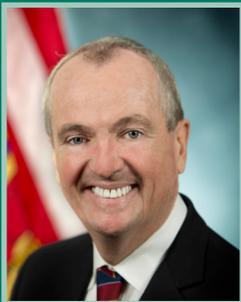




NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

# Low Income Housing Tax Credits Compliance Monitoring Procedures Manual



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**Low Income Housing Tax Credit**  
**Compliance Monitoring**  
**Procedures Manual**



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## INTRODUCTION

### ***BACKGROUND***

Under the federal Tax Reform Act of 1986, the U.S. Department of Treasury established the Low Income Housing Tax Credit Program as an incentive for investment in the construction and rehabilitation of low income housing. The Internal Revenue Service (“IRS”), as part of the Department of Treasury, became the administrator of the tax credit program described in Section 42 of the Internal Revenue Code (“IRC”, “Code”) (*see Exhibit D8*). The New Jersey Housing and Mortgage Finance Agency (the “Agency”) was designated as the housing credit agency for the State of New Jersey responsible for allocating the Low Income Housing Tax Credit.

The Omnibus Budget Reconciliation Act of 1990 amended the Internal Revenue Code to require that the designated housing credit agency establish a procedure for monitoring housing developments for compliance with the federal tax credit program regulations effective January 1, 1992. Following that amendment, the Internal Revenue Service adopted final regulations which describe the minimum procedure that the designated housing credit agency must follow for monitoring compliance of buildings developed with the low income housing credit (*see Exhibit D1*). These final regulations became effective June 30, 1993.

### ***PURPOSE FOR THIS MANUAL***

This manual, designed by the New Jersey Housing and Mortgage Finance Agency (“the Agency”), is a guide to understanding compliance monitoring under Section 42 of the Internal Revenue Code, which governs the use of the Low Income Housing Tax Credit. It was developed, pursuant to Section 42 of the IRC and the IRS Procedure for Monitoring Compliance, for project owners, management companies, on-site management personnel and anyone involved with Agency procedures for monitoring compliance of tax credit properties. It is intended to be used as a supplement, and not a replacement, to the Internal Revenue Code, revenue procedures, revenue rulings, letter rulings, notices, announcements, any applicable Treasury regulations and any applicable federal law.

The Internal Revenue Service requires that the New Jersey Housing and Mortgage Finance Agency as the housing credit agency for the State of New Jersey monitor all projects that were developed as a result of an allocation of tax credits.

The Internal Revenue Service has made it clear that compliance with the requirements of the Code is the sole responsibility of the owner of any building for which the credit has been allocated. The Agency’s responsibility to monitor for compliance will not cause the Agency to be liable for an owner's noncompliance. Therefore, an owner should not rely solely on the Agency to determine if the project records are in compliance. In addition, the owner should not rely solely on any outside service, organization or agency in their dealings with the owner's tax credit buildings. Any error that is made will be the responsibility of the owner.

Use of this manual does not ensure compliance with the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing Low-Income Housing Tax Credits. In addition, it does not guarantee the financial viability of any project. As a result, the Agency recommends that all tax credit recipients consult their tax accountant, attorney or advisor as to the specific requirements of the tax credit program and Section 42 of the Code.

## CHAPTER 1

### COMPLIANCE PROCEDURES

The Agency is required by the Internal Revenue Service to monitor each development throughout the project's compliance period. This section of the manual outlines the Agency's compliance procedures that should be followed by the owners of projects that were developed as a result of an allocation of tax credits. These procedures are consistent with the Internal Revenue Service Procedure for Monitoring Compliance. Compliance with the Internal Revenue Code and these procedures is necessary to assure the continued use of the low income housing tax credit.

#### Agency Responsibilities

The Agency allocates tax credits through a competitive application process in accordance with the State's qualified allocation plan. An allocation plan is qualified if it contains a procedure that the Agency will follow in monitoring compliance with the provisions of the Code. Once an allocation is awarded, the owner will receive from the Agency the Form 8609 (*see Exhibit E1*) with Part I completed by the Agency. The Agency will then do the following to monitor a project for compliance:

1. Provide the building owner with the Internal Revenue Service Procedure for Monitoring Compliance and the Agency's Monitoring Procedures Manual (*This document*).
2. Annually request and review the submission of the Owners Certificate of Continuing Program Compliance (*see Exhibits B1a, B2a, B2b*), the Annual Project Certification with Social Services Models (*see Exhibit B3a*), Annual Project Certification for Projects in the Supportive Housing Cycle or with Set-Aside Special Needs Units (*see Exhibit B3b*) and Annual Tenant information submitted via the Mitas Web Access System for the preceding twelve (12) month period.
3. For a minimum of thirty-three (33) percent of the projects, annually perform physical inspections of developments and reviews of tenant files and project files (*see Owner/Agent Recordkeeping Exhibit D7*). The Agency will select which projects will undergo Agency review and will give owners reasonable notice that their project has been chosen as well as identify which documents will need to be submitted. Reviews may occur more frequently than on a twelve (12) month basis, provided that all months within each twelve (12) month period are subject to certification. The property may be re-inspected after the thirty (30) day cure period to ensure that all deficiencies have been abated.
4. The Agency may also review the records of occupancy for the first twelve (12) months in order to ensure that the minimum set-aside was met within the appropriate time period. (*In order to claim any tax credits, owners must meet their minimum set-aside by the end of the first year in which the project is placed in service or by December 31st of the following year depending on which year is the first year of the credit period. Owners are encouraged to speak with their legal counsel regarding this issue.*)

5. Notify the owner and/or agent of any noncompliance or failure to certify, as required by the IRS.
6. Report to the Internal Revenue Service all noncompliance via Form 8823 (see *Exhibit E2*) within 45 days of the end of the owner's correction period regardless of whether or not the noncompliance was corrected.
7. Retain compliance records as per the IRS Procedure for Monitoring Compliance.
8. Provide owners and/or agents with applicable rules and regulations and notice of program changes throughout the compliance period. *However, it is the owner's ultimate responsibility to ensure that the project complies with all program requirements regardless of whether the Agency sent a notice regarding changes.*
9. When scheduling permits, provide owners/agents with at least one compliance training per year.

#### **Owner/Managing Agent Responsibilities**

Each building owner has chosen to utilize the Low Income Housing Tax Credit Program and take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met throughout the compliance period that will ensure the continuance of the tax credit.

*Although an owner may have a managing agent acting on his or her behalf, the owner is ultimately responsible for ensuring compliance with all applicable low income housing tax credit regulations and rules. In selecting a managing agent, the owner should ensure that the agent and all on-site personnel are knowledgeable of the provisions and requirements of the tax credit program and have adequate experience in managing a tax credit project.*

The owner/agent must:

1. Provide and maintain an elevator contract during the entire compliance period which includes the extended use period.
2. Pay an annual or one-time compliance monitoring fee to cover the cost of the Agency's review, for projects that received an allocation of tax credits prior to 2001. Pay an allocation/issuance fee to cover the cost of the Agency's review, for projects that received an allocation post 2000.
3. Submit to the Agency a copy of IRS Form 8609 (see *Exhibit E1*) with Part II completed, once filed with the Internal Revenue Service for the first year of the credit period.
4. Income qualify each tenant household by collecting income documentation and have that tenant sign a move-in certification (see *Chapter 4, Certifying Annual Income and Exhibit C1*). Annually, recertify each tenant by collecting current income documentation and have him or her sign a recertification.

**All Tax Credit files should contain the following documents:**

- Rental Application \*(not required for existing tenants at acquisition of the property)
- Initial Lease Agreement with a minimum term of six (6) months
- Tenant Income Certification or Self Certification (if applicable)– required annually
- Child Support Certification \*(not required for Self Certs)
- Assets Disposed of for Less than Fair Market Value Certification \*(not required for Self Certs)
- Student Status Verification – required annually \*(not required in the Extended Use Period)
- Window Guard, Smoke Detector, Carbon Monoxide Detector acknowledgement(s) – annually

**\* NOTE:** The Tax Credit file should be a separate file from the HUD file and not contain any EIV(Enterprise Income Verification) system data.

5. For residents residing in 100% tax credit properties, a move-in certification shall be required at move-in, followed by a recertification on the 1 year anniversary of move-in. Self-certification shall be required in subsequent years, provided the property continues to operate 100% affordable/tax credit. The resident shall still be required to complete the Tenant Income Certification and other forms on an annual basis. However, third party verification of income and assets shall no longer be required.
6. Meet minimum set-aside within the required time frame. If a project fails to meet the minimum set-aside by the end of the first credit year, the owner may be subject to full recapture of the tax credits.
7. For projects that were allocated credits based on the agreement to provide social services to residents, an Annual Project Certification for Projects with Social Service Models (*see Exhibit B3a*), along with appropriate documentation must be submitted to the Agency on an annual basis.
8. For projects that were allocated credits based on the agreement to serve a special needs population an Annual Project Certification for Projects in the Supportive Housing Cycle or with Set-Aside Special Needs Units (*see Exhibit B3b*), along with appropriate documentation and a completed Special Needs Population Certification Form (*see Exhibit B3c*) must be submitted to the Agency on an annual basis.
9. For projects that were allocated credits based on the agreement to serve the frail elderly, a Frail Elderly Certification Form (*see Exhibit B3d*) must be submitted to the Agency on an annual basis.
10. Annually submit the Owners Certificate of Continuing Program Compliance (*see Exhibits B1a, B2a, B2b*) to the Agency which requests that you certify, under penalty of perjury, that for the preceding twelve (12) month period all requirements of the Low Income Housing Tax Credit Program have been met.
11. Annually, submit to the Agency, Tenant information via Mitas Web Access System, which asks for certain tenant income, asset and rent information for the preceding twelve (12) month period.

12. Make available to Agency personnel, upon request, annual tenant income certifications/recertifications, supporting income documentation, rent rolls, social service agreements/contracts and other information that the Agency deems necessary to monitor compliance and facilitate the Agency's compliance review (*see Exhibit D7*).
13. Upon request, accompany Agency personnel on a physical inspection of the housing development.
14. Ensure that the housing development is properly administered at all times and is suitable for occupancy, taking into account state ("Chapter 10, Maintenance of Hotels and Multiple Dwellings Regulations, N.J. Department of Community Affairs"), local health, safety and building codes.
15. Retain and maintain records demonstrating the project's compliance for each year of the compliance period
16. Keep the Agency informed of any changes affecting the development, such as project ownership and/or management during the compliance period, change in address of owner or management, etc.

**\*NOTE:** Owners of buildings/projects that have received tax credits are required to inform the NJHMFA of the sale of any building(s) which takes place during the compliance period, within thirty days of the ownership change. The owner should specify the following information:

- Project Address
- Original Owner
- New Owner
- New Owner Tax Identification Number
- If project was not sold in its entirety, please explain.
- Date of transfer.

17. Notify the Agency immediately if the development is not in compliance with the tax credit program requirements.
18. Take action to correct any incidents of noncompliance within the required time frame. The Agency must report to the IRS any violation of the requirements of the low income housing tax credit program. Failure to correct within the time specified by the Agency may result in the loss of tax credits.
19. Submit on an annual basis by May 1 a copy of the project's audited financial statement for the prior fiscal year.

***Certification by the Owner (see Owners Certificate of Continuing Program Compliance, Exhibits B1a, B2a, B2b)***

***The owner/agent of a low income housing project must certify, under penalty of perjury, annually to the Agency for each year of the compliance period that for the preceding twelve (12) month period:***

1. The project met the requirements of the elected Federal Minimum Set-Aside:
  - 20-50 test under Section 42(g)(1)(A)  
20% or more of the residential units are both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income as adjusted for family size;
  - 40-60 test under Section 42(g)(1)(B)  
40% or more of the residential units are both rent restricted and occupied by tenants whose income is 60% or less of the area median gross income as adjusted for family size;
  - Average Income (also referred to Income Averaging) under the Consolidated Appropriations Act of 2018  
40% or more of the residential units are both rent restricted and occupied by individuals whose income designations average 60% or less of the area median gross income as adjusted for family size;
  - 15-40 test under Sections 42(g)(4) and 42(d)(4)(B) for “deep rent skewed” projects
2. There was no change in the applicable fraction of any building in the project (Section 42(c)(1)(B), or that there was a change and a description of the change. Any change in the applicable fraction that results in a decrease in the qualified basis of the project is considered to be noncompliance that must be reported to the IRS.
3. The Owner received an annual income certification on each low income tenant, and documentation to support that certification; or in the case of a tenant receiving Section 8 Housing Assistance Payments, a statement from a public housing authority that the tenant's income does not exceed the applicable limits under federal regulations. For residents residing in 100% tax credit properties, a move-in certification shall be required at move-in, followed by a recertification on the 1 year anniversary of move-in. Self-certification shall be required in subsequent years, provided the property continues to operate 100% affordable/tax credit. The resident shall still be required to complete the Tenant Income Certification and other forms on an annual basis. However, third party verification of income and assets shall no longer be required.
4. Each low income unit in the project was rent restricted under Section 42(g)(2).
5. All units in the project were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii)).
6. Each building in the project was suitable for occupancy, taking into account state, local health, safety and building codes.
7. There was no change in the eligible basis of any building in the project, or if there was a change, the nature of the change (as defined in Section 42(d), e.g. a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge). As stated earlier, any change in the eligible basis that results in a decrease in the qualified basis of the project is considered to be noncompliance and must be reported to the IRS.

8. All tenant facilities included in the eligible basis under Section 42(d) of any building in the project such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.
9. If a low income unit in the project became vacant during the year that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income.
10. If the income of tenants of a low income unit who previously were verified to be income eligible increases to above 140 percent of the applicable limited allowed in Section 42(g)(2)(D)(ii), that unit may continue to be counted as a low income unit as long as the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income.
11. That an extended low-income housing commitment as described in Section 42(h)(6) of the Code was in effect for buildings subject to Section 7108-(c)(1) of the Revenue Reconciliation Act of 1989, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. In addition, that owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provision, including any special provisions, as outline in the extended low-income housing commitment;
12. That no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for the project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;
13. That if the owner received its credit allocation from the Nonprofit set-aside (Section 42(h)(5) of the Code), that the non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code; and
14. That there has been no change in the ownership or management of the project, or that there was a change and a description of the change.
15. The owner has notified each applicant and tenant, via Form HUD – 5380, of their rights under the Violence Against Women Act, Pub. L. No. 103-322, tit IV, 108 Stat. 1902 (1994), VAWA 2005, Pub. L. No. 109-162, 4402, 119 Stat. 2960, 3041-49 (2006), VAWA 2013, Pub. L. 113-4, 601, 127, Stat. 54 (2013) and if applicable VAWA 2013: Implementation in HUD Housing programs, 81 Fed. Reg 80, 724 (Nov. 16, 2016) “HUD VAWA Final Rule” and distributed Form HUD-5382, VAWA self-certification form (See Exhibit F1).
16. The owner has not increased the rent charged to each existing tenant (excluding rental assistance) by more than 5.00 percent annually, including due to changes in utility allowance calculations.
17. The on-site Property Management office had office hours of at least 20 hours every week.

18. The owner has registered and posted the property on our Housing Resource Center (<https://www.nj.gov/njhrc/>) and actively updated property information.

**Owner/Agent Recordkeeping**

Owners/agents are required to keep records for each qualified low income building in the project which will show for each year of the compliance period the following information:

- 1.) The total number of residential rental units in the building, including the number of bedrooms and the square footage of each residential rental unit.
- 2.) The percentage of residential rental units in the building that are low income.
- 3.) The rent charged on each residential rental unit in the building, including any utility allowances.
- 4.) The number of occupants in each low income unit, but only if rent is determined by the number of occupants in each unit under Section 42(g)(2)(as in effect before the Revenue Reconciliation Act of 1989).

**\*NOTE:** Prior to the passage of the Revenue Reconciliation Act of 1989, maximum allowable rent for a low-income unit was determined by the actual size of the family occupying the unit. Section 42(g)(2) states that a unit is rent restricted if the gross rent does not exceed 30 percent of the income limitation applicable to such unit. Therefore, the maximum allowable gross rent varied based on the number of individuals occupying the unit. Those projects receiving an allocation of tax credits prior to 1990 could make an election to continue using family size in determining maximum allowable rent, or could elect the apartment size (number of bedrooms) method. This election had to be made by February 7, 1994 and only affects any households first occupying any of the units after the date of this election. Managing agents should check with the owner or the Agency to determine whether an election was made so that rents could be calculated correctly. (*see Exhibit D5*)

- 5.) The low income unit vacancies in the building and information that shows when and to whom the next available units were rented .
- 6.) The annual income certification of each low income tenant per unit. For residents residing in 100% tax credit properties, a move-in certification shall be required at move-in, followed by a full recertification on the 1st year anniversary date of move-in. Self-certification shall be required in subsequent years, provided the property continues to operate as 100% affordable/tax credit. The resident will still be required to complete the Tenant Income Certification and other forms on an annual basis. However, third party verification of income and assets shall no longer be required.
- 7.) Documentation to support each low income tenant's income certification (i.e., a copy of the tenant's federal income tax return, W-2 form or income verification from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, not in accordance with the determination of gross income for federal income tax liability (*see Exhibit D9*).

In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under Section 42(g). (see *Exhibit C9*)

- 8.) The eligible basis and qualified basis of the building at the end of the first year of the credit period.
- 9.) The character and use of the non-residential portion of the building included in the building's eligible basis under section 42(d) (i.e., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

### **Owner/Agent Record Retention**

- 1.) Owners/agents are required to retain the records described above for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year.
- 2.) The records for the first year of the credit period, however, must be retained for the entire compliance period plus six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building (21 years total).

Therefore, records for the first year of the compliance period must be retained for twenty-one (21) years. Records for each year thereafter must be retained for six (6) years after filing the federal income tax return for that particular year.

### **Purging Tenant Files**

When purging tenant files, the Initial Lease Agreement and Move-in Certification should be moved to the current file. Tenant files should be maintained in a neat and orderly fashion.

### **Record Retention by the Agency**

The Agency must retain records of noncompliance or failure to certify for a minimum of six (6) years beyond the Agency's filing of the IRS Form 8823 (see *Exhibit E2*). In all other cases, the Agency must retain the certification and records submitted by the owner for three (3) years from the end of calendar year in which they were received by the Agency.

### **Notification of Noncompliance**

Upon determination by the Agency of noncompliance with Section 42 of the Internal Revenue Code or other relevant rules and regulations (e.g., the Agency does not receive the annual certification, fee and supporting documentation described above or does not receive or is not permitted to inspect the tenant records when requested or discovers by inspection or in some other manner that the project is not in compliance), the Agency will give prompt written notice to the owner/agent of the violation. The owner/agent will then be given up to thirty (30) days from the date of the notice to correct the violation(s). The Agency may extend the correction period for an additional six months if the Agency determines there is reasonable basis to grant such an extension. Ultimately, the *owner* (not the managing agent) will be held liable for instances of non-compliance and the correction of such deficiencies.

