



HOME Program Monitoring Series

Session 4: Oversight of Program Partners and Their Written Agreements

Spring 2021



Overview

Presenters

Monte Franke

Les Warner



HOME Monitoring Webinar Series Overview

Understanding Monitoring April 13, 2021			
General Administration	Program Oversight and Financial Management; Match Exhibits: 7-25 7-33 April 15, 2021	CHDO Exhibit: 7-32 April 20, 2021	Oversight of Program Partners & Their Written Agreements Exhibits: 7-34 7-35 7-36 April 22, 2021
	Homebuyer Development Exhibit: 7-27 April 27, 2021	Homebuyer Assistance Exhibit: 7-28 May 4, 2021	Homeowner Rehabilitation Exhibit: 7-26 May 11, 2021
	Rental Exhibit: 7-29 April 29, 2021	TBRA Exhibit: 7-31 May 6, 2021	Long-Term Rental Compliance Exhibit: 7-30 May 13, 2021



Webinar Objectives

- Introduce HUD monitoring of PJs for:
 - Oversight of State recipients, subrecipients & contractors
 - Written agreements with State recipients, subrecipients & contractors
- Introduce the CPD Monitoring Handbook Exhibits 7-34, 7-35 and 7-36
- Identify the requirements the PJ needs to comply with related to written agreements and oversight
- Recommend steps to prepare for HUD monitoring

Administering entities = State recipients, subrecipients & contractors *in this webinar*



In your PJ's oversight of program partners, what issues concern you most? Select all that apply.

A. How to conduct an on-site review

B. How to track program income and ensure it is spent for eligible uses

C. How to do a risk assessment and develop a monitoring plan

D. Monitoring strategically – how to monitor effectively with limited staff resources





Regulatory Requirements

HOME Regulatory Provisions

Key PJ Oversight Requirements - § 92.504(a)

- PJ is responsible for compliance even if another entity carries out the program
- PJ must review performance of EACH contractor, subrecipient or State recipient at least annually
- PJ must have written policies, procedures, and systems for oversight for
 - Risk assessment system
 - Monitoring system



HOME Regulatory Provisions (cont.)

Other Oversight Responsibilities	Written Agreements Requirements
<ul style="list-style-type: none">• IDIS project set-up, funds disbursement, completion - §92.502(b) and (d)• Program income - §92.503(a)• Audit requirements - §92.506• Recordkeeping - §92.508	<ul style="list-style-type: none">• General written agreement requirements – §92.504(b)• Required provisions of written agreements with:<ul style="list-style-type: none">• State recipients - §92.504(c)(1)• Subrecipients – §92.504(c)(2)• Contractors – §92.504(c)(4)
Consolidated Planning Requirements	OMB Uniform Administrative Requirements
<ul style="list-style-type: none">• 92.504(c)(4) Consolidated Planning Requirements• Resources available (in Action Plan) – 24 CFR 91.220(c), 91.320(c) and 91.420(b)	<ul style="list-style-type: none">• OMB uniform administrative requirements – 2 CFR part 200



Intro to CPD Monitoring Handbook Written Agreements and Oversight Exhibits 7-34, 7-35 & 7-36

Guide for Review of State Recipient Written Agreements and Oversight	
Name of Participating Jurisdiction (PJ): Click or tap here to enter text.	
Staff Consulted: Click or tap here to enter text.	
Name of HUD Reviewer(s): Click or tap here to enter text.	Date of Review: Click or tap here to enter text.

NOTE: All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a finding of noncompliance.

File Selection (Required)
Program Year(s) Reviewed:
Number of Files Reviewed:
How were files selected?

Guide for Review of Contractor Written Agreements	
Name of Participating Jurisdiction (PJ): Click or tap here to enter text.	
Staff Consulted: Click or tap here to enter text.	
Name of HUD Reviewer(s): Click or tap here to enter text.	Date of Review: Click or tap here to enter text.

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File Selection Summary (Required)	
Program Year(s) Reviewed:	Click or tap here to enter text.
Number of Files Reviewed:	Click or tap here to enter text.

Guide for Review of Subrecipient Written Agreements and Oversight	
Name of Participating Jurisdiction (PJ): Click or tap here to enter text.	
Staff Consulted: Click or tap here to enter text.	
Name of HUD Reviewer(s): Click or tap here to enter text.	Date of Review: Click or tap here to enter text.

