



HOME Program Monitoring Plan/Procedures

Revised: 01/18/2023

I. INTRODUCTION

The City of Spokane Community, Housing and Human Services Department (CHHS) performs initial and annual monitoring of affordable rental housing units designated as HOME-assisted. Monitoring generally includes

- Review and approve maximum HOME rents
- Review property owner's documentation of maximum household income per HUD Part 5 as a snapshot of household's projected income
- 3rd Year onsite inspection

HOME regulation establishes maximum rent (High HOME Rent) at or below 65% of Area Median Income (AMI) except that at least 20% of assisted units must serve households at or below 50% AMI. However, the City's HOME Multifamily Housing Program imposes more restrictive rent and income limits at or below 30% AMI and 50% AMI. These more restrictive income and rent levels more appropriately reflect affordability needed in the local economy.

HOME rents and incomes are provided by HUD annually. CHHS forwards these updated amounts to HOME-funded projects shortly thereafter. HOME tenant incomes are based upon a snapshot of current household income and composition. A project will collect this snapshot information and presume that those circumstances will continue for the next 12 months. These income calculations remain valid for 6 months for HOME monitoring and eligibility purposes, although projects can choose to update this information for changes in household circumstances.

This procedure has been updated for HUD's 2013 HOME Final Rule, to the extent possible. HUD's updated HOME regulation 24 CFR 92.3 establishes effective dates for various 2013 HOME Final Rule provisions. It states "In general, the provisions of the 2013 Rule are *applicable* to projects for which HOME funds are committed on or after August 23, 2013", except for specifically identified changes. The City has applied these 2013 HOME Final Rule requirements to projects receiving HOME funding commitments on or after August 23, 2013. Each HOME funded project will be provided annually with the utility allowance methods allowed under the 2013 final rule. However, the City cannot implement the modified Uniform Physical Condition Standards monitoring tool which HUD has not yet created.

HOME monitoring requirements are specified in City agreements for each project. These requirements populate the City's annual HOME MF Program Monitoring Projects spreadsheet. There are two concurrent periods of affordability for each HOME-assisted project. The "HUD HOME Affordability Period" has an affordability period based upon the dollar amount of HOME-funds per unit as described at 24 CFR 92.252(e). The "City Extended Period of Affordability" extends beyond the HUD HOME Affordability Period, is outside HUD regulatory purview, and defines City compliance requirements necessary for loan forgiveness when applicable.

The City currently does not, but may choose, to charge reasonable fees for applications, ongoing monitoring and physical inspection of HOME projects during the period of affordability. HUD allows these fees at 92.214(b)(1)(i) for rental housing projects that receive a commitment of HOME funds on or after August 23, 2013. However, these fees must have been included in the project's underwriting and based upon the documented average of actual costs to monitor HOME-assisted rental property.

II. PROJECT MONITORING

A. Initial Monitoring after Project Completion

Initial project monitoring will include the following monitoring steps in addition to monitoring criteria shown in the "Monitoring during HUD HOME Period of Affordability" section. Tenant occupancy will be monitored within 6 months of project completion and physical inspection will occur within 12 months of project completion.

Construction Period Physical Inspection

During the HOME-funded construction period, City staff will perform or subcontract for onsite inspection. That inspection will consider timely construction progress; if the project scope of work meets City Multifamily Housing Program Rehabilitation Standards (as applicable); and if repair of major systems satisfies the Capital Needs Assessment (required of projects having 26 or more units). Following completion of project construction, HOME-assisted units will be inspected within the first 12 months following City project completion in IDIS.

For newly constructed housing, a Certificate of Occupancy satisfies HUD's 92.251 initial property inspection requirement. A Certificate of Occupancy demonstrates that the newly constructed project meets the equivalent of Model Energy Code published by the Council of American Building Officials; Americans with Disabilities Act (ADA) accessibility requirements; Fair Housing Act design and construction standards; and State and local codes, ordinances, zoning, and disaster mitigation requirements. CHHS has adopted HUD's May 23, 2014 revision that allows the 2010 ADA title II accessible design standards (with exceptions) to substitute for Section 504 and UFAS accessibility standards.