Within forty-five (45) days of the end of the correction period, the Agency will notify the IRS via Form 8823 (see [Exhibit E2](#)) of the noncompliance and report whether the owner has or has not corrected the violation.

### **Agency Notice**

The following schedule outlines the amount of time the Agency will give under certain circumstances. *Please be aware that the Agency reserves the right to give less notice or no notice under circumstances where the Agency deems necessary, such as when the health and safety of the tenants residing in the building may be jeopardized.*

### **Circumstances**

### **Notice**

- |   |  |
|---|--|
| *A project is chosen as part of the Agency's one-third requirement and will undergo a file review and a physical inspection | The Agency will give a minimum of fifteen (15) days notice   |
| *The Agency notifies an owner/agent that the project is in compliance or out of compliance.                                 | The Agency will notify an owner, in writing, of any compliance or noncompliance within forty-five (45) days of the determination |
| *The Agency gives an owner/agent time to correct any noncompliance  | The Agency will give a minimum of thirty (30) days to correct any noncompliance.   |

### **Due Dates**

- |  |  |
|--|--|
| * Project Status Form, (see <a href="#">Exhibit F2</a> )   | Within thirty (30) days of closing date  |
| *New Property Check List with supporting documents (see <a href="#">Exhibit B1</a> )   | Within thirty (30) days of placed in service date  |
| *Annual Property Check List with supporting documents (see <a href="#">Exhibit B2</a> )                                      | January 31st of each calendar year   |
| *Submission of tenant information via MITAS Web Access System  | January 31 <sup>st</sup> of each calendar year   |
| *Annual Checklist for Social Service Models and/or Special Needs with supporting documents (see <a href="#">Exhibit B3</a> ) | January 31st of each calendar year   |
| *Payment of the Monitoring Fee, (See page 78, Reporting requirements and Monitoring Fees)                                    | January 31st of each calendar year<br><b>(due in the 1<sup>st</sup> year of the extended use period)</b> |
| *Submission of the Form 8609 with Part II completed by the owner (see <a href="#">Exhibit E1</a> )                           | Thirty (30) days from the date of the owner's first filing of the form with the IRS                      |

\*Provide evidence to the Agency that a special needs population is being served and/or all social services are in place (*see Exhibit B3c*)

Prior to the issuance of Form 8609 and when audited

\*Submission of audited financial statement for the prior fiscal year, **including the LITC#, name of project, detailed income and expense schedule and vacancy rate calculation**

May 1st of each calendar year during the Initial Compliance Period (first 15 years) only

**\*Please visit our website at <https://njhousing.gov/dca/hmfa/developers/credits/compliance/> to access these forms.**

**\*NOTE:** Annual documents/Compliance packages should be mailed to the Tax Credit Analyst for the property. Please do not email.

## CHAPTER 2

### **TAX CREDIT COMPLIANCE BASICS**

This section of the manual defines and describes common terms of the tax credit program, particularly those associated with compliance. For terms not identified in this section, please consult Section 42 of the Internal Revenue Code (*see Exhibit D8*).

#### **Applicable Fraction**

The "applicable fraction" is the *lesser* of the following: the actual percentage of low income units in the development or the actual percentage of residential square feet occupied by low-income tenants which the owner has reserved for low-income tenants. Depending on the set-aside option elected, the applicable fraction will be either a *minimum* of 20 or 40 percent. The owner may choose to impose a more stringent set-aside requirement for the project. If this is the case, the applicable fraction (which would be higher than 20 or 40 percent and may be 100 percent) must be met throughout the compliance period. For example, if a project has chosen the 20-50 minimum set-aside and a 100 percent applicable fraction, then 100 percent of the project must be rent-restricted and occupied by tenants earning 50 percent or less of the area gross median income.

The applicable fraction is memorialized within the Deed of Easement and Restrictive Covenant. If the managing agent is unsure of the applicable fraction, which must be met throughout the compliance period, the agent should contact the owner. This is important because the managing agent must ensure that the proper number of apartments are rented and re-rented to low income tenants. In many cases, the applicable fraction is 100 percent and all units must be rented and re-rented to low income tenants.

#### **\*SPECIAL NOTE FOR MANAGER UNITS:**

For buildings placed in service after September 9, 1992, a unit occupied by a full-time resident manager may be included in the eligible basis of the building. However, the unit is excluded from both the numerator and denominator of the applicable fraction. For instance, if a building contains 100 units with 99 occupied by low income tenants and 1 occupied by a resident manager, the applicable fraction would be 99/99 or 100 percent (*not* 99/100 or 99 percent). See IRS Ruling 92-61 (*Exhibit D2*) for details.

#### **Buildings Having 4 or Fewer Units**

Generally, in the case of any buildings having four (4) or fewer residential rental units, no unit in such building shall be treated as a low income unit if the units in such buildings are owned by any individual who occupies a residential unit in such building or any person who is related to such individual.

However, owner-occupied buildings acquired or rehabilitated pursuant to a development plan sponsored by a nonprofit organization or by a state or local government may be eligible. The

ratio of all low-income units in the building cannot exceed eighty (80) percent. In the case of such building, any unit, which is not rented for ninety (90) days or more, shall be treated as occupied by the owner of the building as of the first day it is not rented. (Section 42(i)(3)(E))

### **Acquisition/Rehab**

#### **PIS DATES**

Acquisition – usually the date the building was acquired by the purchaser.

Rehab – any time after the minimum rehab threshold is met - 20% of the adjusted basis or \$6,000 (plus the inflation rate) per unit. The owner can elect any PIS date and Tax Credit percentage after the minimum rehab threshold is met. Typically owners will choose the month with the highest Tax Credit percentage to generate the most credits.

The first year of credit for both acquisition and rehab must begin in the same year.

#### **QUALIFYING EXISTING HOUSEHOLDS – 120 DAY WINDOW**

The certification is completed within 120 days after the acquisition using the income limits in effect on the day of the acquisition. The effective date of the initial certification will be the date of the acquisition. If the owner has access to the tenant files before the acquisition they can certify the tenants within 120 days before the acquisition date using the income limits in effect at the time of the certification.

If the tenants are certified at acquisition they do not need to be certified at the rehab placed-in-service date.

#### **QUALIFYING NEW MOVE-INS**

New move-ins certified after the 120 day window are treated the same as any other new move-in. The effective date of the TIC will be the date they take possession of the unit.

#### **AVAILABLE UNIT RULE TEST**

120 days prior to the first year of credit the owner should perform the Available Unit Rule test. The tenant completes a self- affidavit confirming that the information on the initial TIC is still correct and the TIC is kept in the tenant's file. If the income increased over 140% the Available Unit Rule is invoked. The unit remains eligible as long as the rent is restricted.

#### **SAFE HARBOR**

Units will continued to be treated as low income units as long as the households were income qualified at the time of acquisition and remain rent restricted.

## **PROJECTS RECEIVING ADDITIONAL ALLOCATIONS**

Any existing household that was initially qualified under the previous allocation will be qualified (grandfathered) for the new allocation. If the household is over 140% the Available Unit Rule will be invoked.

Vacant units that were qualified under the old allocation will still be considered a qualified unit under the new allocation as long as the units are ready for occupancy.

## **RENT**

Rent is not given a 120 day grace period nor is it grandfathered in. Rent is to be calculated using the income limits in effect at the time the tenants are certified.

## **APPLICABLE FRACTION**

The applicable fraction for the acquisition credit will be the same as the applicable fraction for the rehab credit.

\* **NOTE:** The original move in date (prior to acquisition) is not applicable for the tax credit allocation (see [Exhibit F3](#) Acquisition/Rehab Acknowledgment).

## **Building Identification Number (BIN)**

This number is assigned to each building in a project that received an allocation of tax credits. An owner/agent can check Part I of the Form 8609 to ascertain the BIN the Agency assigned to a tax credit building (see [Exhibit E1](#)).

## **Compliance Period**

For projects that received a tax credit allocation prior to January 1, 1990, the compliance period is fifteen (15) years. Projects receiving a tax credit allocation after January 1, 1990 must comply with the eligibility requirements for a minimum term of fifteen (15) years and an extended-use period of fifteen (15) years. This thirty (30) year affordability period is stipulated within the recorded Deed of Easement and Restrictive Covenant.

Projects that received a tax credit allocation from 1994 and later may have compliance periods and extended-use periods that are longer than fifteen years. This means that the period of affordability may run beyond thirty (30) years.

The compliance period begins with the first taxable year of the credit period, which is the year the project places in service or the following year.

## **Credit Period**

The credit period is the period of ten (10) taxable years beginning with the taxable year in which the building is placed in service or if the owner made the election (on the Form 8609) to begin the credit period in the following taxable year, the credit period is the period of ten (10) taxable years beginning with the following taxable year. *(It is recommended that an owner seek professional guidance (from their lawyer and accountant) to determine when the first year of the credit period should be.)*

### **Deep Rent Skewing**

For projects that made this election on the Form 8609 (see [Exhibit E1](#)), at least 15 percent of the units must be both rent restricted and occupied by individuals whose income is 40 percent or less of the area median gross income. This is in addition to meeting the minimum set-aside.

### **Form 8609**

This form (see [Exhibit E1](#)) is the official IRS form which shows the tax credits that a building has been allocated by the Agency. Part I of the form is completed by the Agency and filed with the IRS. The Agency then mails a copy of the form to the owner. The owner completes Part II of the form and files the completed form with the Internal Revenue Service for the first year of the credit period.

The owner then has thirty (30) days from the filing date to send the Agency's compliance staff a copy with Parts I and II complete. The Form 8609 must be retained with the project files.

### **Form 8611**

This form (see [Exhibit E3](#)) must be filed by the taxpayer when the IRS as a result of noncompliance must recapture credits.

### **Form 8823**

This form (see [Exhibit E2](#)) is the official IRS form that must be filed by the Agency when a building has been found out of compliance. It is filed by the Agency no later than forty-five (45) days from the end of the correction period.

### **Full-time Students**

In general, students are not LIHTC eligible. The regulation states that "in no case is a unit considered to be occupied by low-income individuals if all of the occupants are full-time students."

#### Defining "Student"

\*IRC §152(f)(2)\* defines, in part, a "student" as an individual, who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an educational organization described in IRC §170(b)(1)(A)(ii) \*or is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in IR §170(b)(1)(A)(ii) or of a state or political subdivision of a state.\* Treas. Reg. §1.151-3(b) further provides that the five calendar months need not be consecutive.

The determination of student status as full or part-time should be based on the criteria used by the educational institution the student is attending.

An educational organization, as defined by IRC §170(b)(1)(A)(ii), is one that normally maintains a regular faculty and curriculum, and normally has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term "educational organization" includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade and mechanical schools. It does not include on-the-job training courses.

**Exceptions:**

1. An individual who is:

- I. a student receiving assistance under Title IV of the Social Security Act,
- II. a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act<sup>2,\*</sup> or
- III. a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State or local laws

2. Entirely by full-time students if such students are:

- I. single parents and their children and such parents are not dependents (as defined in IRC 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children,<sup>\*</sup> or
- II. married and file a joint return

In the case of a single parent with children, the legislative history explains that none of the tenants (parent or children) can be a dependent of a third party. See S. Rpt. No. 103-37, 103d Cong., 1st Sess. 74 (1993).

A very important issue is that students are not "grandfathered." If an existing household becomes an ineligible full-time student household, the tenant must vacate the unit. Owners must make sure that the lease addresses the issue of ineligibility of full-time student households, and the owner has the option of not renewing a resident's lease if the owner finds the resident to be ineligible after initially qualifying.

**Key Lease Provisions**

The Agency recommends that owners/managers insert the following list of provisions into their leases. Although these revisions are not required, they may be helpful to ensure tenant compliance with tax credit requirements.

- 1. Initial lease must have a minimum term of six months.
- 2. Explain that the building has low income housing tax credits and under that program all tenants must be income certified to live in the building. In addition, all tenants must be annually recertified.
- 3. Include a requirement that states that each tenant must comply with the income certification rules.
- 4. Include a provision that allows you to increase rents should the area gross median income limits increase, subject to thirty (30) day notice.

5. Explain that any tenant that presents false information or commits some act of fraud in the certification/recertification process may be evicted.
6. Explain that all heads of household are ultimately responsible for the action of the other members of their household.
7. Advise tenants to give notice of any change in income.
8. Advise tenants that illegal activities are not permitted in the building.
9. Require that the environment be quiet and peaceful to the tenants residing in the building and any disturbance would not be tolerated.
10. Explain that any violation of the lease may constitute grounds for eviction.
11. Annually advise tenants, in writing, of the availability of child window guards.
12. Annually advise tenants, in writing, regarding the maintenance and regulations of smoke detectors and carbon monoxide detectors.

### **Minimum Set Aside**

At the time of application for the tax credit, the owner of the project must choose one of three minimum set-aside requirements. This election once memorialized within a Deed of Easement and Restrictive Covenant (which is filed by the Agency with the appropriate municipality or county) and once elected on the IRS Form 8609 (*see Exhibit E1*) (which has been filed with the IRS as well as with the Agency) is irrevocable. If the managing agent is unaware of which set-aside requirement must be met, he/she should contact the owner.

The set-aside is the *minimum* number of units that must be rent restricted and reserved for low income tenants in order for a building to be considered a qualified low income building. Pursuant to the Code, the set-aside options are:

1. 20% or more of the residential units are both rent-restricted and occupied by individuals whose income is 50% or less of the area median gross income as adjusted for family size; OR
2. 40% or more of the residential units are both rent-restricted and occupied by individuals whose income is 60% or less of the area median gross income as adjusted for family size; OR
3. Income Average set-aside - 40% or more of the residential units are both rent restricted and occupied by individuals whose income designations average 60% or less of the area median gross income as adjusted for family size.

**\*NOTE:** Each unit's target affordability will be officially designated at the time of 8609 and will be fixed for the initial compliance period. The income designation of the units may not change without express Agency approval, even in the case of the Next Available Unit rule.

### **Minimum Set-Aside Deadlines**

For projects receiving an allocation between 1987 and 1990, the minimum set-aside must be met within twelve (12) months of the date the building was placed in service. For projects receiving credits in 1991 and later, the minimum set-aside must be met by December 31 of the year the project placed in service, if credits are to be claimed for that year. If the start of the credit period is deferred until the following year, the minimum set-aside must be met by December 31 of the following year.

Once the minimum set-aside is met, it must be maintained for the entire compliance period. In addition to meeting the minimum set-aside, you may also be required by your syndicates/investor to achieve a certain percentage of occupancy within a certain time frame. The Agency recommends that you consult your accountant and syndicates/investor with regard to this issue.

### **HOME Funds**

For projects with HOME funds that received the nine (9) percent tax credit, 40 percent or more of the residential units must be both rent-restricted and occupied by individuals whose income is 50 percent or less of the area gross median income. This is in addition to meeting the minimum set-aside.

### **Noncompliance**

Any violation of Section 42 of the Internal Revenue Code, IRS revenue procedures, revenue rulings, letter rulings, notices, announcements, any applicable Treasury regulations and any applicable federal law as well as the Agency review requirements for monitoring compliance.

The Agency must monitor for compliance with Section 42 all buildings that received an allocation of tax credits. Any noncompliance identified by the Agency must be reported via Form 8823 to the IRS regardless of whether an owner corrects the noncompliance (*see Exhibit E2*).

### **Examples of Noncompliance**

Noncompliance may include, but is not limited to the following examples:

1. Failure to submit a completed Owners Certificate of Continuing Program Compliance, Tenant Information and when applicable the Annual Project Certification for Projects with Social Service Models, Annual Project Certification for Projects in the Supportive Housing Cycle or with Set-Aside Special Needs Units, Special Needs Population Certification and Frail Elderly Certification by the Agency's deadline
2. Failure to pay a compliance monitoring fee
3. Violations of local and State health, safety and building codes
4. Failure to certify tenants at move-in or recertify tenants annually\*
5. Failure to collect back-up documentation to support certifications/recertification\*
6. Charging rents that exceed the maximum tax credit rent permitted

7. Calculation errors, which could lead to accepting a tenant whose income, exceeded the maximum limit or charging too much rent\*
8. Failure to certify Section 8 tenants or failure to obtain information from the Public Housing Authority or the DCA office that provides the Section 8
9. Failure to meet minimum set-aside by the required time frame and failure to maintain minimum-set-aside
10. Failure to comply with the Agency's procedures for monitoring compliance
11. Any violation of Section 42 of the IRS

\* For residents residing in 100% tax credit properties, a move-in certification shall be required at move-in, followed by a full recertification on the 1<sup>st</sup> year anniversary of move-in. Self certification shall be required in subsequent years, provided the property continues to operate as 100% affordable/tax credit. The resident shall still be required to complete the Tenant Income Certification and other forms on an annual basis. However, third party verification of income and assets shall no longer be required.

### **Adding Household Members During the First Year of Occupancy**

Adding household members in the first year of occupancy must be done as follows:

- Additional occupant(s) must complete a Rental Application
- Additional occupant(s) must be screened according to the Tenant Selection Policy
- Additional occupant(s) must be certified on the original move in Tenant Income Certification to determine income eligibility

Per the IRS 8823 Guide – (page 4-6), the combined income of the tenants cannot exceed the income limit at the time of the original move in date.

If the household income exceeds the maximum income limits at move in, the household will be considered over income at move in and the unit will not qualify for tax credits until the household becomes income eligible. Such noncompliance shall be reported to the IRS via IRS Form 8823.

**\*Note:** If you have a tenant(s) that would like to add additional household members, in the first year of occupancy, please be sure to contact the Tax Credit Analyst for the property once the updated move in certification has been completed. The entire move in Tenant Income Certification must be mailed to the Tax Credit Analyst for review in order to update the tenant data in MITAS whether the household is income eligible or not.

### **Non-transient Occupancy**

A unit will not be treated as a low income unit if it is used on a transient basis. A unit is deemed to be used on a non-transient basis if the initial lease term is at least six (6) months. The initial six (6) month term can be followed by a month-to-month rental term. SROs are permitted to operate on a month to month (30 days) basis.

### **Recapture of Tax Credits**

Non-compliance with tax credit statutes, rules or regulations may lead to recapture of the tax credit by the IRS with respect to the accelerated amount (one-third) claimed for all previous years. In other words, if a tax credit project is not maintained in compliance, no tax credit is available that year and previous years may be recaptured. *NOTE - Only the IRS can make a determination with regard to recapture of credits. The Agency's authority extends only insofar as reporting noncompliance to the IRS.*

Generally, recapture of tax credits applies if:

1. A tax credit building has been disposed of;
2. There is a decrease in the qualified basis of the building from one year to the next; (A decrease in qualified basis may occur when there is an elimination of units or some common area that was approved into basis during the original calculation of the tax credit. For example, two low-income units are destroyed by fire or a community room has been eliminated. In order that the owner may receive the expected tax credit on an annual basis the value of the original units or common area must be restored within a reasonable amount of time. Should the cost to restore such changes exceed the value, the sponsor is responsible for same and cannot collect any additional tax credits beyond the original allocation. Should the owner choose not to restore the building he/she will be subject to recapture.)
3. The building no longer meets the minimum set-aside requirement, the gross rent requirement or the other requirements for the units which are set aside.

