

HOME Investment Partnerships Program FAQs

Last Updated: December 30, 2015

Description:

This document contains the HOME Investment Partnerships Program FAQs posted on the HUD Exchange website (<https://www.hudexchange.info/home/>). The FAQs are organized by topic.

Homebuyer Housing

Homebuyer Program Administration

The 2013 HOME Final Rule imposes a requirement that any homebuyer that receives HOME downpayment assistance or buys a HOME-assisted unit must have housing counseling. What type of homebuyer counseling does the HOME program require?

Updated: November 22, 2013

Effective August 23, 2013, any homebuyer that enters into a written agreement for HOME assistance (i.e., downpayment or closing cost assistance) or enters into a sales contract for the purchase of a HOME-assisted unit must receive housing counseling. See §92.254(a)(3).

While the HOME regulation does not specify the type or duration of counseling that the homebuyer must receive, HUD recommends that PJs review and adopt the benchmarks for counseling established by the National Industry Standards for Homeownership Education and Counseling available at: <http://www.homeownershipstandards.com/Home/Standards.aspx>.

When implementing this requirement, PJs should consider:

- Duration of the housing counseling (minimum number of hours)
- Educational content of the counseling (pre or post purchase, credit counseling, introduction to homeownership, how to maintain a house, etc.)
- Form of counseling (one-on-one, small group, classroom setting)
- Who will provide the counseling (PJ staff, subrecipient, contractor, developer)
- How the PJ will ensure the counselors are qualified.

Can the PJ use HOME funds to pay for required homebuyer counseling?

Updated: November 22, 2013

While the HOME statute prohibits PJs from using HOME funds to administer a homebuyer counseling program, costs related to counseling a HOME-assisted homebuyer may be charged as eligible project-related soft costs in accordance with §92.206(d)(6), or administrative costs in accordance with §92.207(b). Housing counseling expenses may only be charged as project-related soft costs if the counseled homebuyer ultimately receives HOME assistance, and the cost of housing counseling when added to the amount of HOME assistance does not exceed the HOME maximum per-unit subsidy limit. When housing counseling is provided to a homebuyer that ultimately is not assisted with HOME funds, the cost of counseling must be charged as administrative costs, subject to the ten percent administrative cost cap.

PJs may also choose to pay for required homebuyer counseling with other federal, local, or private funding, if available, or charge reasonable fees to homebuyers in accordance with §92.214(b)(1)(ii). Any fee charged to a potential homebuyer for the cost of housing counseling must be reasonable and not create an undue burden or impediment to low-income families seeking assistance.

Is a PJ allowed to use a for-profit or nonprofit lender to administer its HOME homebuyer assistance program if that lender provides both the HOME financing and other mortgage financing to HOME-assisted homebuyers?

Updated: November 22, 2013

Yes, a PJ may allow a nonprofit or for-profit lender to provide both HOME homebuyer assistance and other mortgage assistance to a homebuyer as long as the PJ has implemented the following safeguards now required by §92.254(e):

1. The assistance is provided only as specified in a written agreement between the PJ and the lender. This agreement must specify the forms, amounts, and any conditions of homeownership assistance that the lender is authorized to provide.

2. Before any HOME assistance is provided, the PJ must either determine the family's income-eligibility for HOME assistance itself, or must verify the income determination done by the lender or another party. The PJ also must inspect the housing for compliance with applicable property standards in §92.251.
3. The for-profit or nonprofit organizations are not permitted to charge fees (such as origination fees or points) to the family for the HOME homeownership assistance that the organization provides. (Reasonable administrative costs may be charged to the HOME program as a project cost.) If the lender charges fees for the first mortgage (non-HOME funds), then the PJ must review these costs and deem them to be reasonable. These requirements are effective August 23, 2013:

These safeguards will ensure that there is not a conflict of interest, as the lender may have a financial incentive to provide HOME assistance to homebuyers potentially jeopardizing the lender's objectivity in assessing the qualifications of the buyer or the eligibility of a property for HOME assistance.

Homebuyer Program Deadlines

Under the 2013 HOME Final Rule, in what timeframe must HOME homebuyer housing units be sold to income-eligible homebuyers?

Updated: November 22, 2013

Effective August 23, 2013, the 2013 Rule requires a ratified sales contract* with an eligible homebuyer for HOME-assisted housing within 9 months of the date of completion of construction or rehabilitation. If a HOME-assisted homebuyer unit is not under a contract for sale within this timeframe, the unit must be converted to a rental housing unit and rented to an income-eligible tenant, or the HOME funds invested in the unit must be repaid. This requirement applies to all projects to which HOME funds are committed on or after the August 23, 2013 effective date. It does not affect units that are already built or to which HOME funds were committed before the effective date. When committing FY 2012 and FY 2013 funds, PJs must be cognizant of possible overlapping requirements related to the Consolidated and Further Continuing Appropriations Acts of 2012 and 2103.

