation projects to ensure projects are constructed according to approved plans. HUD will issue guidance to identify for PJs the minimum required inspectable elements based on the Uniform Physical Conditions Standards. [*§92.251(g)*]

CHDO Qualification and Capacity Requirements

- **To qualify as a CHDO, a nonprofit must have paid staff whose experience qualifies them to undertake CHDO set-aside activities.** Capacity cannot be demonstrated by use of a consultant, except in the first year that a CHDO becomes certified. [*§92.2 Community housing development organization*]
- **Each time the PJ commits HOME funds, it must re-certify a nonprofit's qualifications** to be a CHDO and its capacity to own, sponsor, or develop housing. [*§92.300(a)*]
- **The roles of owner, developer, and sponsor for CHDOs using set-aside funds are more specifically defined.** Among other changes, the 2013 Rule permits a PJ to provide CHDO set-aside funds for a CHDO that owns rental housing that it does not develop. [*§92.300(a)(2) – (6)*]

Long-Term Viability of Rental Projects

- **During the affordability period, PJs must examine the financial condition of projects** with 10 or more HOME-assisted units at least annually, and must take action where feasible to correct problems that threaten a project's financial viability. [*§92.504(d)(2)*]

Provide Flexibility in Program Design and Administration

The 2013 Rule provides flexibility to PJs by permitting new ways to design and administer local HOME Programs for increased program efficiency and effectiveness.

- **PJs may utilize a risk-based monitoring system and adjust the schedule of ongoing rental unit inspections** as part of a risk-based monitoring system, but inspections must occur no less frequently than every 3 years. The first on-site inspection must occur within 12 months of project completion. *§92.504(d)*
- **PJs are permitted to charge certain fees:** reasonable application fees, homebuyer counseling fees, and ongoing rental monitoring fees. The cost of inspections and income determinations for Tenant-Based Rental Assistance (TBRA) recipients may be charged as project soft costs. *[§92.214(b)(1) and §92.209(a)]*

Increase Administrative Transparency and Accountability

The rule requires PJs to develop several new written policies and procedures, making local program requirements clearer to program participants and the public as a whole.

- **PJs must develop risk-based monitoring systems** for all HOME funded activities and projects, including on-site monitoring schedules and financial oversight protocols for rental properties. *[\$92.504(a) and §92.504(d)(2)]*

Key Changes

Timely Production and Occupancy of Assisted Housing
 Strengthen Performance in Producing and Preserving Affordable Housing
 Provide Flexibility in Program Design and Administration
 Increase Administrative Transparency and Accountability

More Information About the HOME Final Rule

[The 2013 HOME Final Rule Effective Dates](#)
[The 2013 HOME Final Rule and the 2012/2013 HOME Appropriations Acts](#)

Important Resources

[2013 HOME Final Rule, 24 CFR Part 92 \(Changes Only\)](#)
[Section by Section Summary of the 2013 HOME Final Rule](#)