

CHAPTER 2

COMPLIANCE MONITORING FOR PROGRAM NATIONAL OBJECTIVES

I. PURPOSE

- The procedures outlined in this chapter are designed specifically to apply to Annual on-site Program Compliance Monitoring of CDBG, HOME, or ESG funds received by the sub-recipient.

II. BACKGROUND

- CDBG Documentation Requirements.** As described in the CDBG regulations at 24 CFR 570.200 (a), each sub-recipient is required to maintain evidence that each of its assisted activities meets one of the three national objectives of the program: benefiting low and moderate income persons; aiding in the prevention or elimination of slums or blight; or meeting other community development needs having a particular urgency. The specific documentation which must be maintained by the sub-recipient is described at 24 CFR 570.506 (b).
- CDBG Compliance Criteria.** The criteria for determining whether an activity addresses one or more of the national objectives are found at 24 CFR 570.208 where eight categories are described: four categories are used to determine whether activities benefit low and moderate income persons (i.e., criteria for area benefit activities, limited clientele activities, housing activities and job creation/retention activities); three categories are used to determine whether activities aid in the prevention or elimination of slums or blight (i.e., criteria for slum/blight activities on an area basis, spot basis, and for the completion of an urban renewal project); the one category is used to determine whether activities meet community development needs having a particular urgency. This category is designed only for activities that improve or eliminate emergency conditions.
- HOME Documentation Requirements and Compliance Criteria.** The Objectives of the HOME Program are to provide decent affordable housing to lower income households; expand the capacity of nonprofit housing providers; strengthen the ability of state and local governments to provide housing; and leverage private-sector participation. The Sub-Recipient shall maintain current documentation that its activities are HOME eligible according to 24 CFR Part 92.205. The Sub-Recipient shall ensure and maintain documentation that conclusively demonstrates that each activity assisted in whole or in part with HOME funds is an activity that provides benefit to very-low- and low-income persons. The Sub-Recipient shall comply with all applicable provisions of 24 CFR Part 92 as it may be amended from time to time and shall carry out each activity in compliance with all applicable federal laws and regulations described therein. If the Sub-Recipient is a primarily religious entity, it shall comply with all provisions of 24 CFR 92.257.

- ESG Documentation Requirements Compliance Criteria** that the activities carried out with funds provided under this Agreement will contribute to a program designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as prevent homelessness, as defined in 24 CFR Part 576 (Subpart B Eligible Activities 576.21).

III. PURPOSES OF ON-SITE MONITORING FOR COMPLIANCE.

- Through on-site monitoring, the contract monitor can determine whether the sub-recipient's performance meets HUD program requirements; identify specific compliance deficiencies; request corrections; and improve sub-recipient performance by providing guidance and making recommendations. The specific purposes of on-site monitoring for compliance with the national program objectives are to:
 - (1) Validate the accuracy of information presented in the progress report regarding compliance with the national program objectives;
 - (2) Follow-up on problems identified during progress report review but not resolved by phone or through correspondence;
 - (3) Determine compliance for those activities where there is insufficient information on which to make national objective determinations;
 - (4) Test the reasonableness of judgments made for those activities that necessarily involve high levels of sub-recipient judgment;
 - (5) Ascertain the sub-recipient's ability to ensure that activities carried out meet compliance requirements;
 - (6) Verify the accuracy of the sub-recipient's records through site visits; and
 - (7) Identify the apparent causes of problem and offer recommendations for corrective actions.

