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## ***Consolidated and Further Continuing Appropriations Act of 2012: Overview of HOME Requirements - Webinar Transcript***

Welcome to the FY 2012 HUD Appropriations Law Requirements Overview session. This webinar is intended to introduce you to each of the four key HOME-related requirements of the FY 2012 appropriation law. This webinar is presented by the Office of Affordable Housing Programs which administers the HOME Investment Partnerships Program. HUD's Office of Affordable Housing Programs will hold a series of webinars to cover each of the key requirements of the Appropriation Law in greater detail. A link to those webinars is listed at the end of this presentation.

The *Consolidated and Further Continuing Appropriations Act of 2012* imposes new requirements on FY 2012 HOME-funded projects. The purpose of these requirements is to improve project and developer selection by PJs and to ensure that there is adequate market demand for FY 2012 HOME projects. HUD issued a Notice with Operating Guidance (CPD-12-007) on May 3, 2012. This can be accessed through the HOME website, the link to which is listed on the Resource Slide at the end of this presentation. It is important to note that these requirements are separate from changes in the HOME Proposed Rule and recent IDIS Enhancements. The HOME Proposed Rule is still just a *proposed* rule, which means none of the regulatory changes apply until a final rule is published. The anticipated publication date for the Final Rule is Fall 2012, at which point the applicability of those regulatory changes will be made clear. We mention this just to point out that there are similar provisions in the FY 2012 HUD Appropriations Law requirements and the Proposed Rule. There were also changes to HOME functionality in IDIS that went live in May 2012. For the most part, these changes are based on the authority in the existing regulation and are applicable to all activities in IDIS, however, some of the changes were implemented due to the requirements of the FY 2012 Appropriations law. I would like to emphasize that the content of this webinar will focus on the requirements in the FY 2012 HUD Appropriations Law.

The FY 2012 Appropriations Law imposes FOUR key requirements and each will be covered briefly in this Overview webinar. The new requirements include a four-year project completion deadline, an assessment of project underwriting, developer capacity, and market need for every activity, a six-month deadline for sale of completed homebuyer units, and an assessment of CHDO development capacity. In this webinar, we will outline each new requirement, explain its applicability to HOME projects, describe what HUD is doing to implement the requirement, and what PJs must do to comply. HUD will host a series of webinars that will cover each of these requirements in more depth over the next 6 weeks.

**Applicability.** These new requirements apply to all 2012 HOME projects. This means that any HOME activity that is set up in the Integrated Disbursement and Information System (IDIS) under a 2012 Consolidated Plan or Annual Action Plan Project must comply with these requirements.

The first requirement imposes a four-year project completion deadline.

All 2012 HOME projects must be completed within four years of the date the written agreement is executed. In cases where a project is not completed by this deadline, the project will be considered "involuntarily terminated before completion" and the HOME funds invested in that project will need to

be repaid to the HOME Investment Trust Fund. For the purposes of this requirement, project “completion” means that all necessary construction work has been completed and the project has received a certificate of occupancy or other local certification indicating that construction or rehabilitation has been completed and the project is ready for occupancy. This completion requirement applies to all 2012 HOME projects

HUD may grant a one-year extension to the four-year deadline if it determines that the circumstances that led to the failure to complete the project by the deadline were beyond the PJ’s control. But, because this is a statutory provision, HUD has no authority to grant waivers or otherwise extend the deadline past this one year extension. Please reference to the ‘Operating Guidance for Implementing FY 2012 HOME Appropriation Requirements (CPD Notice 12-007) for information on how and when to apply for an extension. Now, what will happen if the project is not completed within four years of the written agreement? HUD will block PJ access to these activities in IDIS if they are not completed by the 4-year deadline, and the HOME investment will be required to be repaid. It is important to note that, as part of the IDIS changes that went live in May 2012, IDIS now ‘flags’ ALL activities that were funded more than 4 years ago but have not been completed. However, there is no loss of functionality for activities that are not identified as 2012 activities. Consequently, if it’s an activity that is identified under a year other than 2012, a flag will appear, but it will not be considered involuntarily terminated and the PJ will not be blocked from accessing this activity. Regardless, HUD strongly encourages PJs to make every effort to complete these flagged activities.

