NCSHA/COSCDA HOMEStrengths Conference
HOME Questions and Answers
January 14, 2004

1. What are the standards for monitoring single-family homeownership projects?

A: For single-family homeownership projects, the PJ must verify documentation that all expenditures were for HOME eligible activities; the HOME investment was between the minimum and maximum allowable per unit subsidy; the owner's gross income over the twelve months following the HOME assistance was less than 80 percent of the area median income using one of the three allowable definitions of income; the owner resides in the unit as his/her principal residence; and ownership of the unit is through one of the three allowable forms of homeownership. The PJ must also verify that the property type was eligible for HOME assistance, the property is located within the boundaries of the PJ, the sales price did not exceed 95 percent of the area median purchase price, and that the property meets applicable property standards.

The only ongoing requirement applicable to homebuyer projects is principal residency. There are no ongoing monitoring requirements for single-family homeownership projects, even for principal residency. However, many PJs choose to monitor that the owner resides in the unit as his/her principal residence during the period of affordability. Verification of residency can be accomplished through utility company records or insurance company records, physical inspections, or post card mailings with "do not forward" instructions among other methods.

2. In 2003, the Office of Management & Budget issued revised Metropolitan Statistical Area definitions. It is our understanding that the new definitions will not go into effect for the HOME Program until the 2005 limits are issued. This delay will lock potential beneficiaries out of the HOME program because their county is still subject to the lower statewide figure (even though they reside in a MSA). Please explain the delay.

A: HUD is implementing the new Metropolitan Statistical Area (MSA) definitions for HOME income and rent limits as expeditiously as possible, given the statutorily prescribed process for developing and issuing these limits. HUD Section 8 income limits, which are the basis for all HUD income limits, are tied to the Section 8 program Fair Market Rents (FMR). Income limit areas are based on FMR areas, and the two are linked in some income limit calculations. When the Office of Management and Budget (OMB) announced new MSA definitions in June 2003, the FY 2004 FMRs were already published in proposed form in order to meet the statutory requirement to issue final FMRs by October 1st of each year. Therefore, FY 2004 FMRs published on October 1, 2003, do not take advantage

of the revised MSAs or the 2000 Census rent data. HUD is currently working to develop revised FY 2004 FMRs that use 2000 Census data and the new MSA definitions. In addition, FY 2005 FMRs will be based on the 2000 Census data and the new MSA definitions.

3. **Our agency has always treated a nonprofit recipient of HOME funds as a subrecipient; thus, the nonprofit must follow procurement guidelines as outlined in 24 CFR part 84. Our HUD field office has said we don't have to require such procurement. According to the definition of a subrecipient in the HOME regulations, "A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient". Are we to act as if these entities are for profit developers or something similar to a CHDO? If so, does procurement apply? When are nonprofits considered developers? When aren't they considered developers and, therefore, subrecipients requiring procurement adherence?**

A: A nonprofit recipient of HOME funds is not necessarily a subrecipient. HOME defines a subrecipient as a public agency or nonprofit organization selected by the PJ to administer all or a portion of the PJ's HOME program. For example, a nonprofit that administers a PJ's homebuyer program or homeowner rehabilitation program is a subrecipient. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. According to 92.505(b), subrecipients are subject to the procurement standards set forth in 24 CFR § 84.40 through § 84.48. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient and is therefore not subject to procurement requirements.

4. **Please provide a clear definition on what constitutes a CHDO. What capability must the organization have? What are the staffing requirements? For how long can a CHDO contract out development capacity without actual CHDO staff doing development work?**

A**:** Community Housing Development Organizations (CHDOs) are defined in the HOME rule (§ 92.2). CHDOs must have a demonstrated capacity for carrying out activities to be assisted with HOME funds. An organization may satisfy this requirement by hiring experienced key staff members who have successfully completed similar projects, or a consultant with the same type of experience and a plan to train appropriate key staff members of the organization. CHDOs must also have at least one-year of history serving the community within which the HOME-assisted housing is to be located.

Additional information about CHDOs can be found in the *Building HOME* training manual (available on the HOME website) and the online training course *"How to Become a CHDO"* located on the HOME website at: http://www.hud.gov/offices/cpd/affordablehousing/training/index.cfm. HUD is

updating the CPD Notice concerning CHDOs to give expanded guidance on staffing, capacity and similar issues.

