

RESOLUTION NO. 4400

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD ADOPTING POLICIES AND PROCEDURES THAT ESTABLISH GUIDELINES FOR LONG TERM MONITORING OF THE CITY OF SOLEDAD HOME-ASSISTED MULTIFAMILY RENTAL HOUSING PROJECTS

WHEREAS, the City is responsible to the Department of Housing and Community Development for the long term monitoring of HOME-assisted rental projects to insure compliance; and

WHEREAS, the policies and procedures that establish guidelines have been approved by the State Department of Housing and Community Development; and

WHEREAS, the City acknowledges its responsibility for the long term monitoring of HOME-assisted rental projects to insure compliance.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Soledad that the Council adopts the Policies and Procedures, hereto attached as "Exhibit A", that establish guidelines for long term monitoring of the City of Soledad HOME-assisted multifamily rental housing projects.

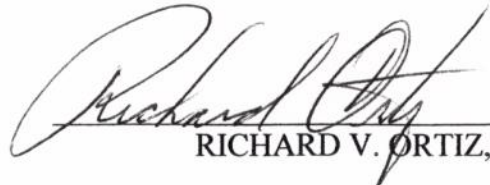
PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 1st day of July, 2009, by the following vote:

AYES, and in favor thereof, Councilmembers: Richard J. Perez, Juan Saavedra, Patricia Stephens, Mayor Pro Martha Camacho, Mayor Richard Ortiz

NOES, Councilmembers: None

ABSTAINED, Councilmembers: None

ABSENT, Councilmembers: None


RICHARD V. ORTIZ, Mayor

ATTEST.

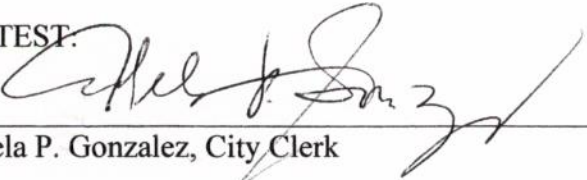

Adela P. Gonzalez, City Clerk

EXHIBIT A

CITY OF SOLEDAD

HOME LONG TERM MONITORING POLICES AND PROCEDURES

These policies and procedures establish guidelines for the long term monitoring of the Soledad HOME-funded multifamily housing projects during the required 55 year period of affordability. The City of Soledad is responsible to the Department of Housing and Community Development (HCD) for the long term monitoring of HOME-assisted rental projects to insure the continued compliance with Federal and State laws. The City will review its policies and procedures annually to insure compliance with all State and Federal regulations.

MONITORING GOALS AND OBJECTIVES

It is the City's goal to insure compliance with all State and Federal regulations and to insure that projects assisted with HOME funds are in compliance with the HOME Final Rule during the 55 year affordability period. It is the City's intention to review the HOME-assisted rental project owners overall performance, confirm adherence with the HOME program requirements and projects Regulatory Agreements, and to provide technical assistance as needed.

Each year on March 1st the City of Soledad will send the HOME-assisted rental project owner an annual "Site Visit Notification" letter along with a documents checklist of all the documents required for submittal to the City. Upon monitoring by city selected staff or consultant, a Summary Letter will be submitted to the owner and its agents outlining findings and concerns that were noted during the visit. The owner/agent shall promptly submit documents necessary to clear said findings or concerns to the city by March 30th of each year.

Documents not submitted by the due date shall be considered a monitoring finding and a "Letter of Concern" will be issued immediately to the project owner. Clearance of the finding will not be issued until the project owner comes into compliance and the City issues a "Final Clearance Letter."

ONGOING MONITORING

During the 55 year period of affordability, the City of Soledad will conduct an onsite review at a minimum of one review per year. The minimum level of review shall be annually in March. On-site monitoring shall be conducted annually following the submittal of all documents as requested on the documents checklist provided by the City. The City will notify the project owner of the on-site monitoring date and time in order to provide sufficient time to notify residents of the site inspection. The on site review and unit inspections will be scheduled during a normal work day between the hours of 8:00 a.m and 5:00p.m., Monday through Friday.

