

## Chapter 7- HOME Compliance and Monitoring

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### **PROGRAM ADMINISTRATION AND COMPLIANCE MONITORING**

IHFA monitors its HOME projects and activities for program and regulatory compliance throughout the project's Period of Affordability. Compliance monitoring ensures HOME funds continue to be used in accordance with statutory, regulatory, and IHFA program requirements.

IHFA will take appropriate action(s) if a HOME-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 HOME and other federal requirements; and
- Evaluates the organizational and project performance during the affordability period

### **DEVELOPMENT PHASE MONITORING**

- Monitor monthly progress with special attention to any pending or anticipated problems;
- Regularly discuss issues with sponsors and provide any technical assistance needed;
- Make periodic visits to the site to inspect the quality of the construction and evaluate progress;
- Review Sponsor's and Contractor's record keeping;
- Review project schedule to determine if the project is on schedule, all major milestones have been met, and the number of units proposed are being produced;
- Review project's success in meeting the Davis/Bacon, Section 3, MBE/WBE and other federal regulation 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.

## LONG-TERM COMPLIANCE MONITORING

### MULTI-FAMILY

Owners are responsible for the continuing compliance of a HOME project during the HOME *Period of Affordability*. During this time, a HOME-assisted project is subject to compliance monitoring, including tenant selection [§92.2539(d), physical inspections and financial oversight [§92.504], tenant lease protections [§92.253], Federal requirements [Subpart H], day-to-day operations [§92.504], and recordkeeping [§92.508].

~~Sponsors/owners are strongly encouraged to obtain this manual, and to become thoroughly familiar with all aspects of the program compliance including potential actions when projects are found to be out of compliance.~~

~~The HOME Rental Compliance Manual is available <http://www.rentalcompliance.org/housing-compliance-services/home/manuals-limits.aspx>~~

IHFA reserves the right to pursue enforcement of HOME requirements as identified in Owner's HOME Loan and Regulatory Agreement.

### **Project Monitoring Fee [§ 92.214.b(1)(i)]**

Effective August 23, 2013 IHFA is allowed to charge the owner of a HOME-Assisted rental project a reasonable annual monitoring fee. According to the Revised HOME Rule, the fee must be based on the average actual cost of performing the monitoring of HOME-assisted rental projects.

This annual fee will apply to a project that receives a HOME commitment of funds on or after August 23, 2013 and throughout the HOME Period of Affordability.

The annual fee will be determined by actual HOME compliance and monitoring costs incurred during the previous fiscal year divided by the number of HOME rental units that are in IHFA's portfolio currently within their period of affordability. These cost 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 HOME units in the project.

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

### **Good Standing**

IHFA may determine the current standing of an owner/agent (defined as developer, owner, sponsor, applicant, or a management company. This includes a current member, partner or shareholder who owns a majority percentage) involved in a proposed HOME project. An owner/agent may not be in good standing if their previous project(s) has serious, ongoing and/or pervasive non-compliance issues, including HOME loan payments in arrears or in default, and/or has repetitive or unresolved material and significant findings or negative response(s) from another organization or public jurisdiction involved in the administration or monitoring of other federal housing programs.

IHFA may choose not review a HOME application if the owner/agent of the proposed HOME-assisted project is not in good standing. Actions to resolve this determination may include, but are not limited to, a change in the management company, and/or the potential disqualification of entities or individuals with a legal interest in project.

### **Property Management Capacity**

A determination of property management capacity is made at the sole discretion of IHFA as determined by the

IHFA Compliance and Grant Programs Managers. In making this determination, IHFA will consider circumstances that are beyond the sponsor's control, i.e. accidents or acts of nature. IHFA may make this determination if substantial and significant unresolved material HOME compliance issues are not resolved within a reasonable time period as determined by IHFA.

#### **IHFA Record-Keeping**

IHFA will establish and maintain records that document the status of each HOME project as well as the over-all program administration. Records include but are not limited to

- Documentation of maximization of private sector involvement
- Documentation of eligibility of all HOME-assisted activities
- Documentation of tenant eligibility and income targeting requirements
- Documentation of compliance with matching requirements

#### **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
- HOME lease includes tenant protections
- Documentation that the amount of HOME funds invested in a project meet the minimum and maximum requirements
- Records indicating the number and type of HOME units in the project
- Applicable Federal Regulations

#### **Program Administration**

- Documentation regarding the amount of drawn-down and expenditure of federal HOME funds and HOME 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 are maintained in accordance with the HOME and IHFA retention policies.

**Single-Family**

Homebuyer activities do not require compliance inspections. IHFA will conduct an annual verification that the home continues to be the homeowner's principal residence<sup>1</sup> throughout the HOME period of affordability. IHFA reserves the right to pursue enforcement of HOME and IHFA requirements through the Memorandum or Restrictive Covenants and/or the Deed of Trust/Note.

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<sup>1</sup> See Chapter 2 for IHFA definition of Principal Residence