For acquisition or renovation projects, a Multifamily Minimum Rehabilitation Standards Inspection Checklist will be completed by the project and reviewed by CHHS staff. This checklist demonstrates that the completed project meets the Multifamily Housing Program decent, safe and sanitary housing standard. The City expects to substantially modify the Multifamily Minimum Rehabilitation Standards once HUD issues a modified Uniform Physical Condition Standards (UPCS). When UPCS is available then HOME-assisted acquisition and/or renovation projects must meet that new UPCS standard.

CHHS staff will also complete an onsite inspection to view a sampling of units and common areas to confirm completion of work, satisfaction of Multifamily Minimum Rehabilitation Standards, and completion of work identified in any required Capital Needs Assessment. This post-completion inspection will occur within 12 months following project completion in IDIS.

Initial Occupancy of a HOME-Assisted Unit

Following project completion, low-income households must occupy HOME-assisted rental units within six months of project completion in IDIS, per 92.252. Any HOME-assisted unit that is not occupied within eighteen months is not HOME eligible and the City will pursue the owner's repayment of HOME funds invested in the vacant HOME unit(s) per City loan documents.

Tenant Lease for HOME-Assisted Units

Tenants of HOME-assisted units must be offered a one-year lease and cannot be subjected to HOME-prohibited lease provisions. These requirements including the prohibited lease terms are included in City loan documents and the City CHHS Department will provide each HOME-Assisted Project with a HOME Lease Addendum and be required to attach this to each HOME-Assisted Unit lease.

City monitoring includes reviewing a lease for HOME prohibited provisions prior to project completion as well as periodic review during annual monitoring efforts.

Initial Income Verification

Initial income verification follows the same criteria described in the “Monitoring after Project Completion” section of this document. The City will annually provide project owners with updated HOME maximum household incomes after these household incomes are issued by HUD. A tenant occupying a designated HOME-assisted unit prior to initiation of the HOME-assisted project may continue in occupancy if gross household income does not exceed 80% AMI. If household income exceeds 80% AMI, then that unit should not be designated as HOME-assisted if the project has floating HOME units.

Initial HOME Maximum Rent Review and Approval

Initial HOME maximum rents are included in the City HOME Written Agreement. HOME rents are updated annually by HUD with a specified effective date. If HUD-issued HOME rents decline in the future then project owners are not required to reduce rents below these initial HOME maximum rents in effect at time of project completion. The City annually provides project owners with updated HOME maximum rents after they are issued by HUD. Project owner/manager provides rents for the initial occupants of HOME-assisted units. The City compares these rents charged to the current/applicable maximum HOME rent. Rent at/below the maximum HOME rents are generally approved as compared to non-home-assisted units in the same property. Rents above the maximum HOME rent will not be approved and City staff will contact the owner to identify the excessive rent and require corrective action.

Student Ineligibility

Student households are excluded from independently occupying HOME-assisted affordable housing units. This exclusion is imposed by the HOME Final Rule and applies only to projects that received a HOME funding commitment after August 23, 2013. For those projects, a HOME-assisted unit must exclude at initial occupancy a “student” that is: enrolled in a higher education institution; under age 24; not a veteran of the US Military; not married; does not have a dependent child(ren); not a person with disabilities; and otherwise individually not eligible, or has parents who are individually or jointly not eligible, to occupy on the basis of income. The City recommends that managers of HOME-assisted housing offer a HOME Student Eligibility Checklist. Sample checklists are available from the City or HUD Section 8 program.

Affirmative Marketing

HOME-assisted rental housing projects of 5 or more housing units must complete an Affirmative Fair Housing Marketing Plan during project development. CHHS recommends using form HUD-935.2A to describe how the HOME-assisted projects will target marketing of vacant HOME-assisted rental units to those least likely to apply for affordable rental housing. The Tenant Based Rent Assistance (TBRA) program is also subject to Fair Housing marketing. The Spokane Housing Authority currently administers the TBRA program and can help identify low-income renter households for TBRA assistance and vacant HOME units who might otherwise not apply for HOME assistance.