Generally, recapture of tax credits does *not* apply if:

1. The disposition of a building was done in accordance with Section 42(j)(6);
2. The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service; or
3. An incident of noncompliance was corrected within the correction period or within a reasonable amount of time after the noncompliance *should have been* discovered.

**\*NOTE:** Tenants cannot be evicted in order to return projects to compliance. Owners wishing to determine how the amount of recapture is arrived at should review Section 42(j) of the Internal Revenue Code.

### **Residential Rental Units**

In order for a unit to be considered a residential rental unit it must contain separate and complete facilities for living, eating, cooking and sanitation. SROs are not required to meet this requirement.

### **Nursing, Medical or Psychiatric Facilities**

Facilities that provide regular nursing, medical or psychiatric care are not considered residential rental units and therefore do not qualify for tax credits.

### **Unit Transfers**

Unit transfers must occur on the same day for tax credits. The effective date of the Transfer In transaction must be the same effective date as the Transfer Out transaction in Mitas.

Unit Transfers into empty units (never occupied with a Tax Credit move-in transaction) are not permitted in the 1<sup>st</sup> year/during initial lease-up unless there is a medical necessity documented by a physician.

### **Suitability of Residential Units for Occupancy**

Each building in a tax credit project must be suitable for occupancy, taking into account state, local health, safety and building codes. In addition, each building must have a Certificate of Compliance from the New Jersey Department of Community Affairs' (DCA) Bureau of Housing

Inspection stating that the building meets the "Regulations for Maintenance of Hotels and Multiple Dwellings". In the event a new construction project has not yet received the Certificate of Compliance, the building must be registered with DCA so that it will be inspected.

If state or local officials have cited the building for health, safety and/or building code violations, the owner of the building is responsible for correcting the violations. Uncorrected violations may render the building or low-income units unsuitable for occupancy. Such violations may be considered noncompliance by the Agency, which must be reported to the Internal Revenue Service.

Owners/managers should be aware and should comply with the Americans with Disabilities Act (ADA) and HUD Section 504 requirements.

### **Transitional Housing**

A transitional housing unit, as defined under the Stewart B. McKinney Homeless Assistance Act, is deemed to be used on a non-transient basis if the unit contains sleeping accommodations, kitchen and bathroom facilities and is located in a building which is used exclusively to facilitate the transition of homeless individuals to independent living within a 24 month period, and in which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing (Section 42 (i)(3)(B)(iii)).

### **Units for Use by General Public**

Pursuant to IRS Regulation 1.42-9(b), a residential rental unit must be available for use by the general public in order for the unit to be eligible for tax credits (See also, U.S. Department of Housing & Urban Development Handbook 4350.3, or its successor, for the federal definition and criteria for "use by the general public"). Preference to certain classes of tenants does not violate the general public use requirement as long as they do not violate HUD policy regarding nondiscrimination. Examples of preferences that *do not violate* the general public use requirement are preferences to the elderly, persons with disabilities, the homeless and transitional housing for the homeless. Examples of preference that *do violate* the general public use requirement are as follows: a residential unit that is provided by an employer for its employees, a residential unit is provided to a specific group of people that are part of a social organization.

**\*NOTE:** Owners are advised that the general public use requirement in the IRS regulations is not clear with regard to preferences for municipal or regional residents. The Agency advises owners to be aware of Federal and State Fair Housing laws with regard to this issue. It is strongly recommended that owners not give preference to municipal residents when marketing and renting units as such practice has been challenged and found by the Supreme Court of New Jersey to violate the State Fair Housing Act. If a preference for residents of the region (a "COAH-designated" housing region) is being used, owners should be aware that mandatory federal preferences set by HUD must be considered before a regional preference. If the owner of a tax credit project is found by a governmental agency or court to have violated any Federal or State Fair Housing laws in renting the project, the Agency will find the project out of compliance and report such circumstance to the IRS.

### **Changing Unit Status from Low Income to Market in Mitas**

When changing an occupied low income unit to market, a Termination transaction must be entered in Mitas with the effective date of the change.

### **Changing Unit Status from Market to Low Income in Mitas**

When changing an occupied unit from market to low income, an Initial Certification must be performed to determine eligibility and entered in Mitas with the effective date of the change.

### **Vacant Units**

When a unit becomes vacant which was formerly occupied by a low-income household, it may continue to be treated as occupied by a qualified low income tenant for the purposes of the set-aside requirement, provided that the apartment is ready to be occupied, that the owner demonstrates that reasonable attempts are made to rent the unit to qualified low-income households and that no other unit of comparable or smaller size in the project is rented to non-qualifying (non-low income) individuals.

### **Building/Safety Systems**

The owner is required under the Uniform Property Conditions Standards (UPCS) to maintain, on the premises, a complete written record of the following tests and inspections:

1. Boilers rated 40,000 BTU/hr and Hot Water Heaters rated 200,000 BTU/hr or higher
2. Elevator Certificate of Compliance (Maintenance Contract and Annual Test)
3. Fire Alarm Test Report (Maintenance Contract and Annual Test)
4. Inspection and Testing of Emergency Lighting and Exit Signs
5. Annual Testing of Emergency Generator(s) (if applicable)
6. Lead-Based Paint Disclosure Forms and Inspection Reports (if built prior to 1978)
7. Sprinkler System Inspection Report (Maintenance Contract and Annual Test)

8. Extermination and Pest Control Report (Maintenance Contract and Annual Report)
9. Bed Bug Notification (if applicable)

Accurate logs shall be maintained, indicating the number, location and type of device tested including any defects, modifications or repairs.

**Social Service Model** \*(Does not apply to projects that received allocations prior to 1995).

Project sponsors who received an allocation and who agreed in their application to provide social services will be monitored to ensure compliance with their application. Prior to the owner receiving their copy of the 8609, they must document to the satisfaction of HMFA that the services are in place. The project must continue to maintain such social services to the tenants throughout the compliance period and must certify annually to the provision of those services (see *Exhibit B3a*). Appropriate documentation evidencing that the services are available to the tenants must be maintained along with the other project records. Executed contracts with Social Service Providers must be maintained and copies of such contracts must be available if requested by NJHMFA. Examples of other documentation include executed leases (if services are provided on-site), evidence of hiring a social service coordinator, evidence of tenant utilization of services, etc.

**Special Needs Populations** \*(Does not apply to projects that received allocations prior to 1995)

Project sponsors who received an allocation and who agreed in their application to reserve a specific percentage of the total units in the project for occupancy by a targeted special needs population and provide appropriate social services to the special needs tenants (the "special needs requirements"), will be monitored to ensure compliance with their application.

Prior to the owner receiving their copy of the 8609, they must document to the satisfaction of HMFA that the special needs requirements are in place. The project must continue to maintain the special needs requirements throughout the compliance period and must certify annually that they are in place (see *Exhibit B3b, B3c*). Appropriate documentation evidencing that the special needs requirements are in place must be maintained along with the other project records. Executed contracts with Social Service Providers must be maintained and copies of such contracts must be available if requested by NJHMFA. Examples of other documentation include executed leases (if services are provided on-site), evidence of hiring a social service coordinator, evidence of tenant utilization of services, project advertising, etc.

As HMFA will monitor for compliance with regard to the special needs requirements, owners must document and keep records of their marketing efforts (project advertising, written contact to appropriate special needs agencies/social service providers, etc.) and demonstrate to the satisfaction of HMFA that they fully intended to meet the special needs requirements. Although project sponsors are required to demonstrate that a market for the targeted population exists in the project's service area and then market the units to the targeted special needs population.

**\*Note: There may be instances when there are no special needs tenants available to rent the units. For units set aside for special needs populations, if a qualified special needs tenant is not located within 60 days, the next available tenant from the project's waiting list may fill the unit provided the next comparable size vacant unit shall be made available for a special needs tenant.**

### State Set-Aside Monitoring Procedures

The state set-aside requires that 10 percent or more of the residential units in the Project are both rent restricted and occupied by households whose income is 30 percent or less of AMGI. The selection of this state set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.

Failure to meet set-aside will result in the owner being considered “not in good standing” if the noncompliance is not corrected. As long as an owner remains “not in good standing” they are ineligible to be part of the development team for any new tax credit awards. In addition, pursuant to N.J.A.C.5:80-33.26(c), NJHMFA may impose penalties for failure to comply with eligibility or point requirements, including but not limited to delay and/or non-issuance of the IRS Form 8609, imposition of financial penalties, a reduction in the allocated credit amount or the unilateral cancellation of an allocation. The Agency also has the right to enforce specific performance through the court system.

The gross rent charged by the owner/agent must comply with the owner's election of the State set-aside requirement, meaning that the gross rent must be affordable to households earning 30% of the area gross median income. The definition of area gross median income is based on the HUD methodology used for the Section 8 program of the U.S. Housing Act of 1937. Gross rent does not include any payment under Section 8 or any comparable rental assistance program with respect to such unit or the occupants. Gross rent includes an allowance for all utilities which will be paid by the household.

If a household's income rises above 30% of the AMGI then the next available unit in the project shall be rented to a household whose income is at or below 30% of the AMGI.

Owners must demonstrate that best efforts will be made to distribute the 30% units proportionately across all unit sizes.

If an owner cannot find a sufficient amount of households whose income is at or below 30% of the AMGI than he/she must demonstrate to the Agency that all reasonable attempts were made to market the units. Reasonable attempts shall include but are not limited to the following:

1. Written marketing plan and procedures.
2. Waiting list.
3. Copies of advertising from newspapers.
4. Outreach efforts to social service agencies and non-profit groups.

If after 60 days a household whose income is at or below 30% of the AMGI cannot be found then the vacant unit may be rented to a household whose income is at or below 60% of the AMGI.

## CHAPTER 3

### *CALCULATING INCOME AND ASSETS*

Pursuant to IRS Regulation 1.42-5(b)(vii), tenant income must be calculated in a manner consistent with the determination of annual median gross income under Section 8 of the United States Housing Act of 1937 (see *Exhibit D9*), not in accordance with the determination of gross income for federal income tax liability. Chapter 5 of the HUD 4350.3 Handbook (see *Exhibit D12*), outlines how annual income is calculated to determine tenant income eligibility. This is required prior to the tenant residing in a low income housing tax credit unit and every year thereafter during the entire compliance period which includes the Extended Use Period as indicated in the Deed of Easement and Restrictive Covenant.

In accordance with Section 8 regulations, annual income is the anticipated gross income from all sources to be received by the family head and spouse (even if temporarily absent) and by each adult individual member of the family (individuals 18 years and older) during the 12 months following the date of the certification or recertification.

Annual Household Gross Income is the gross income (with no adjustment or deduction) the household anticipate it will receive in the 12-month period *following* the effective date of the income certification.

If information is available on changes expected to occur during the year, that information is used to most accurately determine anticipated income from all known sources during the year.

**\*Note:** *The tax credit program does not consider adjusted income which is permitted under the Section 8 program. Adjusted income is the deduction of allowances, such as dependent, child care handicapped/disabled, medical or elderly, from the gross income.*

**\*Achieving a Better Life Experience (ABLE) accounts are excluded for both income and asset calculations for the Low Income Housing Tax Credit (LIHTC) Program**  
asset calculations for the Low Income Housing Tax Credit (LIHTC) Program.

## CHAPTER 4

### ***CERTIFYING ANNUAL INCOME***

Applicants that apply for residence in a tax credit unit should be advised of the income restrictions mandated by the tax credit program. The income certification, income verification and annual recertification requirements should be explained to all tenants and should be included in the lease as a requirement for living in the building.

It is the owner's responsibility to certify and annually recertify each tenant that resides in all tax credit units. If there is a managing agent or some other entity certifying the tenants, owners should make sure that the managing agent or other entity has a good understanding of the tax credit program because the owner is ultimately responsible. It is recommended that the owner work with the person handling the certifications. *If any outside service, organization or Agency is handling the certification process, it should not be assumed that the certifications are in compliance. If an error is made by such entity that causes noncompliance the owner will be considered out of compliance and reported to the IRS.*

**\*NOTE:** The fact that the owner may not receive this information from the tenant does not relieve the Agency of its obligation under federal law to monitor that project and advise the IRS of such noncompliance.

This section of the manual provides information regarding the certification of tenant income.

#### ***Income Limitation***

In order to qualify as a low-income tenant, the household's annual income must be less than the maximum allowed. The income limit is based on a percentage of area median gross income as defined by HUD and takes into account household size. A household occupying a low income unit cannot have a combined income of more than 50% or 60% of the area gross median income, depending on the set-aside option elected by the building owner. [Exhibit A1](#) is an area gross median income chart, which shows income by PMSAs and by number of persons in the household.

#### ***Tenant Income Certification***

For purposes of satisfying the set-aside requirements, the determination of the household's income must be made on the date the low-income tenants first occupy a residential unit in the development and on an annual basis thereafter. *In the case of a rehab project with existing tenants, the move-in certification must be done on the date the building placed in service.*

#### **1. Tenant Interview**

Upon meeting with the tenant, review the lease and any provisions that involve the income certification procedure. Explain to the tenant that the tax credit program is an affordable housing program and that in order for a tenant to reside in the building, they must comply with the certification requirements. Explain to them that once they reside in the building they must continue to comply with the certification requirements and any other lease provisions. Finally advise the tenant that any instance of fraud will not be tolerated and will be subject to eviction.

## **2. Tenant Income Certification**

Each tenant must be initially certified as to the level of anticipated annual income for each member of the household in order to verify eligibility as a low income resident. The owner/agent is required to complete an income certification form (*see [Exhibit C1](#)*). The owner/agent must complete an annual income certification for each low-income tenant, or, in the case of a tenant receiving Section 8 housing assistance payments, a statement from a public housing authority declaring that the tenant's income does not exceed the applicable income limit. The owner/agent must assist the tenant(s) by explaining the definition of Annual Income to ensure that proper disclosure is made. Certifications should not be more than one hundred twenty (120) days old.

## **3. Verification of Income**

The owner/agent is required to verify each component of the household's reported income (i.e., wages, income from assets, social security payments) by collecting documentation to support each low-income tenant's income certification. Acceptable forms of supporting documentation are verifications of income from third parties such as employers or state agencies paying unemployment compensation (*see [Exhibit D6](#)*).

In the case of a tenant receiving housing assistance payments under Section 8, the owner/agent may obtain from the public housing authority a statement declaring that the tenant's income does not exceed the applicable income limit under Section 42(g) (*see [Exhibit C9](#)*).

Below is a summary of sample forms, which are contained in the exhibits. These sample forms are enclosed to show suggested formats and language in order to verify income. Owners/managers may use their own forms and establish their own procedures for verifying income, as long as all income is certified and verified.

## **4. Annual Income Recertification**

Annually, after the initial income certification, the owner/agent must recertify the income for each low income tenant in the building within 12 months of the most recent certification by obtaining a new tenant Income Certification and supporting documentation. For residents residing in 100% tax credit properties, an initial certification shall be required at move-in, followed by a full recertification on the 1 year anniversary of move-in. Recertification shall no longer be required in subsequent years, provided the property continues to operate as 100% affordable/tax credit. While a resident shall still be required to complete the Tenant income Certification and other forms on an annual basis, 3<sup>rd</sup> party verification of income shall no longer be required.

<b>NUMBER</b>	<b>EXHIBIT TITLE</b>	<b>DESCRIPTION</b>
<b>C1</b>	<b>TENANT INCOME CERTIFICATION</b>	To be completed for each household (all members of the household) to disclose all forms of income. In the case of a Sec. 8 tenant, a statement from the public housing authority must be maintained in the tenant files. The owner/agent should assist the tenant(s) by explaining the definition of Annual Income to ensure that proper disclosure is made.
<b>C2</b>	<b>INCOME VERIFICATION FROM EMPLOYER</b>	Should be used to verify employment income for each tenant; to be completed by each employer.
<b>C3</b>	<b>SAMPLE VERIFICATION OF UNEMPLOYMENT BENEFITS</b>	To verify unemployment benefits; to be completed by personnel from the unemployment office.
<b>C4</b>	<b>CERTIFICATION OF ZERO INCOME</b>	To be completed by any tenant, indicating that he/she is currently unemployed and not collecting any form of income (i.e., Social Security, unemployment, disability insurance, support from family, friend, etc.). Upon employment, tenant will notify the manager.
<b>C5</b>	<b>SAMPLE RECURRING GIFT VERIFICATION</b>	To verify the amount of support received from a spouse, other family member or friend.
<b>C6</b>	<b>SAMPLE SOCIAL SECURITY VERIFICATION</b>	To verify social security income; to be completed by Social Security Administration.

<b>NUMBER</b>	<b>EXHIBIT TITLE</b>	<b>DESCRIPTION</b>
<b>C7</b>	<b>SAMPLE MILITARY PAY VERIFICATION</b>	To verify military pay, either for full or part time employment; to be completed by the personnel office or a commanding officer.
<b>C8</b>	<b>SAMPLE ASSET VERIFICATION</b>	To verify assets on deposit (checking, savings, CDs, money markets, etc.) in a bank, savings and loan, etc.; to be completed by a banking officer.
<b>C9</b>	<b>SAMPLE VERIFICATION OF INCOME ELIGIBILITY FROM SECTION 8 AUTHORITY</b>	To verify income and other supporting documentation in lieu of obtaining it from the tenant.
<b>C10</b>	<b>UNDER \$5,000 ASSET CERTIFICATION</b>	Instead of verifying Net Family Assets of less than \$5000 by a third party verification (i.e., a banking verification), owners/agents may accept a signed, sworn statement from the tenant (see <i>Exhibit D5</i> ). NOTE - Section 8 definition of Net Family Assets is used (24 CFR 813.102).
<b>C11</b>	<b>SAMPLE CERTIFICATION OF ASSETS DISPOSED FOR LESS THAN FAIR MARKET VALUE</b>	The tenant must certify as to the amount what an asset is worth when disposed of for less than fair market value for the certification/recertification periods two (2) years from the date of the disposal.
<b>C12</b>	<b>CHILD SUPPORT CERTIFICATION</b>	Tenant must certify as to the amount received and/or obligated for child support income.
<b>C13</b>	<b>STUDENT STATUS VERIFICATION</b>	The tenant must certify the number of full-time students residing in the household.
<b>C14</b>	<b>TENANT INCOME SELF CERTIFICATION</b>	Tenant must certify household members, income and asset information annually.

## CHAPTER 5

### ***DETERMINING ALLOWABLE RENTS***

The gross rent charged by the owner/agent must comply with the owner's election of the minimum set-aside requirement - meaning that the gross rent must be affordable to tenants earning either 50% or 60% of the area gross median income. The definition of area gross median income is based on the HUD methodology used for the Section 8 program of the U.S. Housing Act of 1937. [Exhibits A1](#) contains the most recent income limits released by HUD (Limits are subject to change, check to see that you have the most recent). Gross rent does not include any payment under Section 8 or any comparable rental assistance program with respect to such unit or the occupants.