On-Site Review, Tenant Files - The City will review a random sample of 15% to 20% of tenant files identified on the HOME Tenant Roll (assisted HOME units). During the on-site visit, City staff will collect data, and document information on the "Tenant File Review"

checklist (found in the Appendix) that reflects HOME requirements. The information gathered will serve as a basis for the monitoring summary report to be sent to the owner and managing agent. Tenant File Review checklists will be signed and dated by the reviewer, and filed accordingly in the City's HOME annual monitoring file.

The files shall contain the following in the suggested format:

Section 1: Lease

- Lease
- Attachments, Amendments, Rules;
- Notice of Contract Terms Change
- Form "Notice of Rent Increase" (dated and signed by owner/manager)

Section 2: Annual Recertification

- Copy of 1st, 2nd, 3rd Annual Recertification Notice (dated and signed by manager)
- Income Summary Sheet
- Verifications:
 - Income verifications
 - Asset verifications
 - School/Grant verifications
- Recertification Application
- Other recertification qualifying materials
- Documents required for recertification checklist
- Financial Aid memos

Section 3: Initial Certification

- Resident File Checklist
- ID's: Social Security, Drivers License, etc.
- Income Summary Sheet
- Verification Forms/Third Party Verification
 - Income Verifications
 - Asset Verifications
 - School/Grant Verifications
- Rental/Certification Application
- Resident Landlord References
- Reference Letters
- Credit Reports
- Any other initial qualifying materials

Section 4: Legal Notices and Correspondence

- Warning of Violation of Lease
- Notice to Terminate Tenancy
- 3 Day Notice to Pay or Quit
- 3 Day Notice to Change Condition/Covenant or Quit
- Payment Contracts
- Billing Statements for Maintenance
- Notice to Resident, RE: Payment for Repairs
- Intent to Vacate
- Release for Resident Reference to Other Managers
- Former Resident Contract for Money Owed
- Belief of Abandonment

Section 5: General Correspondence

- Emergency Form
- Key Authorization
- Information and Telephone Log
- Letter of Notice to Enter Dwelling Unit
- Pest Control/Roach Preparation Instructions
- Water Bed Insurance Policy
- Non Sufficient Fund Check Slips
- Waiting List Letters
- Offer of Assigned Apartment Letter

Section 6: Maintenance/Unit Inspection

- Annual Unit Inspection Letter
- Maintenance Request/Work Orders (White Copy)
- Unit Inspection (Annual/Move-in/Move-out)

Keep these inspection and work orders in the resident file or other traceable system organized by unit. The Inspection checklist is available in the Appendix.

PROPERTY INSPECTIONS – During the on-site visit, City staff will collect data, inspect units selected at random, and document information on the “Unit Inspection Checklist” that reflect HOME requirements. The information gathered will serve as a basis for the monitoring summary report to be sent to the owner and managing agent.

The City will verify the following unit conditions:

- Upon arrival the City will randomly select at a minimum 15% to 20% of HOME-assisted units and conduct a walk-through of each unit;
- The City will assess the condition of each unit inspected, complete the inspection checklist, and verify that the units are well maintained and not suffering from deferred maintenance.
- Inspection checklists will be signed, dated and filed accordingly in the City's HOME annual monitoring file.
- Any corrections required shall be documented on a finding letter and clearance shall be provided upon completion of a final inspection and issuance of the clearance letter.
- Monitoring staff will inspect a minimum of one ADA unit and one hearing or vision impaired unit if applicable.

COMPLIANCE REQUIREMENTS-The monitoring summary letter will include the definitions for a "finding" and a "concern."

- A "Finding" is a deficiency in program or project performance, a statutory or regulatory requirement that was not met.
- A "Concern" relates to program or project performance that should be improved before it leads to a Finding.