Once converted to rental, the unit is subject to the HOME rental housing requirements in accordance with §92.252.

*If the PJ has an established lease-purchase program and executes a lease-purchase agreement with an income-eligible tenant/homebuyer within the 9-month deadline, the property is considered to be under contract and in compliance with this requirement.

In what timeframe must HOME homebuyer housing units be sold to income-eligible homebuyers when the 2013 HOME Final Rule and the Consolidated and Further Continuing Appropriations Acts of 2012 and 2013 overlap?

Updated: November 22, 2013

The 2013 HOME Final Rule requires a ratified sales contract* with an eligible homebuyer for HOME-assisted housing within 9 months of the date of completion of construction or rehabilitation, while the *Consolidated and Further Continuing Appropriations Acts of 2012 and 2013* establish a 6 month period for selling to an eligible homebuyer. HOME homebuyer projects funded with FY 2012 and FY 2013 HOME funds on or after the August 23, 2013 are subject to the more stringent provisions of the *Consolidated and Further Continuing Appropriations Acts of 2012*, Public Law 112-55 (Nov 18, 2011), and the *Consolidated and Further Continuing Appropriations Acts of 2013*, Public Law 113-6 (March 26, 2013) which establish a **6-month period** for selling HOME homebuyer units or converting them to rental.

Once converted to rental, the unit is subject to the HOME rental housing requirements in accordance with §92.252.

*If the PJ has an established lease-purchase program and executes a lease-purchase agreement with an income-eligible tenant/homebuyer within the 6-month deadline, the property is considered to be under contract and in compliance with this requirement

In a multi-unit homebuyer project, if some units do not sell within the 9-month deadline, and local zoning restrictions prevent the conversion to rental, is the PJ required to repay the entire HOME investment or just the HOME funds invested in the unsold units?

Updated: November 22, 2013

The PJ is required to repay only the HOME funds that were invested in the unsold units. In this situation, the PJ must amend the project in IDIS and in its local records to remove the unsold units from the project. The PJ must repay the costs associated with the unsold units based on the original cost allocation used for the project (e.g., actual cost per unit or pro-rata cost allocation). In IDIS, the repaid funds are used to reduce the draws and activity funding associated with the unsold units. Instructions for repaying funds can be found in HOME FACTS Vol.1, No.1 (<https://www.onecpd.info/resource/2978/home-facts-vol1-no1-repayment-to-pj-home-investment-trust-fund-treasury-account/>)

Lease Purchase Programs

Does the execution of a lease-purchase agreement meet the requirement to sell the HOME-assisted unit within 9 months?

Updated: November 22, 2013

Yes. Under the 2013 Final Rule requirements, if the PJ has an established lease-purchase program and an income-eligible tenant/homebuyer executes a lease-purchase agreement for a homebuyer unit within the 9-month deadline, the property is considered to be under contract and in compliance with this requirement. The agreement must comply with the HOME lease-purchase requirements specified at §92.254(a)(5)(ii)(A)(7). The unit must be purchased by the tenant/homebuyer within 36 months of signing the lease-purchase agreement with the PJ. The PJ has 42 months after project completion to transfer the property to a homebuyer or it must convert the unit to rental housing and follow the HOME rental housing rules under §92.252.

HUD will issue additional guidance on lease-purchase programs in the near future.

Are Community Land Trusts permitted to charge monthly ground lease fees to HOME-assisted homeowners?

Updated: August 10, 2015

Yes. Generally, Community Land Trusts (CLTs) may charge ground lease fees to HOME-assisted homeowners. However, HOME funds may not be used to pay for these fees because the ongoing costs of homeownership are not eligible HOME program costs.

Ownership in fee simple title of a dwelling with a ground or land lease of 50 years or longer from a CLT meets the definition of Homeownership in §92.2 of the HOME rule. CLTs commonly charge monthly ground lease fees to homeowners who lease from the CLT the land on which their homes are situated. The definition and structure of a CLT inherently require that there be ground lease payments, and this monthly fee is expected to be paid by HOME-assisted homeowners who purchase their homes through a CLT.

Pursuant to the requirements of 24 CFR 92.254(f), each Participating Jurisdiction (PJ) must have and follow homebuyer underwriting policies that support sustainable homeownership for HOME-assisted homebuyers. As a recurring monthly cost of maintaining housing, the CLT ground lease fee must be considered a housing cost to be included in the underwriting of the homebuyer. Greater monthly ground lease fees also typically reduce the borrowing power of homeowners for a mortgage, or could increase the cost burden for borrowers, thereby requiring a greater initial HOME subsidy. Depending on the PJ's homebuyer underwriting policies and its standards for evaluating the appropriateness of the amount of the HOME assistance, there may be situations in which the lease fee, in combination with other monthly debt obligations, would be considered by a PJ to be too expensive for a particular homebuyer.