NOTE: All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement).

File Selection Summary (Required)	
	Click or tap here to enter text.
<input type="checkbox"/> Random <input type="checkbox"/> Statistical	<input type="checkbox"/> Non-Random <input type="checkbox"/> Combination (describe): Click or tap here to enter text.



Key Oversight Requirements

Regulatory		PJ Considerations
Oversight and Internal Controls	Monitoring of Written Agreements	Program Design and Operational Considerations
Risk assessment & monitoring policies and procedures	Overview of Written Agreements	Reconciling records and IDIS reports
Recordkeeping	Required Written Agreements Provisions	Communication policies
Audit	Recommended Written Agreements Provisions	Training and technical assistance
On-Site Reviews		
Program Income		





Monitoring the Oversight of State Recipients and Subrecipients

Discussion of Topic Areas

Requirements

- Key regulatory requirements on which the Exhibit Questions are based

Documentation

- Items that must be documented to demonstrate compliance, including both policies & procedures and file documentation

Compliance Review

- Compliance determinations that go beyond basic file documentation (as needed)



Monitoring the Oversight of State Recipients and Subrecipients



Oversight of State Recipients and Subrecipients

- Performance monitoring
 - Required annually for all administering entities
- Audit requirements
 - Required for State recipients & subrecipients
- Program income requirements
 - Required for State recipients & subrecipients

See applicable Exhibits and related webinars to monitor performance for specific activity requirements, including rental, homebuyer, homeowner rehabilitation and tenant-based rental assistance requirements.



Monitoring Policies and Procedures

Requirements

- PJ must have written policies, procedures and/or systems for:
 - **Risk assessment** of activities and projects
 - **Monitoring** – to ensure a quality review, must include:
 - What documentation will be reviewed, when & how
 - How PJ will communicate monitoring results & when (timely)
 - How State recipients & subrecipients may respond to findings
 - What will be included in report of conclusions, expectations about corrective actions & follow-up
- **Recordkeeping** - PJ must require State recipients/subrecipients to maintain adequate records to document HOME compliance, including record retention period



Monitoring Policies and Procedures (cont.)

Documentation

- Policies and procedures for risk assessment and monitoring – *must show how it applies to State recipients and subrecipients*
- Written agreement with each partner – *specifies recordkeeping and reporting requirements*



Audit Requirements

Requirements

- State recipients & subrecipients are subject to audit requirements of 2 CFR part 200 subpart F
 - Single Audit Act applies to those receiving over \$750,000 in federal assistance
 - Ensures appropriate internal controls for fiscal management of federal funds

Documentation

- Copy of State recipient's / subrecipient's audit and evidence of PJ's review
- See Exhibit 34-1, Section K, for requirements related to the PJ's review of the audit report



On-Site Reviews

Requirements

- PJ must conduct annual review of **each** State recipient & subrecipient
 - In accordance with PJ's risk assessment and monitoring policies
- On-site, PJ assesses compliance w/ carrying out HOME activity
 - See activity-specific Exhibit and/or webinar for guidance on this portion of review
- PJ must verify accuracy of IDIS data
 - If PJ enters data => State recipients/subrecipients must submit complete & accurate data routinely
 - If State recipients/subrecipients enter data => PJ must review submitted data
 - On-site, PJ must verify accuracy of IDIS data against records



On-Site Reviews (cont.)

Documentation

- A written monitoring report for every on-site visit, for every State recipient & subrecipient every year
- Monitoring related correspondence
- Evidence that PJ verified IDIS data on-site

Compliance Review

- Reports must include:
 - Dates of reviews & areas monitored
 - Findings & necessary corrective actions
 - Conclusions reached & resolution of findings
- PJ's monitoring records must show that PJ is following its procedures



Program Income (PI) Monitoring

Requirements

- PJ must accurately report in IDIS on PI that it receives from partners
- If State recipients & subrecipients retain PI, PJ must confirm that:
 - Entity spends PI before requesting HOME \$\$
 - Entity spends PI on eligible activities
- PJ must plan for use of PI in consolidated planning process



Program Income (PI) Monitoring (cont.)

