

## **Addendum C**

### **HOME HOME Action Plan For 2013 Funds**

#### **Compliance Monitoring Procedures, Requirements and Penalty Criteria**

As referenced in Section VII (“Compliance”) of the HOME Action Plan for 2013 funds (“HOME Action Plan”), the AHFA Compliance department will conduct monitoring procedures and requirements to ensure owner and project are in compliance with the HOME Regulations. These compliance monitoring procedures apply to all buildings placed in service in Alabama, which have received an allocation of HOME funds from AHFA. A complete outline of AHFA’s compliance requirements is located in AHFA Compliance Manual available at [www.ahfa.com](http://www.ahfa.com).

##### **I. Compliance Monitoring Procedures and Requirements:**

- A. AHFA will verify that the owner of a low-income housing project is maintaining records for each qualified low-income building in the project. These records must show, for each year in the compliance period, the information required by the record-keeping provisions contained in the HOME Regulations, incorporated herein by reference.
- B. AHFA will verify that the records documenting compliance with the HOME Regulations for each year as described in Paragraph A above are retained for the entire affordability period.
- C. AHFA will inspect 100% of the HOME projects each year and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent records in those projects.
- D. The owner must allow AHFA to perform an on-site inspection of any low-income building in the project through the end of the compliance period. This inspection may be separate or in conjunction with any review of tenant files under Paragraph C and will include habitability requirements.
- E. AHFA will promptly notify the owner in writing if AHFA is not permitted to inspect and review as described in Paragraphs C and D, or otherwise discovers that the project does not comply with the HOME Regulations. In such event, the owner will be allowed a correction period to supply missing documentation or to correct noncompliance. This correction period begins the earlier of (i.) the date the notification is mailed or (ii.) the date of the inspection.
- F. AHFA may notify HUD of an owner’s noncompliance or failure to certify no later than 45 days after the end of the time allowed for correction and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected.

- G. During the compliance period, the owner will furnish to AHFA, within 60 days of the close of each fiscal year, a consolidated statement of financial position, an income and expense statement, and a rent roll of the project for that fiscal year. These items are to be certified by the owner.
- H. Compliance with requirements of the HOME Regulations is the responsibility of the owner of the building for which HOME funds are loaned or granted. AHFA's obligation to monitor for compliance with the requirements of the HOME Regulations does not make AHFA or the State of Alabama liable to any owner or to any shareholder, officer, director, partner, member or manager of any owner or of any entity comprising any owner for an owner's non-compliance therewith.
- I. It is the policy of AHFA to immediately report any indication of fraud, waste, abuse, or potentially criminal activity pertaining to federal funds to the appropriate federal department and the cognizant inspector general of such department.

## **II. Penalty Scoring Criteria for Non-Compliance**

Consistent with the monitoring procedures and requirements as described above, the AHFA compliance staff will deduct up to twenty (20) penalty points for owner/project non-compliance during the 2013 application cycle as follows:

- A. One (1) penalty point will be deducted for each project for which the applicant does not submit a complete Annual Owner's Certification form per project to the AHFA's Compliance Department by the AHFA specified deadline.
- B. Up to nineteen (19) penalty points will be deducted if the applicant's approved and/or existing projects are deemed by AHFA not to be in compliance with the applicable guidelines and regulations for any of the following: Section 42 of the IRS Code, the HOME program, AHFA Housing Credit and HOME Action Plans, the Tax Credit Assistance Program (TCAP) or the Exchange Program. Point deductions will be based on the following methodology:
  - a. Health and Safety Violations - Effective January 1, 2013, two (2) penalty points per occurrence (or collectively per project audited if the same violation) will be assessed for the health and safety violations (listed below), if cited as a finding at the time of inspection by AHFA (or its designated representative). AHFA will immediately notify the owner (and management company) during the onsite visit and will provide written notice regarding the applicable violation and specify the timeframe that the owner will be required to cure (or correct the applicable violation(s)). *Penalty deductions resulting from any violation listed below will be assessed automatically upon discovery and regardless of whether the identified violations are cured or corrected. In addition, four (4) additional penalty points will be deducted if the applicant fails to cure the violations within the timeframe specified in the violation notice from AHFA. The health and safety violations that will result in automatic penalty point deductions are as follow (the "Health and Safety Violations"):*