In projects with floating HOME units, over-income HOME-assisted tenants must pay 30% of their adjusted income for rent. However, the rent may not exceed the market rent for comparable unassisted units in the neighborhood.

Updated HOME Income limits are calculated annually by HUD's Office of Policy Development and Research (PDR) once Section 8 income limits have been issued.

HOME Income limits are provided for each MSA, PMSA, and "Area", "District" or County, by State. Income limits are rounded to the nearest \$50 (except for the 60% limits).

- 30% limits (used for the Consolidated Plan)
- Very Low-Income limits (general 50% of median income, but not less than the State non-metropolitan median)
- 60% of limits (calculated in accordance with IRS guidance for Low-Income Housing Tax Credit (LIHTC) projects and rounded to the nearest \$1)
- Low-Income Limits (generally 80% of median income, but capped at the national median income with some exceptions).

ELIGIBILITY AND INCOME DETERMINATIONS

For projects using HOME funds with Low-Income Housing Tax Credits have to consider a number of items in blending the two sets of program rules.

RULES FOR COMBINING HOME FUNDS AND TAX CREDITS		
	Tax Credit Program Rules	Combining Tax Credits with HOME
Occupancy Requirements	At least 20 percent of assisted units must be reserved for households with incomes at or below 50 percent of area median; or 40 percent of the units must be reserved for households with incomes at or below 60 percent of area median income.	If HOME funds are provided at below the market interest rate, at least 40 percent of the units must be reserved for households with incomes at or below 50 percent of the area median income to qualify for the 9 percent credit. Otherwise, at least 20 percent of the HOME-assisted units must serve households with incomes at or below 50 percent of area median income (to meet HOME requirements).

Rent Requirements	Rents for qualified units must not exceed the rent limit set for the program. These limits are set by bedroom size and are based on the qualifying incomes of an imputed household size. They are published by HUD.	<p>For units to qualify as both Tax credit and HOME-assisted units, rents cannot exceed either program limit. Follow the more stringent HOME rules.</p> <p><u>HOME Program:</u> When tenants receive additional subsidy through rental assistance programs such as Section 8, additional requirements apply.</p> <p><u>Project Based S8</u> – Very Low-Income residents receiving project based rental subsidies are subject to rents allowable under the federal or State project-based rental subsidy program, not the HOME rent limits.</p> <p><u>Tenant Based S8</u> – the total of the tenant’s share of rent, subsidy payment, and utility allowance may not exceed the allowable HOME rent.</p>
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Establishing	<i>Documentation</i> – Tenants must	<i>Documentation</i> – Initial tenant eligibility
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<p>Tenant Eligibility</p>	<p>provide acceptable documentation of income from a third party source. All sources of income are verified.</p> <p><i>Definitions</i> – the tax credit program defines incomes using the Section 8 definition of annual (gross) income.</p> <p><i>Asset Income</i> - <u>Assets \$5,000 or less:</u> Tenants certify asset amount and income. Use actual income.</p> <p><u>Assets above \$5,000:</u> verify amount and income. Use larger of actual income from assets or imputed asset income.</p>	<p>documentation for both programs is the same.</p> <p><i>Definitions</i> – TCAC and HOME both use the Part 5 (Section 8) definition of income.</p> <p><i>Asset Income</i> – There is a significant difference between TCAC and HOME Program rules regarding asset income. TCAC allows tenant self-certification for assets \$5,000 or less. HOME requires verification for all assets. For assets greater than \$5,000, documentation and the method of calculation is the same for both programs. Follow the more stringent HOME rules.</p>
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<p>Reexaminations of Income</p>	<p>Reexaminations are performed annually following the same procedures as at initial certification.</p>	<p>TCAC and HOME: Reexaminations are performed annually following the same procedures as at initial certification.</p>
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<p>Monitoring</p>	<p>Projects are monitored annually throughout the affordability period. Affordability period: 20 years (15 year compliance period, 15 year extended use period). Statement of Compliance is submitted annually with documentation of occupancy.</p> <p>On-site inspections are not required.</p>	<p>Both programs require monitoring to ensure compliance with program rules over the length of a pre-established affordability period.</p> <p>HOME Program: The <u>minimum</u> schedule is based on the <u>total</u> number of units in the project. See HOME Final Rule 24 CFR 92.504(d)(1) for the minimum schedule. On-site inspections required.</p>
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Over-Income Tenants	Rent for over-income tenants remains restricted. An owner may increase an over income tenants rent, but only after the unit replaced with another Low-Income unit in the project, thereby keeping the portion of Low-Income units above the minimum amount required for the owner to be eligible for the credit. “Over-Income” is defined as above 140 percent of the project rent limit.	HOME rules defer to tax credit rules – rent remains restricted. (In other words, in no case can the rent exceed limits set by the Tax Credit program).
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HOME Income Limits are usually available in January and distributed in February to each HUD Field Office by a memorandum signed by the Director of HUD’s Office of Affordable Housing Programs (OAHP). Income limits are also posted on the HOME web site.