The City promotes Fair Housing by informing the general public, renters, and owners of rental housing of federal and state Fair Housing laws. This promotion is primarily via an annual Fair Housing conference, support to the Spokane Fair Housing Alliance, HOME funding application requirements, and use of the Fair Housing statement and logotype. Onsite HOME-assisted rental housing inspections include checking for a Fair Housing poster in the project's leasing office and inquiry if vacancy advertisements include "EHO" or the fair housing logotype.

All projects must maintain an applicant wait list if tenancy requests exceed unit availability. Tenants will be selected from that wait list on a first-come first-served basis with tenancy qualification based upon written eligibility criteria including appropriate verified gross annual household income. Occupancy preference that promotes housing choice for protected classes is allowed. For example, an owner can hold a vacant unit or promote a disabled applicant to the top of the wait list if they qualify for and would benefit from handicap accessibility features of an available unit. Also, occupancy can be restricted to specific populations if tied to federal program assistance or designation (e.g., family, low-income, senior, disabled, homeless, etc). Such a restriction does not violate federal nondiscrimination requirements and should be included in the project's written tenant selection policy. No project may discriminate against a rental applicant based upon their use of a rental assistance subsidy (e.g., Section 8 Voucher).

B. Annual Monitoring during HUD HOME Period of Affordability

HOME-assisted units will be monitored throughout the HUD HOME affordability period stated at 92.252(e). Monitoring will occur within each calendar year during the HUD HOME Period of Affordability. CHHS performs its annual point-in-time monitoring by requesting electronic tenant income documentation of HOME-assisted units. Projects with fixed HOME units must report on those specified HOME units but projects with floating HOME units will report on units they designate as HOME units meeting the HOME Written Agreement requirements for bedroom size, maximum household income, and maximum rent. Annual monitoring follows these general steps:

i. Issue Maximum HOME Rents and Household Incomes

Each year, HUD publishes updated HOME maximum rent limits by bedroom sizes and maximum income limits by household sizes. HUD requires that HOME rents and incomes cannot be updated more frequently than once each year. The City distributes updated HOME maximum rents and household incomes to HOME project owners/managers (see attached).

ii. Review Tenant Paid Utility Deductions

HUD-provides HOME maximum rent limits which include all utilities. Owners must deduct necessary and basic tenant-paid utility costs (actual costs or utility cost schedule) from gross HOME maximum rents, per 92.252(d). Utility cost deductions will be either Section 8 Utility Deductions for projects where HOME funds were committed prior to August 23, 2013 or one of the CHHS approved alternate utility allowance methods as provided to each HOME assisted project. Where HOME funds were committed after August 23, 2013.

iii. Receive HOME-Assisted Unit Occupant Information

Each year, the City will receive and review annual summary reports of occupancy data for each HOME-assisted unit.

The City will accept as original electronically produced or reproduced monitoring documents. Summary occupancy data includes: household identity, gross household income, race, ethnicity, status as disabled or single parent household, total rent paid (tenant payment plus any subsidy), and income verification requirement.

iv. Review Income and Approve Rent

Household income is measured by the HUD Part 5 definition. Household income is based upon the income of all persons in the household including nonrelated individuals. This applies when several adult members reside in a HOME-assisted unit. However, each unrelated adult is income qualified individually if residing in a designated Group Home. The City encourages the use of the online OneCPD Income Calculator and the guidebook “Technical Guide for Determining Income and Allowances for the HOME Program”. Household income is based upon income verification or certification per 24CFR92.203 (a)(1).

Household income documentation is maintained by the owner and provided to the City upon request. Once initially income qualified, household income may increase over time without threat of eviction on the basis of income (further described in the City Over-Income Tenant procedure).

Income self-certification is a signed statement of gross annual household income with agreement to provide income verification documentation upon request. Self-certification occurs in all years except the 1st project year and every 6th project year during the period of affordability. In other years, project owners will maintain tenant income certifications for each HOME assisted unit in their tenant files.