How to comply with the requirement. In order to comply with this requirement, PJs should evaluate the readiness of each activity before setting it up in IDIS under a 2012 Con Plan/Action Plan project. In addition, PJs will need to establish a process to track each project’s progress against the four-year deadline. To assist PJs with this tracking process, HUD will generate and post monthly, PJ specific reports on the HOME Reports website. HUD will use the initial funding date as an *approximation* of the commitment date. But remember, for compliance purposes, it is the date of the written agreement that determines the date that the clock runs out on the four-year completion deadline.

The next new requirement of the FY 2012 Appropriations law requires that a PJ conduct a number of assessments before committing HOME funds. These assessments include Project Underwriting, Developer Capacity, and Market Need.

Project certification. To be specific, before entering into a legally binding written agreement to provide HOME funds for an activity, a PJ must underwrite the project or evaluate the underwriting of another funder, assess the development capacity and fiscal soundness of the developer, and examine neighborhood market conditions to ensure that there is adequate need for each project. This requirement applies to those activities set up under 2012 Action Plan Projects in IDIS.

The ‘Project Certification’ requirement is being implemented through a revision to the existing “HOME Activity Funding Certification” that PJs already complete when committing funds to HOME activities in IDIS. When committing funds to a 2012 HOME activity in IDIS, PJs must now certify that they have already conducted an underwriting review, assessed developer capacity and fiscal soundness, and

examined neighborhood market conditions to ensure there is adequate need for the project. Included here on this slide is the actual certification language that will appear in IDIS.

This new certification will appear for *all* IDIS activities but is *not* applicable to certain types of activities, including tenant based rental assistance, homeowner rehab, admin, and CHDO operating expenses. It will also appear for IDIS activities that are *not* 2012 activities, but again, it is only applicable to 2012 HOME projects. When the IDIS system change was developed, it was not possible to differentiate between applicable and inapplicable activities, and so the PJ will have to recognize the distinction.

How to comply with this requirement. In order to comply with this new requirement, PJs must develop and implement written policies and procedures which address the requirements of this certification, and which ensure that they are applied consistently to each project. PJs may contract with a third-party to conduct these evaluations, but the PJ is ultimately responsible for ensuring compliance. PJs will need to ensure that individuals responsible for completing the IDIS certification have the appropriate authorization to do so or have been directed to certify by someone with the appropriate authority. Whoever completes the IDIS certification must have access to documentation that confirms the required reviews have been conducted.

Deadline for sale of homebuyer units. The next new requirement of the FY 2012 Appropriations law imposes a 6-month sale deadline for homebuyer units.

PJs must convert any 2012 HOME homebuyer unit that has not been sold to an eligible homebuyer within six months of construction completion to a HOME-assisted rental unit. Once converted to rental units, they must be operated in compliance with HOME rental project requirements. This requirement applies to activities identified as 2012 HOME projects. The FY 2012 Appropriations law does not provide HUD with the authority to waive or otherwise make exceptions to this requirement. HUD issued guidance through a newsletter called HOMEfacts- Vol. 4 No.1 in January 2012 which explains how to change the tenure type of HOME Homebuyer activities to HOME Rental activities in IDIS OnLine. The link to this guidance is provided on the Resource slide at the end of this presentation.

