

CHAPTER 10
PROGRAM MONITORING

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CHAPTER 10

PROGRAM MONITORING

I. OVERVIEW

In accordance with the state of Montana's Consolidated Plan and guidelines adopted by the state, the following language provides requirements under which the MDOC HOME Program operates.

Grantees participating in Montana's Home Investment Partnerships (HOME) Program are responsible for administering their HOME projects in accordance with all applicable federal and state statutory and regulatory requirements. MDOC's responsibility is to ensure grantees are managing their projects in accordance with these requirements and to ensure that assisted housing units remain affordable to low- and very low-income persons throughout the period of affordability.

The HOME Final Rule at *24 CFR* § 92.504(a) states that the HOME Program is responsible for managing the day to day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements. This responsibility includes regular review of the performance of Grantees participating in the HOME program, including state recipients, subrecipients, contractors, and community housing development organizations (CHDOs). The HOME Program must review the performance of each Grantee at least annually, either by remote assessment or an on-site review.

II. PURPOSE OF MONITORING

While the annual review process is a requirement of the HOME program, it is also a helpful tool the HOME program can use toward achieving program compliance and effectiveness. Performing regular monitoring helps the HOME Program:

- Ensure accountability and compliance with HOME requirements:
 - HOME funds must be used to provide housing or tenant-based rental assistance to low- and very-low income residents
 - Housing produced with HOME funds must meet quality standards and must be decent, safe, and sanitary
 - Units developed with HOME funds must remain affordable, pursuant to written agreements, over a period of time
 - Compliance with all deadlines and written agreements involving HOME funds is required.
- Respond to community needs and priorities identified in the state's Consolidated Plan

- Use HOME funds efficiently and effectively, determining that the program is functioning well and delivering housing at a reasonable cost

Monitoring involves reviewing organizations the HOME Program has entrusted with its HOME funds (such as subrecipients and CHDOs). When performing external monitoring, the HOME Program must assess compliance of the Grantee and its projects with HOME requirements, cross-cutting federal requirements, and applicable OMB circulars. The HOME Program also assesses the Grantee's efficiency, timeliness, and adherence to the terms of its written agreements with the HOME Program during project development and throughout the period of affordability.

Annual monitoring can consist of internal audits, remote or desk reviews and on-site visits. The steps to annual monitoring are:

- Assess risk of non-compliance by each Grantee
- Develop an annual monitoring strategy
- Perform reviews of projects and entities
- Communicate results and indicate the need for any corrective action
- Follow-up with findings

Grantees must maintain complete program and project files to comply with HOME reporting requirements. Grantees should review their MDOC HOME contract for information on record requirements and retention periods. The grantee must give representatives of MDOC and HUD reasonable access during normal business hours to all books, accounts, records, reports, and files pertaining to HOME-funded activities. Grantees must also provide all citizens reasonable access to non-confidential records regarding the use of HOME funds.

A. MONITORING PRIOR TO PROGRAM CLOSEOUT

1. **Monitoring Visits.** In addition to reviewing the PROJECT PROGRESS REPORT submitted with the REQUEST FOR PAYMENT of HOME funds and other documentation submitted throughout the year, the HOME Program Officer will schedule an annual on-site monitoring visit with each grantee and their subrecipients. On-site monitoring is a structured review conducted at the location(s) of the project activities, and at the location(s) where program and project records are maintained. The three monitoring goals are to:

- Ensure production and accountability
- Ensure compliance with HOME and other Federal requirements
- Evaluate organizational and project performance

HOME staff uses a formal monitoring guide, covering key requirements discussed in this manual as the format for their review of local projects. The HOME PROGRAM MONITORING GUIDES are found in the **Exhibit 10-A** series.

Before a monitoring visit, the HOME Program Officer will contact the Program Manager concerning the timing and scope of the monitoring visit. Monitoring visits usually involve a two day visit with the Grantee to address both program-wide and project-specific issues, and meet with the Program Manager and local officials. Each monitoring visit normally includes an entrance and an exit conference. The entrance conference will outline the scope of the monitoring visit. The exit conference provides an opportunity to meet with the Program Manager, Financial Manager and other local officials to review any outstanding issues, both positive and negative, identified during the site visit.

