



## The Initial Compliance Monitoring Review

Before the Owner receives the last 10% retainage of their award, an initial compliance monitoring review must be completed. The project should have reached 100% completion and has passed the required 100% physical inspection. This initial monitoring occurs within 12 months of construction completion and is necessary to mark the project complete in IDIS.

Several items, including but not limited to the following, are reviewed during this monitoring:

1. **Section 3.** Owners and developers of housing construction/rehabilitation projects receiving \$200,000 or more in aggregate HUD funding (including HOME or HTF as well as CDBG or other similar funding from a local government) are subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 as outlined in 24 CFR 75. The purpose of Section 3 is to provide economic opportunities, particularly employment, generated by HUD-assisted development activity, to low- and very low-income persons. In practice, MHC expects that all HOME/HTF rental projects will be subject to Section 3. Projects subject to Section 3 are required to take steps to achieve HUD-specified benchmarks (and maintain records and provide reporting) on total labor hours worked including by eligible "Section 3 workers" (25% of total labor hours) and by "Targeted Section 3 workers" (5% of total labor hours).

This requirement is met by completing the "Reporting on Section 3 Activities (sample form)" on the MHC website along with the following supporting documentation:

- A. For a worker to qualify as a Section 3 worker, one of the following must be maintained:
  - i. A worker's self-certification that their income is below the income limit from the prior calendar year;
  - ii. A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
  - iii. Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
  - iv. An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
  - v. An employer's certification that the worker is employed by a Section 3 business concern.
- B. For a worker to qualify as a Targeted Section 3 worker:
  - i. An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
  - ii. An employer's certification that the worker is employed by a Section 3 business concern; or
  - iii. A worker's self-certification that the worker is a YouthBuild participant.
- C. Additional reporting if Section 3 benchmarks are not met. If the Owner's reporting indicates that the Developer has not met the Section 3 benchmarks described in 24 CFR 75.13, the Owner must report on the "Reporting on Section 3 Activities (sample form)" on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:
  - i. Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
  - ii. Provided training or apprenticeship opportunities.
  - iii. Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
  - iv. Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
  - v. Held one or more job fairs.

- vi. Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- vii. Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- viii. Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- ix. Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
  - x. Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
  - xi. Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
  - xii. Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- xiii. Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- xiv. Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

**2. Minority-owned Business Enterprises & Women-owned Business Enterprises (MBE/WBE).** Federal regulations require that all HOME/HTF program recipients make every effort to use local business firms and contract with small, minority-owned, and women-owned businesses in the procurement process. Specifically, the Owner/Developer must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms per 2 CFR 200.321(a).

Affirmative steps must include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - F. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.
- 3. Affirmative Marketing.** The Owner must follow the Affirmative Fair Housing Marketing Plan that was submitted with the funding application. Evidence of all marketing activity and outreach activities must be provided. Ads, flyers, and social media posts are examples of supporting evidence. The outreach should have been directed towards those least likely to apply as shown in the marketing plan.
- 4. Tenant Selection Policies and Criteria.** The Owner must have written tenant selection policies and criteria that meet HOME/HTF requirements. The policy must describe who can rent units (income restrictions, special populations, nondiscrimination against those with rental assistance), VAWA protections, and the use of a waiting list and applicant notification of reasons for rejection. Tenant selection policy & criteria must include the following:

- Occupancy is limited to very low-and low-income households
- Description of preferences to particular population(s), if any
- No exclusion of applicants who hold rental assistance certificate or voucher
- Required use of waiting list and selection of tenants in chronological order of application, to extent possible
- Owners must give prompt written notice to rejected applicants, with the reason
- Compliance with VAWA protections

Documentation includes a copy of the tenant selection policy, and the tenant files show compliance with the policy.

5. **Lease Compliance.** There must be a lease between Owner and tenant, and it must:

- Be for at least one year; shorter term by mutual written agreement
- Include VAWA lease addendum, if HOME commitment made to project after 12/16/2016
- Must NOT contain prohibited lease terms per 92.253(b)/93.303(b)

6. **Initial Income Eligibility Determination.** For initial leasing, Owner determines tenant income eligibility:

- Uses HOME/HTF income limits applicable at time
- Uses MHC-specified definition of income (Part 5)
- Review at least 2 months of source documentation
- Count income for all household members
- Project household's prevailing rate of income for the next 12 months
- Determination: no more than 6 months before signing lease
- Same definition of income for all tenants in project

Documentation includes the tenant's application/worksheet reporting household members & income source documents (pay stubs, etc.).

7. **Initial Rent and Rent Schedule.** For HOME-assisted units, rents cannot exceed the high HOME rent limit. In projects with 5+ HOME units, 20% of HOME units must charge rent that cannot exceed the low HOME rent limit. If the tenant pays for utilities and/or services, the Owner must deduct a utility allowance from the rent limit to determine maximum rent based on the HUD Utility Schedule Model or another model that is based on type of the utilities at the project. An initial rent schedule and utility allowance schedule should have already been submitted to MHC. The review will make the determination that the rent stated in the lease is HOME/HTF compliant, and the Owner correctly deducted the utility allowance and any other subsidies when determining maximum rent. A rent calculation worksheet would be proper documentation of this requirement.

8. **Financial Review.** Documentation must show evidence that any HOME/HTF funds drawn down to the project as of the date of the initial compliance monitoring review have been paid to contractors/vendors named on the invoices in the previously submitted requests for cash. Canceled checks or wire transfers are sufficient evidence for proof of payment. The final request for cash shall include a cost certification. For HOME projects, documentation must show payment within 15 days of receipt from MHC.

9. **Fair Housing.** Fair housing laws prohibit discrimination in rental housing based on protected characteristics, including disability, race, color, religion, sex, national origin, and familial status. The HOME/HTF programs requires that tenants be informed of their rights by acknowledging receipt of the "Report Housing Discrimination" handout.

10. **Lead-Based Paint.** For rehabilitation projects on buildings built before 1978, the tenant file must show that the tenant received the free educational pamphlet "Protect Your Family from Lead in Your Home", a warning statement in the lease, a disclosure of known LBP or LBP hazards, all available information, and an opportunity for testing.

11. **Davis-Bacon Labor Standards** (For projects with 12 or more HOME-assisted units). Evidence of compliance with Davis-Bacon labor standards is required.