



## Housing Assistance Council

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Dear Rural Development Stakeholder:

The Housing Assistance Council (HAC) seeks your feedback on HUD's proposed regulation changes for the HOME Program, particularly on how they may impact rural communities, otherwise considered non-entitlement jurisdictions. We have shared our draft observations and comments with several stakeholders and want to share it with you. We want to make sure your voices are being heard at this important opportunity to comment on HUD's proposed changes. While many of the comments we are sharing speak to issues that impact both metro and rural communities we want to ensure that we are highlighting the potential results that these changes will have on non-metropolitan areas. Please share your thoughts....please be brief.... and we will review them for possible inclusion in our official letter to HUD responding to their proposed regulations changes. We are looking for a quick turnaround; please submit your comments to Dan Stern, [dan@ruralhome.org](mailto:dan@ruralhome.org) by COB, Wednesday, February 8<sup>th</sup> or comment on [HAC's LinkedIn](#) page or on [Twitter #HOMERules](#). We will post our final letter on our website.

Also, the link to HUD's summary and presentation on the proposed HOME regulation changes is <https://www.hometa.info/>.

We look forward to your input.

Sincerely,

Jeff Mosley

Director, Training and Technical Assistance Division

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HAC is an equal opportunity lender.

Dear Rural Development Stakeholder,

In response to HUD's proposed changes to the HOME regulations HAC has prepared a draft set of observations and comments to those particular suggestions which we feel will have the most significant impact on rural communities and the organizations that serve them. This list is not exhaustive by any means, but we hope you find it useful in helping you think through how the proposed regulations changes will impact your work and community. If it is helpful, here is the link to the official HUD proposed rule presentation and summary, <https://www.hometa.info/>.

Please share your thoughts with us. Please be brief, and we will try to reflect them in our official response letter to HUD. We are looking for a quick turnaround; please submit your comments to Dan Stern, [dan@ruralhome.org](mailto:dan@ruralhome.org) by COB, Wednesday, February 8<sup>th</sup> or comment on [HAC's LinkedIn](#) page or on [Twitter, #HOMERules](#). We will post our final letter on our website. We look forward to your input.

Select observations and comments:

**1. CHDO Capacity Requirements (Section 92.2)**

The proposed regulation requires CHDOs to demonstrate internal capacity to develop proposed projects with virtually no external assistance. This is concerning for all CHDOs, but most particularly rural organizations, where internal capacity is frequently limited to one staff person and new hires where the required 'demonstrated development experience' may be impossible. The rule explicitly prohibits the use of consultants and volunteer labor to demonstrate capacity.

**2. CHDOs Sponsored by Governmental Entities (Section 92.2)**

The proposed regulation restricts the control of a CHDO by a governmental entity. A number of CHDOs were created by: local housing authorities (LHAs), council of governments (CoGs), regional planning commissions (RPCs), and tribal entities (TDHEs) which are frequently incorporated as governmental entities. Permitting LHAs, COGs, RPCs, and TDHEs to spin off CHDO arms are beneficial to all parties as long as the governmental entity is unrelated to the PJ and has separation from political influence. The ability to use shared staff, shared office space, and participation on the board has proven beneficial to the creation of strong CHDOs. Disallowing these relationships can have direct impacts on these CHDOs' capacity to survive without the in-kind support.

**3. Reduced Timeline for Income Determination (Section 92.203)**

"A minimum examination period of 3 months should be sufficient to accurately reflect the income eligibility of applicants for HOME units". This could potentially have an impact on low-income persons with seasonal or inconsistent income.

**4. Development Timeline Condensed ((Section 92.205)**

The proposed regulation reduces the PJs time to commit funds from 2 years to 1 year and the time for organizations to develop from 5 years to 4 years. The regulation allows the PJ to request a 12 month extension to complete pending approval by HUD officials. Failure to meet the timeline requirement will require the PJ to repay HOME funds invested in the project. For rural projects, where the need to assemble an array of affordable financing and grant resources and arrange the timing of these commitments is often difficult and time consuming, the proposed timeframes may have a substantial negative impact.

**5. Inspection Fees (Section 92.214)**

While HUD is prohibiting organizations from charging fees to homebuyers and tenants, it will begin permitting PJs to charge inspection fees for annual compliance monitoring visits. The proposed regulation provided does not give guidance on cost reasonableness of the fees.