5. **What are the minimum Section 504 compliance requirements for multifamily rehabilitation projects? Please specify for projects with fewer than 15 units, 15 or more units, one-story buildings, and multi-story buildings with and without elevators.**

A: Section 504 of the Rehabilitation Act of 1973 requires that if alterations are undertaken to a housing project that has 15 or more units, and the rehabilitation costs will be 75 percent or more of the replacement cost of the completed facility, then such developments are considered to have undergone "substantial alterations" (24 CFR § 8.23(a)). For substantial alterations of multifamily rental housing, the accessibility requirements contained in 24 CFR § 8.22 must be followed – a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent, at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

When other alterations that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing projects of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of 5 percent of the dwelling units (but not less than one unit) are accessible to individuals with mobility impairments, unless HUD prescribes a higher number pursuant to 24 CFR § 8.23(b)(2). If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible. For this category of rehabilitation the additional 2 percent of the dwelling units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible. A recipient is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project (24 CFR § 8.23(b)). Therefore, recipients are required to provide access in covered alterations up to the point of being infeasible or an undue financial and administrative burden. Section 504 requirements apply without consideration to the number of stories or the existence of elevators in a housing project with 15 or more units.

Additional accessible design and construction requirements found in Section 804(f)(3)(C) of the Fair Housing Act apply only to covered multifamily dwelling units designed and constructed for first occupancy after March 13, 1991. The Fair Housing Act regulations define a building for first occupancy as a building that has never been used for any purpose. Therefore, the Fair Housing Act standards, which consider such factors as the number of stories and the existence of elevators, do not apply to multifamily housing rehabilitation projects.

6. Does Section 504 apply to single family homes constructed for homeownership (i.e. small subdivision of single family homes) or is it strictly applicable to multifamily projects?

A: The Section 504 regulations at 24 CFR 8.29 require any for-sale housing rehabilitated or newly constructed with federal funds to be made accessible upon the request of the prospective buyer, if an expected occupant has a disability that requires accessibility features. Consequently, when newly constructing units, the PJ should ensure that the basic design of its homeownership units will permit accessibility modifications to be made in the event that a buyer requests such features to accommodate a disability. Should a prospective buyer request a modification to make a unit accessible, the developer must work with the buyer to provide the specific features that meet the need of the particular buyer/occupant. If the necessary design features are covered in the Uniform Federal Accessibility Standards (UFAS) (see § 8.32), those features must comply with that standard. The buyer is permitted, however, to depart from the standard in order to have his or her needs met.

PJs are also required to comply with the nondiscrimination provisions of 24 CFR 8.4, which prohibit them from offering persons with disabilities housing opportunities that are qualitatively different from those afforded persons without disabilities. To meet this responsibility, HOME PJs should develop a portion of their newly constructed HOME homeownership units with accessible features and market this housing to persons with disabilities. These units can be constructed to appear identical to conventional housing. In 2004, HUD will issue a series of fair housing guides targeted to HOME PJs, including a guide on Section 504 issues.

7. Based upon the attached HUD Clips, would HUD please clarify if illegal aliens can be assisted with HOME funds?

A: HOME funds may only be used to assist qualified aliens as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). HOME is considered a Federal public benefit under PRWORA, which generally prohibits unqualified aliens from receiving Federal public benefits. According to section 401 of PRWORA, aliens who are not qualified aliens are not eligible, with certain specified exceptions listed under section 401(b), for any Federal public benefit. HUD has drafted a HOMEfires, expected to be issued early this year, which provides further guidance on this issue.

8. The issue of mold has many insurance companies concerned and several are excluding mold and subsequent damage from the limitations of coverage in homeowner's policies. Is there any advice for the PJ and/or grantee to respond to the homeowner if this issue arises? What are the responsibilities of the PJ or grantee in this situation?

A: The HOME Program would not require any particular actions of a PJ in the event of a mold problem in an owner-occupied unit that was previously assisted with HOME funds, unless the mold was somehow the result of the rehabilitation performed with HOME funds. In that case, the PJ should work with the homeowner and the contractor to reach a satisfactory outcome. If a homeowner's unit is affected by mold, a PJ may consider using additional HOME funds to address the problem. If the unit is under an affordability period (because it was a homebuyer project as opposed to a homeowner rehabilitation project), a waiver of the one year investment rule at § 92.214(a)(6) may be granted.

