

PROGRAM ADMINISTRATION

In addition to monitoring and enforcing program compliance, monitoring agencies also have several program administration responsibilities. They include:

- ◇ reporting to FDIC (or its successor);
- ◇ maintaining monitoring and compliance records; and
- ◇ cooperating with FDIC during its review of agency performance.

This Chapter will examine monitoring agency responsibilities under the MOU.

6.1 SEMI-ANNUAL REPORTS TO FDIC

As established in the MOU, monitoring agencies must provide semi-annual reports of their monitoring activities to the Washington, D.C. office of FDIC, or the designated office of FDIC. FDIC asks agencies to submit reports twice a year in order to fulfill its reporting obligations to Congress.

Each report should contain the following items:

<p style="text-align: center;">Contents Of Semi-Annual Report To FDIC</p> <ul style="list-style-type: none">◇ Names and addresses of all owners monitored.◇ Names and addresses of all properties monitored.◇ Occupancy status with respect to Total and VLI Set-Asides◇ Description of agency monitoring activities for the period.◇ List of properties not in compliance and the type of violation.◇ Description of agency activities to compel owners to restore compliance.

The report should be prepared in the format prescribed by FDIC for monitoring agency semi-annual reports. A sample report format is included in Appendix L.

FDIC will establish the reporting schedule for submitting agency reports. FDIC may change the due date for semi-annual reports after providing the agency adequate notification.

6.2 AGENCY RECORD-KEEPING

Monitoring agencies must maintain all files and records pertaining to their AHP monitoring and enforcement activities. These records, which must be kept for a period of three years unless otherwise instructed by FDIC, must include:

- ◇ individual property monitoring files;
- ◇ property compliance reports;
- ◇ notices of compliance violations;
- ◇ documentation of agency activities to compel owners to restore compliance; and
- ◇ documentation of all administrative fees (received and outstanding) for each owner.

These records must be maintained in condition suitable for review and should be kept in a single location.

Monitoring agencies must make AHP records, reports, and related materials available to FDIC, or its authorized representatives, upon request. FDIC and its duly authorized representatives may inspect, audit, and copy any of these items during regular business hours and at other times deemed reasonable by FDIC. FDIC will notify agencies prior to conducting such a review.

Under the MOU, monitoring agencies also agree to provide representatives of the Comptroller General or the General Accounting Office (GAO) access to examine any property within the agencies' control involving transactions related to their MOU with FDIC.

6.3 COMPLIANCE MONITORING SYSTEM (CMS)

To assist the FDIC and the monitoring agencies with the tracking and reporting of compliance, FDIC has developed and distributed the **AHP Compliance Monitoring System (CMS)** software for use by the monitoring agencies. CMS is designed to assist the agency with the monitoring of properties by analyzing the owner's reports for key compliance issues, including Set-Asides, rent limits, income eligibility, proportionality, and (to a limited extent) Next Available Unit requirements. CMS also assists the agency by producing the Semi-Annual report from the information entered from property reports. A full User's Guide is distributed by FDIC.

CMS has been designed to help agencies monitor property compliance in addition to compile the required semi-annual reports. CMS includes an **Audit subsystem** that can be used by monitoring agencies to load data for individual properties, compile and compare current information collected, and determine if compliance violations exist. This information can then be uploaded into CMS to be stored for reporting purposes.

In addition, FDIC has developed a subsystem known as the **Owner Data Entry Program (ODEP)** for use by owners. Although Owners are not required to use the program, it is strongly encouraged, since it will help reduce errors and save the agencies time in doing the required data entry. The software is provided to owners at no cost. See the Owner's Compliance Manual.

The primary purpose of ODEP is to help owners compile the monthly or annual reports due to the monitoring agency, and thus provide compliance data in computer format for use by the agency in its monitoring and reporting, but it also offers many additional features which help the owner to determine eligibility, maintain records, and tracking ongoing compliance. ODEP will:

- ◇ calculate applicant/tenant income, compare annual income to eligibility limits, and determine eligibility based upon income information entered;
- ◇ compare rents to current AHP rent limits;
- ◇ produce the TIC for tenant and owner signature;
- ◇ store the TIC information so that owners may produce the monthly rent roll and the monthly or annual compliance report without re-entering any data (assuming owners have entered all unit information); and
- ◇ allow owners to check their property for ongoing compliance with Set-Asides, proportionality, and (to a limited extent) NAU/NAQU rules, and for expired TICs.

These features help the owners by reducing errors and reducing the time required to compile reports. ODEP can speed up tenant processing by doing the determination of eligibility without computation errors. ODEP can produce the monthly rent roll and the monthly or annual compliance reports with only a few keystrokes. Also, the owner can use the software to check for compliance and to avoid errors that otherwise might only be discovered after the error has occurred. However, the ODEP system is capable of providing these benefits only if the owner/manager uses the system on an ongoing basis to process all certifications, recertifications, and unrestricted unit turnovers.

At the monitoring agency's option, properties in full compliance may be permitted to submit future reports and TICs in computerized rather than hard copy version.

This software should be made available to owners at no charge from the monitoring agency. The software is self-contained, but it requires the agency to first set up the property as described in Chapter 6 of the CMS Manual (see section 6.2.5). Training of owners and managers who will use the system is recommended. For a period of time, training and technical support are available from the FDIC.

6.4 FDIC REVIEW OF AGENCY PERFORMANCE

FDIC expects that each monitoring agency will continuously fulfill its obligations as set forth in the MOU and properly follow the monitoring procedures presented in this manual.

As established in the MOU, FDIC will periodically review agency performance, which may include an on-site visit and review of records. FDIC will contact monitoring agencies in advance to schedule the visit.

If the results of the periodic review indicate that an agency's monitoring and enforcement activities are unsatisfactory, FDIC will provide written notice to the agency describing the areas of unsatisfactory performance and offer the agency reasonable opportunity to remedy its performance.

6.5 CONTRACTING FOR MONITORING SERVICES

The MOU permits agencies to contract with other entities for monitoring services in support of their monitoring and enforcement responsibilities.

An agency's contract with a monitoring services provider should set forth the provider's specific monitoring responsibilities and provide a means to ensure satisfactory performance of these responsibilities. The contract should specify that only the monitoring agency, or another entity with authorization under state law to initiate legal action, may prosecute judicial enforcement actions in cases of non-compliance by an owner.

The monitoring agency should also schedule and conduct periodic monitoring of contractor(s) to ensure compliance with all monitoring obligations, including on-site review of files to verify information reported.

In all circumstances, the monitoring agency is ultimately responsible for the successful performance of the monitoring and enforcement obligations established in the MOU.