This section of the manual explains how rent is calculated under the tax credit program

#### ***Projects Receiving Tax Credits Before 1990/ Household Size***

Maximum gross rent is based on *household* size for projects which received tax credits before 1990, unless the owner elected the bedroom size option (see below) by February 1994. The restricted rent is calculated by multiplying the applicable area gross median income limitation for the actual household size by .3 and then dividing by 12 to determine the monthly gross rent. Therefore, units of the same size may have different rents depending on the size of the family which resides there.

Pre - 1990 Formula:

$$\frac{50\% \text{ or } 60\% \text{ of Area Gross Median Income}^* \times 30\%}{\text{Maximum Gross Rent divided by 12 months}} =$$

\* Area gross median income is determined by the size of the household residing in the unit

Owners of projects receiving tax credits before 1990 had the option in 1994 to elect to calculate the rent based on unit size rather than household size (*see Exhibit D5*). Once made, this election of how rent will be calculated is irrevocable and can be used only for those tenants that move in after the date of the election. This means that the owner of a building that made this election will calculate the rents of existing tenants by household and future tenants by bedroom size. Managing agents should verify with the owner of the development which rent calculation is applicable.

#### ***Projects Receiving Tax Credits beginning January 1, 1990/ Bedroom Size***

Maximum gross rent is based on *unit* size for projects that received tax credits beginning January 1, 1990. The restricted rent is calculated by multiplying the applicable area gross median income limitation for a family size of 1.5 persons per bedroom by .3 and then by dividing by 12 to determine the monthly gross rent. In the case of efficiency units, the area gross median income should be based on 1 person. Therefore, all units of the same size have the same rent regardless of the household size.

### 1990 and Post 1990 Formula:

$$\frac{50\% \text{ or } 60\% \text{ of Area Gross Median Income}^* \times 30\%}{\text{divided by 12 months}} = \text{Maximum Gross Rent}$$

\* Area gross median income is determined by assuming 1.5 persons per bedroom

### ***Utility Allowances***

Gross rent (regardless of which method of calculation is used) includes an allowance for all utilities which will be paid by the tenant. Utilities include heat, lights, air-conditioning, water, sewer, oil/gas but do not include telephone or cable television expenses. It is very important to use the correct allowance amount. See 26 CFR 1.42-10 Utility Allowances ([Exhibit D3 and D3a](#)) and DCA's Monthly Utility Allowance ([Exhibit A2](#)) to determine the proper utility allowance. This regulation sets forth applicable utility allowances by categorizing projects into the following groups: (1) FmHA-assisted buildings, (2) Buildings with FmHA-assisted tenants, (3) HUD-regulated buildings, and (4) Other Buildings.

### **Other Acceptable methods of calculating utility allowances:**

#### **1. Utility Company Estimates**

Under Treas. Reg. §1.42-10(b)(4)(ii)(B), any interested party (tenant, owner, or state agency) may request a written estimated cost of that utility for a unit of similar size and construction *for the geographic area in which the building is located*. This estimate becomes the appropriate utility allowance for all rent-restricted units of similar size and construction in the building. The local utility estimate is not available to buildings/tenants subject to Rural Housing Service or HUD jurisdiction.

#### **2. HUD Utility Schedule Model**

Under Treas. Reg. §1.42-10(b)(4)(ii)(D),<sup>9</sup> a building owner may calculate a utility allowance using the “HUD Utility Schedule Model” that can be found on HUD’s Internet site, the Low-Income Housing Tax Credits page at [www.huduser.org/datasets/lihtc.html](http://www.huduser.org/datasets/lihtc.html) or successor URL. Utility rates used for the HUD Utility Schedule Model must be no older than the rates in place 60 days prior to the date the utility allowance will change.

#### **3. Energy Consumption Model**

Under Treas. Reg. §1.42-10(b)(4)(ii)(E),<sup>10</sup> a building owner may calculate a utility allowance using an energy and water and sewage consumption analysis model (energy consumption model).

#### **Factors to Consider**

The energy consumption model must, at a minimum, take into account specific factors including, but not limited to: (1) unit size, (2) building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location.

#### **Estimates Provided by Licensed Engineer or Qualified Professional**

The utility allowance must be prepared by a properly licensed engineer or a qualified professional. A qualified professional must be (1) approved by the state/local housing credit agency having jurisdiction over the building, and (2) must not be related to the building owner within the meaning of IRC §§ 267(b) or 707(b).

Owners should review this regulation to determine which building category they fall into. Buildings that are not Farmers Home assisted, nor a HUD-regulated building (as defined in the regulation) and where no tenant receives Farmers Home assistance fall into the category of “Other Buildings.” These buildings have the option of obtaining a local utility company estimate for units in the building. If such estimate is obtained, that estimate becomes the appropriate utility allowance for all rent-restricted units of similar size and construction in the building.

If at any time during the compliance period or extended-use period, the applicable utility allowance changes, the new utility allowance must be used to compute gross rents of rent restricted units due 90 days after the change.

The applicable utility allowance *must* be subtracted from the maximum gross rent in order to determine the maximum rent allowed to be charged by the owner/agent to the tenant.

***Sample Rent Calculations***

The examples below are for the purpose of guiding the owner/agent through the mathematical formulas used to figure maximum allowable rents. The owner/agent should be aware that the sample area gross median income limits used for these examples are based on HUD's figures (*see Exhibit A1*) and the utility allowance schedule provided by DCA (*see Exhibit A2*). Both are subject to change in future years.

**A. Projects With Pre-1990 Tax Credits and No Election**

1. Family of 4 living in a 2 bedroom, HUD-regulated duplex in Essex County. The minimum set-aside chosen by the owner was 20% at 50%, although 100% of the building is low income. The family is responsible for paying all its utilities (includes gas heat, hot water, cooking fuel and household electric), except water and sewer.

Median income - Family of 4	\$60,500	
50%		<u>x .5</u>
Maximum Income	\$30,250	
Affordability Control	<u>x .30</u>	
Maximum Gross Rent - Annually	\$ 9,075	
(Months in Year)	<u>÷ 12</u>	
Maximum Gross Rent - Monthly	756	
Utility Allowance - HUD	<u>- 98*</u>	
Maximum Chargeable Rent	\$ 658	

*HUD Allowances:	27	gas - heat
	+ 5	gas - cooking fuel
	+ 36	household electric
	+ 12	gas - hot water
	<u>+ 18</u>	trash collection
	98	

2. Family of 5 living in a 3 bedroom apartment in a HUD regulated, 2 story building in Middlesex County. The minimum set-aside chosen by the owner was 40% at 60%, although 100% of the building is low income. The family is responsible for paying all utilities, which include gas heat, hot water, cooking fuel and household electric. Water, sewer and trash collection are included in the rent.

Median income - Family of 5	\$72,800
60%	<u>x .6</u>
Maximum Income	\$43,680
Affordability Control	<u>x .30</u>
Maximum Gross Rent - Annually	13,104
(Months in Year)	<u>÷ 12</u>
Maximum Gross Rent - Monthly	1,092
Utility Allowance - HUD	<u>- 88*</u>
Maximum Chargeable Rent	\$ 1,004

*HUD Allowances:	\$ 24	gas - heat
	+ 6	gas - cooking fuel
	+ 44	household electric
	+ 14	gas - hot water
	<u>\$ 88</u>	

B. Projects With Tax Credits after January 1, 1990

1. Family of 4 living in a 2 bedroom, HUD-regulated duplex in Essex County. The minimum set-aside chosen by the owner was 20% at 50%, although 100% of the building is low income. The family is responsible for paying its utilities, which include gas heat, hot water, cooking fuel, household electric and trash removal. Water and sewer are included in the rent.

Median income for 3-Person Household	\$54,400	
50%	<u>x .5</u>	
Maximum Income	\$27,200	
Affordability Control	<u>x .30</u>	
Maximum Gross Rent - Annually	\$ 8,160	
(Months in Year)	<u>÷ 12</u>	(2 BR @ 1.5 persons
Maximum Gross Rent - Monthly	680	per bedroom = 3 persons)
Utility Allowance - HUD	<u>- 98*</u>	
Maximum Chargeable Rent	\$ 582	

*HUD Allowances:	27	gas - heat
	+ 5	gas - cooking fuel
	+ 36	household electric
	+ 12	gas - hot water
	+ 18	trash collection
	<u>98</u>	

2. Family of 5 living in a 3 bedroom apartment in a HUD regulated, 2 story building in Middlesex County. The minimum set-aside chosen by the owner was 40% at 60%, although 100% of the building is low income. The family is responsible for paying heat, hot water, cooking fuel and household electric. Water, sewer and trash collection are included in rent.

Median income for 4.5 persons	\$70,100	
60%	<u>x .60</u>	
Maximum Income	\$42,060	
Affordability Control	<u>x .30</u>	(3 BR @ 1.5 persons
Maximum Gross Rent - Annually	12,618	per bedroom = 4.5 persons)
Maximum Gross Rent - Monthly	1,051	

Utility Allowance - HUD	- 88*
Maximum Chargeable Rent	\$ 963

*HUD Allowances:	\$ 24	gas - heat
	+ 6	gas - cooking fuel
	+ 44	household electric
	+ 14	gas - water heating
	\$ 88	

### ***Range of Affordability***

“Affordable” typically means capable of being afforded without undue burden by an eligible household. A rental unit is typically considered “affordable” if the monthly rent, including the estimated cost of utilities paid by the tenant (the utility allowance), does not exceed 30 percent of an eligible household income.

Rents for units in the tax credit program are established based on 30 percent of the maximum income that is eligible for a unit. Anyone earning less than the maximum income will be paying more than 30 percent of his or her income toward rent. While this is allowed in the tax credit program, it is not desirable. For this reason, the Agency recommends setting rents at levels below the maximums permitted, so that they are affordable to households earning less than the maximum income. By doing this, a project expands its range of affordability.

### ***Rents for Over-income Tenants***

If the income of a household increases above the applicable income limitation, the unit will continue to be treated as a low-income unit as long as the income of the occupants initially met the income limitation and the unit continues to be rent-restricted.

However, if the income of a current low income household increases above 140 percent of the applicable income limitation, the next available unit (of a comparable or smaller size) must be rented to a low-income tenant in order for the project to remain in compliance. Tenants should not be evicted if their income exceeds the maximum income limit. In this case, the unit cannot be counted as part of the minimum set-aside requirement, but it can continue to receive tax credits.

The tenant whose income increases above 140 percent of the applicable income limitation may receive a rent increase when their lease is renewed once the next available unit is rented to a low income tenant. The Agency recommends moderate annual increases in accordance with local rent laws, if applicable, and in accordance with restrictions mandated by other funding sources, if applicable (i.e., FmHA projects). If the project is 100 percent low-income, even if you rent the next available unit to a qualifying tenant and charge a restricted rent, the rent on the unit of the tenant whose income exceeded the limit must not exceed the maximum rent permitted.

**\*NOTE:** If the Deep Rent Skewing option was elected on the Form 8609 (*see Exhibit E1*), the tenant's income may go up to 170 percent of the area gross median income limit and still be eligible.

## CHAPTER 6

### **NJHMFA EXTENDED USE PERIOD MONITORING PROCEDURES**

Section 42(h)(6) of the Internal revenue Code requires an extended low-income housing commitment of at least 15 years in addition to the compliance period. Such requirement is applicable to all properties awarded housing creditors starting in 1990. The exact term of the extended use period for each tax credit property can be found in its Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy.

New Jersey Housing and Mortgage Finance Agency has established the following procedures to enforce compliance with the extended use agreement. Unless specifically addressed below, the compliance requirements during the extended use period shall remain the same as those requirements established by HMFA during the initial compliance period.

#### ***Reporting Requirements and Monitoring Fees***

The Owner's Certificate of Continuing Program Compliance and the Annual Tenant Information shall be submitted by January 31 of each year during the extended use period, along with a ***monitoring fee of \$20 per low-income unit for all properties in the Extended Use Period. The monitoring fee is due when the property begins the extended use period.***

HMFA reserves the right to adjust the fee as needed to cover monitoring expenses.

#### ***Monitoring Policy***

Each property shall be inspected at least once every five years, starting with the 5<sup>th</sup> year following the last inspection. Ten percent of the units in the property (minimum of 3 and maximum of 15) shall be physically inspected and ten percent of the tenant files, in the property, shall be audited. The units selected for file review may differ from those receiving a physical inspection.

NJHMFA reserves the right to inspect additional files, units, or buildings as needed to ensure compliance.

#### ***Annual Recertification***

Owners will not be required to complete a full recertification each year but must complete a self-certification listing all household members, rent amount, and income. This self-certification shall be signed and dated by all members of the household, age 18 and older, and the project owner or management agent.

This form shall be completed at least once every 12 months.

#### ***Application Fraction***

The Applicable fraction for a building shall be determined by the unit fraction. Square footage of the units will no longer be used to determine the applicable fraction.

#### ***Full Time Students***

HMFA will not require documentation of student status.

### ***Unit Transfer***

Unit transfer from building to building will be permitted regardless of whether a household's income is over the applicable income limit at the time of transfer.

### ***Available Unit Rule***

If a household's income goes over 140% of the applicable income limit, a currently vacant unit or the next available unit of same or smaller size in the same building must be rented to a qualified household. This will be a unit for unit replacement.

### ***Eviction***

The eviction or termination of tenancy of an existing tenant of any low-income unit (other than for good cause) shall be prohibited throughout the term of the compliance and extended use periods.

### ***Noncompliance***

If an owner fails to comply with the monitoring requirements during the extended use period, a notice of noncompliance will be issued. A 30-day period will be allowed to correct any deficiencies. If the noncompliance is still not corrected after the 30 or 60 days, the owner and/or management company will be considered to be in "not in good standing" with the Agency's Tax Credit Division. Once the noncompliance is corrected, this designation shall be removed. As long as an owner or management company remains "not in good standing" they are ineligible to be part of the development team for any new tax credit awards. The Agency also has the right to enforce specific performance through the court system.

## EXHIBITS

### A. Income and Rent Limitations

[Exhibit A1](#) Income Limits and Maximum Rents

[Exhibit A2](#) Utility Allowance Schedule

### B. NJHMFA Annual Reports

[Exhibit B1](#) Checklist for New Properties

[Exhibit B1a](#) Owner Certificate of Continuing Program Compliance for New Property

[Exhibit B2](#) Checklist for Annual Compliance Packages

[Exhibit B2a](#) Owner's Certificate of Continuing Program Compliance

[Exhibit B2b](#) Owner's Certification of Compliance During the Extended Use Period

[Exhibit B3](#) Checklist for Annual Social Service Models and/or Special Needs Packages

[Exhibit B3a](#) Annual Project Certification for Projects with Social Service Models

[Exhibit B3b](#) Annual Project Certification for Projects in the Supportive Housing Cycle or with Set- Aside Special Needs Units

[Exhibit B3c](#) Special Needs Population Certification Form

[Exhibit B3d](#) Frail Elderly Certification

### C. NJHMFA Sample Income Certification and Verification Forms

[Exhibit C1](#) Tenant Income Certification

[Exhibit C2](#) Employment Verification

[Exhibit C3](#) Sample Verification of Unemployment Benefits

[Exhibit C4](#) Certification of Zero Income

[Exhibit C5](#) Sample Recurring Gift Verification

[Exhibit C6](#) Sample Social Security Verification

[Exhibit C7](#) Sample Military Pay Verification

[Exhibit C8](#) Sample Asset Verification

[Exhibit C9](#) Sample Verification of Income Eligibility from Section 8 Authority

<a href="#">Exhibit C10</a>	Under \$5,000 Asset Certification
<a href="#">Exhibit C11</a>	Sample Certification of Assets Disposed of for Less than Fair Market Value
<a href="#">Exhibit C12</a>	Child Support Certification
<a href="#">Exhibit C13</a>	Student Status Verification
<a href="#">Exhibit C14</a>	Tenant Income Self Certification

*D. LITC Regulations and Rules*

<a href="#">Exhibit D1</a>	IRS Final Regulations Procedure for Monitoring Compliance with Low Income Housing Credit Requirements
<a href="#">Exhibit D2</a>	IRS Revenue Ruling 92-61 (Full-time Resident Manager's Unit)
<a href="#">Exhibit D3</a>	IRS Regulations 1.42-10 (Utility Allowance)
<a href="#">Exhibit D3a</a>	IRS Regulations 1.42-12(a)(5) (Utility Allowance Submetering)
<a href="#">Exhibit D4</a>	IRS Revenue Procedure 94-65 (Documentation of Income from Assets when Assets do not exceed \$5000)
<a href="#">Exhibit D5</a>	Revenue Procedure 94- 9 (Election to Determine Rents by Number of Bedrooms)
<a href="#">Exhibit D6</a>	Appendix 3: Acceptable Forms of Income Verification
<a href="#">Exhibit D7</a>	NJHMFA Audit List
<a href="#">Exhibit D8</a>	Internal Revenue Code, Section 42
<a href="#">Exhibit D9</a>	IRS Notice 88-80 (Income Determination)
<a href="#">Exhibit D10</a>	IRS Final Regulations (Available Unit Rule)
<a href="#">Exhibit D11</a>	HUD Passbook Savings Rate Eff. February 1, 2015 (Notice: H 2014-15)
<a href="#">Exhibit D12</a>	HUD 4350.3 Handbook Chapter 5-Determining Income & Calculating Rent

*E. IRS Forms*

<a href="#">Exhibit E1</a>	IRS Form 8609 (Low Income Housing Credit Agencies Allocation Certification)
<a href="#">Exhibit E2</a>	IRS Form 8823 (Low Income Housing Credit Agencies Report of Noncompliance)
<a href="#">Exhibit E3</a>	IRS Form 8611 (Recapture of Low Income Housing Credit)

*F. Additional Forms*

<a href="#">Exhibit F1</a>	Violence Against Women's Act (VAWA)
<a href="#">Exhibit F2</a>	Project Status Form
<a href="#">Exhibit F3</a>	Acquisition/Rehab Acknowledgment
<a href="#">Exhibit F4</a>	Year 15 Status Report
<a href="#">Exhibit F5</a>	Sample Window Guard Notice to Tenant
<a href="#">Exhibit F6</a>	Sample Smoke Detector/Carbon Monoxide Acknowledgment
<a href="#">Exhibit F7</a>	Sample Carbon Monoxide Detector Verification
<a href="#">Exhibit F8</a>	Addendum to Tenant Income Certification/Tenant Income Certification Addendum
<a href="#">Exhibit F9</a>	Mitas User Agreement

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Atlantic City-Hammonton, NJ MSA to use based on the projects Placed in Service Date:

