



July 26, 2024

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
415 7th Street SW
Washington, DC 20410
Re: Docket No. FR-6144-P-01; RIN 2506-AC50

To Whom It May Concern:

Thank you for the opportunity to provide comments on the *HOME Investment Partnerships Program (HOME)* proposed rule.

Housing Partnership Network (HPN) is a collaborative of mission-driven organizations who believe that housing is the foundation of a thriving, healthy and equitable community. HPN works across the spectrum of affordable housing needs from preventing homelessness to producing rental housing and providing homeownership opportunities. Our members have developed, rehabilitated and preserved 489,552 homes, provided 53,370 homeownership opportunities for low- and moderate-income households, and employed 22,880 people across the country. HPN members also provide programs and services to residents such as homeownership counseling and financial literacy training.

The HOME program is the only federal housing program focused exclusively on providing states and local communities with flexible capital to address their most pressing affordable housing needs. HOME funds are a vital and unique source of financing that can be used by communities to address affordable homeownership, rental development, and tenant-based rental assistance. Using flexible HOME funds makes it financially feasible for HPN members to acquire, develop, and rehabilitate housing for persons along the housing spectrum including those experiencing homelessness, veterans, seniors, persons with disabilities, and other individuals and families with low incomes.

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HPN applauds the Department of Housing and Urban Development (HUD) for releasing the proposed rule with the intent to streamline and modernize HOME while increasing flexibility and aligning HOME with other federal affordable housing programs. We support many of the changes in the proposed rule and we thank HUD for drafting the proposed rule with stakeholder feedback in mind.

We were pleased to see that HUD has proposed changes to promote program flexibility, HUD's mission, clarity, and alignment with other federal programs. HPN submits comments on the following portions of the proposed rule: Rental Housing, Homeownership, Community Housing Development Organizations (CHDOs), Community Land Trusts (CLTs), Tenant Protections, Green and Resilient Property Standards, and select questions posted in the proposed rule.

Rental Housing

Question 5: *The Department specifically requests public comment from participating jurisdictions and program participants regarding the challenges they have encountered in using HOME funds to assist small-scale housing, as defined in this proposed rule. The Department also requests public comment regarding the costs and benefits of the changes that HUD is proposing for small-scale housing in requirements for the frequency of income determinations and inspections and the use of alternative waiting lists.*

HUD proposes to allow income reexamination every three years, adopt a three-year inspection schedule, and permit PJs to establish policies to identify tenants when vacancies occur in small-scale housing. In response to *Question 5* in the proposed rule, HPN believes these modifications are important in recognizing the differences between small-scale rental and large-scale rental. HPN members that operate small-scale rental housing are pleased with these changes and believe they will result in reduced compliance burden.

Question 8: *The Department specifically requests public comment from participating jurisdictions, developers, and other affected members of the public about the appropriateness of the length of the HUD-required periods of affordability for HOME-assisted rental housing.*

In response to *Question 8*, HPN does not object to the current structure for periods of affordability and for HPN members that operate Community Land Trusts, the affordability restrictions go beyond what HOME requires. HPN recommends maintaining the current periods of affordability.

Additional Comments

We support HUD's proposal to allow program participants to rely on an inspection conducted for another HUD program, such as NSPIRE, to meet the inspection requirement. HOME is currently the only HUD program where the housing created using the program is expected to meet local code in inspection rather than a federal standard. This change will ease the burden of multiple inspections on landlords and tenants. Additionally, we are pleased to see the proposed alignment of HOME with Low-Income Housing Tax Credit (LIHTC) and Section 8 by permitting an owner of a HOME-assisted unit receiving rental assistance to charge the permissible Housing Choice Voucher, project-based voucher, or project-based rental assistance rent instead of the maximum HOME rent. HPN is also supportive of HUD's proposal to permit participating jurisdictions (PJs) to use PHA-established utility allowances for HOME rental projects, returning to a previous practice that was prohibited in the 2013 final rule.

