

# Long-Term Compliance and Monitoring of Federal and State Funded Projects



AFFORDABLE HOUSING CONFERENCE  
HOME **MATTERS**  
IN FLORIDA



# Preparing for HUD Monitoring

Presented by  
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# Introduction to Monitoring

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

2 CFR Part 92 – HOME Investment Partnerships Program (HOME)

2 CFR Part 500 – Community Development Block Grant (CDBG)

2 CFR Part 570 – Community Development Block Grant Disaster Relief (CDBG-DR)

2 CFR Part 574 – Housing Opportunities for Persons with Aids (HOPWA)

2 CFR Part 576 – Emergency Solutions Grant (ESG)

<https://www.hudexchange.info/programs/cpd-monitoring/#monitoring-overview>





# Presentation Summary

- A. HUD Risk Analysis
- B. Monitoring Letter
- C. Preparing for the Monitoring Visit
- D. The Visit
- E. Findings & Concerns



# HUD Risk Analysis



<https://www.hudexchange.info>

<https://files.hudexchange.info/resources/documents/Notice-CPD-14-04-Risk-Analyses-Monitoring-CPD-FY-2015-2016.pdf>





# Monitoring Letter

- a) Schedule
- b) CPD Monitoring Handbook Exhibits
- c) Grants to be reviewed
- d) Topics & Activities to be reviewed

<https://www.hudexchange.info/programs/cpd-monitoring/#monitoring-overview>

[https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/cpd/6509.2](https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2)

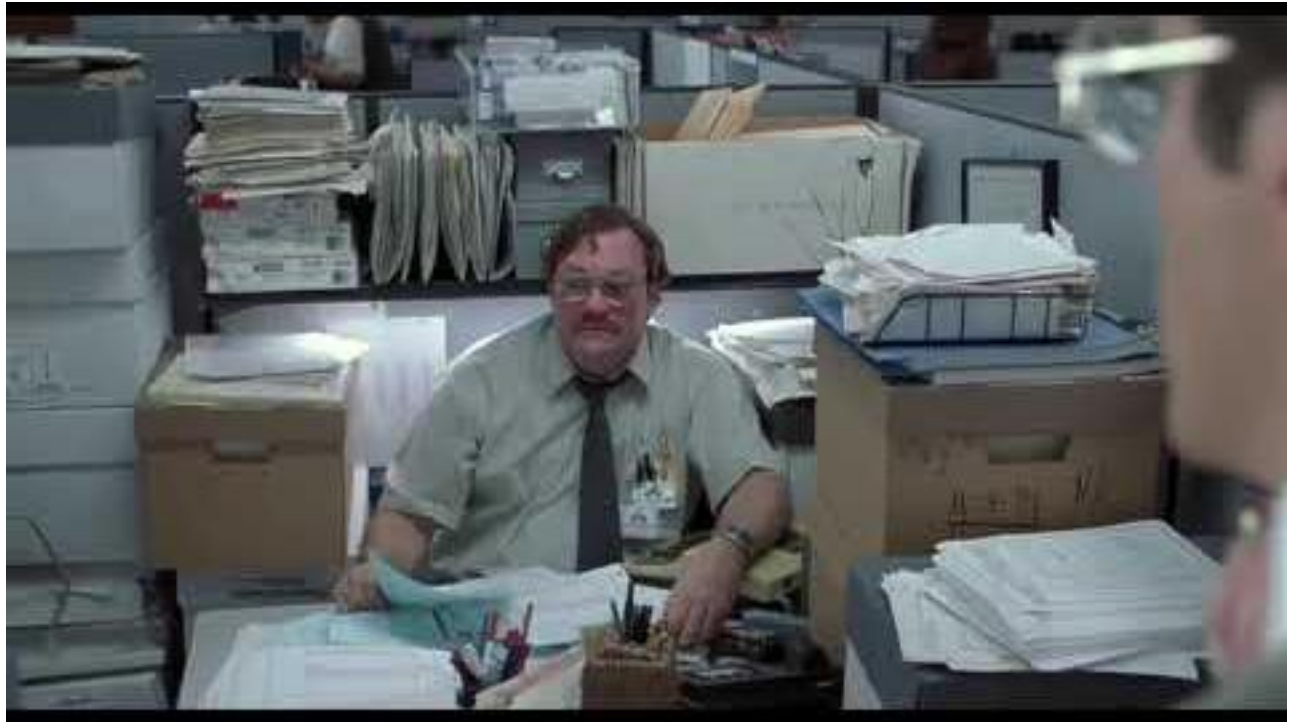


# Preparing for the Monitoring Visit

- a) Monitoring Exhibits
- b) IDIS reviews & Reports
- c) Action Plan and CAPER reviews
- d) File reviews



