

2015 HOME Roundtable



2/20/15

AGENDA

- Federal Compliance
- Pre-application Process
 - Architectural waivers/pre-approvals
 - Financial waivers/pre-approvals
 - Qualification Determinations
 - HOME Consent
- HOME with Tax Credits
- HOME Underwriting Process
- NEW HOME Rule

Presenters

- Chelsea Arkin, Housing Program Specialist
- Aaron Patrick, Construction Service Manager
- Ronit Hoffer, Underwriter
- Robert Keeler, Underwriter
- Vanessa Adams/ Erica Etterling, Compliance
- Lina Grassano, Underwriter
- Willa Turner, Underwriter
 - First.Last@dca.ga.gov

Federal Compliance



2/20/15

Chelsea Arkin

Environmental Review Update of Manual



Chelsea Arkin

Update to Manual: Major Changes

- Streamlined text
- Imbedded cross-references to regulatory standards
- Updated ASTM E1527-13 requirements:
 - RECs, CRECs, HRECs
 - Environmental database records review
 - Vapor encroachment

What has not changed?

- Must follow ASTM E1527-13
- Must include detailed site map and backup documentation
- Evaluation requirements unchanged for: state waters, floodplain, noise, water leaks/mold, asbestos, LBP, lead in drinking water, PCBs, endangered species, historic preservation

Environmental Requirements

- Phase I Environmental Study
 - 2015 DCA Environmental Manual
- NEPA Review
- Non Scope Items:
 - Asbestos
 - Mold
 - Lead-Based Paint
 - Lead in Drinking Water
 - Noise
 - Radon
 - PCBs
 - Floodplains, Wetlands, State Waters

NEPA Process

- National Environmental Policy Act (NEPA of 1969)
- Summary of Process:
 - NEPA Review completed for each project
 - Public notice FONSI posted in local paper
 - DCA submits RROF to HUD
 - HUD review period
 - Authority to Use Grant Funds sent to DCA

Things to Note

- Timelines
- Formatting
- DCA Non-Scope Items
- Professional Opinion Requirements
- Signing and Reviewing the Documentation
- Phase II Reporting

Timelines

- Phase I and/or Phase II Report must be completed less than **one hundred eighty** (180) days before Application submission date (June 11, 2015)
 - **Earliest could be December 13, 2014**
- Environmental Professional must review and sign both Phase I and II Reports

RECs

- Clearly identify Recognized Environmental Conditions (RECs)
- Additional testing or analysis?
- Rationale?

Controlled RECs

- Controlled RECs (CRECs) *are* RECs
- Statement regarding regulatory authority approval
- Description of controls remaining in place

Historical RECs

- Identify and describe historical RECs (HRECs)
- Description of past remedial measures; and/or
- Property meets unrestricted use

Environmental Records Review

- All standard sources in ASTM E1527-13
- Field verification of distance to sources
- Regulatory file review OR justification for lack of review

Floodplain, Wetlands, & State Waters

- Avoid developments in floodplains and wetlands
- Require the observance of all federal and state wetland and waters buffers
- If there is a wetland on site:
 - 8 Step Process or Protective Covenant is required regardless of whether the wetland will be disturbed.

Noise

- Sources of noise – site is within:
 - five (5) miles of a civil airport;
 - fifteen (15) miles of a military airfield;
 - 1000 feet of a major highway or busy road with greater than 10,000 average daily traffic count;
 - 3000 feet of a railroad or rail line.
- Projects must meet the DCA limits for sound:
 - 45 dB for interior locations
 - 65 dB for exterior amenities
 - 10 year noise projections

Noise

- Threshold:
 - 65 dB maximum (for exterior amenities)
- Noise Attenuation Plan
- No Noise Waiver

ASTM Phase II Testing

A Phase II Report may be required based on the Phase I findings.