As part of this review, the HOME Program Officer will describe preliminary conclusions and issues. By thoroughly discussing a potential problem, the HOME Program Officer is able to determine if there is a reasonable explanation for a particular circumstance or question and whether the problem can easily be resolved. Since the overall goal of the HOME Program Officer is to assist grantees in complying with the law and achieving timely and effective grant management, every effort will be made to informally resolve any minor monitoring concerns during the monitoring visit.

2. **Monitoring Comments.** Following the monitoring visit, the HOME Program Officer will provide written monitoring comments to the grantee. The monitoring letter will contain the following general elements:
 - The name of the HOME Program Officer conducting the review, the date of the review, and those present during the review.
 - A brief description of each major topic covered during the visit, the statutory or regulatory requirement affecting that topic, and an explanation of the documentation and records examined pertinent to these requirements.
 - The status of the conclusion the reviewer has reached; i.e., "satisfactory performance," a "concern," a "question of performance", or a "finding" regarding the above documentation (see definitions below).
 - A statement describing the basis for each conclusion.

There are four levels to any "conclusion" that may be assigned to a particular issue:

- a) **Satisfactory Performance:** All documentation reviewed was found to be satisfactory with regard to all statutory and regulatory requirements.
- b) **Concern:** An issue that does not involve a statutory or regulatory requirement is discovered, but does involve recommending a management or program improvement, is considered a "concern". A modification of an administrative procedure or policy may be suggested, but is not required. No response by local officials is required.
- c) **Question of Performance:** A question regarding whether a violation of a statutory or regulatory requirement has occurred is raised. An informal discussion to review results with local officials is conducted to determine if a violation has occurred. If the matter cannot be resolved during the exit conference, and there is still an unresolved "question of performance," a request will be made that additional

information be provided within a 30-day time period. Review of the additional information will enable HOME staff to determine whether a violation has occurred. A final determination regarding the issue under question will be made, in writing, within 30 days of the Grantee's response.

- d) **Finding:** A specific, identifiable violation of a statutory or regulatory requirement about which there is no question. A written response regarding the grantee's proposed actions to correct the situation is required within 30 days of the date of the HOME Program's monitoring letter. Corrective actions will be designed to:
- Prevent a continuance of the violation
 - Mitigate any adverse effects or consequences of the violation to the extent possible under the circumstances
 - Prevent a recurrence of the same or a similar violation

There may be a number of acceptable solutions for resolving a violation. The grantee may respond to each problem with any reasonable and adequate solution of its choice. The Montana Department of Commerce will determine the adequacy of a corrective action. At all times, the MDOC HOME staff will offer any necessary technical assistance to grantees to avoid or resolve any monitoring findings.

3. **HUD Monitoring.** In most cases, only MDOC HOME staff will monitor the grantee's project. However, HUD personnel may closely monitor project records in order for HUD to determine whether the State and its grantees comply with federal requirements. HUD staff also has the authority to visit any local HOME projects to check compliance with federal HOME regulations.

B. MONITORING DURING THE PERIOD OF AFFORDABILITY

The Grantee is responsible for monitoring all projects assisted with HOME funds throughout the appropriate period of affordability. Grantees must ensure project owners are complying with all applicable state and federal regulations. Grantees are responsible for taking appropriate actions when performance problems arise. The HOME Program staff is available to provide technical assistance. Applicable periods of affordability are as follow:

Type of Activity	Period of Affordability
New construction or acquisition of new construction	20 years
Rental Rehabilitation & Homebuyer Assistance	Under \$15,000 per unit:.....5 years \$15,000 - \$40,000 per unit: 10 years Over \$40,000 per unit:..... 15 years
Homeowner Rehabilitation	MDOC-required: Same as homebuyer assistance

Homebuyer, homeowner rehab, and rental projects are monitored for long-term affordability. Annual certifications are completed for all three projects type. HOME staff distributes the applicable form and a certification for grantees to complete and sign.