Homeownership

Question 11: *The Department requests public comment on whether the existing 9-month deadline for the sale of homebuyer units acquired, rehabilitated, or constructed with HOME funds is reasonable and whether extending the deadline to 12 months would increase the use of HOME funds for homeownership programs.*

While it may be possible to meet the 9-month deadline, 12 months would allow more adequate time to find and qualify buyers. There can be difficulty locating and qualifying buyers below 80% area median income (AMI) and sometimes buyers have income fluctuations that would make them ineligible in this time frame. Allowing for more time allows for the realities of the home buying process and will help preserve the original intent by not having the project convert to rental as quickly. Additionally, the proposed change allows additional flexibility when the economy is facing a downturn and there could be an excess of HOME-funded inventory compared to demand. HPN recommends adopting the proposed 12-month sales deadline post-construction.

Additional Comments

HPN supports HUD's proposal to eliminate the requirement that a homebuyer acquisition project (e.g. downpayment assistance or DPA) that does not meet HOME property standards must be rehabilitated to be acquired with HOME funds. We request HUD provide additional clarity around the "sufficient evidence" needed

from a homebuyer that “funds are secured for rehabilitation”. HPN suggests examples of “sufficient evidence” could include a letter from a mortgage lender or a bank statement to prove sufficient funds.

The proposed rule at § 92.254(g)(1) “would revise the underwriting standards by eliminating the need to evaluate both the housing debt and overall debt of the family and instead would require the participating jurisdiction to evaluate the overall debt of the family projected after purchase of the housing.” HPN recommends that if a certified Community Development Financial Institution (CDFI) is the lender, HUD should defer to their underwriting standards as CDFIs have experience and proven success underwriting loans to low- and moderate-income borrowers. HPN also recommends HUD determine that HOME assistance has been properly underwritten if the first mortgage on the transaction met the standards of a Qualified Mortgage as defined by the CFPB including any first mortgage underwritten to the standards of Fannie Mae, Freddie Mac, FHA, VA, HUD 184, or USDA.

Current regulations require PJs to establish a method for determining “the appropriateness of the amount of assistance” for each household receiving homeownership assistance that is “neither more or less than necessary to sustain homeownership”. We appreciate that HUD recognizes this approach has resulted in PJs adopting a variety of standards with vague guidelines that can result in avoidance of the program altogether.

The first change HUD is proposing to address this issue would add clarity by requiring a PJ to establish a standard to determine the maximum amount of direct HOME assistance it may provide to a family. HPN supports this proposal to establish a maximum amount of assistance for each market area. By establishing a cap, any amount below the maximum would be considered compliant with the appropriateness standard and would avoid over subsidizing homebuyers by establishing a safe harbor.

The second change in the proposed rule would “more explicitly state that a participating jurisdiction may not provide a single, fixed amount of assistance to every homebuyer receiving assistance in the participating jurisdiction’s homebuyer program.” HPN does not support this change because tailoring the amount of assistance to each individual household is difficult, can be arbitrary, and may result in a higher subsidy amount to a higher income buyer because they chose a more expensive house. This change could lead to PJs setting overly prescriptive methods to determine the amount of assistance. HPN recommends basing appropriateness of

assistance on the local housing market, such as a percent of the median home value, not on an individual household's circumstances.

The proposed rule maintains the current requirement that a tenant must qualify as low-income at the time of purchase of a HOME unit. HPN recommends making an exception to this standard for lease-purchase programs using the Low Income Housing Tax Credit (LIHTC). If HOME-assisted units that are developed through a lease-purchase LIHTC program are converted to homeownership units, they should follow the LIHTC standard and not require income recertification. Stable affordable housing has the potential to break families out of the poverty cycle and build generational wealth. By requiring potential in-unit homebuyers to income qualify again at time of purchase, HUD may be disincentivizing low-income tenants from bettering their economic status and penalizing them for building wealth to achieve homeownership.

