



Development Seminar Series

Workshop 5: Project Implementation

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under contract to NY DHCR/HTFC

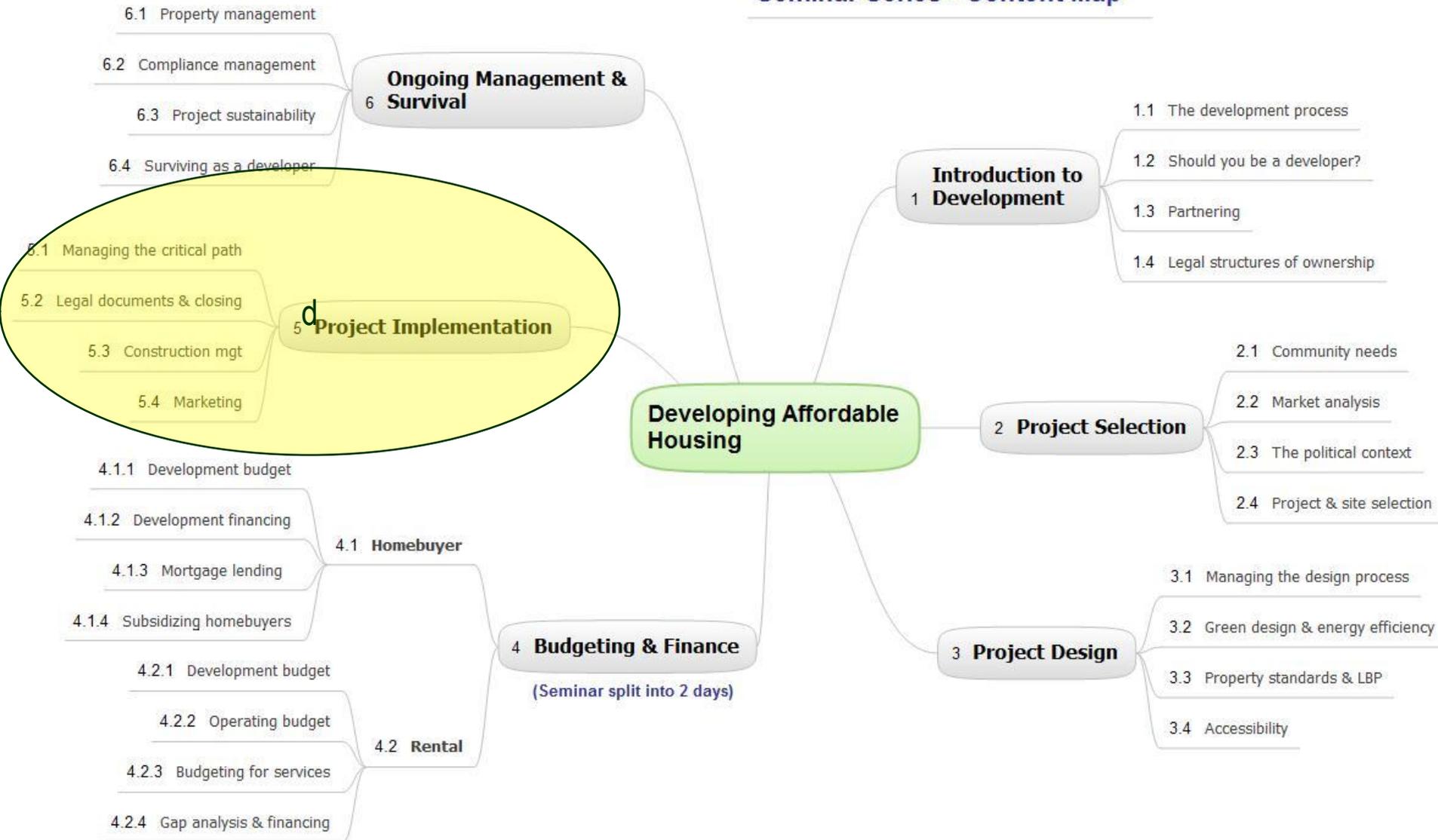


Overview of the Seminar Series

■ 6 workshops:

- Introduction to Development – May
- Project Selection – June
- Project Design – July
- Project Finance – September
- Project Implementation
- Ongoing Management & Org Survival - November

Developing Affordable Housing Seminar Series - Content Map





LPA Mini-Series

- Working with Homebuyers - June
- Lead Based Paint Overview – July/August
- Managing Housing Rehab Programs - October