The Report Must include:

- ❑ thorough documentation of methods utilized to conduct sampling and research
- ❑ qualified laboratory results with professional recommendations

Requirements for Phase II Scope of Work

- ❑ The proposed scope of work must:
 - ❑ Recognized environmental conditions, suspected environmental concerns, and/or non scope issues.
 - ❑ Specify the locations and dept. of any proposed monitoring wells, soil borings, and or samples; include a Site Map showing same.
 - ❑ Specify the number of samples and depth of samples.
 - ❑ Specify test methods and analytical methodology to be used
 - ❑ Include a cost assessment for all Phase II reporting activities
- ❑ It is **highly recommended** that Applicant contact DCA before beginning scope of work

Additional Federal Requirements for HOME

Additional Federal Requirements

- Non-Discrimination and Equal Access
(applies to both HOME & Tax Credit)
- Employment and Contracting
(triggered by HOME Funds)
- HOME and Tax Credit Tenant Relocation and Displacement Policies

Employment and Contracting

- Triggered by HOME
- Ensure equal opportunity employment and contracting
 - Minority/Women's Business Enterprise (M/WBE)
 - Section 3

MBE/WBE

- HOME loan recipients must comply
- Owner must, *to every extent possible*, make effort to use minority and women business enterprises while working on a project
 - Document efforts using HUD data form
 - Track on monthly basis

Section 3

- Requirements apply to all projects and activities funded in whole or in part with covered funds
 - The entire project budget is subject to Section 3
- Training, employment contracting, and other economic opportunities arising in conjunction with the expenditure of HOME dollars
 - Promoting stability and self-sufficiency of **Section 3 residents** (a person whose household has a total income that does not exceed 80% of the median income for the project area)

Section 3

- Goals of Section 3
 - 1. Hiring low and very low income workers
 - Residents of HUD-assisted housing
 - Residents at the site
 - Residents of the city
 - Residents of the county
 - 2. Awarding contracts to Section 3 businesses
 - 10% of the total dollar amount of the contract
 - 3. Providing other economic opportunities
 - training

Employment and Contracting

- Wage and Labor Requirements
 - Davis Bacon and Related Acts
 - Contract Work Hours and Safety Standards Act
 - Copeland “Anti Kickback” Act
- Contracting and Procurement Practices
 - No hiring debarred or suspended contractors

Wage and Labor Requirements

- Wage determinations from Dept. of Labor
 - Must be used for entirety of project
 - All laborers and mechanics are covered. Admin, suppliers, and foremen are exempt
 - Additional classifications must be obtained from DOL via DCA

Wage and Labor Requirements

- Submit payrolls to DCA each week
- Only permissible and authorized deductions (must have employees permission)
- Copeland Anti Kickback Act makes it a Fed crime for anyone to require an employee to kick back wages
- Must keep reports for 3 years

Wage and Labor Requirements

- Common Errors
 - Importance of educating subcontractors on how to complete weekly payroll reports
 - Original signature
 - Not submitting payrolls weekly could result in a hold up on draw requests

Relocation

- Minimize displacement of existing tenants for all projects
 - If applicable and unavoidable, a detailed project specific Relocation and Displacement Plan and Budget must be submitted in the application. If Federal funds are involved, must meet the requirements of the URA.
- Any displacement of existing tenants is subject to DCA's approval on a case by case basis.**

Relocation Application Submission Requirements

- Tenant Household Data Form
- Occupancy History (90 day rent roll)
- Relocation/Displacement Spreadsheet (must be maintained throughout property rehab process)
- Site map of property (include current project/buildings/units and proposed)
- DCA Site Relocation Survey

HOME Notice Requirements

- General Information Notice
- Move In Notice
- Notice of Non Displacement
- Temporary Relocation Notice
- Notice of Eligibility
- 30 and 90 Day Notice
- Posters

Pre-application Process and Reviews

Pre-Application Process

- Pre-application requests and waivers due:
 - **March 19, 2015 (by 4:00 PM)**
- One hard copy and one electronic copy (on flash drive) – Application in Excel format
- Required fees (Exhibit A QAP Core)

Pre-determinations and Waivers

- Architectural Standards waiver
- Project team Qualification Determination
- Operating expense waiver
- Per unit cost limitation waiver
- State basis boost – extraordinary circumstances only
- Tax credit award limitation waiver

Architectural Pre-Approvals and Waivers



2/20/15

Aaron Patrick

Architectural

- Architectural Standard waivers -request required for greater than 10% deviation DCA standards
- Sustainable Communities Site Analysis Packet or Feasibility Study- send directly to Southface

Architectural

- ❑ Waiver requests must contain justification, and supporting documentation, if available, including any long term impact (ie maintenance cost savings or increase, increase to capital reserves, etc)
- ❑ Amenities pre-approvals must also contain justification and specifically discuss the benefit to the tenant

Operating Expense Waivers

Operating Expense Waiver

- Annual Operating Expense Minimums:
 - \$4,500 per unit/year in City of Atlanta
 - \$4,000 per unit/year in non Rural MSA
 - **\$3,500 per unit/year in Rural and MSA**
 - \$3,000 per unit/year in Rural non-MSA
 - \$3,000 per unit/year with USDA 515