We realize that the HOME homeownership value limits are set by statute in Section 215(b) of the National Affordable Housing Act (NAHA) and still wanted to take the opportunity to note that by limiting the value to 95% of area median home prices, it makes it more difficult for families at or below 80% AMI to access homeownership in the community of their choosing.

Community Housing Development Organizations

Question 1: *The Department specifically solicits public comment about any additional changes it should consider, within statutory constraints, that will improve CHDO availability and capacity in rural areas.*

HUD proposes to revise paragraph (5) of the CHDO definition, which limits employees and public officials of any government organization to 1/3 of the board, to only apply to “officials and employees of the participating jurisdiction designating the CHDO and, if the CHDO was created by a governmental entity (e.g., public housing agency), to officials and employees of the governmental entity.” HPN supports this change and wants to reinforce that CHDO boards should be representative of the communities they serve, and the employees or public officials should be chosen with this in mind.

HPN agrees with HUD’s CHDO definition proposal that “would broaden the requirement that an organization have demonstrated capacity for carrying out projects assisted with HOME funds to also include housing projects assisted with other Federal funds, LIHTC, or local and State affordable housing funds.” HPN further recommends

that HUD consider the capacity of the entire entity when making this determination, such as staff that work for an affiliated entity or the parent company.

Community Land Trusts

HPN is pleased that the proposed rule permits qualified Community Land Trusts (CLTs) to use HOME dollars to exercise preemptive purchase rights to preserve housing affordability. One of the conditions in the proposed rule for allowing a CLT to exercise this right “would require the CLT to resell the housing within 6 months to an eligible homebuyer that will use the housing as their principal residence.” HPN recommends that HUD raise the 6-month resale requirement that applies to CLTs to align with the proposed 12-month sales deadline requirement in the revised § 92.254(a)(3).

Tenant Protections Comments

HUD proposes to extend the current 30-day notice to evict to a 60-day notice. Some HPN members have concern that the extension will conflict with local laws which vary widely on timing and requirements for eviction. If a state has a 30-day notice in place for non-HOME tenants, administering and determining evictions in mixed-income communities will become difficult and may unintentionally cause confusion and inequity. Evictions are handled at the state and local level, and we do not believe it is workable to institute a federal standard in this instance. We recommend that HUD not institute 60-days' notice and instead maintain the current 30-days' notice requirement or defer to local jurisdiction eviction requirements.

Green and Resilient Property Standards

Question 2: *The Department specifically requests public comment from participating jurisdictions, developers, and other affected members of the public about the green building standards that the Department should establish in the Federal Register. In addition, the Department seeks public comment about stakeholder experiences regarding the percentage increase in the cost of constructing or rehabilitating affordable housing to a green building standard and whether a 5 percent increase in the maximum per unit subsidy limit is sufficient. Finally, the Department requests public comment on whether permitting participating jurisdictions to exceed the maximum per unit subsidy limit by an amount in excess of the additional costs of green building measures (i.e., to provide additional HOME funds to cover a larger portion of other HOME-eligible development costs), would create*

a sufficient incentive to developers and owners to meet green building standards in projects that would otherwise not be designed to meet those standards.

HPN is committed to increasing the sustainability and energy efficiency of affordable housing and understands HUD's desire to incentivize more housing to meet green building standards. In response to *Question 2* in the proposed rule, it is difficult to measure whether the 5% increase to the maximum per-unit subsidy is sufficient because organizations who are not currently incorporating these standards have limited ability to predict how much a new standard would increase costs. HPN recommends additional analysis to determine if 5% is the correct amount of subsidy and assess whether the bonus would create strain on other parts of the program.

Conclusion

Thank you for your work developing the proposed rule and your openness to comments. If you wish to discuss any points in this letter further, please contact Kelly Read, Senior Associate, Policy at read@housingpartnership.net.

Sincerely,



Shannon Ross

Vice President, Policy

Housing Partnership Network