Grantees with **homebuyer projects** must certify whether or not any homes have been sold since the previous certification and whether or not the owner continues to use the home as

his/her principal residence. If there has been a change in ownership of the property, the grantee must certify the proper Resale or Recapture provisions have been met. A detailed discussion of Resale and Recapture is in **Chapter 7, Project Activities. Exhibit 10-B.2a**, CHDO/PHA ANNUAL CERTIFICATION FOR HOMEBUYER ASSISTANCE PROJECTS, or **Exhibit 10-B.2b**, LOCAL GOVERNMENT ANNUAL CERTIFICATION FOR HOMEBUYER ASSISTANCE PROJECTS, is used to document this information.

Similar reporting is required for **homeowner (owner-occupied) rehabilitation projects**. See **Exhibit 10-B.1a**, CHDO/PHA ANNUAL CERTIFICATION FOR HOMEOWNER REHABILITATION PROJECTS, and **Exhibit 10-B.1b**, LOCAL GOVERNMENT ANNUAL CERTIFICATION FOR HOMEOWNER REHABILITATION PROJECTS.

Grantees must review the activities of the owners of the **rental housing projects** assisted with HOME funds to ensure they are complying with the affordability criteria. They must document the incomes of tenants and the rents charged for each unit on **Exhibit 10-B.3a**, Annual Certification for Rental Housing. The Annual Certifications will be assessed using the Annual Certification checklist (Exhibit 10-B.3c) to review compliance with HOME requirements including, but not limited to:

- Affordability requirements
- Income qualification of tenants
- Property condition inspections
- Fair Housing
- HUD HOME lease requirements

All projects must also provide their Operating Budget for the current year with their Annual Certification. Projects with ten or more HOME-assisted units must also provide the project's Statement of Financial Position, Statement of Activities and Statement of Cash Flows for the prior 12 months. These financial statements will be reviewed to determine:

- Overall financial viability of the project
- If the project is profitable and generating an appropriate rate of return to the owner
- If the costs are far greater than the revenue received
- If the revenue and expenses are consistent with the property's operating pro forma

Any compliance issues noted in the review of the annual rental certification and/or financial statements may result in additional inquiry to determine project compliance. On-site monitoring reviews may be scheduled to review project files and inspect units. Examples of compliance problems commonly found and appropriate corrective actions that can be taken can be found in Exhibit 7-7 of Compliance in HOME Rental Projects: A Guide for PJs, page 98.

Multi-family rental projects also require an annual on-site inspection to determine compliance with housing codes. See **Exhibit 10-C**, HUD HOUSING QUALITY STANDARDS (HQS) INSPECTION CHECKLIST; form HUD-52580-A is the long version of the HQS Inspection checklist and form HUD-52580 is a shorter version. Use of form HUD-52580-A is

recommended for newer inspectors or those that have limited experience with HQS inspections.

If the information submitted on the certification is incomplete or needs clarification, the HOME Program Officer will contact the grantee.

C. MONITORING PROGRAM INCOME, RECAPTURED FUNDS, AND CHDO PROCEEDS

Only Grantees with an open competitive grant or a Qualified Entity (for the Single Family Noncompetitive Program) currently under contract with the HOME Program may retain and use program income or recaptured funds, with HOME Program approval. The addition of program income/recaptured funds to a project funded by a competitive grant may not increase the HOME portion of the project budget beyond the maximum grant amount established in the application guidelines under which the grant was awarded. Any program income or recaptured funds retained by a HOME Grantee or Qualified Entity must be disbursed by that HOME Grantee or Qualified Entity before it requests additional HOME funds. Activities assisted with HOME program income or recaptured funds are treated and monitored the same as those assisted with the HOME allocation. **All** HOME program rules and requirements apply, including MDOC requirements (e.g., completion and submittal of set-up forms, draw requests, completion forms, environmental site-specific checklists, and lead-based paint notices, to name a few.