9. By granting waivers for entire jurisdictions in the Section 8 context, HUD recognizes that Fair Market Rents do not necessarily reflect what is necessary to operate rental housing. This is often true in rural areas where the survey results are based on trailers and dilapidated shacks. This type of housing is not at all comparable to the expense necessary to maintain newly constructed, well managed units. Since it has no such waiver program, large areas of the country cannot use the HOME program for rental housing. Will HUD consider simply allowing the same recognition for market conditions between the two programs? Section 215(a)(1)(i) of Cranston-Gonzalez not only allows, but arguably requires such treatment. The temporary waiver currently available is not a workable option.

A: The purpose of the Housing Voucher Choice (Section 8) Program is to provide subsidies to low-income families to enable them to rent standard housing units at market rate. The purpose of the HOME-funded rental activity is to provide subsidies to facilitate the development of housing that will be available to low-income families at rents they can afford, not to develop market rate rental housing. Even at the current HOME rent levels, HUD's 2001 study of ongoing affordability in HOME projects showed that 60% of households in HOME units were rent burdened; one-third of those households paid more than 50% of their income for rent. While HUD believes that permitting the HOME rents to be based upon Section 8 exception rents is contrary to the purposes of the HOME Program, it does recognize that, in certain areas of the country, small or no increases in FMRs over time endanger the viability of HOME projects. Consequently, HUD is developing a new rent exception policy for such projects.

10. Can HUD give a more in depth explanation of the July 2003 *HOMEfires* that asks about the impact of the regulations amending the calculation of annual income and adjusted income for disabled families and for families with members who are persons with disabilities. How does this affect determination of income eligibility for participation in the HOME program when using the Section 8 method? A local HUD rep thinks that it may allow PJs and/or grantees to make deductions for disabled households when determining eligibility (instead of using gross annual income for eligibility).

A: The July 2003 HOMEfires (attached) does not have any effect on initial income eligibility determinations. The mandatory deductions for adjusted income would affect the calculation of TBRA payments and, if the PJ used 30% of a tenant's adjusted gross income, the rents paid by tenants in low HOME-rent units. The disallowance of increases in annual income acts as a self-sufficiency incentive by excluding, for a limited time, all or a portion of the increase in earned income for a tenant already receiving HOME assistance (e.g., a tenant in a HOME rental project or a TBRA recipient). This has the effect of ensuring that a disabled family or a family with one or more disabled persons does not lose eligibility for HOME assistance because a family member takes a job.

11. The June 2003 *HOMEfires* states that PJs should regularly review the management and financial condition of projects so that they can intervene before projects reach the point of default. The regulations are clear on the requirement to monitor occupancy, rents, and property condition, but I have not been able to find a requirement for regular monitoring of financial condition. Where in the regulations is the requirement to monitor financial condition of developments? Is there a project size at which financial monitoring is not a requirement?

A: The HOME regulations do not specifically require PJs to monitor the financial condition of HOME-assisted rental projects. However, because PJs are required to repay HOME funds invested in projects that fail to meet the HOME affordability requirements throughout the applicable period of affordability, prudent PJs seeking to minimize their repayment risk will review the management practices and financial condition of projects in their HOME portfolio. HUD recommends that PJs develop a risk-based system for reviewing project financial condition and management operations. Developing and implementing such a system is another way for a PJ to demonstrate due diligence to HUD in the event that a project fails and a waiver of repayment is sought.

12. When the ADDI funds are released, will HUD waive the requirement that the activity be described in the PJ's consolidated plan, or will PJs be required to amend their plans?

A: The ADDI legislation, signed by President Bush on December 16, 2003, is clear on this point and, since the requirement is statutory, it cannot be waived. The law reads:

"To be eligible to receive a [ADDI] grant …in any fiscal year, a participating jurisdiction shall include in its comprehensive housing affordability strategy developed under section 105 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year-

(1) a description of the anticipated use of any [ADDI] grant…;

(2) a plan for conducting targeted outreach to residents and tenants of public housing, trailer parks, and manufactured housing, and to other families assisted by public housing agencies, for the purpose of ensuring that grant amounts provided under this section to a participating jurisdiction are used for downpayment assistance for such residents, tenants, and families; and
(3) a description of the actions to be taken to ensure the suitability of families receiving downpayment assistance under [ADDI]...to undertake and maintain homeownership."