- The new income limits are effective thirty days from the date of the OAHP.
- HUD Field Offices are responsible for distributing the new Income Limits to each HOME Participating Jurisdiction (PJ).

Web Page:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/index.cfm>

The annual source of the utility allowance schedule shall be the Monterey County Housing Authority, 123 Rico Street, Salinas, Ca 93907, 831-775-5000.

During the entire period of affordability (55 years), the City of Soledad is responsible to the Department of Housing and Community Development for the long term monitoring of HOME-assisted rental projects to insure the continued compliance with Federal and State laws. The City will annually review its written monitoring policies, procedures, and forms; confirm that the monitoring staff is following established policies and procedures; and verify that all monitoring record-keeping and retention is in compliance with the HOME Final Rule. The City’s monitoring of its HOME-assisted rental projects is designed to review the owner’s overall performance, confirm adherence to HOME Program requirements, and to provide technical assistance as well. The City staff person(s) responsible for monitoring will be (City Manager / Assistant City Manager). This “Long-Term” monitoring shall include both field visits and office reviews.

INCOME CERTIFICATION

Determining Household Size

The income limits are adjusted by household size, therefore, one of the first steps in determining eligibility is to determine the size of the applicant household. Some households may include persons who are not considered as family members for the purposes of determining household size and income eligibility.

Do not include:

- Foster children;
- Foster adults;
- Live-in aides;
- Children of live-in aides

These persons should not be counted as household members when determining household size, and their income, if any, is not included when calculating annual income.

Include:

- **Unborn children of pregnant women;**
- **Children in joint custody arrangements** who are present in the household 50% or more of the time;
- **Temporarily absent family members** who are still considered family members:
For example,
 1. a family member who is working in another state on assignment;
 2. family members in the hospital or rehabilitation facility for periods of limited or fixed duration.
- **Persons permanently confined to a hospital or nursing home.** The family decides if such persons are included or not when determining family size for income limits. If such persons are included, they must not be listed as the head, co-head, or spouse on the lease, but may be listed as other adult family member. If the family chooses to include the permanently confined person as a member of the household, include the income received by these persons in calculating family income.
- **Adult students living away from home.** If the adult student is counted as a member of the household for income limits, the first \$480 of the student's income must be counted in the family's income. Note, however, that the \$480 limit does not apply to a student who is the head of household or spouse (their full income must be counted)
- **Children who are in the process of being adopted.** Count adoption assistance payments in excess of \$480 per adopted child.

Projecting Income

HOME regulations require that, for determining eligibility for HOME assistance, HOME Recipients must project a household's income as defined in Title 24 – Part 92 Section 5.609. To determine whether a household is eligible, their income is determined using the 24 CFR - Part 5 definition, the "Section 8" methodology.

Once the annual household income has been established, it must be compared to the most recent HUD area income limits. Income limits are published annually and are available from HOME's website at www.hcd.ca.gov/fa/home/. Four levels of income are available for each county: 30%, 50%, 60%, and 80%.

