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PROGRAM MONITORING

The HOME Department monitors all assisted projects and activities for program and regulatory compliance throughout the project's Period of Affordability (POA). Compliance monitoring ensures the assisted project continues to be used in accordance with statutory, regulatory, and IHFA, and the HOME Department's requirements.

The HOME Department will take appropriate action(s) if an assisted project fails to meet its compliance obligations, including monetary and non-monetary events of default. These actions may include a request to change a management company and/or the potential disqualification of entities or individuals with legal interest in projects deemed to be in default.

Compliance Monitoring:

- Ensures production and accountability;
- Ensures compliance with program rules and other cross-cutting requirements; and
- Evaluates the organizational and project performance during the POA

During Development

The HOME Department will:

- Monitor progress with special attention to any pending or anticipated problems;
- Discuss issues with recipients and provide any technical assistance needed;
- Conduct periodic site visits to inspect the quality of the construction and evaluate progress;
- Review reimbursement requests for completeness, eligibility, accuracy, and timeliness;
- Review project schedule to determine if the project is on schedule, milestones have been met, and the number of units will be produced;
- Review record keeping in conformance with Davis-Bacon, Section 3, MBE/WBE/VOB and other federal regulation as established in the written agreement;
- Review the project's compliance with accessibility requirements; and
- Review project payments to ensure the costs are on target and the requests for disbursement are properly documented and accurate.

During the Period of Affordability

LONG-TERM COMPLIANCE MONITORING

Multi-Family

Recipients are responsible for continued compliance of an assisted project during the *POA*. During this time, the assisted project is subject to compliance monitoring, including but not limited to: tenant selection and preferences, physical inspections and financial oversight, tenant lease protections, crosscutting requirements, recordkeeping, policies, procedures, etc.

IHFA and the HOME Department, reserve the right to pursue enforcement of program requirements as identified in the recipient's written agreement.

Utility Allowance annual calculation

Description

- Utility allowances for assisted units will need to be submitted no later than the last day of February, annually each year for review and approval by IHFA Compliance Department.
- The utility allowance calculation will be submitted with the Annual Occupancy Report (AOR), Certificates of Continuing Compliance (CCC) and monitoring fees.

HUD Utility Schedule Model

The HOME Department has determined the one of the following three (3) methods may be utilized by the recipients to determine each project's utility allowance calculation, at application.

1) The HUD Utility Schedule Model (HUSM)

The HUSM allows owners to calculate utility schedules by housing type after entering utility rate information. HUSM uses data based on climate and survey information from the U.S. Energy Information Administration of the Department of Energy and it incorporates energy efficiency and Energy Star data. The HUSM and user instructions are available at <https://www.huduser.gov/portal/resources/utilallowance.html>

The report is available as either an excel spreadsheet or a web based model on HUD User at <https://www.huduser.gov/portal/datasets/husm/uam.html>

2) Utility Company Estimate

The Utility Company Estimate is an actual collection of data from the utility company. The owner/agent will gather the information and calculate an average usage amount to determine the utility allowance. This generally will give you the most accurate utility average. Agents will be required to collect signatures from all adults in the household that grants the agent permission to collect the information from the utility company. The estimate must be obtained in writing and must be based on the estimated cost of that utility for a unit of similar size and construction for the geographic area in which the building is located.

3) Energy Consumption Model (Engineer Model)

The Energy Consumption Model (Engineer Model) is an energy model prepared by a properly licensed engineer or qualified professional. The person conducting the analysis must be independent from the owner/agent.

Project Monitoring Fee (24 CFR §92.214.b(1)(i))

- HOME (24 CFR §92.214(b)(1)) and HTF (24 CFR §93.204) regulations allow compliance monitoring fees to be changed for projects during the POA. The fee must be based on the average actual cost of performing the monitoring of all assisted rental projects.

The annual fee will be determined by actual compliance and monitoring costs incurred during the previous fiscal year divided by the number of rental units that are in IHFA's portfolio currently within their period of affordability. These costs include activities related to monitoring, i.e. desk monitoring, risk assessments, physical inspections, training, etc. Each project's annual monitoring fee will be based on the total number of assisted units in the project.

A recipient may be charged an additional fee if a re-inspection(s) of the project is required.

- NSP assisted rental projects cannot be charged an annual project monitoring fee.