Materials

- Reference manual
 - Supplemental discussions of institute topics
 - For review outside of class
- Each seminar, add:
 - Overheads for note-taking
 - Tools for project planning



Seminar 5 Topics

- Managing implementation
- Legal documents & closing
- Managing construction
- Compliance during construction
- Marketing



Managing Implementation

Developer Tools

- Market study: Keeping focus
- Procurement: Keep it competitive & documented
- Critical path and schedule: Time Is \$
- Budgets: Manage the bottom line
- Team meetings: They work for you (TBV)
- Disbursements: The Golden Rule!
- Lender/funder relations: Silence is not golden



Procurement

Procurement

- Procurement: purchase of goods and services with public (Federal) funds
- Objectives:
 - cost-effective expenditures of public funds by:
 - maximizing competition
 - eliminating conflicts of interest
 - select qualified/responsive contractors
 - compliance with statutes
- Applicable rule: who's the procurer?

Federal Rules

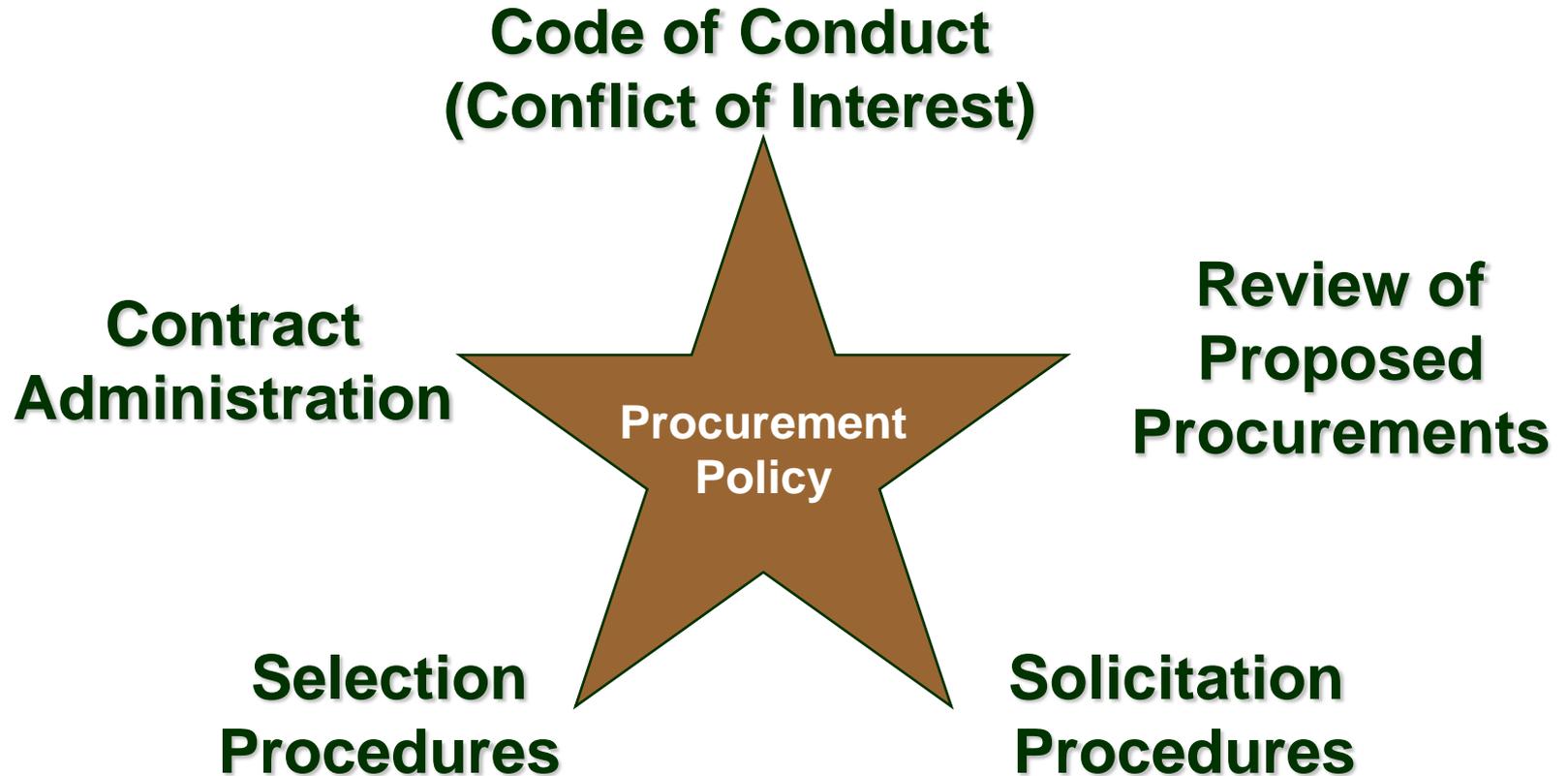
- Public agencies: 24 CFR Part 85
 - States follow state rules [85.36(a)]
 - Local gov't: 85.36(b) – (i)
 - Subrecipient selection not subject to 85.36
 - Debarred contractors (85.35)
- Nonprofit Subrecipients: 24 CFR Part 84
 - Sections 84.40 through 84.48 (repl OMB A-110, Att. O)
- Owners/Developers: rules set by jurisdiction
 - Competitive selection of dev. team
 - Post-selection bidding standards