Operating Expense Waiver

- Minimum documentation for all requests:
 - real estate taxing authority methodology;
 - an estimate for the subject project
- Rent projections at least 10% below the lower of market or tax credit maximum allowable limits

Operating Expense Waiver

- Rehabs:
 - most recent 2 years operating statements
 - Audited statements required, if available

- New Construction:
 - Audited operating statements from 2 other projects
 - similar areas with similar characteristics
 - most recent 12 month period of stabilized operations

State Designated Boost Pre-approval

State Designated Basis Boost

- Eligible Categories:
 - Rural projects without DCA HOME
 - Projects within areas that qualify for at least 2 points under Stable Communities
 - Extraordinary circumstances- Waiver Required

Indicate eligible category and provide support documentation

State Designated Basis Boost (cont'd)

- Requirements:
 - Must defer 1% of Total Developer Fee for every 1% of State Designated Boost granted
 - Exception: New loan/grant from unrelated party at least 30% of DF.
 - Assumptions are not 'new loans';
 - USDA 515 financing may request waiver of matching deferred developer fee

Tax Credit Limit Waiver



2/20/15

Robert Keeler

Tax credit award limitation waiver

- DCA maximum award is \$1,000,000/project

- Waiver only considered for extraordinary need:
 - Maximum waiver up to \$1,200,000
 - Documentation must clearly demonstrate that no other source is available or viable

Per Unit Cost Waiver



2/20/15

Robert Keeler

Per Unit Cost Limitation Waiver

- ▣ NEW: Cost limits based on HUD Public & Indian Housing
 - ▣ Based on building type, # of bedrooms, and location
 - ▣ Use specific MSA; all others use Valdosta MSA
 - ▣ Historic qualifies for 110% of limits (applicable units only)

Per Unit Cost Limitation Waiver

- May exceed limit only by amount of grant or cash flow loan
 - Must be from unrelated foundation or nonprofit charitable organization
 - These funds will not be considered in gap calculation
 - Funds must be included as source when applying for forms 8609
- DCA will consider cost waiver requests for projects involving a significant economic barrier not typically seen in Georgia tax credit projects.

Per Unit Cost Limitation Waiver

- DCA cost waiver requests only for projects demonstrating a significant economic barrier not typically seen in Georgia tax credit projects.
 - Justification and support is up to the Applicant to provide
 - Include efforts to obtain grant/cash flow funding from unrelated nonprofit

Qualification Determinations



2/20/15

Vanessa Adams, Erica Etterling

Qualified Project Teams

- Qualifications
 - Project Team Performance
 - Project Team - general partner, developer, and the principal(s)
 - Minimum Eligibility Requirements
 - Adverse Circumstances
 - Significant Adverse Events
 - Changes: Deed in lieu of foreclosure, team bankruptcy, and senior lender loan default were added to the chart of Significant Adverse Events

Qualified Project Teams

- Waiver Requests & Considerations
 - The entity or individual has developed and currently owns and operates a minimum of ten (10) successful Tax Credit properties
 - Strong performance history and in material compliance with program regulations

Qualified Project Teams

- Qualification Determination Categories
 - Qualified without Conditions
 - Qualified with Conditions
 - Ineligible
 - Not Qualified
 - Options for Not Qualified Entities (Probationary Designation)

Qualified Project Teams

- Required Documentation
 - Performance Workbook
 - Changes: Compliance History Summary & Multi-State Release form
 - Financials – Audited vs. Unaudited
 - Must provide an explanation for all “Yes” answers in the Performance Workbook
 - Management Companies must be approved by DCA Portfolio Management prior to the placed in service date

Compliance Scoring

- All Project Teams begin with 10 Points
- Point deductions for Project Team are deducted from the total points
 - Any deductions for any member of the Project Team will be deducted from the total
 - Approved waiver requests may result in point deductions

Compliance Scoring

- Point deductions:
 - **1 Point** - DCA Program Administrative Non-compliance or Uncured Audit Findings
 - **2 Points** - General Partner Failure or Federal Regulatory Non-Compliance
 - **3 Points** - Failure to Operate Property in Accordance with DCA and/or Program Requirements
 - **5 Points** - Financial/Organizational Failure

Compliance Scoring

- Examples of Point Deductions
 - Properties not updated in Mitas
 - Properties not listed in GA Housing Search
 - Annual Owner's Certification not submitted
 - Failure to notify Portfolio Management of Management Agent change