 **The Visit**





# ✘ Findings & Concerns

- a) What is a finding?
- b) What is a concern?
- c) How to respond to each



# Questions?





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# **COMPLIANCE MONITORING**

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# COMPLIANCE MONITORING

The process of affordable housing starts with an application for funding available from the state housing agency.

- There are a wide variety of items to choose from to create your Development:
  - Demographic commitment (Multi-Family, Homeless, Elderly, etc.);
  - Development category (new construction, preservation, rehabilitation);
  - Type (Garden, Mid-rise, etc.); Number of buildings and Units; Set-aside commitments;
  - Unit Mix (bedrooms/baths), amenities, unit features, and tenant programs to be provided.



# COMPLIANCE MONITORING

Regulatory Agreement(s) are:

- based upon the application commitments
- indicates the income, rent, and occupancy set-aside requirements
- describes the terms of the compliance period(s) for the applicable affordable housing programs



# WHAT TRIGGERS A MANAGEMENT REVIEW FOR NEWLY FUNDED DEVELOPMENTS?

## Low Income Housing Tax Credits (LIHTC) (Federal Program)

- 9% Competitive Credits
  - Occupied Rehab
    - On or before 120 days prior to the anticipated placed in service date in the Carryover Allocation Agreement OR 120 days after Final Allocation, whichever comes first.
  - Unoccupied (New Construction or Rehab)
    - Within 120 days of first move-in
- 4% Non-Competitive Credits (available in conjunction with Tax-Exempt Bonds)
  - Unoccupied or Occupied (New Construction or Rehab)
    - Scheduled at Final Allocation



# WHAT TRIGGERS A MANAGEMENT REVIEW FOR NEWLY FUNDED DEVELOPMENTS?

HOME Program (Federal Program administered by the state allocating agency)

- Occupied Rehab
  - Within 120 days after closing
- Unoccupied (New Construction or Rehab)
  - After leasing First HOME-assisted unit





# WHAT TRIGGERS A MANAGEMENT REVIEW FOR NEWLY FUNDED DEVELOPMENTS?

## MULTIFAMILY REVENUE BOND (MMRB) (State Program)

- Occupied Rehab
  - Within 120 days after closing
- Unoccupied (New Construction or Rehab)
  - After leasing first unit



# WHAT TRIGGERS A MANAGEMENT REVIEW FOR NEWLY FUNDED DEVELOPMENTS?

## STATE APARTMENT INCENTIVE LOAN S.A.I.L. (State Program)

- Occupied Rehab
  - Within 120 days after closing
- Unoccupied (New Construction or Rehab)
  - After leasing first unit



# MANAGEMENT REVIEW PROCESS

## Owner and Management Notification

- Reviews can be conducted annually, bi-annually, or tri-annually depending upon the program(s).
- Formal notification letter is sent to Owner, Management company, and Property Manager, usually via email or fax, about three - four weeks prior to the review date.
- The letter will include a request for Development information or documents needed to conduct the review, such as a current program report, and current utility allowance documentation.



# MANAGEMENT REVIEW PROCESS

## ○ Examination of Records

- Tenant File Review: (10% - 20% of all files are examined)
- Random selection process is used to select the files for examination (i.e. buildings, bedroom sizes, set-sides, etc.)
- Ledgers are examined to ensure rent paid for the unit does not exceed applicable rent limits for applicable programs.
- Application(s) - reviewed for completeness and inclusion of total income from all sources, including assets.
- Tenant Income Certification form(s) (initial and/or current) - checked for completeness and reflects income as verified in the file.