Good Standing

The HOME Department may determine the current standing of a recipient (defined as developer, owner, sponsor, applicant, or a management company and includes a current member, partner or shareholder who owns a majority percentage) involved in a proposed project. A recipient may not be in good standing if their previous project(s) have instances of poor or non-performance which may occur during construction, lease up, the POA, or the Extended Use Period for IHFA, the HOME Department, or any other allocating agency. Below is a list of some possible performance issues.

- Has been involved in uncured financing defaults, foreclosures, disbarred, proposed for debarment or suspension, declared ineligible, or received a limited denial of participation in the past ten (10) years by any federal or state agency for any development program;
- Has been found to be directly or indirectly responsible for any other project within the past five (5) years in which there is or was instances of excessive, flagrant, or uncorrected noncompliance more than three (3) months from the date of notification by IHFA, the HOME Department, or any other allocating agency;
- Within 12 months prior to application deadline, has been in a mortgage default, breach, arrears of 60 calendar days or more or has any outstanding fee(s) within the last five (5) years on any publicly subsidized or assisted projects;
- Removal as a general partner/managing member or any material adverse change relating to the project or responsible owner. IHFA or the HOME Department will determine whether the change(s) is material and/or adverse in its sole discretion and further reserves the right to disqualify an application;
- Within 12 months prior to application deadline, failure to comply with IHFA or the HOME Department requests for information or documentation within 30 calendar days; extension requests depending on number and severity;
- Excessive late or incomplete reports to IHFA or the HOME Department; or
- Is in “Not in Good Standing” with IHFA, the HOME Department or any other allocating agency.

A disqualified recipient will not be allowed to participate in the program for a period of time, which may be as many as five (5) years, and any application in which they are participating in any way, may be removed from consideration. Applications with any development team member “Not in Good Standing” with IHFA, the HOME Department and/or any other allocating agency will also be removed from consideration.

The above list of negative actions is not all-inclusive. The application package itself will list other necessary requirements via forms, related instructions, and other items. IHFA and/or the HOME Department will terminate consideration of an application if it determines the application contains misleading information.

Actions to resolve a “Not in Good Standing” determination shall include, but are not limited to, a waiver request with an explanation as to why determination should be set aside. Waiver requests shall be received by IHFA and/or the HOME Department no later than 30 calendar days prior to application deadline. IHFA and/or the HOME Department shall review all requests and either approve or deny at the state agency’s sole discretion.

Property Management Capacity

A determination of property management capacity is made at the sole discretion of IHFA and/or the HOME Department. In making this determination, a consideration of circumstances that are beyond the recipient’s control, i.e. accidents or acts of nature; will be evaluated. IHFA and/or the HOME Department may make this determination if substantial and significant unresolved material compliance issues are not resolved within a reasonable time period.

IHFA Record-Keeping

The HOME Department will establish and maintain records documenting the status of each project as well as the over-all program administration. Records include but are not limited to documentation of:

- Maximization of private sector involvement
- Eligibility of all assisted activities
- Tenant eligibility and income targeting requirements
- Compliance with matching requirements

HOME-Only-Community Housing Development Organizations (CHDOs)

- Documentation of CHDO qualifications and certification
- Documentation of the predevelopment loans and operating assistance grants awarded to CHDOs
- Written agreements

Project File

- Documentation of the sources and uses of funds for each project
- Verification of property code/property standards for each project
- Documentation of Period of Affordability
- Documentation of tenant selection process
- Lease includes tenant protections
- Documentation that the amount of program funds invested in a project meet the minimum and maximum requirements
- Records indicating the number and type of assisted units in the project
- Applicable Federal regulations

Program Administration

- Documentation regarding the amount of drawn-down and expenditure of federal program funds and Program Income
- Records associated with the Integrated Disbursement and Information System (IDIS)
- Project documentation including agreements, sources and uses of funds, audits and resolution of any audit findings
- Records must be maintained for a period of five-years from the project closeout in IDIS or loan repayment, whichever is longer.

Single-Family - Homebuyer

Homebuyer activities do not require compliance inspections. The HOME Department does conduct annual verifications ensuring the home continues to be the HOME-assisted homeowner's principal residenceⁱ throughout the period of affordability. IHFA and/or the HOME Department reserves the right to pursue enforcement of program requirements and IHFA requirements through the Memorandum of Restrictive Covenants and/or the Deed of Trust Note.

ⁱ See Chapter 2B and 2C for IHFA definition of Principle Residence