Income limits are based on family size and the annual income the family receives.

Annual Gross Income

The Part 5 definition of annual income is the *gross amount of income of all adult household members anticipated to be received during the coming 12 month period*. Annual income contains income "inclusions" (types of income to be counted) and "exclusions" (types of income that are not considered).

The HOME regulations at 92.203 (d) (1) require that, for determining eligibility for HOME assistance, you must project a household's income. To do so, a "snapshot" of the household's current circumstances is used to project future income. Assume that today's circumstances would continue for the next 12 months unless there is verifiable evidence to the contrary.

Adjusted Income

While annual gross income is needed to determine whether a household is income eligible, adjusted income (as defined in 24 CFR 5.611) is used to determine total tenant payment (TTP), which is a measure of a household's ability to pay housing costs. For this reason, under the HOME Program, **adjusted income** is needed **only** for calculating:

1. The subsidy and tenant's share of rent under a HOME-funded tenant based rental assistance (TBRA) program.
2. The rent for a tenant in a HOME-assisted rental unit whose income increases above 80% of the area median, and
3. The household's eligibility for, and amount of, assistance to be provided under the Uniform Relocation Act (URA) or Section 104(d) relocation and tenant assistance requirements.

Adjusted income is not used for determining income for either HOME-funded owner-occupied rehabilitation or homebuyer programs; annual gross income is.

In HOME-assisted rental housing, the rent each family pays is usually not based specifically on that family's ability to pay. Rather, "high" and "low" HOME rents are generally established for each unit in the project, and the family pays the rent established for the unit they will occupy. Projects that applied for deeper targeting, however, have rent restrictions based on the income group served.

Nonetheless, HOME Program rules do permit State Recipients and CHDOs to design a program in which rents are based on the household's ability to pay. If this option is chosen, consistently use the "adjusted income" method in all initial and annual calculations.

For more information about adjusted income calculation, refer to Chapter 4 of HUD's "Technical Guide for Determining Income and Allowances for the HOME Program" Third Edition (HUD-1780-CPD, January 2005). The Technical Guide is available from your HOME Representative or from HUD's Community Connections. To order a Guide at no charge, go to <http://www.comcon.org/> or call 1-800-998-9999.

Income from Assets

Some assistance programs require that families "spend down" assets before they can participate. There are no asset limitations for the HOME Program. The income counted is the actual income generated by the asset (e.g., interest on a savings or checking account). For savings accounts, use the current balance. For checking accounts, use the average 6-month balance.

The income is counted even if the household elects not to receive it. For example, though the household may elect to reinvest the interest or dividends from an asset, the interest / dividends are still counted as income.

Do not count necessary personal property such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities. Count personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.

In cases where the net assets are below \$5,000, use the actual income generated from the assets. If net assets are in excess of \$5,000, use the higher of income generated by those assets or use the current passbook savings rate, which is currently 2%.

What Income Should be Counted?

See "**24 CFR Part 5 Annual Income Inclusions.**"

"**Tenant Income Certification Form**" contains a sample form for calculating annual gross income.

What Income is Excluded?

See "**24 CFR Part 5 Annual Income Exclusions.**"

HUD Notice PIH-2004-11

HUD issued Notice PIH-2004-11, "Income Calculation Regarding Medicare Prescription Drug Cards and Transitional Assistance," on July 15, 2004. While the Notice addresses the calculation of annual household income under certain HUD programs, including certain Section 8 activities, **the Notice and the Medicare Prescription Drug Card program do not affect the calculation of annual income under the Part 5 definition, and thus does not affect the calculation of annual or adjusted income for the purposes of HOME eligibility.**

The Medicare Modernization Act authorizing this benefit amended the Social Security Act to require that benefits provided under this program "not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or amount of benefits under, any other Federal program." Benefits provided under the Medicare Prescription Drug Benefit program must be excluded from the calculation of annual income of tenants residing in HUD's public housing and assisted housing program units.