IV. CONDUCTING THE COMPLIANCE VISIT

- Selecting Activities to be Monitored On-Site.** In addition to considering the selection criteria in Chapter 3, the Project Manager should focus heavily on those activities where the national objective determination is most questionable or inadequate.
 - (1) The Progress Report is the document that provides the most in-house information on a sub-recipient's compliance with the national objectives. During the course of reviewing the progress report, and assuming the information reported is accurate, the Project Manager will be able to determine that certain activities meet a national objective. For such activities, occasional spot-checking of the activities and

sub-recipient records to validate the accuracy of the progress report is all that would be needed on-site. Of course, if it is determined that information in the progress report is incorrect, further follow-up will be required. Certain other activities will, by their nature, require on-site inspection because the progress report is not designed to contain sufficient information to determine compliance (e.g., urgent needs activities). Moreover, where activities necessarily involve a high level of sub-recipient judgment (e.g., whether a job was made available to low/mod persons; the area served by a particular activity) on-site inspection is needed to test the reasonableness of the sub-recipient's judgment.

- (2) In-house documents other than the progress report can also provide insights on the sub-recipient's performance regarding compliance with national objectives: recent audit reports, correspondence files for the sub-recipient, citizen complaints, and previous monitoring letters and reports.
- (3) It may not be possible to review activities within each category every year. In deciding the frequency for reviewing a given category, the Project Manager should consider such factors as when this particular category was last reviewed, if there were unresolved problem remaining from previous monitoring, if there are any new types of activities being undertaken within this category, and the extent of high risk activities in the category.

Using the Monitoring Guides

CDBG

- (1) Monitoring guides available at

<http://www.hud.gov/offices/cpd/library/monitoring/handbook.cfm>

determine if the applicable national objective criteria have been met for the activities selected for on-site review. The guides summarize the results obtained from reviewing activities within a given category of benefit; accordingly, a separate form should be completed for each benefit category reviewed. The guides also provide information on conducting a review of the sub-recipient's systems for ensuring that each activity will meet a national objective. In completing each guide, the Project Manager can draw upon other information and experiences that may shed further light on the sub-recipient's compliance with the benefit objective.

- (2) These guides have been designed to elicit descriptive responses rather than merely "yes" or "no" answers. An "N/A" should be inserted for the questions that do not apply to the activity under review. Negative conclusions should be thoroughly explained since they may mean that a requirement has not been met. Although this approach will take more time up-front, it will yield higher quality reviews that will provide a better picture of a sub-recipient's program for others who have a need to review the sub-recipient's performance.

- (3) Questions preceded by an asterisk (*) are not related to statutory or regulatory requirements, but are only included to assist the Project Manager in understanding the sub-recipient's program more fully and/or to identify issues that if not properly addressed could result in deficient performance. Therefore, negative conclusions to asterisked questions may result in a "concern" being raised but not a "finding".

HOME

The HUD Publication "Monitoring HOME Program Performance" will be used by the Project Manager in reviewing HOME Projects for Compliance. It may be acquired at:

<http://www.hud.gov/offices/cpd/affordablehousing/training/web/checkup/performance/monitoringtools.cfm>

ESG

The HUD Publication "Emergency Shelter Grants (ESG) Program Desk Guide" will be used by the Project Manager in reviewing ESG Projects for Compliance.

□ Drawing Conclusions about Compliance

- (1) Where no problem, or only minor ones, are found during the review of selected activities falling within a given category, such as the low/mod area benefit category, the Project Manager can generally conclude that each of the sub-recipient's activities falling within that category is in compliance. Conversely, where a pattern of significant problem is discovered, it is fair to conclude that similar problems are likely to exist with other activities in that same category.
- (2) If the review of selected activities shows a pattern of a problem within a category, and if time permits, other activities in that category should be spot-checked to verify the existence of a systemic problem. (Where time does not permit, the category should be flagged for a more thorough review during the next monitoring visit, and the sub-recipient should be either advised of this apparent problem or asked to review this area and-notify the Project Manager of its conclusions.) Where such a problem appears to exist, the Project Manager should attempt to identify the underlying cause. There may be omissions or errors in the sub-recipient's procedures or there may be problems in actually carrying out the procedures. In any case, corrective and remedial actions need to deal both with problems found with the specific activities reviewed and, more importantly, with the underlying problems in the sub-recipient's system.