Before a property owner/manager can increase rents in a HOME-assisted unit, they must first submit a rent approval for as provided by the City CHHS Department. Any rent increase that may result from updated HOME rents is subject to terms of the tenants’ lease and requires at least 60-days [increased from 30 to 60 days per WA State ESHB1440] advance written notice. The City will use the current HOME maximum rents and household incomes to approve or object to rents charged for HOME-assisted units and determine occupant income eligibility for HOME-assisted units. There is no undue rent increase if an increased rent remains at/below the current and applicable maximum HOME affordable rent.

Rent is the dollar amount paid by or on behalf of the tenant for contracted use of a residence and excludes optional or mandated (if customary and not HOME prohibited) fees for items like: parking not required by City code, services, meals, living assistance, luxury services (in-unit washer/dryer, air conditioning), and pet fees. Note that any maximum rent provided by federal project-based rent assistance prevails over maximum HOME rents, as provided in City agreements.

The maximum HOME rent changes over time. However, rent cannot exceed the maximum rent identified in the HOME Written Agreement without advance written permission. Rent above the maximum HOME rent will not be approved and City staff will contact the owner to identify the excessive rent and require corrective action.

Special circumstances can increase rent without causing undue rent, such as:

- Over-income tenants occupying a HOME-assisted unit may receive graduated rent increases, as further described in the appendix.
- Over-income tenants of HOME-assisted units also allocated low-income housing tax credits (LIHTC) must pay rent governed by IRS Code Section 42. (92.252(i)(2).
- Federal or state project-based rent assistance.

v. Unit Physical Inspection

A minimum of 20% of HOME-assisted units will be inspected at least once every three years during the HUD HOME affordability period.

UPCS

UPCS Note: HUD's 2013 revised HOME rule implemented UPCS inspection effective for projects funded on/after 2015. HUD has not yet issued UPCS guidelines. The full UPCS inspection protocol is not appropriate because that standard is much more involved than anything required at project implementation and CHHS has no staff that is certified or meets HUD minimum qualification (years of construction experience) to be trained/certified for UPCS. In the total absence of HUD guidance, CHHS will continue to implement HQS instead of UPCS since that is the only available HUD HOME inspection standard.

Tenant Based Rental Assistance (TBRA) funding will remain subject only to HQS property standards inspection which will be performed annually.

The City will inform the project owner or manager of any identified physical inspection deficiencies. A project must repair all identified physical inspection deficiencies although repair confirmation and response time differs based upon type of deficiency.

Non-Hazardous Deficiency: examples include missing electrical cover plates, inoperable smoke detector, failed exhaust fan, and damaged entry door. Owner to promptly (no immediate deadline) communicate evidence of completed repair verbally or by email.

Hazardous Deficiency: examples include structural damage, inoperable heating system, obstructed emergency egress, or significant water intrusion. Owner to start repair within 1 week and confirm completed repair with emailed verification (contractor's statement or final building permit) or follow-up inspection of the deficient item(s).

Health & Safety Hazardous Deficiency: examples include fire hazard, electrocution hazard, carbon monoxide leak, or gas leak. Owner to immediately protect occupants and begin repair within 3 days. Owner to confirm completed repair with emailed verification (e.g., contractor's statement or final building permit) and follow-up inspection of the deficient item(s) within 12 months. Projects with an identified Health & Safety Hazardous Deficiency will receive additional points in next year's Risk Analysis.

vi. Financial Oversight

The City will annually examine the financial condition of projects having 10 or more City HOME-assisted rental units that are subject to the HUD HOME affordability period, as required at 92.504(d)(2). The annual financial review seeks to identify financially troubled HOME-assisted projects before financial problems become severe. For example, a financially troubled HOME-assisted project might have operating costs that significantly exceed operating revenue. Ideally, a project would have less than 5% annual vacancy, 1.2 Debt Coverage Ratio, regularly (monthly/quarterly) contribute to replacement reserves, and demonstrate capacity for operating reserves. HUD plans to provide additional training on implementing this requirement.