Compliance Scoring

□ Point Additions

□ Maximum of 5 additional points

- Clarification: Total points not to exceed 10 points for Proposed Project Team

□ Point Additions

□ Minimum Requirements

- Change: An additional point category was added and the minimum number of successful properties was changed from 10 to 5

Compliance Scoring

□ Point Additions

- If the Project Team has point deductions, additional points may be added for a maximum of 10 points:

<u>Points</u>	for	<u>Number of Successful Projects</u>
1		5
2		10
3		15
4		20
5		21+

HOME Consent Request



Lina Grassano

HOME Basics

- Max: \$2.5 million; Min: \$1 million
- No more than one HOME consent per Applicant
- Must fully utilize credits and show a need for HOME
- Failure to use HOME funds may result in withdrawal of tax credit award

HOME Consents - Eligibility

- ▣ Eligibility
 - ▣ Projects located in another PJ are NOT eligible
 - ▣ Projects receiving a state basis boost are NOT eligible
 - ▣ Projects in a QCT or DDA MAY be eligible

HOME Consent- Selection Criteria

- ▣ Fully amortizing HOME loans
- ▣ No debt other than DCA HOME
- ▣ Qualified without Conditions
- ▣ Successful HOME Loan/HUD experience
 - a) 10 or more Successful Projects
 - b) 5 or more Successful Projects but less than 10
 - c) Less than 5 Successful Projects

HOME Consent- Selection Criteria

- ❑ Successfully meeting federal compliance requirements
- ❑ No Default in HOME payments
- ❑ Areas with no previous HOME loan
- ❑ Compliance History of Project Participants

HOME Consent Submission Process & Selection

- ❑ Request for HOME Consent
 - ❑ 2015 Core Application Narrative and Tabs I-VII (only)
 - ❑ Rural designation (if applicable)
 - ❑ CHDO Certification documentation (if applicable)
 - ❑ Organizational Chart
 - ❑ Successful HOME loan and Other HUD funded Project Experience Form (abbreviated form separate from Performance Workbook)

HOME Consent Submission Process & Selection (cont'd)

- Request for HOME Consent
 - Narrative Project Description
 - Executed Release each Principal of GP and Developer Entity
 - Conceptual Site Development Plan
 - HOME Enviro/Relocation Acknowledgement
 - Public Benefits Affidavit
 - 2015 Qualification Determination

HOME – Facts to Remember

- HUD Requirements:
 - Minimum investment- \$1,000 per HOME assisted unit
 - Maximum per-unit subsidy must not exceed the maximum per-unit limits published by HUD

Payment and Performance Bonds

- If selected for DCA HOME consent and Credits
 - Payment and performance bond is required
 - If an identity of interest prevents obtaining a bond, a waiver may be requested no later than the LIHTC Application Deadline
 - If waiver is requested, one of the following must be provided:
 - Letter of Credit
 - Construction Loan

HOME with Tax Credits

HOME

- Underwriting Policies: Exhibit A to Appendix I (Threshold)
- Underwriting Post-Award
 - Credit worthiness will be reviewed
 - Updated financials required
 - Third party review may be required to assess owner/developer's capacity and fiscal soundness
- Projects must close by July 15, 2016

HOME

- HOME Investment per HOME Assisted Unit

□ Less than \$15,000	5 Years
□ \$15,000 - \$40,000	10 Years
□ More than \$40,000	15 Years
□ New Construction	20 Years

(DCA requires the period of affordability to coincide with the term of the HOME loan)

HOME – Facts to Remember (cont'd)

Fixed & Floating Units

- If HOME funds are coupled with tax credits:
 - All low income units are considered HOME units
 - Units will be assumed to be floating unless designated as fixed
 - When units are not comparable, HOME units must be fixed

HOME – Facts to Remember (cont'd)

- At least 20% of the HOME assisted units must be occupied by families with incomes $\leq 50\%$ AMI
- Remaining HOME-assisted units must be occupied by families with incomes $\leq 60\%$ AMI
- HOME-assisted (*all* low income) unit rents may **not** exceed High HOME or 60% AMI Rent

PBRA/RAD

- PBRA Rents used if at least 10 years remaining in rental assistance, or at least a 10 year renewal commitment
- Tax Credit and/or HOME rents used if PBRA will terminate in less than 10 years from application submission.