“Construction completion” means that all necessary construction work has been completed and a certificate of occupancy (or its equivalent) has been issued. It is at this point that the 6 month tracking period begins. A homebuyer unit is considered to have met this requirement when the PJ has a ratified sales contract between the developer of the housing and the homebuyer

How to comply with this requirement. PJs must track and monitor all homebuyer activities for compliance with this deadline. To assist with this, HUD will generate reports which identify homebuyer activities in final draw and homebuyer activities with more than 90% of HOME funds drawn yet no draws in the past six months. These reports will be posted monthly on the HOME Reports website. PJs must also develop or modify existing policies and procedures to account for the possibility of rental conversion. For example, written agreements may need to be modified. In preparation for converting

homebuyer units to rental units, PJs should also proactively identify community partners with the capacity to manage rental units.

The final requirement of the FY 2012 Appropriations law addresses CHDO development capacity.

Specifically, PJs may not reserve FY 2012 HOME funds to a CHDO unless the PJ has determined that the CHDO has staff with demonstrated development experience. The PJ must ensure that the current CHDO staff has experience developing projects of the same size, scope and level of complexity as the activities for which HOME funds are being reserved or committed. HUD defines CHDO staff as paid employees responsible for day-to-day operations (volunteers, board members, and consultants are not considered staff). HUD recognizes that there are lots of questions about what constitutes CHDO "staff" and this will be covered in much more detail in the CHDO capacity specific webinars. This new requirement applies to CHDO reservations made from a PJ's FY 2012 HOME allocation.

Any time a PJ subgrants HOME funds from its 2012 CHDO set-aside subfund to a CHDO, the PJ must certify in IDIS that it has conducted this required evaluation of the CHDO's development capacity. Included here on this slide is the actual certification language that will appear in IDIS.

To comply with this new requirement, PJs must develop and implement written policies and procedures for assessing CHDO staff capacity and maintain record of these assessments. PJs will need to ensure that individuals who complete the certification in IDIS are either authorized to certify on behalf of the PJ or have been directed to certify by someone with the authority to certify.

This presentation briefly covered the four new requirements set forth by the FY 2012 HUD Appropriations Law. All Projects and activities identified under a PJ's 2012 Action Plan will have to:

- 1) Be completed within four-years of a signed written agreement;
- 2) PJs will have to certify it conducted an assessment of the underwriting, developer capacity and market need for each project;
- 3) All homebuyer units not sold within 6 months of the completion of construction will have to be converted to rental units; and
- 4) PJs will have to certify that the CHDO they provide HOME funds to has staff with demonstrated development experience.

IDIS System Enhancements. There were also some IDIS system enhancements that became effective May 2012. These changes are based on the *CURRENT* HOME regulation and are presented here because they have significant implications on the PJ's ability to administer their HOME program. There is a separate webinar on these system changes. Activities in Final Draw past 120 days. PJs that have even one activity in final draw status for more than 120 days will not be able to set up new activities or commit funds to other activities (other than those in final draw for more than 120 days). The activity must be completed, cancelled, or otherwise taken out of final draw. Activities with infrequent draws. The system flags activities with some amount disbursed, but no disbursements in the past 12 months. A reason and narrative explanation of the project status must be entered and updated every 180 days until the activity is completed in IDIS. If the PJ fails to enter the required reason and narrative explanation, it will not be able to set up new activities or commit funds to HOME activities. Completion

Date. The first time the activity status is changed to “completed,” IDIS will now default to the current date and the system will not allow the user to enter a completion date prior to the initial completion date. If the activity is re-opened and completed again, the completion date defaults to “initial completion date.”

As mentioned earlier, HUD will be hosting a series of webinars which address the FY 2012 Appropriations Law requirements and IDIS changes in much greater detail. All of the webinar topics are listed on this slide. Please visit the HOME TA website at [www.hometa.info](http://www.hometa.info) for more information on each webinar and to access the webinar link.

Finally, the links to various resources and guidance that were referenced throughout the webinar have been included here for your convenience.

Thank you for taking the time to listen to an Overview of the HOME requirements contained in the FY 2012 HUD Appropriations Law. We hope it was helpful, and we look forward to your participation in upcoming webinars.