<b>Atlantic County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits		HUD Area 1 ATLANTIC COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	16,100	18,400	20,780	25,100	29,420	33,740	38,060	42,380	
40%	21,440	24,480	27,560	30,600	33,080	35,520	38,060	42,380	
50%	26,800	30,600	34,450	38,250	41,350	44,400	47,450	50,500	
60%	32,160	36,720	41,340	45,900	49,620	53,280	56,940	60,600	
80%	42,850	49,000	55,100	61,200	66,100	71,000	75,900	80,800	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person	
30%	402	431	519	681	843	1,005	1,005	1,005	
40%	536	574	689	796	888	1,005	1,005	1,005	
50%	670	717	861	995	1,110	1,224	1,224	1,224	
60%	804	861	1,033	1,194	1,332	1,469	1,469	1,469	
80%	1,071	1,148	1,377	1,591	1,775	1,958	1,958	1,958	

Housing Program: 15 HERA Income Limits		HUD Area 1 ATLANTIC COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	16,080	18,360	20,670	22,950	24,810	26,640	28,470	30,300	
40%	21,440	24,480	27,560	30,600	33,080	35,520	37,960	40,400	
50%	26,800	30,600	34,450	38,250	41,350	44,400	47,450	50,500	
60%	32,160	36,720	41,340	45,900	49,620	53,280	56,940	60,600	
80%	42,880	48,960	55,120	61,200	66,160	71,040	75,920	80,800	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person	
30%	402	430	516	597	666	734	734	734	
40%	536	574	689	796	888	979	979	979	
50%	670	717	861	995	1,110	1,224	1,224	1,224	
60%	804	861	1,033	1,194	1,332	1,469	1,469	1,469	
80%	1,072	1,148	1,378	1,592	1,776	1,959	1,959	1,959	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Bergen-Passaic, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Bergen County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

**NJHMFA**

**Date: 04/30/2018**

Housing Program: 2 Tax Credits

HUD Area 3 BERGEN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	21,500	24,600	27,650	30,700	33,200	35,650	38,100	42,380
40%	28,680	32,760	36,840	40,920	44,200	47,480	50,760	54,040
50%	35,850	40,950	46,050	51,150	55,250	59,350	63,450	67,550
60%	43,020	49,140	55,260	61,380	66,300	71,220	76,140	81,060
80%	51,550	58,900	66,250	73,600	79,500	85,400	91,300	97,200
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		537	576	691	798	891	1,006	
40%		717	768	921	1,064	1,187	1,310	
50%		896	960	1,151	1,330	1,483	1,637	
60%		1,075	1,152	1,381	1,596	1,780	1,965	
80%		1,288	1,380	1,656	1,913	2,135	2,356	

Housing Program: 15 HERA Income Limits

HUD Area 3 BERGEN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	21,630	24,720	27,810	30,900	33,390	35,850	38,340	40,800
40%	28,840	32,960	37,080	41,200	44,520	47,800	51,120	54,400
50%	36,050	41,200	46,350	51,500	55,650	59,750	63,900	68,000
60%	43,260	49,440	55,620	61,800	66,780	71,700	76,680	81,600
80%	57,680	65,920	74,160	82,400	89,040	95,600	102,240	108,800
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		540	579	695	803	896	989	
40%		721	772	927	1,071	1,195	1,319	
50%		901	965	1,158	1,339	1,493	1,648	
60%		1,081	1,158	1,390	1,607	1,792	1,978	
80%		1,442	1,545	1,854	2,143	2,390	2,638	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA to use based on the projects Placed in Service Date:

<b>Burlington County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 5 BURLINGTON COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,350	21,000	23,600	26,200	29,420	33,740	38,060	42,380
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240
80%	48,950	55,950	62,950	69,900	75,500	81,100	86,700	92,300
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	
30%		458	491	590	695	843	1,005	
40%		612	656	787	909	1,014	1,119	
50%		765	820	983	1,136	1,267	1,398	
60%		918	984	1,180	1,363	1,521	1,678	
80%		1,223	1,311	1,573	1,817	2,027	2,237	

Housing Program: 15 HERA Income Limits

HUD Area 5 BURLINGTON COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,360	21,000	23,610	26,220	28,320	30,420	32,520	34,620
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240
80%	48,960	56,000	62,960	69,920	75,520	81,120	86,720	92,320
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	
30%		459	492	590	681	760	839	
40%		612	656	787	909	1,014	1,119	
50%		765	820	983	1,136	1,267	1,398	
60%		918	984	1,180	1,363	1,521	1,678	
80%		1,224	1,312	1,574	1,818	2,028	2,238	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

The following table outlines the maximum set of Income Limits for existing projects within Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA to use based on the projects Placed in Service Date:

<b>Camden County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 7 CAMDEN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,350	21,000	23,600	26,200	29,420	33,740	38,060	42,380
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240
80%	48,950	55,950	62,950	69,900	75,500	81,100	86,700	92,300
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	458	491	590	695	843	1,005	1,119	1,237
40%	612	656	787	909	1,014	1,119	1,237	1,355
50%	765	820	983	1,136	1,267	1,398	1,529	1,660
60%	918	984	1,180	1,363	1,521	1,678	1,835	1,992
80%	1,223	1,311	1,573	1,817	2,027	2,237	2,447	2,657

Housing Program: 15 HERA Income Limits

HUD Area 7 CAMDEN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,360	21,000	23,610	26,220	28,320	30,420	32,520	34,620
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240
80%	48,960	56,000	62,960	69,920	75,520	81,120	86,720	92,320
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	459	492	590	681	760	839	918	997
40%	612	656	787	909	1,014	1,119	1,237	1,355
50%	765	820	983	1,136	1,267	1,398	1,529	1,660
60%	918	984	1,180	1,363	1,521	1,678	1,835	1,992
80%	1,224	1,312	1,574	1,818	2,028	2,238	2,448	2,658

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Ocean City, NJ MSA to use based on the projects Placed in Service Date:

<b>Cape May, NJ MSA</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2017 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2016</u>
5/14/2010 to 5/31/2011	<u>FY2016</u>
6/1/2011 to 11/30/2011	<u>FY2016</u>
12/01/2011 to 12/10/2012	<u>FY2016</u>
12/11/2012 to 12/17/2013	<u>FY2016</u>
12/18/2013 to 3/05/2015	<u>FY2016</u>
3/06/2015 to 3/27/2016	<u>FY2016</u>
3/28/2016 to 4/13/2017	<u>FY2016</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

HH 2

Housing Program: 2 Tax Credits		HUD Area 9 CAPE MAY COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	16,550	18,900	21,250	25,100	29,420	33,740	38,060	42,380	
40%	22,040	25,200	28,360	31,480	34,000	36,520	39,040	42,380	
50%	27,550	31,500	35,450	39,350	42,500	45,650	48,800	51,950	
60%	33,060	37,800	42,540	47,220	51,000	54,780	58,560	62,340	
80%	44,100	50,400	56,700	62,950	68,000	73,050	78,100	83,100	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom		
30%	413	443	531	681	843	1,005			
40%	551	590	709	818	913	1,017			
50%	688	738	886	1,023	1,141	1,259			
60%	826	885	1,063	1,227	1,369	1,511			
80%	1,102	1,181	1,417	1,636	1,826	2,015			

Housing Program: 15 HERA Income Limits		HUD Area 9 CAPE MAY COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	16,980	19,410	21,840	24,240	26,190	28,140	30,060	32,010	
40%	22,640	25,880	29,120	32,320	34,920	37,520	40,080	42,680	
50%	28,300	32,350	36,400	40,400	43,650	46,900	50,100	53,350	
60%	33,960	38,820	43,680	48,480	52,380	56,280	60,120	64,020	
80%	45,280	51,760	58,240	64,640	69,840	75,040	80,160	85,360	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom		
30%	424	454	546	630	703	775			
40%	566	606	728	840	938	1,034			
50%	707	758	910	1,050	1,172	1,293			
60%	849	909	1,092	1,260	1,407	1,551			
80%	1,132	1,213	1,456	1,681	1,876	2,069			

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Vineland-Bridgeton, NJ MSA to use based on the projects Placed in Service Date:

<b>Cumberland, NJ MSA</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2017 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits		HUD Area 11 CUMBERLAND COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	14,150	16,460	20,780	25,100	29,420	33,740	38,060	42,380	
40%	18,880	21,560	24,240	26,920	29,420	33,740	38,060	42,380	
50%	23,600	26,950	30,300	33,650	36,350	39,050	41,750	44,450	
60%	28,320	32,340	36,360	40,380	43,620	46,860	50,100	53,340	
80%	37,700	43,100	48,500	53,850	58,200	62,500	66,800	71,100	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom		
30%	353	382	519	681	843	1,005	1,005		
40%	472	505	606	704	843	1,005	1,005		
50%	590	631	757	875	976	1,077	1,077		
60%	708	758	909	1,050	1,171	1,293	1,293		
80%	942	1,010	1,212	1,400	1,562	1,723	1,723		

Housing Program: 15 HERA Income Limits		HUD Area 11 CUMBERLAND COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	14,430	16,470	18,540	20,580	22,230	23,880	25,530	27,180	
40%	19,240	21,960	24,720	27,440	29,640	31,840	34,040	36,240	
50%	24,050	27,450	30,900	34,300	37,050	39,800	42,550	45,300	
60%	28,860	32,940	37,080	41,160	44,460	47,760	51,060	54,360	
80%	38,480	43,920	49,440	54,880	59,280	63,680	68,080	72,480	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom		
30%	360	386	463	535	597	658	658		
40%	481	515	618	713	796	878	878		
50%	601	643	772	891	995	1,098	1,098		
60%	721	772	927	1,070	1,194	1,317	1,317		
80%	962	1,030	1,236	1,427	1,592	1,757	1,757		

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Newark, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:

<b>Essex County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 13 ESSEX COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,050	22,900	25,750	28,600	30,900	33,740	38,060	42,380
40%	26,720	30,560	34,360	38,160	41,240	44,280	47,320	50,400
50%	33,400	38,200	42,950	47,700	51,550	55,350	59,150	63,000
60%	40,080	45,840	51,540	57,240	61,860	66,420	70,980	75,600
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	501	536	643	743	843	1,005	1,221	1,526
40%	668	716	859	992	1,107	1,383	1,660	2,086
50%	835	895	1,073	1,240	1,383	1,660	2,086	2,301
60%	1,002	1,074	1,288	1,488	1,660	2,086	2,301	
80%	1,258	1,348	1,618	1,870	2,086			

Housing Program: 15 HERA Income Limits

HUD Area 13 ESSEX COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,190	23,070	25,950	28,830	31,140	33,450	35,760	38,070
40%	26,920	30,760	34,600	38,440	41,520	44,600	47,680	50,760
50%	33,650	38,450	43,250	48,050	51,900	55,750	59,600	63,450
60%	40,380	46,140	51,900	57,660	62,280	66,900	71,520	76,140
80%	53,840	61,520	69,200	76,880	83,040	89,200	95,360	101,520
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	504	540	648	749	836	922	1,230	1,538
40%	673	721	865	999	1,115	1,393	1,672	2,086
50%	841	901	1,081	1,249	1,393	1,672	2,086	2,461
60%	1,009	1,081	1,297	1,499	1,672	2,086	2,461	
80%	1,346	1,442	1,730	1,999	2,230			

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

The following table outlines the maximum set of Income Limits for existing projects within Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA to use based on the projects Placed in Service Date:

<b>Gloucester County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 15 GLOUCESTER COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,350	21,000	23,600	26,200	29,420	33,740	38,060	42,380
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240
80%	48,950	55,950	62,950	69,900	75,500	81,100	86,700	92,300
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%	458	491	590	695	843	1,005	1,119	1,398
40%	612	656	787	909	1,014	1,119	1,398	1,678
50%	765	820	983	1,136	1,267	1,521	1,678	2,237
60%	918	984	1,180	1,363	1,521	1,678	2,237	
80%	1,223	1,311	1,573	1,817	2,027			

Housing Program: 15 HERA Income Limits

HUD Area 15 GLOUCESTER COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	18,360	21,000	23,610	26,220	28,320	30,420	32,520	34,620
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240
80%	48,960	56,000	62,960	69,920	75,520	81,120	86,720	92,320
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%	459	492	590	681	760	839	1,119	1,398
40%	612	656	787	909	1,014	1,119	1,398	1,678
50%	765	820	983	1,136	1,267	1,521	1,678	2,238
60%	918	984	1,180	1,363	1,521	1,678	2,238	
80%	1,224	1,312	1,574	1,818	2,028			

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Jersey City, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Hudson County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

**NJHMFA**

**Date: 04/30/2018**

Housing Program: 2 Tax Credits

HUD Area 17 HUDSON COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	19,800	22,600	25,450	28,250	30,550	33,740	38,060	42,380
40%	26,360	30,120	33,880	37,640	40,680	43,680	46,680	49,720
50%	32,950	37,650	42,350	47,050	50,850	54,600	58,350	62,150
60%	39,540	45,180	50,820	56,460	61,020	65,520	70,020	74,580
80%	52,750	60,250	67,800	75,300	81,350	87,350	93,400	99,400
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	495	530	636	735	843	1,005	1,205	1,506
40%	659	706	847	979	1,092	1,205	1,506	1,807
50%	823	882	1,058	1,223	1,365	1,506	1,807	2,183
60%	988	1,059	1,270	1,468	1,638	1,807	2,183	2,410
80%	1,318	1,412	1,695	1,958	2,183	2,410		

Housing Program: 15 HERA Income Limits

HUD Area 17 HUDSON COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	19,770	22,590	25,410	28,230	30,510	32,760	35,010	37,290
40%	26,360	30,120	33,880	37,640	40,680	43,680	46,680	49,720
50%	32,950	37,650	42,350	47,050	50,850	54,600	58,350	62,150
60%	39,540	45,180	50,820	56,460	61,020	65,520	70,020	74,580
80%	52,720	60,240	67,760	75,280	81,360	87,360	93,360	99,440
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	494	529	635	734	819	903	1,205	1,506
40%	659	706	847	979	1,092	1,205	1,506	1,807
50%	823	882	1,058	1,223	1,365	1,506	1,807	2,184
60%	988	1,059	1,270	1,468	1,638	1,807	2,184	2,410
80%	1,318	1,412	1,694	1,958	2,184	2,410		

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Middlesex-Somerset-Hunterdon, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Hunterdon County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 19 HUNTERDON COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	22,650	25,900	29,150	32,350	34,950	37,550	40,150	42,750
40%	30,240	34,560	38,880	43,160	46,640	50,080	53,520	57,000
50%	37,800	43,200	48,600	53,950	58,300	62,600	66,900	71,250
60%	45,360	51,840	58,320	64,740	69,960	75,120	80,280	85,500
80%	53,100	60,700	68,300	75,850	81,950	88,000	94,100	100,150
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%		566	606	728	841	938		1,036
40%		756	810	972	1,122	1,252		1,381
50%		945	1,012	1,215	1,403	1,565		1,726
60%		1,134	1,215	1,458	1,683	1,878		2,072
80%		1,327	1,422	1,707	1,972	2,200		2,428

Housing Program: 15 HERA Income Limits

HUD Area 19 HUNTERDON COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	22,680	25,920	29,160	32,370	34,980	37,560	40,140	42,750
40%	30,240	34,560	38,880	43,160	46,640	50,080	53,520	57,000
50%	37,800	43,200	48,600	53,950	58,300	62,600	66,900	71,250
60%	45,360	51,840	58,320	64,740	69,960	75,120	80,280	85,500
80%	60,480	69,120	77,760	86,320	93,280	100,160	107,040	114,000
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%		567	607	729	841	939		1,036
40%		756	810	972	1,122	1,252		1,381
50%		945	1,012	1,215	1,403	1,565		1,726
60%		1,134	1,215	1,458	1,683	1,878		2,072
80%		1,512	1,620	1,944	2,245	2,504		2,763

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Trenton, NJ MSA to use based on the projects Placed in Service Date:

<b>Mercer County, NJ MSA</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

**NJHMFA**

**Date: 04/30/2018**

Housing Program: 2 Tax Credits		HUD Area 21 MERCER COUNTY							
		Effective date: 04/01/2018							
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	20,800	23,750	26,700	29,650	32,050	34,400	38,060	42,380	
40%	27,720	31,680	35,640	39,560	42,760	45,920	49,080	52,240	
50%	34,650	39,600	44,550	49,450	53,450	57,400	61,350	65,300	
60%	41,580	47,520	53,460	59,340	64,140	68,880	73,620	78,360	
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom		
30%	520	556	667	771	860	1,005			
40%	693	742	891	1,029	1,148	1,266			
50%	866	928	1,113	1,286	1,435	1,583			
60%	1,039	1,113	1,336	1,543	1,722	1,899			
80%	1,258	1,348	1,618	1,870	2,086	2,301			

Housing Program: 15 HERA Income Limits		HUD Area 21 MERCER COUNTY							
		Effective date: 04/01/2018							
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	21,360	24,390	27,450	30,480	32,940	35,370	37,800	40,260	
40%	28,480	32,520	36,600	40,640	43,920	47,160	50,400	53,680	
50%	35,600	40,650	45,750	50,800	54,900	58,950	63,000	67,100	
60%	42,720	48,780	54,900	60,960	65,880	70,740	75,600	80,520	
80%	56,960	65,040	73,200	81,280	87,840	94,320	100,800	107,360	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom		
30%	534	571	686	792	884	975			
40%	712	762	915	1,057	1,179	1,301			
50%	890	953	1,143	1,321	1,473	1,626			
60%	1,068	1,143	1,372	1,585	1,768	1,951			
80%	1,424	1,525	1,830	2,114	2,358	2,602			

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

The following table outlines the maximum set of Income Limits for existing projects within Middlesex-Somerset-Hunterdon, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:

<b>Middlesex County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

**NJHMFA**

**Date: 04/30/2018**

Housing Program: 2 Tax Credits		HUD Area 23 MIDDLESEX COUNTY							Effective date: 04/01/2018	
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person		
30%	22,650	25,900	29,150	32,350	34,950	37,550	40,150	42,750		
40%	30,240	34,560	38,880	43,160	46,640	50,080	53,520	57,000		
50%	37,800	43,200	48,600	53,950	58,300	62,600	66,900	71,250		
60%	45,360	51,840	58,320	64,740	69,960	75,120	80,280	85,500		
80%	53,100	60,700	68,300	75,850	81,950	88,000	94,100	100,150		
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	7 Bedroom	8 Bedroom	
30%		566	606	728	841	938	1,036	1,036		
40%		756	810	972	1,122	1,252	1,381	1,381		
50%		945	1,012	1,215	1,403	1,565	1,726	1,726		
60%		1,134	1,215	1,458	1,683	1,878	2,072	2,072		
80%		1,327	1,422	1,707	1,972	2,200	2,428	2,428		