Documentation

- PJ's internal financial records and IDIS entries – must be consistent and show all PI received
- State recipient & subrecipient PI reports (if retaining PI):
 - Evidence that State recipient/subrecipient disbursed PI before requesting HOME funds
 - Evidence that PJ checked that PI is used for additional eligible activities
- Con Plan/Action Plan – resource section reflects anticipated PI
- Written agreement must specify PI requirements

See Exhibit 34-1, *Guide for Review of Financial Management and Audits*, for complete review of program income requirements.



PJ Considerations: Management Practices to Improve Oversight

- Communication procedures to ensure administering entities receive:
 - Regulatory updates and policy notices
 - Technical guidance on HOME implementation
 - Current HOME limits that apply to their activity/activities: income limits, rent limits, per-unit subsidy limits, homeownership value limits, etc.
- Training and technical assistance policies ensure that PJ identifies training needs for State recipient & subrecipient staff



PJ Considerations: Using IDIS Reports

Routinely review IDIS reports to track all subrecipients and State recipients, funding amounts, and progress of activities

- PR 35: Grant, Subfund, and Subgrant Report
- PR 47: HOME Vacant Units Report
- PR 48: HOME Open Activities Report (or, for TBRA, use Open Activities report on HUD Exchange)
- PR 70: Activity Funding Detail Audit History





Monitoring Written Agreements

Overview to Written Agreements



Overview of Written Agreement Requirements

- Written agreement is required whenever HOME funds are committed to another entity
 - PJ must execute written agreement with every administering entity
 - Administering entities must execute written agreements with other entities and/or beneficiaries to make commitments to specific projects/activities
- Timing and content of written agreement
 - Written agreement = legally binding commitment of HOME funds
 - Executed before funds distributed
 - Must include specific provisions listed in §92.504
 - The specific provisions vary, depending on entities and activity



Overview of Written Agreement Requirements (cont.)

- HOME required provisions - minimum required
- Each agreement should be as detailed as needed for:
 - Administering entity to carry out program/tasks & comply with HOME
 - PJ to monitor & enforce compliance and performance
 - Description of roles and responsibilities of all parties

See activity-specific Exhibits and related webinars for written agreement requirements with owners, developers, sponsors & beneficiaries.



Execution of Written Agreements

Requirements

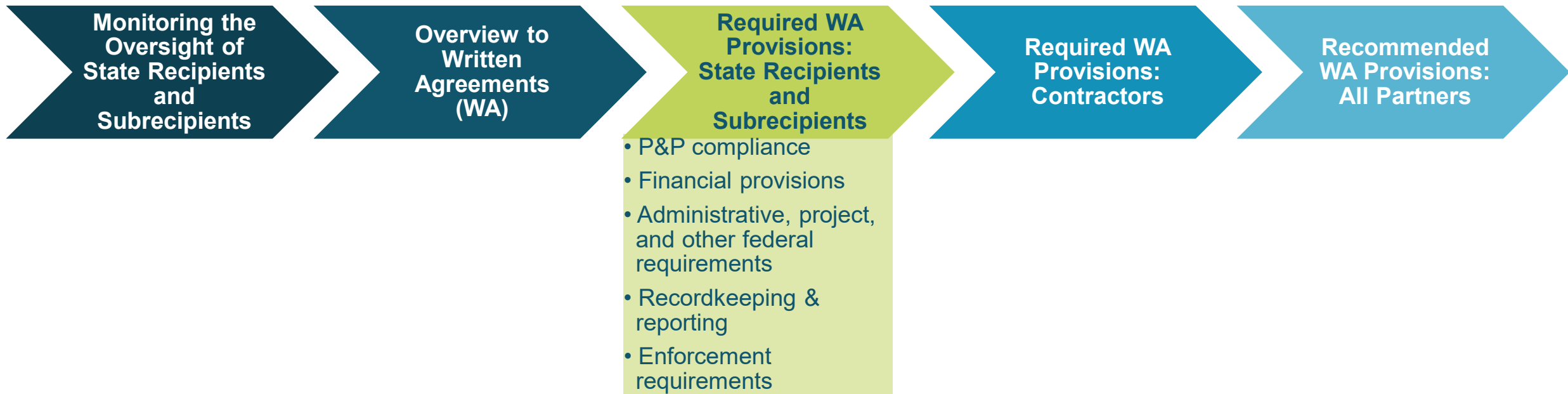
- HOME written agreement must be dated and signed by the PJ and the administering entity
- Commitment date (last dated signature) must be before PJ enters subgrant into IDIS