Verifying Income / Source Documentation

HOME Program regulations require that you determine income eligibility of HOME applicants and tenant households by examining source documents (i.e. wage statement, interest statement) to confirm annual income. Verification procedures and source documentation must be sufficiently detailed for the State to monitor HOME Program compliance.

HOME Recipients may use two of the three verification procedures provided to public housing agencies (PHAs) for the Section 8 Program. These forms of verification are "third party verification" and "review of documents." **The third method, applicant certification, does not provide adequate source documentation for the HOME Program, and thus cannot be used for HOME.**

Reference: Technical Guide for Determining Income and Allowances for the HOME Program – Third Edition January 2005, pp. 5-6

The two procedures for verifying income are as follows:

1. Third-Party Verification

Through this method, the HOME Recipient contacts outside sources in writing to provide information. Before you can obtain the information from the third-party entity you must have a written release from the household.

Refer to HUD's Technical Guide for the sample third-party verification forms listed below:

- Verification of Employment;
- Verification of Income from Business;

- Verification of Social Security Benefits;
- Verification of Pension and Annuities;
- Verification of Veterans Administration Benefits;
- Verification of Unemployment Benefits;
- Verification of Public Assistance Income;
- Verification of Child Support Payments;
- Verification of Alimony or Separation Payments;
- Verification of Recurring Cash Contributions;
- Verification of Income from Military Service;
- Verification of Assets on Deposit; and
- Verification of Assets Disposed

Although written requests and responses are generally preferred, conversations with a third party are acceptable if documented through a memorandum to the file that notes the contact person, information conveyed and date of call. A “**Record of Oral Verification**” form taken from HUD’s “Technical Guide for Determining Income and Allowances for the HOME Program” is provided in the Appendix.

Some third-party providers (such as banks) may charge a fee to provide the information; in this case, attempt to find alternative documentation such as bank statements or a savings passbook. Applicants and tenant households must not be required to pay for verifications as a condition of receiving assistance.

2. Documents Provided by the Applicant / Tenant Household

Some documents (i.e. pay stubs, tax returns, etc) may be most appropriate for certain types of income and can be used as an alternative to third party verifications. IRS Form 4506 “Request for Copy of Tax Form” must be completed and signed if a copy of a tax return is needed. If complete information is not provided on the documents, a call to the third-party may be necessary to accurately project annual income.

Acceptable forms of Verification for:

Employment income including tips, gratuities, overtime

- Require the most recent 6-8 consecutive earning statements or consecutive pay stubs; do not use check without stub;
- W2 Forms, if applicant/tenant household has had the same employer for at least two years and increases can be accurately projected; require the last two years of W2s;

Family assets – use current balance in savings accounts and average monthly balance in checking accounts for the last 6 months;

Self-employment, tips, gratuities, etc. – last two years of Schedule C of their Federal tax returns and a current profit and loss statement;

Tenant Income. The income of each tenant must be determined initially in accordance with Sec. 92.203(a)(1)(i). In addition, each year during the period of affordability the project owner must re-examine each tenant's annual income in accordance with Sec. 92.203 (b)(1) Annual Income as defined at 24 CFR 5.609.

Over-Income Tenants. (1) HOME-assisted units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.

Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42.

In addition, in projects in which the Home units are designated as floating pursuant to paragraph (j) of this section, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

CONDUCTING A MONITORING VISIT

The City will prepare and send site visit notification correspondence at least 2 weeks prior to the annual monitoring visit.