Good Procurement Policies

- Make purchasing conscious, deliberate process
- Address the full range of circumstances
- Ensure consistency in organizational practices
- Reduce risk of fraud
- Outline acceptable conduct by employees
- Outline procurement requirements by value of goods/services to be purchased
- Ensure reasonable level of competition
- Provide for contract administration & records

Procurement Policy Elements



Challenge #1: Contractor Shortage

- Why is it hard to attract/retain contractors?
 - They are too busy with private jobs
 - This is cyclical; a drop in construction is happening
 - They're scared away by the rules (LBP, D-B, Sect 3)
 - They don't like slow public payment processes
 - Other contractor complaints?
- How can you respond?

#2: Keeping it Fair & Competitive

- Public rules require a “open and free” competition to ensure the best price to the public
 - Everyone has to be working from the same set of information
- Contractors like non-competitive situations
 - But competition keeps us all sharp
- Working with a contractor through the design process may help identify savings
- How can you respond?

Spec & Bidding Procedures

■ Objectives:

- Scope is clear/complete in order to minimize change orders
- All bidders have same information & access
- Enough bidders to make it competitive

■ Bid Package

- Final plans/specifications
- Identify options/alternates; invite recommended savings
- Solicitation package/requirements
- Federal rules references: check your funder commitment

Outreach to contractors

- Advertising; contractor briefing & assistance
- Qualifying contractors:
 - Bidders lists
 - Public advertising
- Affirmative outreach: MWBE, Section 3
- Bid process
 - Using an RFQ option to narrow the field
 - Receipt of bids: formal or informal

Selection

■ Objective

- Select the most advantageous bid, considering “price, quality and other factors”

■ Bid analysis/selection:

- Responsive: to scope/solicitation
- Cost effective: independent cost v. bids, lowest bid
- Responsible: capability to perform on time
- Other factors: econ dev objectives (EO, MWBE & Section 3)

Contract

- Required provisions
 - If federal funds, 24 CFR 85.36(i)
- Compliance requirements: inspection stds, etc.
- Deadlines & penalties
- Performance/payment bonds, retainage, lien releases
- Controlling the change order process



Managing Construction



Ensuring Contractor Performance

- What are contractor performance issues?
 - Delays
 - Poor quality of work
 - Excessive change orders
 - Mechanics liens from nonpayment of subs/suppliers
 - Resolving owner contractor disputes
- How can you respond?

Construction Management

■ Objectives:

- Scope: Make certain you get what you are paying for
- Schedule: Monitor/respond promptly to changes
- Payment: Make sure everyone gets paid

■ Construction mgt options:

- Architectural supervision
- Lender construction inspections
- Public agency inspections
- Owner's rep, clerk of works or construction mgr



Construction Mgt Procedures

- On-site monitoring/inspections:
 - Purpose(s)
 - Frequency of site visits
 - Maintenance of log
- Change order procedures

Managing Change Orders

- Review design carefully
- Learn from bidding process
- Keep contingency close to the vest
 - Require offsets
- Employ construction mgr
- Change orders are negotiable, but don't drag it out
 - Get everyone present to review
 - Be reasonable



Final Inspections

- Certificate of occupancy
- Lenders: full scope completed; punch list
- Public funder: property standards compliance
- Release of retainage

Disbursement Procedures

- Pay only for verified work completed and materials delivered/installed
- Who signs off?
 - Coordination of lender approvals (multiple lenders)
 - Architect & owners rep
- Drawdown of public funds
- Bonds, lien releases, & retainage requirements