Documentation

- Written agreement and IDIS data
 - Written agreement is signed by all participating parties
 - Last dated signature on written agreement is before the IDIS “Date Created”
 - See “Date Created” on the “View Subgrant” screen in IDIS



Required Written Agreement Provisions: State recipients and Subrecipients



WA Provisions: Compliance with PJ Policies and Procedures

- Compliance with PJ's policies and procedures for:
 - Income determinations [§92.203]
 - Underwriting and subsidy layering guidelines [§92.250(b)]
 - Rehabilitation standards [§92.251]
 - Refinancing policies [§92.254(f)(3)]
 - Homebuyer program policies [§92.254(f)]
 - Affordability requirements, rental [§92.252] and/or homebuyer [§92.254]
- PJs can permit a State recipient to follow its own policies & procedures; must state in written agreement



WA Provisions: Amount and Use of HOME Funds

- Amount and use of HOME funds, in sufficient detail for PJ to monitor performance
 - Type and number of housing projects to be funded
 - Allowable administrative costs and terms for payment
 - Detailed list of tasks
 - Schedule for completing tasks
 - Schedule for committing funds (currently suspended)
 - Budget



WA Provisions: Match & Affordability Requirements

- Match requirements, if any
 - Required only if PJ chooses to require any match contributions
 - Match requirements must comply with 24 CFR 92.208 – 92.222
 - See Exhibit 7-33 and related webinar for more detail on match requirements
- If State recipient serves as owner/developer, include affordability requirements for the HOME-assisted housing
 - For rental housing, cite 92.252
 - For homebuyer programs, cite 92.254



WA Provisions: Duration of the Agreement

Duration of the agreement

- Varies, based on HOME activity/tasks to be performed
- Typically, through project/activity completion
- If entity has post-completion compliance responsibilities, duration must be through affordability period
 - Examples: long-term rental compliance monitoring or homebuyer principal residency monitoring



WA Provisions: Repayments, Recaptured Funds & Program Income

- Repayment of HOME funds
 - State recipients must repay HOME funds if the assisted housing does not meet the affordability requirements throughout affordability period
 - Required when State recipient is owner/developer
- Repaid and recaptured HOME funds
 - Specify if State recipient or subrecipient must remit these funds to the PJ, or retain for additional eligible activities
- Program income
 - Specify if program income must be returned to PJ, or retained for additional eligible activities
 - Required for State recipient and subrecipient agreements



WA Provisions: Project Requirements (Subpart F)

- Include any specific requirements of Subpart F that apply to activities carried out by State recipient or subrecipient
- Subpart F includes applicable project requirements:
 - Maximum per-unit subsidy, underwriting, and subsidy layering
 - Property standards
 - Rental housing and tenant-based rental assistance requirements
 - Homeownership requirements
 - Conversion of rental w/ existing tenants to homeownership
 - Elder cottage housing opportunity units



WA Provisions: Other Applicable Requirements

- Uniform administrative requirements (§92.505)
 - OMB cost principles and audit requirements of 2 CFR part 200
- HOME Affirmative marketing (§92.351)
 - State recipient or subrecipient must follow PJ's affirmative marketing requirements, assisted housing contains 5+ HOME-assisted units
 - PJ has option to require a State recipient to develop its own affirmative marketing policies
- Conflict of interest (§92.356)
 - No financial or housing benefit to certain persons in decision-making positions (or related to)



WA Provisions: Other Federal Requirements

- Nondiscrimination requirements (§92.350)
- Any requirements that apply to State recipient or subrecipient to enable the PJ to carry out its environmental review requirements, prior to HOME funds commitment (§92.352)
- Displacement, relocation and acquisition requirements (§92.353)
 - If project involves acquisition, demolition, rehabilitation, or relocation
- Davis-Bacon labor requirements (§92.354)
 - If project contains 12 or more HOME-assisted units
- Lead-based paint requirements for pre-1978 units (§92.355)



WA Provisions: Other Applicable Requirement (cont.)