Housing Program: 15 HERA Income Limits		HUD Area 23 MIDDLESEX COUNTY							Effective date: 04/01/2018	
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person		
30%	22,680	25,920	29,160	32,370	34,980	37,560	40,140	42,750		
40%	30,240	34,560	38,880	43,160	46,640	50,080	53,520	57,000		
50%	37,800	43,200	48,600	53,950	58,300	62,600	66,900	71,250		
60%	45,360	51,840	58,320	64,740	69,960	75,120	80,280	85,500		
80%	60,480	69,120	77,760	86,320	93,280	100,160	107,040	114,000		
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	7 Bedroom	8 Bedroom	
30%		567	607	729	841	939	1,036	1,036		
40%		756	810	972	1,122	1,252	1,381	1,381		
50%		945	1,012	1,215	1,403	1,565	1,726	1,726		
60%		1,134	1,215	1,458	1,683	1,878	2,072	2,072		
80%		1,512	1,620	1,944	2,245	2,504	2,763	2,763		

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Monmouth-Ocean, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Monmouth County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 25 MONMOUTH COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,900	23,850	26,850	29,800	32,200	34,600	38,060	42,380
40%	27,840	31,800	35,760	39,720	42,920	46,080	49,280	52,440
50%	34,800	39,750	44,700	49,650	53,650	57,600	61,600	65,550
60%	41,760	47,700	53,640	59,580	64,380	69,120	73,920	78,660
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%		522	559	671	775	865	1,005	42,380
40%		696	745	894	1,033	1,152	1,271	52,440
50%		870	931	1,117	1,291	1,440	1,589	65,550
60%		1,044	1,118	1,341	1,549	1,728	1,907	78,660
80%		1,258	1,348	1,618	1,870	2,086	2,301	94,950

Housing Program: 15 HERA Income Limits

HUD Area 25 MONMOUTH COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,880	23,850	26,820	29,790	32,190	34,560	36,960	39,330
40%	27,840	31,800	35,760	39,720	42,920	46,080	49,280	52,440
50%	34,800	39,750	44,700	49,650	53,650	57,600	61,600	65,550
60%	41,760	47,700	53,640	59,580	64,380	69,120	73,920	78,660
80%	55,680	63,600	71,520	79,440	85,840	92,160	98,560	104,880
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%		522	559	670	774	864	953	39,330
40%		696	745	894	1,033	1,152	1,271	52,440
50%		870	931	1,117	1,291	1,440	1,589	65,550
60%		1,044	1,118	1,341	1,549	1,728	1,907	78,660
80%		1,392	1,491	1,788	2,066	2,304	2,543	104,880

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

The following table outlines the maximum set of Income Limits for existing projects within Newark, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:

<b>Morris County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: **2 Tax Credits**

HUD Area **27 MORRIS COUNTY**

Effective date: **04/01/2018**

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,050	22,900	25,750	28,600	30,900	33,740	38,060	42,380
40%	26,720	30,560	34,360	38,160	41,240	44,280	47,320	50,400
50%	33,400	38,200	42,950	47,700	51,550	55,350	59,150	63,000
60%	40,080	45,840	51,540	57,240	61,860	66,420	70,980	75,600
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%	501	536	643	743	843	1,005	1,221	1,526
40%	668	716	859	992	1,107	1,221	1,526	1,832
50%	835	895	1,073	1,240	1,383	1,660	1,832	2,301
60%	1,002	1,074	1,288	1,488	1,660	2,086	2,301	
80%	1,258	1,348	1,618	1,870	2,086			

Housing Program: **15 HERA Income Limits**

HUD Area **27 MORRIS COUNTY**

Effective date: **04/01/2018**

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,190	23,070	25,950	28,830	31,140	33,450	35,760	38,070
40%	26,920	30,760	34,600	38,440	41,520	44,600	47,680	50,760
50%	33,650	38,450	43,250	48,050	51,900	55,750	59,600	63,450
60%	40,380	46,140	51,900	57,660	62,280	66,900	71,520	76,140
80%	53,840	61,520	69,200	76,880	83,040	89,200	95,360	101,520
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%	504	540	648	749	836	922	1,230	1,538
40%	673	721	865	999	1,115	1,230	1,538	1,845
50%	841	901	1,081	1,249	1,393	1,672	1,845	2,461
60%	1,009	1,081	1,297	1,499	1,672	2,230	2,461	
80%	1,346	1,442	1,730	1,999	2,230			

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

The following table outlines the maximum set of Income Limits for existing projects within Monmouth-Ocean, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:

<b>Ocean County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

**NJHMFA**

**Date: 04/30/2018**

Housing Program: 2 Tax Credits

HUD Area 29 OCEAN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,900	23,850	26,850	29,800	32,200	34,600	38,060	42,380
40%	27,840	31,800	35,760	39,720	42,920	46,080	49,280	52,440
50%	34,800	39,750	44,700	49,650	53,650	57,600	61,600	65,550
60%	41,760	47,700	53,640	59,580	64,380	69,120	73,920	78,660
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		522	559	671	775	865	1,005	
40%		696	745	894	1,033	1,152	1,271	
50%		870	931	1,117	1,291	1,440	1,589	
60%		1,044	1,118	1,341	1,549	1,728	1,907	
80%		1,258	1,348	1,618	1,870	2,086	2,301	

Housing Program: 15 HERA Income Limits

HUD Area 29 OCEAN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,880	23,850	26,820	29,790	32,190	34,560	36,960	39,330
40%	27,840	31,800	35,760	39,720	42,920	46,080	49,280	52,440
50%	34,800	39,750	44,700	49,650	53,650	57,600	61,600	65,550
60%	41,760	47,700	53,640	59,580	64,380	69,120	73,920	78,660
80%	55,680	63,600	71,520	79,440	85,840	92,160	98,560	104,880
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		522	559	670	774	864	953	
40%		696	745	894	1,033	1,152	1,271	
50%		870	931	1,117	1,291	1,440	1,589	
60%		1,044	1,118	1,341	1,549	1,728	1,907	
80%		1,392	1,491	1,788	2,066	2,304	2,543	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Bergen-Passaic, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Passaic County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 31 PASSAIC COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	21,500	24,600	27,650	30,700	33,200	35,650	38,100	42,380
40%	28,680	32,760	36,840	40,920	44,200	47,480	50,760	54,040
50%	35,850	40,950	46,050	51,150	55,250	59,350	63,450	67,550
60%	43,020	49,140	55,260	61,380	66,300	71,220	76,140	81,060
80%	51,550	58,900	66,250	73,600	79,500	85,400	91,300	97,200
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%		537	576	691	798	891	1,006	
40%		717	768	921	1,064	1,187	1,310	
50%		896	960	1,151	1,330	1,483	1,637	
60%		1,075	1,152	1,381	1,596	1,780	1,965	
80%		1,288	1,380	1,656	1,913	2,135	2,356	

Housing Program: 15 HERA Income Limits

HUD Area 31 PASSAIC COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	21,630	24,720	27,810	30,900	33,390	35,850	38,340	40,800
40%	28,840	32,960	37,080	41,200	44,520	47,800	51,120	54,400
50%	36,050	41,200	46,350	51,500	55,650	59,750	63,900	68,000
60%	43,260	49,440	55,620	61,800	66,780	71,700	76,680	81,600
80%	57,680	65,920	74,160	82,400	89,040	95,600	102,240	108,800
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Person
30%		540	579	695	803	896	989	
40%		721	772	927	1,071	1,195	1,319	
50%		901	965	1,158	1,339	1,493	1,648	
60%		1,081	1,158	1,390	1,607	1,792	1,978	
80%		1,442	1,545	1,854	2,143	2,390	2,638	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA to use based on the projects Placed in Service Date:

<b>Salem County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits		HUD Area 33 SALEM COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	18,350	21,000	23,600	26,200	29,420	33,740	38,060	42,380	
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160	
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700	
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240	
80%	48,950	55,950	62,950	69,900	75,500	81,100	86,700	92,300	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom	
30%	458	491	590	695	843	1,005	1,119	1,398	
40%	612	656	787	909	1,014	1,267	1,678	2,237	
50%	765	820	983	1,136	1,267	1,521	1,678	2,237	
60%	918	984	1,180	1,363	1,521	1,678	2,237		
80%	1,223	1,311	1,573	1,817	2,027				

Housing Program: 15 HERA Income Limits		HUD Area 33 SALEM COUNTY							Effective date: 04/01/2018
INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
30%	18,360	21,000	23,610	26,220	28,320	30,420	32,520	34,620	
40%	24,480	28,000	31,480	34,960	37,760	40,560	43,360	46,160	
50%	30,600	35,000	39,350	43,700	47,200	50,700	54,200	57,700	
60%	36,720	42,000	47,220	52,440	56,640	60,840	65,040	69,240	
80%	48,960	56,000	62,960	69,920	75,520	81,120	86,720	92,320	
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom	
30%	459	492	590	681	760	839	1,119	1,398	
40%	612	656	787	909	1,014	1,267	1,678	2,238	
50%	765	820	983	1,136	1,267	1,521	1,678	2,238	
60%	918	984	1,180	1,363	1,521	1,678	2,238		
80%	1,224	1,312	1,574	1,818	2,028				

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Middlesex-Somerset-Hunterdon, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Somerset County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 35 SOMERSET COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	22,650	25,900	29,150	32,350	34,950	37,550	40,150	42,750
40%	30,240	34,560	38,880	43,160	46,640	50,080	53,520	57,000
50%	37,800	43,200	48,600	53,950	58,300	62,600	66,900	71,250
60%	45,360	51,840	58,320	64,740	69,960	75,120	80,280	85,500
80%	53,100	60,700	68,300	75,850	81,950	88,000	94,100	100,150
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		566	606	728	841	938	1,036	
40%		756	810	972	1,122	1,252	1,381	
50%		945	1,012	1,215	1,403	1,565	1,726	
60%		1,134	1,215	1,458	1,683	1,878	2,072	
80%		1,327	1,422	1,707	1,972	2,200	2,428	

Housing Program: 15 HERA Income Limits

HUD Area 35 SOMERSET COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	22,680	25,920	29,160	32,370	34,980	37,560	40,140	42,750
40%	30,240	34,560	38,880	43,160	46,640	50,080	53,520	57,000
50%	37,800	43,200	48,600	53,950	58,300	62,600	66,900	71,250
60%	45,360	51,840	58,320	64,740	69,960	75,120	80,280	85,500
80%	60,480	69,120	77,760	86,320	93,280	100,160	107,040	114,000
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		567	607	729	841	939	1,036	
40%		756	810	972	1,122	1,252	1,381	
50%		945	1,012	1,215	1,403	1,565	1,726	
60%		1,134	1,215	1,458	1,683	1,878	2,072	
80%		1,512	1,620	1,944	2,245	2,504	2,763	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Newark, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:

<b>Sussex County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 37 SUSSEX COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,050	22,900	25,750	28,600	30,900	33,740	38,060	42,380
40%	26,720	30,560	34,360	38,160	41,240	44,280	47,320	50,400
50%	33,400	38,200	42,950	47,700	51,550	55,350	59,150	63,000
60%	40,080	45,840	51,540	57,240	61,860	66,420	70,980	75,600
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		501	536	643	743	843	1,005	
40%		668	716	859	992	1,107	1,221	
50%		835	895	1,073	1,240	1,383	1,526	
60%		1,002	1,074	1,288	1,488	1,660	1,832	
80%		1,258	1,348	1,618	1,870	2,086	2,301	

Housing Program: 15 HERA Income Limits

HUD Area 37 SUSSEX COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,190	23,070	25,950	28,830	31,140	33,450	35,760	38,070
40%	26,920	30,760	34,600	38,440	41,520	44,600	47,680	50,760
50%	33,650	38,450	43,250	48,050	51,900	55,750	59,600	63,450
60%	40,380	46,140	51,900	57,660	62,280	66,900	71,520	76,140
80%	53,840	61,520	69,200	76,880	83,040	89,200	95,360	101,520
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		504	540	648	749	836	922	
40%		673	721	865	999	1,115	1,230	
50%		841	901	1,081	1,249	1,393	1,538	
60%		1,009	1,081	1,297	1,499	1,672	1,845	
80%		1,346	1,442	1,730	1,999	2,230	2,461	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## **Determination of Maximum Income Limits**

*The following table outlines the maximum set of Income Limits for existing projects within Newark, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:*

<b>Union County, NJ</b>	
<b>Vintage of Maximum Income Limits</b>	
<b>Placed In Service Date</b>	<b>Maximum Income Limits</b>
On or before 12/31/2008	<u>FY2018 HERA Special</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 39 UNION COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,050	22,900	25,750	28,600	30,900	33,740	38,060	42,380
40%	26,720	30,560	34,360	38,160	41,240	44,280	47,320	50,400
50%	33,400	38,200	42,950	47,700	51,550	55,350	59,150	63,000
60%	40,080	45,840	51,540	57,240	61,860	66,420	70,980	75,600
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		501	536	643	743	843	1,005	
40%		668	716	859	992	1,107	1,221	
50%		835	895	1,073	1,240	1,383	1,526	
60%		1,002	1,074	1,288	1,488	1,660	1,832	
80%		1,258	1,348	1,618	1,870	2,086	2,301	

Housing Program: 15 HERA Income Limits

HUD Area 39 UNION COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	20,190	23,070	25,950	28,830	31,140	33,450	35,760	38,070
40%	26,920	30,760	34,600	38,440	41,520	44,600	47,680	50,760
50%	33,650	38,450	43,250	48,050	51,900	55,750	59,600	63,450
60%	40,380	46,140	51,900	57,660	62,280	66,900	71,520	76,140
80%	53,840	61,520	69,200	76,880	83,040	89,200	95,360	101,520
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%		504	540	648	749	836	922	
40%		673	721	865	999	1,115	1,230	
50%		841	901	1,081	1,249	1,393	1,538	
60%		1,009	1,081	1,297	1,499	1,672	1,845	
80%		1,346	1,442	1,730	1,999	2,230	2,461	

**NOTE: Based on paragraph (a)(E)(i) of section 3009 of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289), projects that used income limits based on the FY2009 publication should use the higher of the FY2009 or FY2011 income limits.**

## Determination of Maximum Income Limits

The following table outlines the maximum set of Income Limits for existing projects within Warren County, NJ HUD Metro FMR Area to use based on the projects Placed in Service Date:

Warren County, NJ	
Vintage of Maximum Income Limits	
Placed In Service Date	Maximum Income Limits
On or before 12/31/2008	<u>FY2018</u>
1/1/2009 to 5/13/2010	<u>FY2018</u>
5/14/2010 to 5/31/2011	<u>FY2018</u>
6/1/2011 to 11/30/2011	<u>FY2018</u>
12/01/2011 to 12/10/2012	<u>FY2018</u>
12/11/2012 to 12/17/2013	<u>FY2018</u>
12/18/2013 to 3/05/2015	<u>FY2018</u>
3/06/2015 to 3/27/2016	<u>FY2018</u>
3/28/2016 to 4/13/2017	<u>FY2018</u>
4/14/2017 to 3/31/2018	<u>FY2018</u>
4/01/2018 to Present	<u>FY2018</u>

Housing Program: 2 Tax Credits

HUD Area 41 WARREN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	19,950	22,800	25,650	28,450	30,750	33,740	38,060	42,380
40%	26,560	30,360	34,160	37,920	40,960	44,000	47,040	50,080
50%	33,200	37,950	42,700	47,400	51,200	55,000	58,800	62,600
60%	39,840	45,540	51,240	56,880	61,440	66,000	70,560	75,120
80%	50,350	57,550	64,750	71,900	77,700	83,450	89,200	94,950
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	498	534	641	740	843	1,005	1,214	1,517
40%	664	711	854	986	1,100	1,375	1,650	1,821
50%	830	889	1,067	1,232	1,375	1,650	1,821	2,086
60%	996	1,067	1,281	1,479	1,650	1,821	2,086	2,301
80%	1,258	1,348	1,618	1,870	2,086	2,301		

Housing Program: 15 HERA Income Limits

HUD Area 41 WARREN COUNTY

Effective date: 04/01/2018

INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30%	19,920	22,770	25,620	28,440	30,720	33,000	35,280	37,560
40%	26,560	30,360	34,160	37,920	40,960	44,000	47,040	50,080
50%	33,200	37,950	42,700	47,400	51,200	55,000	58,800	62,600
60%	39,840	45,540	51,240	56,880	61,440	66,000	70,560	75,120
80%	53,120	60,720	68,320	75,840	81,920	88,000	94,080	100,160
RENT BY BEDROOM SIZE	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom	6 Bedroom	8 Bedroom
30%	498	533	640	739	825	910	1,214	1,517
40%	664	711	854	986	1,100	1,375	1,650	1,821
50%	830	889	1,067	1,232	1,375	1,650	1,821	2,086
60%	996	1,067	1,281	1,479	1,650	1,821	2,086	2,301
80%	1,328	1,423	1,708	1,972	2,200	2,428		

# Summary Allowance for Tenant-Furnished Utilities and Other Services

Locality : <b>New Jersey Department of Community Affairs</b>		Average							Date : 10/01/2018
5287 AHDD		Monthly Dollar Allowances							
Unit Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR	7 BR	
Mobile Home (Manufactured Home)*									
a. Natural Gas	23	28	36	46	58				
b. Electric	36	43	56	72	90				
c. Bottle Gas	97	117	151	193	242				
d. Oil	70	85	110	141	176				
High-Rise with Elevator									
a. Natural Gas	24	27	32	39	44	55	63	72	
b. Electric	33	40	49	60	75	87	100	113	
Row House/Garden Apt (Rowhouse/Townhouse)*									
a. Natural Gas	23	31	42	52	63	73	84	95	
b. Electric	36	48	65	81	98	113	130	147	
c. Bottle Gas	96	128	174	216	262	305	350	396	
d. Oil	70	93	126	158	191	222	255	288	
Two-Three Family/Duplex (Semi-Detached)*									
a. Natural Gas	28	36	48	59	69	79	91	103	
b. Electric	43	56	74	92	107	122	140	159	
c. Bottle Gas	116	150	198	246	289	328	377	427	
d. Oil	84	109	144	179	210	239	275	311	
Older Multi-Family (Low Rise)*									
a. Natural Gas	25	33	44	54	65	75	86	97	
b. Electric	39	51	68	84	101	116	133	150	
c. Bottle Gas	104	136	182	225	270	310	357	404	
d. Oil	76	99	132	164	197	226	260	294	
Older Home Converted (Semi Detached)*									
a. Natural Gas	27	34	46	57	68	76	87	99	
b. Electric	41	53	71	88	105	117	135	153	
c. Bottle Gas	111	142	190	236	281	316	363	410	
d. Oil	81	103	139	172	205	230	264	299	
Single Family Detached									
a. Natural Gas	30	41	49	62	70	82	94	107	
b. Electric	47	64	77	96	109	127	146	165	
c. Bottle Gas	127	172	206	259	293	341	392	443	
d. Oil	92	125	150	189	213	248	285	322	
All Unit Types-Cooking									
a. Natural Gas	4	6	8	9	12	13	14	16	
b. Electric	10	12	17	21	26	28	32	36	
c. Bottle Gas	18	24	32	39	48	52	60	68	
All Unit Types-Electricity	33	43	57	71	88	95	109	123	
All Unit Types-Water Heat									
a. Natural Gas	5	7	9	12	14	16	18	20	
b. Electric	12	16	21	26	32	35	40	46	
c. Bottle Gas	23	29	39	49	60	65	75	84	
d. Oil	15	20	27	33	41	44	51	57	
Range (Tenant Owned)	4	4	5	5	5	5	5	5	
Refrigerator (Tenant Owned)	4	4	4	5	5	5	5	5	
Water	28	36	43	52	58	65			
Sewer	52	52	52	52	52	52			