Summary: Construction Mgt

- Keep it competitive & fair
- Use perf/pmt bond, retainage, lien releases
- Employ an Owner's Rep
- Manage aggressively & respond promptly
 - Get the contractor's CPM or GANTT
 - Monitor interim milestones
 - Be tough on change orders
- Remember the "golden rule"!
 - Don't ever pay for work not delivered and verified



Compliance During Construction

Relocation

- URA & Section 104(d) HCDA74
 - Updated rules issues 1/4/05
- Requirements:
 - Notices (1st notice due at application for Fed funds)
 - Advisory services
 - Financial assistance (temp, perm, econ displacement)
- Compliance issues:
 - Relocation costs generally eligible
 - Some over-income or “ineligible” occupants may need to be relocated
 - Budgeting relocation costs (tenant income surveys)
 - Records



Accessibility Statutes

- Rehabilitation Act (1973) Section 504
 - No “qualified individual with disabilities” excluded from participation in fed-assisted program/activity
- Fair Housing Amendments Act (1988; CRA68)
 - Disability is prohibited basis of discrimination
 - Accessibility standards for new projects
- Americans with Disabilities Act (1998)
 - Title II: equal opportunity to benefit from State/local programs

Fair Housing Act Standards

- New construction rental 4+ units
 - Public & common use areas
 - Passageways
 - Ground floor & elevator accessible units (4+ units)
 - Accessible route
 - Accessible switches
 - Grab bar reinforcements
 - Maneuverable kitchens/baths
 - Rules/policies: reasonable accommodations / reasonable modifications

Section 504 Requirements

- New construction (rental 5+ units) & substantial rehab (15+ units, 75% replacement cost)
 - Minimum: 5% physically impaired + 2% sensory impaired
- Other rehab: “to the maximum extent feasible”
- Also:
 - Program accessibility: locations, info/outreach, waiting lists
 - Visitability – accessible routes & 32” doors if feasible

Lead-Based Paint

- If pre-1978 & not exempt:
 - Acquisition: visual assessment, paint stabilization, clearance (35.1000)
 - Rehab: Fed rehab assistance calculation (35.900)
 - <\$5000: test/presume LBP on work surfaces, SWP, clear work site
 - \$5k - \$25k: risk assessment, interim controls, unit clearance
 - \$25,000+: risk assessment, abate interior hazards, unit clearance
 - Notices to occupants
 - Rehab records: SWP & clearances
 - Ongoing maint: Annual visual assess, SWP, clearance

M/WBE Utilization

- Capital Projects Manual section 4.02
- Targets set for contracts
- OFHEO utilization report:
 - <http://www.dhcr.state.ny.us/fheo/forms/pdf/ADM095B.pdf>

Davis-Bacon

- Federal programs; thresholds vary:
 - HOME: triggered at 12 or more HOME assisted units in a project or construction contract
 - CDBG: 8 or more housing units
- HUD letter: http://www.hud.gov/olr/olr_9602.html
- Contractors Guide: Hdbk 1344.1
<http://www.hud.gov/olr/olrwrcp.html>

Section 3

- Only way to impose geographic preference
 - Regulation: 24 CFR Part 135
 - <http://www.hud.gov/fhe/fhesect3.html>
 - Jobs to Section 3 residents
 - Purchases from Section 3 businesses
- Thresholds: rehab/construction
 - Recipient: HUD assistance > \$200,000
 - Contractors: above & contract > \$100,000
- Recipients/subrecipients must:
 - Notify residents/contractors, facilitate training

HOME/CDBG Conflict of Interest

- Potential C of I: “financial interest”
 - Contracts for services/goods
 - Occupancy of unit with HOME assistance
- Actual or presumed C of I:
 - Actual: if inside information or undue influence
 - Presumed: officer/empl./agent & imm. family
- “Exception” in advance by PJ
 - Strict standards for PJ & subrecipients
 - Developers: only rental unit occupancy



Project Marketing

Marketing Issues

- Unit mix, assisted & unassisted units
- Target households: market analysis
- Marketing Plan
- Advertising/outreach
 - Affirmative marketing
- Intake & processing

When to Start

- Marketing begins early in the process
- Assemble marketing team members
 - Let them review designs & market analysis: seek input
- Develop marketing plan for funder approval
 - Prepare marketing materials
- Start collecting names for applications/waiting lists
 - If homebuyer, begin counseling, credit checks, savings programs
- Media events & signs at the construction site

Unit Mix

- Permit/require different income mixes, e.g.:
 - LIHTC: 50% or 60%
 - HOME: 50% (5+ un) & 60%/80%
 - CDBG: 80% (51% of units)
- Assisted units must meet occupancy, property & affordability standards
 - Unassisted units not subject to compliance
- Identify target households for each level/type
- Establish system to track the mix