Violence Against Women Act (VAWA) requirements -- for rental housing development or TBRA (§93.359)

- Notification requirements
- Bifurcation of lease requirements
- VAWA lease/lease addendum
- Obligations under emergency transfer plan (follow PJ plan or develop own)
- Requirements apply for duration of affordability period (rental) or period of rental contract (TBRA), when HOME commitment is on or after 12/16/2016



WA Provisions: Disbursement of Funds; Reversion of Assets

- Disbursement of Funds
 - Disbursement request only when funds are needed to pay eligible HOME costs
 - Request amount is limited to the amount needed
 - Disbursements from the local account must be done first
- Reversion of Assets
 - Upon expiration of agreement, HOME funds and any accounts receivable attributable to HOME must be transferred back to PJ
 - Required for subrecipient agreements only



WA Provisions: Recordkeeping and Reporting

- Records that State recipient/subrecipient must retain
- Reports (or information) that State recipient/subrecipient must submit to PJ

Note: Generally, records must be retained for the most recent 5-year period, until 5 years after compliance requirements apply.



WA Provisions: Enforcement Provisions

- Measures to enforce affordability requirements throughout affordability period
 - If rental housing program => deed restriction, covenant running with the land, use restriction, or other mechanisms approved by HUD in writing
 - If State recipient will own affordable housing at completion => requirements to provide a means of enforcing affordability requirements
- Remedies for breach of agreement
 - PJ retains right to enforce agreement with State recipient/subrecipient AND any agreements partners have executed with other entities
 - Remedies are at PJ's discretion, subject to state and local contract law



WA Provisions: Enforcement Provisions (cont.)

- Suspension and termination
 - For material failure to comply with agreement, PJ follows applicable suspension and termination requirements
 - For written agreements executed prior to 12/26/2014, cite 24 RCW 85.43(a)
 - For written agreements after 12/26/2014, cite 24 CFR 200.339-.341



Written Agreements with Other Entities

- State recipient or subrecipient must execute written agreement with any other entity to which it provides HOME \$\$
- Agreement must:
 - Be signed and dated
 - Be executed before funds are provided
 - Include required provisions of 24 CFR 92.504 for the entity and activity
 - Specify whether repaid or recaptured HOME funds are remitted to the PJ or retained by the State recipient or subrecipient



WA Provisions: Fee Requirements

- Prohibited fees:
 - Servicing
 - Origination
 - Processing
 - Inspection
 - Other fees for the cost of administering the HOME program
- Permitted fees:
 - Nominal application fees to owners
 - Housing counseling fees to homebuyers



Required Written Agreement Provisions: Contractors



Key Written Agreement Provisions

- Amount and use of HOME funds, including:
 - Tasks to be performed
 - Schedule for completion of tasks
 - Budget
 - Must be in sufficient detail to enable the PJ to monitor effectively
- Duration of agreement
 - Recommended that agreement does not exceed 2 years



WA Provision: Administering a Program on PJ's Behalf

- If administering a program on PJ's behalf, contractor is subject to all Part 92 requirements applicable to the activity and to PJ
 - Strongly recommended that these requirements be detailed in the written agreement
- Exceptions:
 - Uniform administrative requirements
 - Audit requirements
 - Assuming any of PJ's responsibilities under environmental review authority (review, decision-making and actions)



WA Provision: Administering Tasks/Services on PJ's Behalf

If administering tasks or providing services (less than a full program) on the PJ's behalf, written agreement must include:

- All requirements related to the task or service
- Exceptions: uniform administrative requirements, audit, environmental review



WA Provision: VAWA Requirements

- If contractor is administering rental housing development or TBRA and it is related to contractor's work, requirements related to the Violence Against Women Act (VAWA) at 24 CFR 92.359
- Requirements are same as those for subrecipients and State recipients
 - Notification requirements
 - Bifurcation of lease requirements
 - VAWA lease or lease addendum
 - Obligations under the emergency transfer plan
 - Apply through affordability or contract period for housing/TBRA where HOME commitments made on or after December 16, 2016



Recommended Written Agreement Provisions: All Partners



Purpose of Additional Provisions

- Additional provisions in agreements may improve effectiveness
 - Provisions that reflect HOME requirements that are not listed in §92.504
 - Provisions to help PJ manage projects and performance
 - Provisions that reflect PJ policy/program design decisions
 - Locally-based legal provisions



Recommended Provisions to Facilitate Management

- Define roles and responsibilities
- Expand on required reporting & recordkeeping
 - Specify forms/formats, checklists of items, timelines
- Address project publicity
- Prohibit, or retain right of approval for, assignment of agreement to another entity
- Identify terms to modify agreement