Therefore, a PJ's consolidated plan must include or, if already submitted to HUD, be amended to include this information in order for a PJ to receive ADDI funds in any fiscal year.

13. Are there limitations against PJs restricting their HOME downpayment assistance programs to land trust properties? This approach by a PJ would minimize the risk to the PJ of having to repay HOME funds because the property becomes unaffordable.

A: No, there is no prohibition against limiting HOME downpayment assistance to community land trust (CLT) properties. CLTs provide a unique solution to permanent affordability. CLTs purchase land and own it in perpetuity. Low-income families own all the improvements on the land and lease the land from a CLT usually in the form of a 99-year ground lease. Deed restrictions are placed on the improvements which require a fair return on investment to the seller and the condition that the improvements be sold to another low-income family.

14. Is construction or rehabilitation of garages eligible, either for owner-occupied single-family housing, or multifamily rental? The regulations would seem to permit them if they are a standard amenity for the neighborhood. Section 92.206(a)(3)(iii) includes as development hard costs "... improvements to the project site that are in keeping with improvements of surrounding standard projects."

A: The eligibility of garages for HOME funds depends largely upon whether the garage is detached or attached. HOME funds may be used to pay the costs of constructing attached garages in conjunction with new construction of single-family housing. Attached garages may be rehabilitated with HOME funds, in conjunction with rehabilitation of the residential living space. Because the HOME statute does not permit the use of HOME funds for freestanding structures that do not constitute housing, the eligibility of detached garages for HOME funding is more limited. Detached garages that have health and safety code violations may be rehabilitated with HOME funds in conjunction with the rehabilitation of the housing unit. A detached garage can only be constructed with HOME funds if the structure is required to be detached by local ordinance or for the purpose of providing a reasonable accommodation to a person with

disabilities. HOME funds may only be used for garages, detached or attached, if housing unit is receiving HOME construction funding.

15. What procedures are available for HFAs to suspend non-performing organizations from participation in the HOME Program?

A: Under Section 92.504(a) of the HOME final rule, PJs are responsible for the day to day operations of their program and to review the performance of organizations receiving HOME funds annually. As a part of this process, PJs should develop procedures that evaluate both the timeliness and effectiveness of funded entities and establish minimum performance standards. PJs should deobligate funds from slow or poor performers and reallocate them to better performing organizations. They should also take an organization's past track record in account when awarding new funds. The PJ has flexibility to establish whatever procedures it thinks are appropriate with respect to participation in its HOME program.

16. What is the difference between affordability restrictions and long-term affordability requirements? Please give an example of when the affordability requirements imposed by a deed restriction would survive a foreclosure and when they would not.

A: Affordability restrictions are the HOME requirements that are placed upon a project. The affordability requirement is the requirement that HOME-assisted housing meet the HOME requirements (e.g., income, rents, principal residency, etc.) throughout the period of affordability. See the June 2003 HOMEfires for a more detailed explanation of these terms. Deed restrictions can be written so that they are either released or remain in force upon a foreclosure. Consult your agency counsel for further information.

17. Under Section 92.252(b)(2) the PJ must establish the initial maximum monthly allowances for utilities. Does HUD expect the utility allowance to be updated during the affordability period? What are acceptable methods to calculate utility allowances? If updates are required, what is an acceptable frequency?

A: Utility allowance must be updated annually during the affordability period. A PJ may either adopt the utility allowance used by the public housing agency operating in the area in which the project is located or develop its own utility allowance. A PJ-established utility allowance must be based upon a survey of actual utility costs in the area for units of various sizes and the documentation maintained in the PJ's files. When calculating HOME rents, HUD includes utility costs. Consequently, for projects in which tenants pay utility costs directly, owners must deduct the amount of applicable utility allowance from the maximum HOME rents to determine the maximum amount that the tenant may pay for rent. PJs should ensure that project owners have correctly calculated

tenants' rent as a part of their annual review and approval of project rents (see § 92.252(f)(2)).

18. Generally the HOME income and rent limits increase annually however, in the event rents decrease, should adjustments to lease rents be immediate to comply with HOME rent limits or adjusted at lease renewal?

A: HOME rents should be adjusted at lease renewal unless the existing lease makes some other provision for rent adjustments.

19. If the fixed or floating unit designation is not addressed at project commitment, can it be assumed that the units are floating?