CHDO proceeds must be spent in accordance with the grantee's previously approved CHDO Proceeds Plan, and in accordance with all applicable state and federal regulations. The CHDO Proceeds Plan specifies the allowable uses of these funds. As mentioned previously, grantees should review the MDOC HOME contract for information on record requirements and retention periods. Any findings of noncompliance with respect to CHDO proceeds expenditures may be considered an "unsatisfactory performance" by the grantee, and will be considered in any future grant request by the grantee.

See **Chapter 9, Program Closeout** for details regarding program income, recaptured funds, and CHDO proceeds.

D. ON-SITE VISITS

HUD requires MDOC to conduct on-site inspections of HOME-assisted multi-family rental housing throughout the period of affordability. The first on-site inspection will be carried out within twelve months of project completion. Subsequent on-site inspections will be conducted at least once every three years thereafter. Additionally, if the review of the Annual Rental Certification (**Exhibit 10-B.3a**) and/or financial statements shows significant compliance issues, an on-site visit may be scheduled to determine compliance and provide technical assistance.

The purpose of these visits is to ensure the facility continues to provide safe, decent and affordable housing. Specifically, a HOME Program Officer will examine:

- Physical condition of the rental units and the property

- HQS inspection documentation to ensure it is current and complete
- Income certification documentation to ensure tenant income levels meet HOME income limits and requirements
- Tenant leases to ensure they are current and do not contain prohibited clauses
- Rent calculations to ensure the correct rent is charged and is in compliance with HOME rent limits
- Compliance with the Affirmative Fair Housing Marketing Plan (for projects with 5 or more HOME-assisted units)

The HOME PROGRAM ONSITE GUIDE, **Exhibit 10-D**, is completed during onsite visits. The grantee will receive a completed copy of the GUIDE with a letter explaining findings of the visit. Grantees must remain in compliance with the above bulleted items during the entire period of affordability. If a project is out of compliance, or is found to have issues or concerns, the grantee will receive a formal letter outlining the problems and a follow-up on-site visit will be conducted within twelve months of the initial on-site visit. If health and safety deficiencies are identified during the on-site visit, the owner will be instructed to immediately correct the deficiency and a follow up visit will be scheduled within twelve months of initial inspection. At the discretion of the HOME Program, more frequent inspections may be scheduled as necessary.. Grantees must make every effort to maintain their projects in compliance with HOME requirements.

EXHIBITS

EXHIBIT 10-A: HOME Monitoring Guides

- EXHIBIT 10-A.1: Program-Wide Requirements Monitoring Guide
- EXHIBIT 10-A.2: Labor Standards Monitoring Guide
- EXHIBIT 10-A.3: Relocation Monitoring Guide
- EXHIBIT 10-A.4: Homeowner Rehabilitation Monitoring Guide
- EXHIBIT 10-A.5: Rental Projects Monitoring Guide
- EXHIBIT 10-A.6: Rental Projects Monitoring Guide Part 2
- EXHIBIT 10-A.7: Homebuyer Assistance Monitoring Guide
- EXHIBIT 10-A.8: Reserved

EXHIBIT 10-B: ANNUAL CERTIFICATIONS

HOMEOWNER REHABILITATION

EXHIBIT 10-B.1a: **CHDO/PHA** Annual Certification for Homeowner Rehabilitation Projects

EXHIBIT 10-B.1b: **Local Government** Annual Certification for Homeowner Rehabilitation Projects

HOMEBUYER ASSISTANCE

EXHIBIT 10-B.2a: **CHDO/PHA** Annual Certification for Homebuyer Assistance Projects

EXHIBIT 10-B.2b: **Local Government** Annual Certification for Homebuyer Assistance Projects

RENTAL HOUSING

EXHIBIT 10-B.3a: **CHDO/PHA** Annual Certification for Rental Housing

EXHIBIT 10-B.3b: **Local Government** Annual Certification for Rental Housing

EXHIBIT 10-B.3ac: Annual Certification for Rental Housing Checklist

EXHIBIT 10-C: HUD Housing Quality Standards (HQS) Inspection Checklist

form HUD-52580-A (long form)

form HUD-52580 (short form)

EXHIBIT 10-D: HOME Program Onsite Guide