Recommended Provisions to Improve Compliance

- Reserve right to conduct on-site monitoring visits by the PJ and HUD
- Expand on required disbursement policies and procedures
 - Identify monthly schedule; required information for draw requests
- Specify timing for return of funds
 - Program income, repayments, recaptured
- Specify close-out requirements
- Distinguish HOME POA from locally imposed POA, if applicable
 - If PJ imposes compliance period greater than HOME affordability period, HUD recommends executing separate agreement for PJ's compliance period



Recommended Provisions to Protect HOME Investment

- Require repayment/termination of contract for serious noncompliance or nonperformance
- Impose bonding and insurance requirements



Special Considerations: State Recipient as Owners/Developers

- Written agreement must reflect all HOME requirements and long-term compliance requirements that will apply to the project
 - **Homebuyer requirements:** covered in Exhibits 7-27 (development) & 7-28 (direct assistance)
 - **Rental requirements:** covered in Exhibits 7-29 (rental) and 7-30 (Long-term compliance)





Preparing for HUD Monitoring

Intro to CPD Monitoring Handbook Written Agreements and Oversight Exhibits 7-34, 7-35 & 7-36

Guide for Review of State Recipient Written Agreements and Oversight	
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Staff Consulted: Click or tap here to enter text.	
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Guide for Review of Subrecipient Written Agreements and Oversight	
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Click or tap here to enter text.	
<input type="checkbox"/> Random <input type="checkbox"/> Statistical	<input type="checkbox"/> Non-Random <input type="checkbox"/> Combination (describe): Click or tap here to enter text.



Preparing for HUD: Document Assembly

Document Assembly

- P&Ps related to oversight
- Written agreements with administering entities
- IDIS reports
- Past monitoring
- Citizen inputs
- Monitoring Exhibits

**Self-
assessment**

**HUD
Monitoring**



Preparing for HUD: Self-Assessment

**Document
Assembly**

Self-assessment

- P&Ps review
- Documentation review
- Monitoring questions review

**HUD
Monitoring**



Pre-monitoring Self-assessment

Regulatory Compliance

- Policies and procedures
- Written agreements and docs
- Regulatory limits and requirements
- Eligibility documentation

Program Performance

- Performance indicators
- IDIS reports

Monitoring & Evaluation

- PJ monitoring
- Response to prior monitoring
- Citizen comments/media
- Staff skills/training
- Changes to program

<https://files.hudexchange.info/course-content/home-monitoring-webinar-series-understanding-monitoring/HOME-Monitoring-PJ-Self-Assessment-Handout.pdf>