An entrance interview will be held with the Owner/Manager to discuss the purpose, scope and schedule of monitoring with the owner/managing agent. The City will monitor for compliance with all provisions of the HOME Regulatory Agreement between the City and the Owner. At a minimum the following will be reviewed:

- Property Management Administration;
- Initial Income Certifications;
- Continued Income Eligibility;
- Continued Occupancy Eligibility;
- HOME Rents and Utility Allowance;
- Affirmative Marketing;
- Lead-Based Paint;
- Property Standards;
- Residential Lease;
 - Standard "HOME Regulations" Statement
 - Lease Term
 - Termination of Lease

HUD Prohibited Lease Provisions

Rent Increase

- Operating and Replacement Reserves;
- Continuation of Hazard/Liability Insurance;
- Proposed Operating Budget;
- Annual Report;

MONITORING CHECKLIST

The City and/or agent shall complete a checklist using the up-to-date form "HOME Annual Monitoring Report State Recipient Form" questionnaire as provided by the HOME program.

INSPECTIONS

The City and/or agent shall conduct an inspection of at least 15% to 20% of the HOME-assisted units (four to six), the buildings exterior and public and/or common areas to ensure compliance with applicable property standards.

The HOME-assisted property will be inspected at least once a year during the period of affordability. During the onsite visit the City will inspect 15 to 20% percent of the HOME-assisted units in a project and a minimum of one unit in every building. If compliance problems are found, additional units and records may be inspected. Additional monitoring or reporting requirements may be established for those properties the City considers to be at greater risk of performance or compliance problems. Factors contributing to risk of poor program performance or compliance violation, include but are not limited to: past difficulty, staff turnover, inexperienced staff, program complexity, inaccurate submissions, audit findings, failure to meet agreed upon schedules, or poor performance or compliance history.

A separate inspection checklist must be completed for each HOME-assisted unit that the City monitoring staff randomly selects.

NON-COMPLIANCE PROCEDURES

Upon completing the monitoring review, the owner of the property will receive:

- A monitoring summary letter outlining any findings or concerns noted during the inspection or review and requesting additional clarification or documentation; or
- A letter which indicates that there were no reportable findings or concerns.
- The Owner/Managing Agent must submit follow-up documentation within 30 days of the date of the letter. The City reserves the right to request follow-up documentation within 72 hours for non compliance relating to health and safety issues.

If an owner fails to respond to the request for additional documentation or is unable to cure or correct the findings, the owner will be considered out of compliance. Non-compliance will be

considered a default under the City's recorded Regulatory Agreement and HOME loan documents.

FEDERAL COMPLIANCE

Non Discrimination

The owner/managing agent shall not discriminate in the provision of housing on the basis of race, color, sex, national origin, religion, marital status, age or handicap. Additionally, owners of post-1989 allocated projects can not refuse to accept a prospective tenant based solely on the fact that the applicant holds a Section 8 rental voucher or certificate. All owners, managers and staff members should be familiar with both state and federal civil rights and fair housing laws. An adverse finding of discrimination must be reported to the City on the Annual Monitoring Report. **The Owner should include a copy of the finding included with the annual certification.**

Fair Housing and Equal Opportunity

All HOME recipients must comply with any and all federal laws, state and local laws relating to fair housing and equal opportunity including but not limited to the following:

Minority Business Enterprise Executive Orders 11625, 12432, and 12138 relating to use of minority and women-owned business enterprises which provide that owners must make efforts to encourage the use of minority and women's business enterprises in connection with HOME funds by prescribing procedures acceptable to establish and oversee an outreach plan.

The Federal Fair Housing Act (42 U.S.C. §3601 et seq. (1968)) and the **Georgia Fair Housing Act** (O.C.G.A. §8-3-200 et seq., (1992 Supp.)) requires each owner to affirmatively further fair housing. It is illegal to discriminate against any person because of race, color, religion, familial status, sex, handicap, or national origin: in the sale of rental or housing of residential lots; in advertising the sale or rental of housing or residential lots; in the financing of housing or residential lots; in the provision of real estate brokerage services; or in the appraisal of houses or residential lots. Blockbusting, the use of racial fears and prejudices to entice one racial group to flee a neighborhood when members of a disparate racial group move into the area, is also illegal. Normally, "blockbusting" refers to realtor exploitation of racial tensions.

Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.) which prohibits discrimination based on age.