A: PJs are required to determine at project commitment whether units are fixed or floating. It is an essential step in determining the appropriate amount of HOME funds to provide a project, that the number of units that must be HOME-assisted be determined and that costs are allocated. If this has not been done before funds were committed, then the PJ must still undertake this analysis and determine the number of HOME-assisted units that are required given the subsidy amount. The written agreement and other enforcement mechanisms would have to be revised to reflect the results. A PJ can never "assume" that units are floating since this method can only be used in a project after a determination has been made that units are comparable and that HOME units are dispersed appropriately among bedroom sizes.

20. What is the basis for not allowing additional HOME funds to be invested in a project after the first year, so long as the total amount per-unit is less than the 221(d)(3) maximum? This limitation removes what would be a valuable way to assist developments facing financial difficulties.

A: Pursuant to § 92.214(a)(6) of the HOME rule, HOME funds cannot be provided to a project previously assisted with HOME funds during the period of affordability. However, the rule does permit additional HOME funds to be committed to a project up to one year after project completion as long as the total HOME investment does not exceed the maximum per-unit subsidy amount established under § 92.250. The purpose of this provision is to enable PJs to deal with construction deficiencies or other construction-related issues that may arise in the first year, while ensuring that HOME is not used to fund ongoing maintenance and repairs. This provision is waivable for good cause. HUD encourages PJs, when appropriate, to consider requesting a waiver of this prohibition when necessary to protect the continued viability of a HOME project.

21. There are a large number of houses that have serious life/health/safety issues and/or accessibility challenges and other components (i.e. siding) that are functional but do not meet minimum the HQS. Often it is not economical (or even logical) to bring the house up to full HQS. In these circumstances the

result is that HOME is not available to help and the residents continue to live with their inadequate housing. Would the staff support the changes necessary to allow the flexibility to use HOME in these situations?

A: The purpose of the HOME Program is to increase the stock of affordable, standard housing available to low-income families. Consequently, the final rule requires that all housing assisted with HOME being rehabilitated with HOME funds to the applicable property standards (i.e., the local property standard or one of the model codes specified in 24 CFR 92.251(a)). There are other funding sources for housing emergency repair or single purpose rehabilitation of housing that will not be made standard, including CDBG, Department of Energy Weatherization Assistance Program, and Rural Housing Services programs.

22. The new Final Rule on Environmental reviews will cause serious difficulties in the way our agency funds HOME multifamily rental projects. First, we use a competitive process for awarding HOME funds. We are two to three times oversubscribed for HOME dollars each funding cycle. It has been our process to conduct environmental reviews only on projects that receive HOME funding. We do not have the staff available to conduct environmental reviews on all potential HOME projects prior to application, especially when we know that two thirds of them will not receive awards. Second, large land parcels for these projects are scarce and in high demand. It is difficult to get sellers to agree to an option, and if they do, it is for a limited time period. Accordingly, developers usually obtain a pre-development or short term loan to acquire the land and then apply for HOME, planning to pay off the pre-dev financing with HOME. Normally, HOME is the largest source of grant funds, and if the environmental review has not been completed early, the developer is left with trying to pay off the short term loan with insufficient other grant money. Tax credit dollars are often not yet available at the time short term loans need to be taken out. How do you suggest that we address these impediments to the use of HOME funds for our applicants?

A: An environmental review is triggered when an entity (i.e., a recipient, or any participant in the development process, including public or private nonprofit or for profit entities, or any of their contractors) applies for federal assistance. Prior to that date, the entity can do almost anything with its property, e.g. acquire land or obtain predevelopment or short term loans, as long as no federal funds are used in that activity.

HUD regulations do not require the completion of the environmental review process either *before* or *at the time* that an application for HUD funds is submitted. However, no HUD funds may be committed or actions taken that would have an adverse impact on a site, before the environmental review process has been completed. The only exceptions to this restriction are for activities determined exempt from environmental review, [see 24 CFR 58.34(a)(1-11)], or

categorically excluded, not subject to § 58.5, [see 24 CFR 58.35(b)]. According to § 58.22(a) no federal funds may be committed until HUD or the state (for state administered programs), has approved the recipient's (state recipient's) Request for Release of Funds and related certification,

State funded programs that partner with HUD funded programs should be advised to caution developers or other entities from taking an adverse action on buildings (i.e. demolish or renovate) before a historic preservation review has been conducted. Section 110(k) of the National Historic Preservation Act of 1966 directs federal agencies from providing assistance to an applicant who, with the intent to avoid the historic preservation review requirements of the Act, intentionally significantly adversely affects a historic property. [See also 36 CFR 800.9(c).]