**6. Prohibition to Charging Fees to Homebuyers (Section 92.214)**

Under the proposed rule organizations would not be permitted to charge fees to the family for HOME homeownership assistance it provides. In addition, the PJs would be required to determine that the fees and other amounts charged to the family by the lender for the first mortgage financing are reasonable, based upon industry practice in the area, and ensuring that the family is not being charged fees for a HOME-funded activity. HUD should clarify that, while it requires homebuyers receiving HOME assistance to receive pre-purchase counseling, organizations can or cannot include Housing Counseling an ineligible project cost under the HOME program; many organizations charge a nominal fee on the HUD-1 to cover a portion of expenses. A question is whether organizations that serve as approved, or certified loan packagers, for conventional, governmental or other nonprofit agencies can charge packaging or brokerage fees if HOME assistance is part of the construction or homebuyer financing.

**7. Leasing Up Rental Properties/Troubled Rental Projects (Section 92.252, 210)**

Rental units which have not been leased within 3-6 months will be required to report to HUD marketing plans. If efforts to market the unit are unsuccessful and a unit is not occupied by an initial tenant after 18 months, HUD would require repayment of HOME funds invested in the units but the project owner must maintain compliance and affordability throughout the original performance period.

#### 8. **Tenant and Homebuyer Preferences (Section 92.253)**

The proposed rule limits permits PJs to limit the beneficiaries or give preferences to a particular segment of the low-income population only if described in the action plan and it doesn't violate fair housing. Limiting beneficiaries or giving preferences to such professions as police officers, teachers, or artists are eligible. Employees of the PJ are not eligible for preferences.

Additionally, a project may have a limitation or preference for people with disabilities who need services offered at a project only if:

- it is limited to households with disabilities that significantly interfere with their ability to obtain and maintain housing;
- the households will not be able to maintain themselves in housing without appropriate supportive services; and,
- the needed services cannot be provided in a non-segregated setting.

However the regulation enforces the current practice to allow a HOME projects to restrict program beneficiaries when the project includes leveraged funds from categorically excluded programs, such as 202, 811 and HOPWA.

#### 9. **Initial Purchase Price Limit (Section 92.254)**

HUD has proposed language for non-metro communities, exempting them from the 95 percent of area median purchase price standard for newly constructed homes, allowing states to aggregate sales data from at least two contiguously connected counties with similar attributes to use as the alternative benchmark. First, HUD should consider allowing states to either adopt this as a standard, use the 95 percentile of the U.S. median purchase price for new construction in non-metro areas, or other options that would ensure the eligibility of newly constructed homes. States would have to publish the standard they choose in their Action Plans. Second, HUD and the states should address how the purchase price limits would apply to homeowner rehab sales. How does the proposed purchase price limit impact developers' ability to acquire/rehab and sell existing stock in low-value markets? The standard should, just as with new construction, allow for maximum flexibility to generate sales for income eligible and credit-worthy families.

#### 10. **Fee Simple Absolute Titles (Section 92.300)**

To qualify as a CHDO for a HOME-funded project as an owner or sponsor the nonprofit must own the property under Fee Simple Absolute title. Staff is concerned that such a narrow definition may impede or prohibit CHDO development on Native American Lands or in existing CLTs.

**11. Profit/Nonprofit Partnerships in LIHTC Deals (Section 92.300)**

The proposed rule states that for a project to qualify for CHDO funds, the CHDO must be the sole general partner. It will result in a significant change in participation of many CHDOs, particularly those that are rural, in the LIHTC program. The resulting partnerships, in particular, with equity and other capital/development partners may not be beneficial to CHDOs seeking fees, capacity or other upside to its participation beyond the delivery of affordable rental housing.

This list is not exhaustive and any statements that are inaccurate are unintentional; please refer to the official HUD proposed HOME regulations for complete documentation. If there is a topic that we did not highlight that you think is critical please make sure to submit your comment. Comments may also include topics that you think should be included in the proposed HOME regulations that currently are not proposed or discussed.

Thank you for your interest and assistance in helping HAC ensure that HUD receives thorough feedback on how the proposed Rule changes impacts the communities we serve.