Executive Order 11063 which requires that all action necessary and appropriate be taken to prevent discrimination based on race, color, religion (creed), sex, national origin, familial status or disability in the sale, rental, leasing or other disposition of residential property and related facilities, or in the use or occupancy thereof, where such property or facilities are owned or operated by the Federal Government, or provided with HOME funds and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the U.S. Department of Housing and Urban Development.

Title VI Civil Rights Act - 1964 (42 U.S.C. 2000d) which provides that no person in the United States may, on the basis of race, color, or national origin, be excluded from participation in, or be denied the benefit of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Housing and Urban Development.

Affirmative Marketing Plan

Affirmative Marketing requirements and procedures adopted by the City require each project owner to provide information to and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability in accordance with the provisions of the Final Rule of the HOME Investment Partnerships (HOME) Program. Each project owner must adopt an Affirmative Fair Housing Marketing (AFHM) Plan to be utilized by the Project Owner, Developer and Property Manager in the marketing of the project. The owner must review the project's AFHM Plan (form HUD-935.2A) at least every five years and update it as needed to ensure compliance. A review may indicate that revisions to the Plan are necessary if the population of the property area has changed over time, and thus targeted marketing efforts should change.

REQUIREMENTS: At a minimum, the City requires that each project "Affirmative Fair Housing Marketing Plan" (AFHM) include the following:

- (1) Affirmative marketing requirements and procedures adopted by the Owner detailing methods of informing the public, owners, and potential tenants about Federal Fair Housing Laws and the project's affirmative marketing policy.
- (2) The Project Owner must select sites for fair housing posters display (at a minimum in the property management office)
- (3) All appropriate project materials distributed to the public by the Owner, Manager, or Developer will contain the equal housing opportunity logo including but not limited to correspondence, notices and advertising, press releases and solicitations for renters.
- (4) Project Owners and/or Management Company must make good faith efforts to solicit eligible persons who are not likely to apply for housing assistance, through special outreach efforts, including but not limited to community reorganizations, places of worship, employment centers, fair housing groups, housing counseling agencies, social service agencies, medical service centers, homeless shelters and the use of minority specific media. Outreach efforts can include the distribution of flyers and or brochures at these locations.

Each Project Owner is required to detail the project's Affirmative Fair Housing Marketing Plan on the form HUD-935.2A "Affirmative Fair Housing Marketing AFHM Plan – Multifamily Housing."

Annually, the Project Owner is required to:

- (1) Compile and analyze data showing the race/ethnicity, gender, and household type of each applicant, and the application status, including if the applicant is currently housing, on the wait list, was offered but did not accept housing, or if the application was withdrawn or reject.
- (2) Assess the success of affirmative marketing efforts in light of the data above.
- (3) Identify any changes and or corrective actions to be taken where affirmative marketing requirements have not been met or affirmative marketing efforts have not been successful.
- (4) Complete a new Affirmative Fair Housing Marketing Plan which reflects any plan adjustments necessary to more effectively affirmatively market the project's units.
- (5) Report annual to the City, the results of the previous year's affirmative marketing efforts.

RECORDS: A copy of the approved Affirmative Fair Housing Marketing Plan must be kept at the project site or rental office of the project. The City's compliance staff will request a copy of this form during the annual compliance monitoring. In addition records which describe affirmative marketing activities, including, but not limited to, a record of all published notices and newspaper articles, sales brochures, advertising and press releases shall also be maintained.

APPENDIX –

- **TENANT FILE REVIEW CHECKLIST**
- **FORM HUD 52580 – INSPECTION CHECKLIST**
- **ANNUAL AFFIRMATIVE MARKETING ANALYSIS REPORT**
- **FORM HUD-27061-H RACE AND ETHNICITY**
- **PROJECT COMPLIANCE REPORT – RENTAL HOUSING**
- **HUD’S TECHNICAL GUIDE FOR DETERMINING INCOME AND ALLOWANCES FOR THE HOME PROGRAM**