***Low Income Housing Tax Credit***  
***Check List for New Properties***

**This check list must be used when reporting new properties to the Agency.**

**All items shall be sent to the Tax Credit Analyst assigned to your project within 30 days of the Placed in Service Date.**

Property Name: \_\_\_\_\_ LITC#: \_\_\_\_\_

Property Address: \_\_\_\_\_

**Property Contact Information:**

**Owner Contact Information:**

Manager: \_\_\_\_\_

Owner: \_\_\_\_\_

Phone# \_\_\_\_\_

Phone# \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

Fax# \_\_\_\_\_

Fax# \_\_\_\_\_

**Managing Agent Contact Information:**

Name: \_\_\_\_\_ Phone#: \_\_\_\_\_ E-mail: \_\_\_\_\_

- Owner's Certificate of Continuing Program Compliance for New Properties Only
- Project Status Form completed in its' entirety
- IRS Form 8609 with Part II completed (if received from Tax Credit Allocations)
- New Property Setup Form (submit via email)
- List of Building addresses with corresponding building numbers and placed-in-service dates (i.e. BIN #1 – 123 Blue Street – 1/1/2018)
- Unit Designations for the Income Averaging Set-aside (if applicable)
- Super's Unit # \_\_\_\_\_ in BIN# \_\_\_\_\_ (if applicable)
- Mitas Web User Agreement (printed from website)
- Acquisition/Rehab Acknowledgement (for Acquisition/Rehab properties only)
- Documentation to support the Tenant Paid Utility Allowance(s) entered in Mitas
- Tax Credit Certification for individual processing Tenant Income Certification (TIC)
- List of ACC, PHA or any units with special program requirements excluding HUD programs (if applicable)

To access monitoring forms or the list of HMFA contacts, visit  
<http://www.state.nj.us/dca/hmfa/developers/credits/compliance/>

**All compliance packages should be mailed to the Tax Credit Analyst for the property via  
 USPS, UPS, FedEx, etc.  
 Please do not email.**

**\*\*If you have any questions, please contact the Tax Credit Analyst assigned to your property. \*\***

**OWNER'S CERTIFICATION OF COMPLIANCE FOR NEW PROPERTY**

New Jersey Housing and Mortgage Finance Agency

<b>Certification Dates:</b>	<b>From:</b> January 1, 2018	<b>To:</b> December 31, 2018
<b>Project Name:</b>	<b>LITC No:</b>	
<b>Project Address:</b>	<b>City:</b>	<b>Zip:</b>
<b>Tax ID # of Ownership Entity:</b>		
<b>Ownership Entity Address:</b>		
<b>Ownership Entity Phone Number:</b>	<b>Fax Number:</b>	
<b>Ownership Entity E-Mail Address:</b>		

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ (the "Owner"), hereby certifies that:

**Please check the appropriate box**

- No buildings have been Placed in Service (please proceed to page 3 to sign and date this form)
- At least one building has been Placed in Service and owner will begin credit period in the same year
- At least one building has been Placed in Service but owner elects to begin credit period in the following year (please proceed to page 3 to sign and date this form)

1. The project meets the minimum requirements of: (check one)
- 20 - 50 test under Section 42(g) (1) (A) of the Code
- 40 - 60 test under Section 42(g) (1) (B) of the Code
- 15 - 40 test for "deep rent-skewed" projects under Section 42(g) (4) and 142(d) (4) (B) of the Code
- Income Averaging (please attach unit designations)
2. There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:
- NO CHANGE**                       **CHANGE**

If "**Change**", list the applicable fraction for each building in the project for the certification year on page 4:

3. The owner has received an "Annual" Tenant Income Certification from each low-income resident and documentation to support that certification and/or an "Initial" Tenant Income Certification from each low-income resident, and documentation to support the certification at initial occupancy:
- YES**                                       **NO**

**If "No" please provide explanation on page 4.**

**(If the "Annual" Tenant Income Certification was completed but not signed by the tenant prior to vacating the unit, please attach a copy of the TIC with backup documentation, recertification notices, Notice to Cease/Quit and provide explanation on page 4. If the tenant failed to recertify, please attach court documents and provide explanation on page 4.)**

4. Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:
- YES**                                       **NO**
5. All low-income units in the project are and have been available for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) of the Code):
- YES**                                       **NO**                                       **HOMELESS**

6. No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:

NO FINDING

FINDING

7. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project:

YES

NO

**If "No", state nature of violation on page 4 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.**

8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

NO CHANGE

CHANGE

**If "Change", state nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 4:**

9. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:

YES

NO

10. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:

YES

NO

11. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:

YES

NO

12. An extended low-income housing commitment as described in section 42(h) (6) was in effect, including the requirement under section 42(h) (6) (B) (iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment

YES

NO

N/A

**If "No" or "N/A" please provide explanation on page 4**

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code:

YES

NO

14. There has been no change in the ownership or management of the project:

NO CHANGE

CHANGE

**If "Change", please complete page 4 detailing the changes in ownership or management of the project.**

15. The owner has notified each applicant and tenant, via Form HUD – 5380, of their rights under the Violence Against Women Act, Pub. L. No. 103-322, tit IV, 108 Stat. 1902 (1994), VAWA 2005, Pub. L. No. 109-162, 4402, 119 Stat. 2960, 3041-49 (2006), VAWA 2013, Pub. L. 113-4, 601, 127, Stat. 54 (2013) and if applicable VAWA 2013: Implementation in HUD Housing programs, 81 Fed. Reg. 80, 724 (Nov. 16, 2016) “HUD VAWA Final Rule” and distributed Form HUD-5382, VAWA self-certification form.

YES

NO

**If “No” please provide explanation on page 4.**

16. The owner has not increased the rent charged to each existing tenant (excluding rental assistance) by more than 5.00 percent annually, including due to changes in utility allowance calculations.

YES

NO

**If “No” please provide explanation on page 4.**

17. The on-site Property Management office had office hours of at least 20 hours every week.

YES

NO

**If “No” please provide explanation on page 4.**

18. The owner has registered and posted the property on our Housing Resource Center (<https://www.nj.gov/njhrc/>) and actively updated property information.

YES

NO

**If “No” please provide explanation on page 4.**

**Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.**

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

\_\_\_\_\_  
(Ownership Entity)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)



## *Low Income Housing Tax Credit*

### **Check List for Annual Compliance Packages**

**This check list must be used when submitting compliance packages to the Agency for approval. Please check off each item as it pertains to the property and submit complete package on or before January 31st. Failure to submit by the deadline is noncompliance that shall be reported to the IRS.**

Property Name: \_\_\_\_\_ LITC#: \_\_\_\_\_

**Property Contact Information:**

**Owner Contact Information:**

Site Mgr: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Managing Agent/Compliance Specialist Contact Information:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

- Current Tenant Report printed from Mitas Web Application System – \*PLEASE ATTACH\***  
(**please review data for Missing recerts, \$0 income, \$0 rent & total # of household members prior to submission**)
- Court documentation for any tenants **not recertified** for the reporting year
- Marketing efforts for all vacancies exceeding 90 days (**newspaper ads, outreach, internet listings, etc**)
- Explanation for Transient Housing units (**occupied for less than six (6) months**)
- Owner's Certificate of Continuing Program Compliance
- Owner's Certificate of Continuing Program Compliance **During the Extended Use Period**
- Monitoring Fee-\$20 per low income unit made payable to NJHMFA **for all properties in the Extended Use Period (year 16 and beyond) and/or entering the extended use period for the current year**
- Documentation to support the Tenant Paid Utility Allowance(s) entered in Mitas for the reporting year
- IRS Form 8609 with Part II completed (**if not previously submitted**)
- Year 15 Status Report (**for projects in year fourteen (14) of the Initial Compliance Period**)
- Tax Credit Certification + 2018 Continuing Education Certification (6 hrs) as required in the Qualified Allocation Plan (QAP) for the person(s) processing the Tenant Income Certifications (TIC)
- List of Unit Transfers for the reporting year – (**Transfers must be done on the same day for Tax Credits**)
- List of ACC, PHA or any units with special program requirements excluding HUD programs (**if applicable**)
- List of Market Units for reporting year (**if applicable**)
- List of Board Members- if the property is governed by a board and does not have an owner

To access monitoring forms or the list of HMFA contacts, visit  
<http://www.state.nj.us/dca/hmfa/developers/credits/compliance/>

**Annual Compliance packages should be mailed to the Tax Credit Analyst for the property via  
USPS, UPS, FedEx, etc.  
Please do not email.**

\*\* **If you have any questions, please contact the Tax Credit Analyst assigned to your property.** \*\*

**OWNER'S CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE**

New Jersey Housing and Mortgage Finance Agency

<b>Certification Dates:</b>	<b>From:</b> January 1, 2018	<b>To:</b> December 31, 2018	
<b>Project Name:</b>			<b>LITC No:</b>
<b>Project Address:</b>			<b>City:</b> <b>Zip:</b>
<b>Tax ID # of Ownership Entity:</b>			
<b>Ownership Entity Address:</b>			
<b>Ownership Entity Phone Number:</b>	<b>Fax Number:</b>		
<b>Ownership Entity E-Mail Address:</b>			

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ (the "Owner"), hereby certifies that:

- The project meets the minimum requirements of: (check one)
  - 20 - 50 test under Section 42(g) (1) (A) of the Code
  - 40 - 60 test under Section 42(g) (1) (B) of the Code
  - 15 - 40 test for "deep rent-skewed" projects under Section 42(g) (4) and 142(d) (4) (B) of the Code
  - Income Averaging (please attach unit designations if not previously submitted)
- There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:
 

**NO CHANGE**                       **CHANGE**

If "**Change**", list the applicable fraction for each building in the project for the certification year on page 4:
- The owner has received an "Annual" Tenant Income Certification from each low-income resident and documentation to support that certification and/or an "Initial" Tenant Income Certification from each low-income resident, and documentation to support the certification at initial occupancy.
 

**YES**                                       **NO**

**If "No" please provide explanation on page 4.**

**(If the "Annual" Tenant Income Certification was completed but not signed by the tenant prior to vacating the unit, please attach a copy of the TIC with backup documentation, recertification notices, Notice to Cease/Quit and provide explanation on page 4. If the tenant failed to recertify, please attach court documents and provide explanation on page 4.)**
- Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:
 

**YES**                                       **NO**
- All low-income units in the project are and have been available for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) of the Code):
 

**YES**                                       **NO**                                       **HOMELESS**
- No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:
 

**NO FINDING**                                       **FINDING**

7. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project:

YES  NO

**If "No", state nature of violation on page 4 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.**

8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

NO CHANGE  CHANGE

**If "Change", state nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 4:**

9. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:

YES  NO

10. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:

YES  NO

11. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:

YES  NO

12. An extended low-income housing commitment as described in section 42(h) (6) was in effect, including the requirement under section 42(h) (6) (B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to buildings with tax credits from years 1987-1989):

YES  NO  N/A

**If "No" or "N/A" please provide explanation on page 4.**

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.

YES  NO

14. There has been no change in the ownership or management of the project:

NO CHANGE  CHANGE

**If "Change", complete page 4 detailing the changes in ownership or management of the project.**

15. The owner has notified each applicant and tenant, via Form HUD – 5380, of their rights under the Violence Against Women Act, Pub. L. No. 103-322, tit IV, 108 Stat. 1902 (1994), VAWA 2005, Pub. L. No. 109-162, 4402, 119 Stat. 2960, 3041-49 (2006), VAWA 2013, Pub. L. 113-4, 601, 127, Stat. 54 (2013) and if applicable VAWA 2013: Implementation in HUD Housing programs, 81 Fed. Reg. 80, 724 (Nov. 16, 2016) "HUD VAWA Final Rule" and distributed Form HUD-5382, VAWA self-certification form:

YES  NO

**If "No" please provide explanation on page 4.**

16. The owner has not increased the rent charged to each existing tenant (excluding rental assistance) by more than 5.00 percent annually, including due to changes in utility allowance calculations:

YES

NO

**If "No" please provide explanation on page 4.**

17. The on-site Property Management office had office hours of at least 20 hours every week:

YES

NO

**If "No" please provide explanation on page 4.**

18. The owner has registered and posted the property on our Housing Resource Center (<https://www.nj.gov/njhrc/>) and actively updated property information.

YES

NO

**If "No" please provide explanation on page 4.**

**Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.**

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

\_\_\_\_\_  
(Ownership Entity)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)



**OWNER'S CERTIFICATION OF COMPLIANCE DURING THE EXTENDED USE PERIOD*****New Jersey Housing and Mortgage Finance Agency***

<b>Certification Dates:</b>	<b>From:</b> January 1, 2018	<b>To:</b> December 31, 2018	
<b>Project Name:</b>		<b>Project No:</b>	
<b>Project Address:</b>		<b>City:</b>	<b>Zip:</b>
<b>Tax ID# of Ownership Entity:</b>			

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ (the "Owner"), hereby certifies that:

1. The required applicable fraction has been met for each building by leasing units to individuals or families whose income is 50% or 60%, as irrevocably elected by the owner at the time of allocation, or less of the area median gross income (including adjustments for family size) as determined in accordance with Section 42 of the Internal Revenue Code (Code).

YES  NO

**If "NO", list the applicable fraction for each building in the project for the certification year on page 3.**

2. The owner has received an "Annual" Tenant Income Certification from each low-income resident and documentation to support that certification and/or an "Initial" Tenant Income Certification from each low-income resident, and documentation to support the certification at initial occupancy.

YES  NO

**If "No" please provide explanation on page 3.**

**(If the "Annual" Tenant Income Certification was completed but not signed by the tenant prior to vacating the unit, please attach a copy of the TIC with backup documentation, recertification notices, Notice to Cease/Quit and provide explanation on page 3. If the tenant failed to recertify, please attach court documents and provide explanation on page 3.)**

3. Each low-income unit in the project has met the required rent restriction(s):

YES  NO

4. All low-income units in the project are and have been available for use by the general public:

YES  NO

5. No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court.

NO FINDINGS  FINDINGS

6. Each Building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project.

YES  NO

**If "NO", state nature of violation on page 3 and attach a copy of the violation report and any documentation of correction.**

7. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis to all tenants in the buildings:

YES  NO

8. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit to tenants having a qualifying income before any units were or will be rented to tenants not having qualifying income:

YES  NO

9. If the income of tenants of a low-income unit in any building increased above 140% of the applicable income limit, the next available unit in the building was or will be rented to residents having a qualifying income:

YES  NO

10. An extended low-income housing commitment as described in IRS Section 42(h)(6) was in effect, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate or eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s.

YES  NO  N/A

11. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment.

YES  NO

12. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified non-profit organizations” under Section 42(h)(5) of the Code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.

YES  NO

13. There has been no change in the ownership or management of the project:

NO CHANGE  CHANGE

**If “Change”, complete page 3 detailing the changes in ownership or management of the project.**

14. The owner has notified each applicant and tenant, via Form HUD – 5380, of their rights under the Violence Against Women Act, Pub. L. No. 103-322, tit IV, 108 Stat. 1902 (1994), VAWA 2005, Pub. L. No. 109-162, 4402, 119 Stat. 2960, 3041-49 (2006), VAWA 2013, Pub. L. 113-4, 601, 127, Stat. 54 (2013) and if applicable VAWA 2013: Implementation in HUD Housing programs, 81 Fed. Reg. 80, 724 (Nov. 16, 2016) “HUD VAWA Final Rule” and distributed Form HUD-5382, VAWA self-certification form.

YES  NO

15. The owner has not increased the rent charged to each existing tenant (excluding any rental assistance) by more than 5.00 percent annually, including due to changes in utility allowance calculations.

YES  NO

16. The on-site Property Management office has office hours of at least 20 hours every week.

YES  NO

17. The owner has registered and posted the property on our Housing Resource Center (<https://www.nj.gov/njhrc/>) and actively updated property information.

YES  NO

**Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.**

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

\_\_\_\_\_  
(Ownership Entity)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)





***Low Income Housing Tax Credit***  
***Check List for Annual Social Service Models and/or Special Needs Packages***

**This check list must be used when submitting social service or special needs packages to the Agency for approval. Please check off each item as it pertains to the property and submit complete package on or before January 31st. Failure to submit by the deadline is noncompliance that shall be reported to the IRS.**

LITC#: \_\_\_\_\_

Property: \_\_\_\_\_

**Property Contact Information:****Owner Contact Information:**

Site Mgr: \_\_\_\_\_

Owner: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Managing Agent Contact Information:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Check all that apply:**

- Annual Certification for Projects with Social Service Models (attach job description for onsite service coordinator (if applicable), three (3) monthly newsletters with calendar and supporting documentation for each service provided to residents)
- Annual Certification for Projects in the Supportive Housing Cycle or with Set-Aside Special Needs Unit with supporting documentation
- Special Needs Population Certification Form with supporting documentation
- Frail Elderly Certification with supporting documentation

**\*\*Please mail package to the attention of Maria DiMaggio in the Tax Credit Division\*\***

**To access monitoring forms or the list of HMFA contacts, visit  
<http://www.state.nj.us/dca/hmfa/developers/credits/compliance/>**

**\*\* If you have any questions, feel free to contact Maria DiMaggio at (609) 278-7512. \*\***

For Calendar Year Ending 12/31/2018

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY  
LOW INCOME HOUSING TAX CREDIT**

**ANNUAL PROJECT CERTIFICATION  
for  
Projects with Social Service Models**

This property, in receiving its allocation of low income tax credits, was selected in part due to the commitment on the part of the owner to provide social service programs for the tenants. As part of NJHMFA monitoring, we are requesting the owner to complete and submit the following information:

LITC #: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Credit Year: \_\_\_\_\_ Number of Required Services: \_\_\_\_\_

**Attach the following information:**

- a. Job description for onsite service coordinator (if applicable)  
 b. Number of hours per week on-site service coordinator works (if applicable)  
 c. Monthly newsletters/calendar of events (please include at least 3 monthly newsletters/calendars)

**Check the following services being provided to the residents:**

- |   |  |
|---|--|
| <input type="checkbox"/> After School Programs                                    | <input type="checkbox"/> Adult Day Care                            |
| <input type="checkbox"/> Health Promotion Programs                                | <input type="checkbox"/> Health Care Services/Treatment, Follow-Up |
| <input type="checkbox"/> Job Training   | <input type="checkbox"/> Personal Care/Housekeeping                |
| <input type="checkbox"/> Meals Program  | <input type="checkbox"/> Transportation                            |
| <input type="checkbox"/> Financial Management Training/ Counseling                | <input type="checkbox"/> Computer literacy                         |
| <input type="checkbox"/> Social Services Coordinator (at least 20 hours per week) |  |
| <input type="checkbox"/> Other (specify): _____                                   |  |

For each of the services being provided to the residents, attach the following information and include any supporting documentation such as flyers and sign-sheets:

- a. Name of organization that provides this service  
 b. Cost of the service and who pays for service (tenant-paid, free of charge, etc.)  
 c. Frequency of the service being provided  
 d. Number of residents that are served at the frequency of service being provided (monthly, quarterly, etc.)