Resources & Tools

CPD Monitoring Handbook

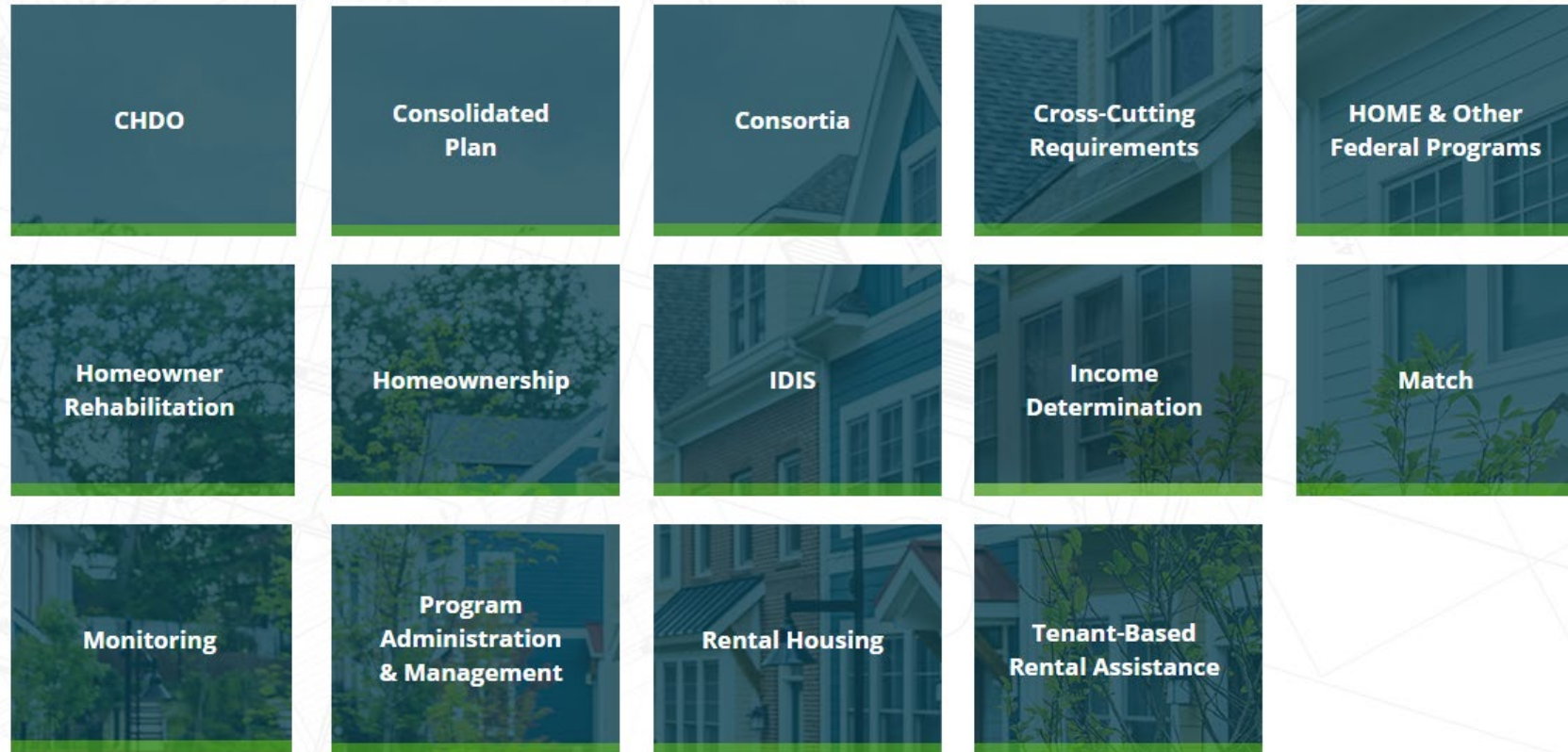
CHAPTER 7: HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)	WORD
Optional Attachments 7-0 (4 files), Exhibits 7-1 through 7-23, and Attachment 7-1 – (REMOVED)	
Exhibit 7-24 - HOME Pre-Monitoring Checklist	WORD
Exhibit 7-25 - Guide for Review of Program Oversight, Financial Management, and Cost Allowability	WORD
Exhibit 7-26 - Guide for Review of Homeowner Rehabilitation Projects and/or Policies & Procedures	WORD
Exhibit 7-27 - Guide for Review of Homebuyer Development and/or Rehabilitation Projects and/or Policies & Procedures	WORD
Exhibit 7-28 - Guide for Review of Homebuyer Downpayment Assistance Projects and/or Policies & Procedures	WORD
Exhibit 7-29 - Guide for Review of Rental Development or Rehabilitation Projects and/or Policies & Procedures	WORD
Exhibit 7-30 - Guide for Review of Rental Project Compliance and/or Policies & Procedures	WORD
Exhibit 7-31 - Guide for Review of Tenant-Based Rental Assistance (TBRA) Projects and/or Policies & Procedures	WORD
Exhibit 7-32 - Guide for Review of Community Housing Development Organization (CHDO) Qualifications, Projects, and/or Policies & Procedures	WORD
Exhibit 7-33 - Guide for Review of Match Requirements	WORD
Exhibit 7-34 - Guide for Review of Contractor Written Agreements	WORD
Exhibit 7-35 - Guide for Review of State Recipient Written Agreements and Oversight	WORD
Exhibit 7-36 - Guide for Review of Subrecipient Written Agreements and Oversight	WORD