If a financially troubled project is identified, the City will notify the owner and request additional information on the financial and physical status of the project. The City will take action to correct identified problems, to the extent feasible. HOME regulation provides several tools that the City may use to restore financial viability.

- **Investment of additional HOME funds.** 92.210(b) allows investment of additional HOME funds to financially troubled projects within the HUD HOME Affordability Period with formal HUD approval. Not that the HOME rule allows for investing additional HOME funds in a project after the first 12 months following project completion. These additional funds can be used to rehabilitate or recapitalize project reserves for the HOME units. The total HOME funding for the project (initial investment amount plus the additional funds) may not exceed the maximum per unit subsidy, established at 92.250(a). This determination is made using the maximum per unit subsidy that is in effect at the time the additional funds are invested. HUD must approve the additional HOME funds with a written memorandum of agreement and HUD may require an extension of the affordability period and/or an increase in the number of HOME-assisted units.
- **Reduction of the number of HOME-assisted units.** 92.210(c) permits a reduction in the number of HOME-assisted units in the project, but only if the project contains more than the minimum number of units required to be designated as HOME-assisted units under 92.205(d). HUD Headquarters must approve this strategy in writing.
- **Conversion to homeownership.** 92.255 allows the conversion of HOME rental units to homeownership where in-place tenants can purchase the rental unit in which they reside. Note that the property owner must notify tenants that purchasing their unit requires compliance with certain HOME homeownership requirements and that refusing to purchase their housing unit does not constitute grounds for eviction. Although not expected, any City contribution of new HOME funds to the conversion may increase the minimum HOME affordability period for homeownership beyond the original rental housing HOME period of affordability.
- **HOME Rent Increase.** The City may consider an increase in project HOME maximum rents after considering owner's other attempts at resolution. The City can authorize a rent increase up to High HOME Rent. However, formal HUD Field Office approval is required if the project needs rent above High HOME Rent. Any requested HUD approval will include an assessment of market needs, available resources, and the likelihood of the project's return to financial viability.

C. Monitoring during the City Extended Period of Affordability

The City will continue to monitor projects during the City Extended Period of Affordability which begins immediately following expiration of the HUD HOME Affordability Period. These periods are described in City Loan and Covenant agreements. This extended monitoring period occurs outside of HUD's mandated HOME compliance period, as specifically described in the HOME loan agreements. Therefore, many HUD monitoring requirements may not apply.

If the City plans to forgive a portion of project debt in exchange for continued affordability during the City Extended Period of Affordability. Debt can be forgiven as part of loan servicing and governed by each project's loan documents. Forgiveness can be denied for noncompliance with program affordability requirements, as determined by the City.

D. MONITORING CLOSEOUT

A project is completed when both the HUD HOME Period of Affordability and when applicable City Extended Period of Affordability have expired. Upon expiration, the project will be removed from City's list of HOME-assisted projects and monitoring is terminated.

E. OTHER MONITORING (examples: CDBG Affordable Housing Capital & Rental Repair)

The City uses other funds to accomplish affordable rental housing activity. This commonly includes CDBG funds but can also include Rental Rehab, HOPE, and UDAG closed-out grant funds. HUD explicitly lacks a period of performance for CDBG assistance provided for rental housing improvements. This means that CDBG low/mod income requirements are met upon completion of a project that meets HUD affordability requirements. The City will document initial affordable rental housing qualification using tenant self-certification of annual income and project owner's report of current rents.

HUD affordability requirements are CDBG 51% occupancy by <80% AMI renters and with "affordable rent". HUD also explicitly states that the jurisdiction determines affordable rent. The City has determined that affordable rents are any rent at/below HUD Fair Market Rent (FMR) by bedroom size.

The City commonly extends this "period of affordability" to 5 years. This extended period is a City requirement and not subject to HUD regulation or oversight. The City plans to include such extended affordability requirements in written agreements. These extended requirements should be consistent with HUD's low-income definition and City's determination of affordable rent. Annual reporting will use the owner's statement of tenant incomes and rents.