HOMEfires - Vol. 14 No. 2, April 2018

Q: How can a PJ determine the amount of its fee for ongoing monitoring of HOME-assisted rental projects?

A. For HOME-assisted projects with commitments on or after August 23, 2013, the HOME program regulations at 24 CFR 92.214(b)(1)(i) allow PJs and State recipients to charge owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability. While other funding agencies use a variety of methods for determining monitoring fees, fees for HOME-assisted projects fees must be based upon the average actual cost of performing the monitoring of HOME-assisted rental projects. The basis for determining the fee amount must be documented and the fee must be included in the costs of the project as part of the project underwriting.

PJs may not charge monitoring fees to projects committed prior to August 23, 2013, the effective date of the 2013 HOME Rule.

Ongoing Monitoring of Rental Projects

The monitoring fees authorized at §92.214 are intended to address only the costs of ongoing monitoring during the affordability period. Costs incurred by a PJ for monitoring during the development period (i.e. prior to completion in IDIS) can be charged either as administrative costs pursuant to §92.207(a), or as project-related soft costs pursuant to §92.206(d)(6).

The HOME regulations establish minimum requirements for a PJ's ongoing monitoring of rental projects, which include:

- Reviewing and approving the annual owner's report on rents and occupancy, as required by §92.252(f)(2);
- Establishing maximum monthly utility allowances annually, in accordance with §92.252(d)(1);
- Conducting the first year and periodic ongoing onsite monitoring of tenant files and physical inspections of a sample of assisted units, in accordance with §92.251(f) and §92.504(d)(1)(ii); and
- Conducting annual examinations of the financial condition of HOME-assisted rental projects with ten (10) or more units, in accordance with §92.504(d)(2).

A PJ may also incur costs for re-inspection of units where deficiencies were identified during the onsite physical inspection, as required by §92.504(d)(1)(ii)(B).

PJs are required to develop a system for assessing risks and monitoring entities to ensure compliance with HOME requirements in accordance with §92.504(a). PJs may choose to implement a more frequent monitoring schedule than required by the HOME regulations. A PJ's projection of monitoring costs and fees should reflect the actual frequency and extent of its rental project monitoring activities.

In addition, because monitoring fees are based on actual costs, the amount of fees charged to the project can be increased during the period of affordability to reflect rising wages or travel costs. Before increasing the fee charged to a project, a PJ must ensure that the increase is permitted by the HOME written agreement and that the project can bear the additional cost based on evidence from the PJ's financial oversight of the project.

Acceptable Methods for Establishing "Average Actual Cost"

A variety of approaches may be used to determine the average actual costs of monitoring, including but not limited to:

- Variable fee based on project size – A PJ may establish either a project-specific fee that is determined based on travel time to the project location and the number of units in the project, or a tiered monitoring fee schedule that varies the fee based on the project size and number of on-site unit inspections and file reviews. For example, a PJ might establish standard fees for projects of less than 20 units, 20-50 units, and 50+ units. This approach reflects the monitoring cost associated with different project sizes without establishing a project-by-project fee schedule.

- Standard monitoring fee plus re-inspection charge – A PJ may establish a fee for each project based on the anticipated cost of monitoring under "normal" circumstances (e.g. onsite monitoring every third year) and separately estimate a re-inspection fee that will be charged for re-inspection of units with identified deficiencies. This approach charges poor performing projects for the increased level of effort they require but may be more difficult to underwrite initially or to collect fees from struggling projects.

- Portfolio average fee – A PJ may establish the fee based on standard portfolio-wide assumptions about on-site monitoring frequency and re-inspection rates. While some projects will perform well, others may require annual on-site reviews, so a PJ might assume that "on average" projects will be monitored on-site every two years and that 20% of monitoring inspections will require re-inspection. A PJ could calculate the cost of this average level of effort and charge every project the same fee. This approach may be easier to administer and may result in more consistent collections of the monitoring fees, but it does mean that "better" performing projects are helping pay the cost of "poor" performing ones.

Projecting Monitoring Costs

Monitoring costs consist primarily of either staff time or contractor costs, but may also include incidental costs such as mileage or materials. To develop a projection of the actual costs of monitoring, a PJ must determine the average level of effort (time) associated with each monitoring activity and multiply by the actual cost of the staff or contractor time involved. While some costs will vary by the size of the project, driven by the number of units to inspect or files to review, other monitoring costs (e.g., rent approval) may be relatively equal on a per-project basis. In addition, there may be limited non-staff costs, such as travel for onsite inspections. A PJ's projection must be justified with documentation evidencing and explaining the inputs, such as the total hourly cost of salaries and benefits for employees conducting monitoring.

To help PJs determine and document the average cost of monitoring, an optional Excel tool is attached as Appendix 1. The spreadsheet is “unprotected” so a PJ can modify it as needed to reflect their own approach.