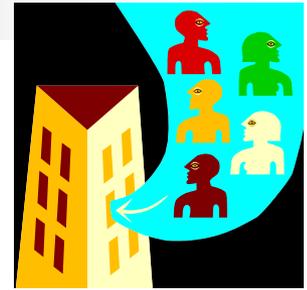
Unit Density

- DHCR/HTFC standards:
 - 0 BR: 1 – 2 persons
 - 1 BR: 1 – 2 persons
 - 2 BR: 2 – 4 persons
 - 3 BR: 3 – 6 persons
 - 4 BR: 5 – 8 persons
 - 5 BR: 7 – 10 persons

Target Households

- Market analysis – Seminar 2
 - Defined target households by:
 - Location (market area)
 - Income
 - Demographic segmentation (HH characteristics)
- HTFC preferences
 - Lowest possible incomes given rents
 - Occupants of substandard housing

Fair Housing



- Fair housing
 - Advertising
 - Intake: written tenant selection policy
 - Maintenance of waiting lists
- Accessible units:
 - If accessible units, reserved for HHs with accessibility needs
 - If special needs units, follow special needs marketing plan
- Fair/Equal Housing Opportunity & Accessibility logos must be displayed on any advertisements:
 - <http://www.hud.gov/library/bookshelf15/hudgraphics/fheologo.cfm>
 - http://www.ahfc.state.ak.us/Graphics/Communications_Images/wheelchair-symbol.jpg
- The issue of legal residency

Affirmative Marketing

- Jurisdictions must adopt affirmative marketing procedures:
 - Inform public, owners & tenants about Fair Housing opportunities
 - Assess efforts & take corrective action if necessary
- Project affirmative marketing is required when:
 - Ethnic groups under-represented in market area: “least likely to apply”
 - Special outreach activities required
 - Records of outreach activities required
- HOME: Procedures apply to projects with 5+ units

DHCR Marketing Plan

- OFHEO marketing plan standards & forms:
 - <http://www.dhcr.state.ny.us/fheo/forms/forms00.htm>



Program Accessibility Standards

- Non-discrimination
- Advertising logos
- Offices/activity locations accessible
- Outreach for acc units
- Waiting list/priority for acc units
- Reasonable accommodations & modifications

Reasonable Accommodations & Modifications

Reasonable accommodations

- Change/exception to rules, policies, practices, & services for PWDs
 - Assigned parking
 - Pets
- Does not apply to owner-occupied < 5 units
- Not fundamental alteration
- Not undue cost/admin burden

Reasonable modifications

- Structural modifications to property for PWDs
- Changes at occupant's expense
 - Unless owner should have provided
- Must be removable after occupancy



Marketing Tactics

- Advertising
- Non-traditional community outreach
- Model unit
- Use of realty agents

- Budget



Qualification of Occupants

- Income certification
 - Remember 6 month shelf-life (within 6 mos of rental occupancy or purchase/start of construction)
- Documentation standards
- If homebuyer, coordinate with mortgage qualification

DHCR/HTFC Aff Hsg Directory

- When ready, project posted on DHCR website
 - " New Affordable Housing Projects Now Accepting Applications" link on the
 - DHCR Affordable Housing Directory Website (AHD):
<http://www.dhcr.state.ny.us/ahd/>

Intake

- Objectives: equal access; fairness; timely processing
- Intake/selection issues:
 - Process for accepting applications
 - Application: form & assistance
 - Priorities/preferences
 - Income eligibility verification
 - Other screening
 - Financial: min income, cash, credit
 - Rental history: would you rent to this person again?
 - Verify identity; all occupants; residency
 - Waiting lists

Marketing to Homebuyers

- Marketing begins with counseling, training
- Buyers need time to improve credit & build savings
- Changing mortgage markets:
 - Risky products still out there
 - But many loans more restrictive
 - The return of the downpayment?
- Need to coordinate marketing/qualification with mortgage qualification
 - Timing of qualification (6 mo. window)



Marketing to Homebuyers, cont.

- Outplacement of ineligible buyers
- Accessibility & reasonable modifications for homebuyer projects



Wrap Up & Evaluation

- Final questions?
- Evaluation
- MLFranke@aol.com

- Next development seminar:

6. Management & Survival

- Albany: 11/12
- New York City: 11/13
- Buffalo: 11/19
- Syracuse: 11/20