- i. Missing, non-charged or empty fire extinguishers for more than thirty percent (30%) of units audited. Missing, non-charged or empty fire extinguishers for thirty percent (30%) or fewer of the audited units will be subject to the penalty criteria as defined in section II(B)(e) herein.
  - ii. Missing or non-working smoke detectors for more than thirty percent (30%) of units audited. Automatic penalty points will not be deducted if there is at least one operable smoke detector unit per floor for each apartment unit inspected. For all other missing or non-working smoke detectors cited, the penalty criteria will be as defined in Section II(B)(e) herein.
  - iii. Exposed wiring.
  - iv. Insect infestation, including, but not limited to, applicant's failure to notify AHFA of any bed-bug infestation.
  - v. Severe damage to sidewalks or parking lots.
  - vi. Missing or broken handrails or steps.
- b. Occupied, Vacant Uninhabitable or Non-Rent Ready Unit Deficiencies - Effective January 1, 2013, one (1) penalty point per occurrence (or collectively per project audited if the same deficiency) will be assessed for each of the occupied, vacant (for more than thirty (30) days), uninhabitable or non-rent ready unit deficiencies listed below, if cited as a finding at the time of inspection by AHFA (or its designated representative). AHFA will provide written notice to the owner regarding the applicable deficiency and specify the timeframe that the owner will be required to cure (or correct the applicable deficiency(ies)). *Penalty deductions resulting from any deficiency listed below will be assessed automatically and regardless of whether the identified deficiencies are cured or corrected. In addition, two (2) additional penalty points will be deducted if the applicant fails to cure the deficiencies within the timeframe specified in the deficiency notice from AHFA. The deficiencies that will result in automatic penalty point deductions under this paragraph are as follows (the "Occupied, Vacant and Uninhabitable or Non-Rent Ready Deficiencies"):*
- i. Missing bathroom or plumbing fixtures.
  - ii. Missing stoves, dishwashers, or kitchen cabinetry.
  - iii. Boarded or missing exterior windows or doors.
  - iv. Not cleaned or unsanitary vacant units.
  - v. Units unable to be accessed or inspected by AHFA at the time of its inspection/audit.
  - vi. Severe and unrepaired damage to any vacant unit.
- c. Site, Exterior or Common Area Deficiencies - Effective January 1, 2013, one (1) penalty point per occurrence (or collectively per project audited if the same deficiency) will be assessed for the site, exterior or common area deficiencies listed below, if cited as a finding at the time of inspection by AHFA (or its designated representative). AHFA will provide written notice to the owner regarding the applicable deficiency and specify the timeframe that the owner will be required to cure or correct the applicable

deficiency(ies). Penalty deductions resulting from any deficiency listed below will be assessed automatically upon discovery and regardless of whether the identified deficiencies are cured or corrected. In addition, two (2) additional penalty points will be deducted if the applicant fails to cure the deficiencies within the timeframe specified in the deficiency notice from AHFA. The site, exterior or common area deficiencies that will result in automatic penalty point deductions under this paragraph are as follows (the “Site, Exterior or Common Area Deficiencies”):

- i. Missing project amenities as approved in owner’s approved application.
  - ii. Gutters and downspouts with missing or broken components or that do not function as intended.
  - iii. Siding and /or exterior trim has rotted and allows water to penetrate behind exterior.
- d. Documentation or File Deficiencies - Effective January 1, 2013, one (1) penalty point per occurrence (or collectively per project audited if the same deficiency) will be assessed for the documentation or file deficiencies listed below, if cited as a finding at the time of inspection by AHFA (or its designated representative). AHFA will provide written notice to the owner regarding the applicable deficiency and specify the timeframe that the owner will be required to cure or correct the applicable deficiency(ies). Penalty deductions resulting from any deficiency listed below will be assessed automatically upon discovery and regardless of whether the identified deficiencies are cured or corrected. In addition, two (2) additional penalty points will be deducted if the applicant fails to cure the deficiency within the timeframe specified in the deficiency notice from AHFA. The documentation or file deficiencies that will result in automatic penalty point deductions under this paragraph are as follows:
- i. Failure to provide an updated utility allowance that result in the tenant being charged rent in excess of applicable rent.
  - ii. If over thirty percent (30%) of files selected for audit indicates that tenants are over the applicable income limit. Any findings related to this category that total 30% or less will be subject to the penalty criteria as defined in section II(B)(e) herein.
  - iii. If over thirty percent (30%) of files selected for audit are missing. Any findings related to this category that is 30% or less will be subject to the penalty criteria as defined in section II(B)(e) herein.
  - iv. If over thirty percent (30%) of files selected for audit indicates that tenants are ineligible households due to student rule violations. Any findings related to this category that total 30% or less will be subject to the penalty criteria as defined in section II(B)(e) herein.
  - v. If over thirty percent (30%) of files selected for audit indicates that tenants were charged over the maximum applicable rents. Any findings related to this category that total 30% or less will be subject to the penalty criteria as defined in section II(B)(e) herein.

- e. Other General Deficiencies - Two (2) penalty points per occurrence (or collectively per project audited if the same deficiency) will be assessed for other general deficiencies if cited as a finding at the time of inspection by AHFA (or its designated provide written notice to the owner regarding the applicable violation or deficiency and specify the timeframe that the owner will be required to cure or correct them. General deficiencies include all violations or deficiencies not listed in the preceding paragraphs that are cited as findings during the AHFA onsite audits.
- C. Applicant/Owner(s) with less than five (5) years' experience with AHFA (or less than five-hundred (500) total AHFA units). AHFA may terminate any new applications submitted by owner/applicants with less than five (5) years' experience (or less than 500 AHFA-units) if any AHFA or non-AHFA units inspected by AHFA (or AHFA designated representative) are cited for any Health and Safety Violation, any Occupied, Vacant and Uninhabitable or Non-Rent Ready Deficiencies, or any Site, Exterior or Common Area Deficiencies.