States that have insufficient in-house staff to conduct environmental reviews on all HOME applications may consider requiring the applying entity to submit an environmental review along with its application. The state could provide a list of acceptable environmental consulting firms that may conduct such reviews. Ultimately, it is the state's responsibility to review and accept any environmental review conducted by an outside agency for sufficiency.

HOMEStrengths Questions Recommended for Referral to Field Offices

The following questions should be referred to the appropriate field office for response because: 1) they do not contain adequate detail for a response to be provided; 2) they refer to very specific situations not of general interest; or 3) they have been answered in other generally available guidance pieces.

How can the HOME Program be combined with a CDBG target area in which the participation of the residents is involuntary? Due to the requirements of the Uniform Relocation Act (URA), can the HOME affordability period requirements be maintained without violating the URA requirements of "making a displaced household whole"?

May state, private, or other non-federal funds be used to acquire vacant property, prior to an environmental review, in anticipation of a HOME project? What if the property is acquired without the definite knowledge of a HOME project on that site?

Under the Section 8 for Homeownership program, can the Section 8 subsidy be applied toward repayment of a HOME investment in that same unit? For example, a grantee uses HOME to construct a house, and subsequently sells it to a Section 8 to Homeownership participant. May the Section 8 subsidy be applied toward repayment of the HOME loan (permanent investment)?

An income-eligible household applied for and received HOME assistance for the rehabilitation of their occupied unit. The unit was a reconstruction, so the family was relocated during the demolition and rebuilding of the house. During the relocation phase, the owner was arrested for trafficking in drugs and stands a good chance of being convicted. The replacement unit is now mid-way under construction and the owner is in jail waiting a decision from the grand jury to indict and bring to trial. Under state and federal law, in some instances, real property can be confiscated. The property owner has a wife and child who still need affordable housing. If the property is confiscated, what are the PJ's and grantee's responsibilities? Must the construction on the unit be completed? Must the HOME funds invested thus far be repaid?

Could a PJ make down payment assistance available for the same property more than once? Can a PJ make down payment assistance available for the same property more than once in the original affordability period?

If $10,000 of HOME downpayment assistance is provided to a homebuyer with a resale restricted affordability period of 10 years and that homebuyer sells the property in the fifth year of the affordability period to a homebuyer who also receives $10,000 of resale restricted HOME downpayment assistance, what would be the length of the affordability period for the new homebuyer?

In planning construction of a new Housing Credit multifamily project, a developer files applications for loans with several possible financing sources, including a source of HOME funding. The developer gains sufficient confidence that he can arrange adequate funding such that he closes a construction loan and begins construction of the project without having received a commitment of HOME funds. At some point after the construction loan is closed but prior to the project being fully completed and rented up, a commitment is then issued to refinance a portion of the construction loan with HOME funds. When the HOME loan is then approved and closed to refinance a portion of the construction loan previously obtained for this new project, is the use of the HOME funds for this refinancing an appropriate use of HOME funds?

Obviously in the scenario above, the developer and other parties to the project are convinced that HOME funds are not needed for the completion of this affordable housing project, or they wouldn't have closed the construction loan and started construction of the Housing Credit project without having obtained a commitment of HOME funds prior to the start of construction. If the other financing sources for this Housing Credit project are already in place and construction started prior to the approval of the HOME loan, would this not cause serious "Subsidy Layering" concerns under CPD Notice 98-1?

If a developer obtains financing for a Housing Credit project, based in part on his documented willingness to carry a deferred developer fee of $500,000, would it be a violation of CPD Notice 98-1 for a HOME loan to then be made in order to reduce the deferred developer's fee to $200,000?

What is the basis for requiring independent CPA audits of the General Contractor costs subsequent to the release of retainage for HOME funded projects?

If a household goes over income at recertification, does their unit need to be replaced with the next available unit of same or larger size? Where is the site in the Final Rule?

What is the state's monitoring responsibility when funds are awarded to an entity to develop rental projects?

In regards to Davis Bacon and federal labor standards, can certified payrolls be received electronically (emailed)? Are the signatures still considered authorized using this form of submission?

When HOME funds are used to construct rental units, what period of time does the subrecipient have to lease the units before repayment should be required?