# MANAGEMENT REVIEW PROCESS

- Examination of Records continued
  - Verification(s) of income - examined for completeness and are compared to the application and the initial and/or current Tenant Income Certification for consistency.
  - Student status must be addressed for all household members.
  - Lease (initial and current) - examined to ensure all occupants are listed, fully executed, and terms of the lease meet the most stringent Regulatory Agreement requirements.
  - The **sequence** of the certification procedure is reviewed to ensure that no person or family occupies a Development unit prior to being properly certified.



# MANAGEMENT REVIEW PROCESS

## ADMINISTRATIVE Procedures - of the Developer/Management Co.

- Tenant selection and orientation
- Maintenance program: Corrective or Preventative
- Security program
- Organization and supervision
- Training
- Advertising and Affirmative Fair Marketing, if applicable
- Resident programs and services
  - Maybe required of Owners, as a condition of funding the new development or rehabilitation, and awards points for specific programs and services, which can increase the amount of funding and/or tax credits issued.



# MANAGEMENT REVIEW PROCESS

## PHYSICAL INSPECTION - determine if Development and units meet HUD Uniform Physical Condition Standards.

- Average of 10-20% randomly chosen units are inspected plus a minimum of 2 others, usually vacant units.
- Inspection of the Site, buildings, and units (occupied and vacant) to ensure Development is safe, sanitary, and decent and in good repair, as well as all required amenities and unit features are provided.



# COMPLIANCE VS NON-COMPLIANCE LIHTC(FEDERAL)

A Development in compliance means:

- households are properly qualified
- all set-aside requirements are being met
- rents are within applicable federal limits
- the physical conditions at a site, building and unit level are meeting the Uniform Physical Condition Standards.





# COMPLIANCE VS NON-COMPLIANCE LIHTC (FEDERAL)

- Compliance Period vs. Credit Period:  
IRS defines the **compliance period** as "*the period of 15 taxable years beginning with the 1st taxable year of the credit period.*"
- IRS defines the **credit period** as "*the period of 10 taxable years beginning with*" either the year the building is placed in service or the succeeding taxable year (Owners make this election on the IRS 8609 form).



# COMPLIANCE VS NON-COMPLIANCE LIHTC (FEDERAL)

- A Development not in compliance means:
  - Owner has failed to maintain compliance
  - The state allocating agency may file an IRS Form 8823 (Report of Non-Compliance).
  - Many may not be aware of the actual cost associated with losing tax credits due to non-compliance. (i.e. Development has annual credits of \$450,000 and 90 affordable units = \$5000 per unit per year.)



# COMPLIANCE VS NON-COMPLIANCE LIHTC (FEDERAL)

- What triggers an IRS Form 8823:
  - Health and Safety hazards
    - Blocked egress
    - Non-working smoke detector
    - Tripping hazard(s)
    - Pest infestation
  - Low Income unit occupied by non-qualified full-time students.
  - Gross rent exceeds maximum allowable limits.
  - Improperly documented household at intimal occupancy.
  - Over-income household.
  - Not meeting the minimum set-aside test requirements.



# COMPLIANCE VS NONCOMPLIANCE HOME/BOND/SAIL (STATE)

- A Development in compliance means households are properly qualified, all set-aside, and/or demographic requirements are being met, all development amenities, and unit features are provided, and the physical conditions at a site, building and unit level are habitable.
- The difference between Non-Compliance at a federal vs. a state level is Non-Compliance is not reportable to the IRS. Albeit there can be consequences for Non-Compliance at the state level. If the non-compliance is not cured within a reasonable time, it could result in default, the loan may be accelerated, and/or foreclosure proceedings may be instituted. such as delay in receipt of funding payments, not considered eligible for funding.



# COMPLIANCE VS NONCOMPLIANCE HOME/BOND/SAIL (STATE)

- Examples of State Non-Compliance:
  - Failure to maintain commitments in the Regulatory Agreement:
    - Low income set-aside percentage requirements.
    - Non-compliance with public purpose requirements (MMRB), and
    - Non-compliance with qualified resident programs or services (Termite prevention/Pest Control)
    - Development amenities not provided (car care area for cleaning and washing, computer lab with high speed internet, etc.)
    - Unit features not provided (microwave ovens, Energy Star qualified ceiling fans with light fixtures, etc.)



# Questions?



*Thank You!*