HOME – Facts to Remember (cont'd)

- Rent Limits
 - The more restrictive rent limit of HOME or the LIHTC program must be utilized.
 - HOME-assisted unit rents are limited to the lesser of the High HOME rent for appropriate bedroom size or,
 - the applicable rent at proposed Area Median Income (AMI)
- National Non-Metropolitan Area rents cannot be used with HOME funding

HOME – Facts to Remember (cont'd)

- Loan Terms
 - Interest during construction: 0%
 - Convert to perm within: 24 months
 - Permanent interest rate: 1%
 - Term: Fully amortizing
15-35 yrs
- All final terms determined during underwriting
- Owner/Developer may be required to guarantee payment of HOME loan until conversion

HOME Underwriting

HOME – Underwriting Process

- Upon selection for a tax credit award, DCA will issue a preliminary award letter to each successful Applicant that had received a HOME Consent.
- Projects w/Tax Credit and HOME must satisfy all conditions necessary to commence construction within 9 months of the initial preliminary HOME award
- All closings must occur on or before July 15, 2016

HOME – Underwriting Process

- The following briefly summarizes the HOME process:
 - Underwriting and Architectural requirements are listed in **Exhibit C of the Preliminary Award letter**
 - Conference calls for general status and questions are schedule for every other week, reminder will be sent 24 hours prior

HOME – Underwriting Process (cont'd)

- ❑ Appraisals ordered by DCA upon clearance from the DCA architectural department.
- ❑ All documents must be submitted in one packet. Incomplete or partial packets will be returned to the Applicant
- ❑ A revised financial pro forma required to reflect all final commitment letters and the final construction contract amount

HOME – Underwriting Process (cont'd)

- ❑ Pro Form should not significantly deviate from application submission during competitive round
- ❑ HOME loan payments should conform to requirements of QAP and may be adjusted during DCAs underwriting review
- ❑ The financial and staff capacity and creditworthiness of the Owner/Developer will be reconfirmed during underwriting and certified by DCA prior to closing

New HOME Rule



2/20/15

Marie Palena

New HOME Rule

- Issued July 24, 2013
- Most Provisions Effective August 23, 2013
- Most Notable Change Impacting 2015 Round:
 - Community Housing Development Organization (CHDO) qualifications:
 - Legal/Organizational structure
 - Minimum Capacity/Experience
 - Program capacity

New HOME Rule (cont'd)

- Utility Allowances
 - Effective January 24, 2015
 - Requires the PJ to determine an individual utility allowance for each HOME rental project, either (1) by using the HUD Utility Schedule Model, or (2) by otherwise determining the allowance based upon the specific utilities used at the project

New HOME Rule (cont'd)

- Monitoring Fees
 - HOME Compliance Monitoring Fee (Annual \$750 calculated per project for the duration of the affordability period)
 - Fees charged to the project must be included in the underwriting in projected operating expense (they can not be funded 'up front' as part of the development cost)

New HOME Rule (cont'd)

- All HOME-assisted units initial qualified occupancy within Six (6) months of project completion
 - If greater than 6 months, then the Owner to provide information on marketing efforts, such as a marketing plan
 - Up to (18) months from project completion for full occupancy of all HOME units.
- Otherwise, HUD requires repayment of HOME investment in the units

New HOME Rule (cont'd)

- HOME and Public Housing/Rental Assistance Demonstration Program (RAD)
 - Clarification: HUD interpretation of prohibition
 - Annual Contributions Contract (ACC) Converting to RAD program
 - HOME funds can be Committed (loan can close) however, no HOME funds disbursed prior to HUD confirmation that all units are converted to RAD

New HOME Rule (con't)

- CHDO Sponsor in LIHTC Project
 - Must be either:
 - SOLE GP in LP or
 - SOLE managing member in LLC
 - Development capacity through paid staff
 - Paid staff required; hours must be appropriate to role in organization
 - Volunteers, board members and staff of parent organization cannot be basis of capacity

New HOME Rule (con't)

- CHDO Sponsor in LIHTC Project (continued)
 - Independent contractors may be an 'employee' if the CHDO directs and controls the work performed; pay is direct from CHDO
 - Consultants that demonstrate capacity
 - Only considered during the organization's first year as a CHDO

New HOME Rule (con't)

- DCA has historically considered financial capacity, experience, credit worthiness and staffing in HOME underwriting.
- Now each PJ must certify to that review when certifying the CHDO entity AND prior to Committing HOME funds for all Owners/Developers.
- CHDO certification is required EACH time funds are committed.

Questions & Answers