https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2/



HUD Exchange HOME Page

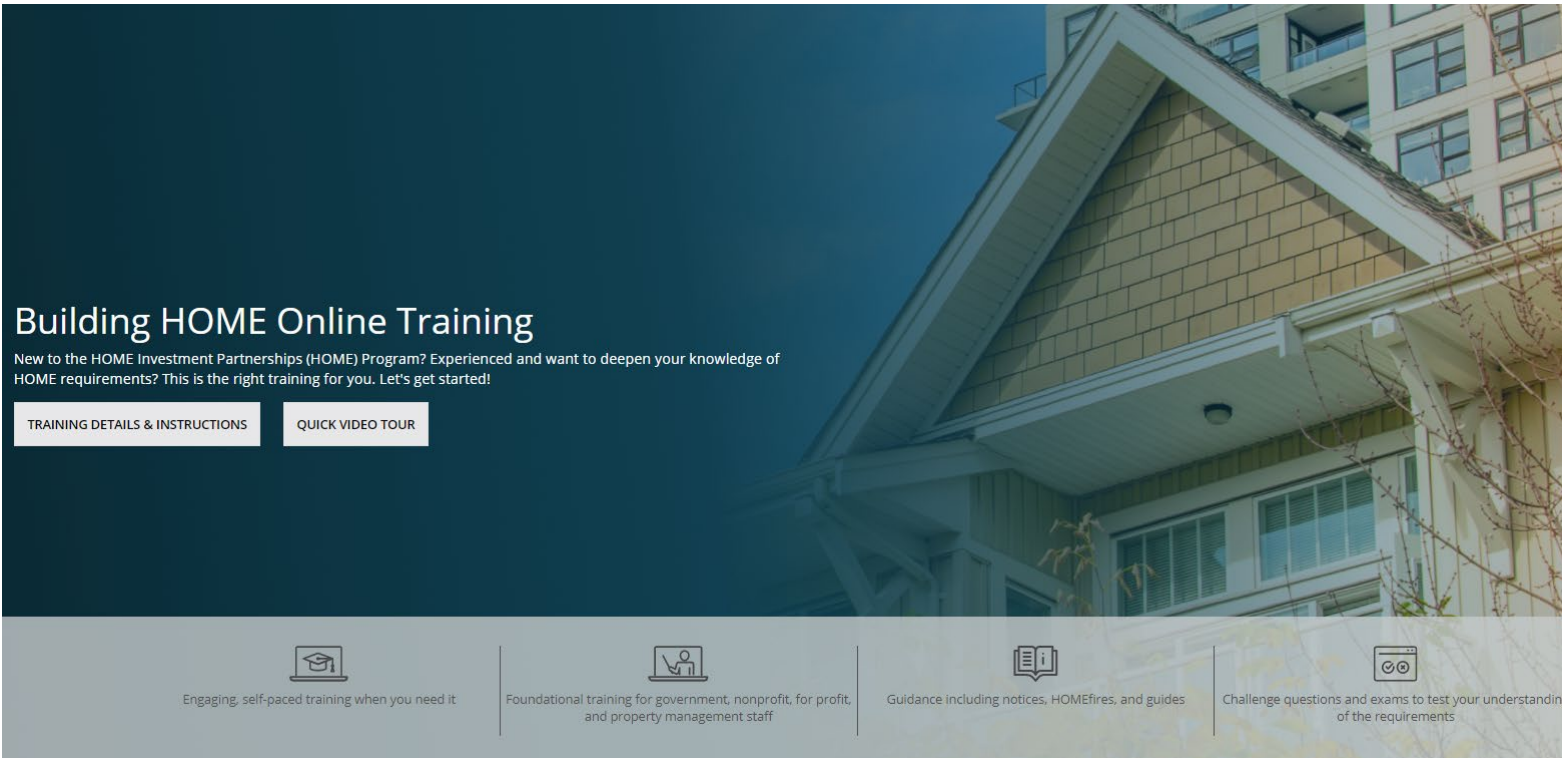
HOME Topics



Need technical assistance to prepare for HUD monitoring? [Request TA on the HUD Exchange.](#)



Building HOME Online Training

A banner for the Building HOME Online Training program. The background is a photograph of a modern, multi-story residential building with a mix of wood and stone siding. The text is overlaid on the left side.

Building HOME Online Training

New to the HOME Investment Partnerships (HOME) Program? Experienced and want to deepen your knowledge of HOME requirements? This is the right training for you. Let's get started!

[TRAINING DETAILS & INSTRUCTIONS](#) [QUICK VIDEO TOUR](#)

Engaging, self-paced training when you need it

Foundational training for government, nonprofit, for profit, and property management staff

Guidance including notices, HOMEfires, and guides

Challenge questions and exams to test your understanding of the requirements

A banner for the HOME Program Administration training. The background is a photograph of a man in a suit leaning over a desk, pointing at documents, while several other people look on. The text is overlaid on the right side.

Module 3

HOME Program Administration

<https://www.hudexchange.info/trainings/building-home/>





Wrap Up

Questions?



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