Please be aware that all information provided is required for NJHMFA LIHTC monitoring and is strictly confidential. Copies of contracts with Social Service Providers must be maintained along with other project records and must be furnished upon request by NJHMFA. During the on-site visit, NJHMFA personnel may wish to review files in regard to services and speak to various participants regarding the social services components of the project.

NOTE: Failure to comply with the social service/special needs requirements of the application is grounds for a determination of noncompliance.

Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title \_\_\_\_\_

**For Calendar Year Ending 12/31/2018**

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY  
LOW INCOME HOUSING TAX CREDIT**

**ANNUAL PROJECT CERTIFICATION**

**for  
Projects in the Supportive Housing Cycle or with Set-Aside Special Needs Units**

This property, in receiving its allocation of low income tax credits, was selected in part due to the commitment on the part of the owner to provide services to special needs residents living in this property. As part of NJHMFA monitoring, we are requesting the owner to complete and submit the following information:

LITC #: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Credit Year: \_\_\_\_\_ Special Needs Population: \_\_\_\_\_

Number of Set-Aside units: \_\_\_\_\_

Attach the following information:

**a. Job description for onsite service coordinator**

**b. Name of organization that provides service coordination**

**b. Number of hours per week on-site service coordinator works**

**c. Monthly newsletters/calendar of events (please include at least 3 monthly newsletters/calendars)**

**Check the following services being provided to the residents:**

- |   |  |
|---|--|
| <input type="checkbox"/> After School Programs                    | <input type="checkbox"/> Adult Day Care                            |
| <input type="checkbox"/> Health Promotion Programs                | <input type="checkbox"/> Health Care Services/Treatment, Follow-Up |
| <input type="checkbox"/> Job Training                             | <input type="checkbox"/> Personal Care/Housekeeping                |
| <input type="checkbox"/> Meals Program                            | <input type="checkbox"/> Transportation                            |
| <input type="checkbox"/> Financial Management Training/Counseling |  |
| <input type="checkbox"/> Crisis Intervention (24 hours/7 days)    | <input type="checkbox"/> Onsite/offsite education                  |
| <input type="checkbox"/> Other (specify): _____                   |  |

**For each of the services being provided to the residents, attach the following information and include any supporting documentation such as flyers and sign-sheets:**

**a. Name of organization that provides this service**

**b. Cost of the service and who pays for service (tenant-paid, free of charge, etc.)**

**c. Frequency of the service being provided**

**d. Number of residents that are served at the frequency of service being provided (monthly, quarterly, etc.)**

Please be aware that all information provided is required for NJHMFA LIHTC monitoring and is strictly confidential. Copies of contracts with Social Service Providers must be maintained along with other project records and must be furnished upon request by NJHMFA. During the on-site visit, NJHMFA personnel may wish to review files in regard to services and speak to various participants regarding the special needs components of the project.

NOTE: Failure to comply with the special needs requirements of the application is grounds for a determination of noncompliance.

Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title \_\_\_\_\_

**SPECIAL NEEDS POPULATION CERTIFICATION FORM  
FOR PROJECTS FUNDED WITH LOW INCOME HOUSING TAX CREDITS  
(5% SET ASIDE OR SUPPORTIVE HOUSING CYCLE)**

Name of Project: \_\_\_\_\_ LITC #: \_\_\_\_\_  
 HMFA #: \_\_\_\_\_  
 SN #: \_\_\_\_\_

This is to certify that the following tenants meet the definition of an “Individual with Special Needs”. \* Use additional sheets as necessary.

TENANT NAME	TYPE OF SPECIAL NEEDS POPULATION
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

Name of Social Service Provider(s): \_\_\_\_\_

**Please attach a letter on letterhead from the referring social services agency/provider for each tenant indicating that the individual(s) is/are a client and eligible to receive services.**

\_\_\_\_\_  
 Owner’s Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
 Print Name and Title

\* Definitions:

“Individuals with special needs” means individuals with mental illness, individual with physical or developmental disabilities and individuals in other emerging special needs groups identified by State agencies. NJHMFA acknowledged special needs populations also include victims of domestic violence; ex-offenders and youth offenders; youth aging out of foster care, runaway and homeless youth; individuals and families who are homeless; disabled and homeless veterans; and individuals with AIDS/HIV.

“Individuals with mental illness” means individuals with a psychiatric disability or individuals with a mental illness eligible for housing or services funded by the Division of Mental Health Services in the Department of Human Services.

“Individuals with developmental disabilities” means an individual with a severe, chronic disability with a severe chronic disability, which is attributable to a mental or physical impairment or combination of mental or physical impairments; is manifested before the person attains age 22 and is likely to continue indefinitely. The disability results in substantial functional limitations in three or more of the following areas of major life activity: life-care; receptive or expressive languages; learning; mobility; self-direction; capacity for independent living; and economic sufficiency; and reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.

“Homeless individuals or families” mean any individual or family that does not have stable housing. Individuals coming out of a State psychiatric hospital, transitional living program, half-way house, jail or correctional facility, with no place to live may be considered homeless.

**FRAIL ELDERLY CERTIFICATION DOCUMENTATION**  
**FOR THE**  
**TAX CREDIT PROGRAM**

This is to certify that the following residents/tenants meet the definition of "Frail Elderly" as defined below.

Name of Project: \_\_\_\_\_ LIHTC #: \_\_\_\_\_

**Signatures:**

Owner/Managing Agent: \_\_\_\_\_ Date: \_\_\_\_\_

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_
13. \_\_\_\_\_
14. \_\_\_\_\_
15. \_\_\_\_\_

You can use additional sheets if necessary.

\*"Frail elderly" means a person at least 62 years of age who requires assistance in performing at least two activities of daily living or instrumental activities of daily living (that is, eating, dressing, grooming and household management activities).

# TENANT INCOME CERTIFICATION

Initial Certification  
  Recertification  
  Other

Effective Date: \_\_\_\_\_  
 Move-in Date: \_\_\_\_\_  
 (MM/DD/YYYY)

## PART I. DEVELOPMENT DATA

Property Name: \_\_\_\_\_ County: \_\_\_\_\_ BIN #: \_\_\_\_\_  
 Address: \_\_\_\_\_ Unit Number: \_\_\_\_\_ #Bedrooms: \_\_\_\_\_

## PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

## PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Social Security/Pensions	(C) Public Assistance	(D) Other Income
<b>TOTALS</b>	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D), above			<b>TOTAL INCOME (E):</b>	\$ _____

## PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
<b>TOTALS:</b>			\$ _____	\$ _____
Enter Column (H) Total If over \$5000		\$ _____ X	Passbook Rate 2.00%	= (J) Imputed Income
Enter the greater of the total of Column (I) or (J): imputed income			<b>TOTAL INCOME FROM ASSETS (K)</b>	
			\$ _____	\$ _____

**(L) Total Annual Household Income from All Sources [Add (E) + (K)]**     \$ \_\_\_\_\_

## HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full-time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

**PART V. DETERMINATION OF INCOME ELIGIBILITY**

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 \$ <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px; vertical-align: middle;"></span>	Household Meets Income Restriction at: <input type="checkbox"/> 80% <input type="checkbox"/> 70% <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> 20% <input type="checkbox"/> ____%	<b>RECERTIFICATION ONLY:</b> Current Income Limit x 140%: <i>(for 70% and 80% units in Average Income Test developments use 60% for Current Income Limit)</i> \$ _____  Household Income exceeds 140% at <input type="checkbox"/> Yes <input type="checkbox"/> No  Household Size at Move-in: _____
Current Income Limit per Family Size: \$ _____  Household Income at Move-in: \$ _____		

**PART VI. RENT**

Tenant Paid Rent \$ _____ Utility Allowance \$ _____  GROSS RENT FOR UNIT: (Tenant Paid Rent plus Utility Allowance & Other Non-Optional Charges) \$ <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px; vertical-align: middle;"></span>	Rent Assistance: \$ _____ Rent Type: _____ Other Non-Optional Charges: \$ _____  Unit Meets Rent Restriction at: <input type="checkbox"/> 80% <input type="checkbox"/> 70% <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> 20% <input type="checkbox"/> _____%  Maximum Rent Limit for this unit: \$ _____
--	---

**PART VII. STUDENT STATUS**

ARE ALL OCCUPANTS FULL-TIME STUDENTS?  <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, enter Student Explanation* and attach documentation  <div style="border: 1px solid black; padding: 5px; min-height: 40px;">                     Enter 1-5                 </div>	*Student Explanation 1. TANF assistance 2. Previously in state foster care system 3. Job Training Program 4. Single parent/dependent child 5. Married/join return
---	--	--

**PART VIII. PROGRAM TYPE**

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Housing Credit <input type="checkbox"/>  See Part V above.	b. HOME <input type="checkbox"/>  <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	c. Tax-exempt Housing Bond <input type="checkbox"/>  <i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	d. HFT <input type="checkbox"/>  <i>Income Status</i> <input type="checkbox"/> 30%/Poverty line <input type="checkbox"/> 50% AMGI <input type="checkbox"/> OI**	e. _____ <input type="checkbox"/> <i>(Name of Program)</i>  <i>Income Status</i> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI**
---	--	---	--	--

\*\* Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

\_\_\_\_\_  
SIGNATURE OF OWNER/REPRESENTATIVE

\_\_\_\_\_  
DATE

# INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

## Part I. Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date Enter the date the tenant has or will take occupancy of the unit.

Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.

Property Name Enter the name of the development.

County Enter the county (or equivalent) in which the building is located.

BIN # Enter the building identification number (BIN) assigned to the building (from IRS Form 8609).

Address Enter the address of the building.

Unit Number Enter the unit number.

# Bedrooms Enter the number of bedrooms in the unit.

## Part II. Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and Social Security number or alien registration number for each occupant.

*If there are more than seven (7) occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.*

## Part III. Annual Income

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.**

From the third-party verification forms obtained from each income source, enter the gross amount anticipated to be received for the 12 months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.

Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.

Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).

Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

#### Part IV. Income from Assets

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.**

From the third-party verification forms obtained from each asset source, list the gross amount anticipated to be received during the 12 months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F) List the type of asset (i.e., checking account, savings account, etc.).

Column (G) Enter C (for current, if the family currently owns or holds the asset) or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).

Column (H) Enter the cash value of the respective asset.

Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).

TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the greater of the total in Column (I) or (J).

Row (L) Total Annual Household Income from All Sources Add (E) and (K) and enter the total.

#### HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than five (5) days prior to the effective date of the certification.

#### Part V. Determination of Income Eligibility

Total Annual Household Income from All Sources Enter the number from item (L).

Current Income Limit per Family Size Enter the Current Move-in Income Limit for the household size at the designated income limit for that unit.

Household Income at Move-In Household Size at Move-In For recertifications only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.

Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the minimum set-aside(s) for the project, including the specific unit designation for Average Income Test developments.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed. For 70% and 80% units in Average Income Test developments, use 60% limit for Current Income Limit.

**Part VI. Rent**

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Rent Type	Enter the type of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of tenant paid rent plus utility allowance and other non-optional charges.
Maximum Rent Limit for This Unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the minimum set-aside(s) for the project, including the specific unit designation for Average Income Test developments.

**Part VII. Student Status**

If all household members are full-time\* students, check “yes.” If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

*\*Full time is determined by the school the student attends.*

**Part VIII. Program Type**

Mark the program(s) for which this household’s unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME Investment Partnerships (HOME) program, Tax-Exempt Housing Bond, Housing Trust Fund (HTF), or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property receives financing from the HOME program and the unit this household will occupy will count toward the HOME program set-asides, mark the appropriate box indicating the household’s income designation for purposes of HOME.
Housing Bond	If the property receives financing from the tax-exempt Housing Bond program, mark the appropriate box indicating the household’s income designation for purposes of the Housing Bond program.

HTF If the property receives financing from HTF and this household's unit will count towards the HTF set-aside requirements, mark the appropriate box indicating the household's income designation for purposes of HTF.

Other If the property participates in any other affordable housing program, complete the information as appropriate.

### **SIGNATURE OF OWNER/REPRESENTATIVE**

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.*

## EMPLOYMENT VERIFICATION

TO: (Name & Address of Employer)

RE:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Applicant/Tenant Name

\_\_\_\_\_  
 Social Security Number:                      \_\_\_\_\_  
 Unit Number (if assigned)

FROM: (Name & Address of Owner/Management Agent)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Thank you for your prompt response. All information is confidential.  
 Please contact \_\_\_\_\_  
 at ( ) \_\_\_\_\_ if you have any questions.

### PERMISSION FOR RELEASE OF INFORMATION

Release: I hereby authorize the release of the requested information. Information obtained under this consent is limited to information that is no older than 12 months. There are circumstances which would require the owner to verify information that is up to 5 years old, which would be authorized by me on a separate consent, attached to a copy of this consent.

\_\_\_\_\_  
 Signature of Applicant/Tenant

\_\_\_\_\_  
 Date

### THIS SECTION TO BE COMPLETED BY EMPLOYER

*Employer, please fill in **all** blanks. Enter N/A if an item is not applicable to the above employee.*

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Presently Employed: Yes \_\_\_\_\_ Date First Employed \_\_\_\_\_ No \_\_\_\_\_ Last Day of Employment \_\_\_\_\_

Current Wages/Salary: \$ \_\_\_\_\_ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other \_\_\_\_\_

Average # of regular hours per week: \_\_\_\_\_ Year-to-date earnings: \$ \_\_\_\_\_ From \_\_\_\_/\_\_\_\_/\_\_\_\_ through \_\_\_\_/\_\_\_\_/\_\_\_\_

Overtime Rate: \$ \_\_\_\_\_ per hour Average # of overtime hours per week: \_\_\_\_\_

Shift Differential Rate: \$ \_\_\_\_\_ per hour Average # of shift differential hours per week: \_\_\_\_\_

Commissions, bonuses, tips, other: \$ \_\_\_\_\_ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other \_\_\_\_\_

List any anticipated change in the employee's rate of pay within the next 12 months: \_\_\_\_\_; Effective date: \_\_\_\_\_

Is the employee's work seasonal or sporadic? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, indicate the average number of weeks in the layoff period(s): \_\_\_\_\_

Does this employee have a 401(k), 403(b), or other retirement account? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, can the employee withdraw the funds in this account? Yes \_\_\_\_\_ No \_\_\_\_\_ What is the appropriate agency/contact information to verify retirement account information? \_\_\_\_\_

Additional remarks: \_\_\_\_\_

Signature: \_\_\_\_\_  
 Print Your Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Company Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_  
 Tel. #: \_\_\_\_\_  
 Email: \_\_\_\_\_

**PENALTIES FOR MISUSING THIS CONTENT:** Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person who knowingly or willingly requests, obtains, or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the Social Security Act at 208 (a) (6), (7), and (8). Violations of these provisions are cited as violations of 42 USC 408 (a), (6), (7), and (8).

## SAMPLE UNEMPLOYMENT BENEFITS VERIFICATION

To: \_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ has applied for residency (or is a resident) at \_\_\_\_\_ . As part of our processing, it is necessary that we obtain verification of his/her unemployment benefits. The applicant/resident hereby authorizes the release of information regarding his/her unemployment benefits.

Please complete the section below and return it in the enclosed self-addressed envelope. (Please mail rather than have the above individual hand deliver.) Thank you in advance for your prompt attention.

Printed Name of Applicant/Resident	Printed Name of Manager
Signature of Applicant/Resident      Date	Signature of Manager                      Date
Social Security #	Manager's Phone Number

**THE FOLLOWING IS TO BE COMPLETED BY THE OFFICE OF EMPLOYMENT:**

1. Are benefits being paid now?                       Yes                       No
2. Have you been approved for payments but have not begun receiving them yet?                       Yes                       No
3. If yes, what is Gross Weekly Payment?                      \$ \_\_\_\_\_
4. Date of Initial Payment                      \_\_\_\_\_

Printed Name of Person Supplying Information	
Signature	Title
Date	Phone Number

WARNING: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense for any person to make false or fraudulent statements to any department or agency of the United States Government or public housing authority as to any matter within its jurisdiction or to make unauthorized disclosures or improper use of the information collected hereunder.



# SAMPLE

## RECURRING GIFT VERIFICATION

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TEL: \_\_\_\_\_ FAX: \_\_\_\_\_

FROM: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
MANAGER: \_\_\_\_\_  
TEL: \_\_\_\_\_ FAX: \_\_\_\_\_

Mr./Ms. \_\_\_\_\_ has applied for residency. As part of our processing, it is necessary to obtain verification of gift income. Please complete the section below and return it in the enclosed self-addressed envelope. Thank you for your prompt response.

**RELEASE STATEMENT**

I hereby authorize the above named management agent to make inquiries regarding recurring gift and contribution for the purpose of determining my eligibility for occupancy.

\_\_\_\_\_  
SIGNATURE DATE

**THE FOLLOWING TO BE COMPLETED BY INFORMATION PROVIDER**

I, \_\_\_\_\_, hereby certify that I contribute \$ \_\_\_\_\_ (a) per \_\_\_\_\_ (b) (frequency: weekly, monthly, yearly, etc..) to the above named household for the purpose of \_\_\_\_\_.

Are any changes to the above amount expected within the next twelve (12) months?  Yes  No  
**If yes, please complete the following:**  
Date of Expected Change: \_\_\_\_\_  
Anticipated Monthly Gross Amount: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Person Completing  
\_\_\_\_\_  
Signature of Person Completing Phone Date

I hereby certify that the information provided is true and complete to the best of my knowledge.

\_\_\_\_\_  
SIGNATURE OF APPLICANT/TENANT DATE

\_\_\_\_\_  
PRINTED NAME TELEPHONE

WARNING: Section 1001 of Title 18 U.S. code makes it a criminal offense to make willful, false statements or misrepresentation of any material fact involving the use of or obtain federal funds.

## RECURRING GIFT VERIFICATION

**SAMPLE  
SOCIAL SECURITY VERIFICATION**

To:     **Social Security Administration**                          Date: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ has applied for residency (or is a resident) at \_\_\_\_\_.  
 As part of our processing, it is necessary that we obtain verification of his/her Social Security Benefits/Income. The applicant/resident hereby authorizes the release of information regarding his/her Social Security Benefits/Income.

Please complete the section below and return it in the enclosed self-addressed envelope. (Please mail rather than have the above individual hand deliver.) Thank you in advance for your prompt attention.

Printed Name of Applicant/Resident	Printed Name of Manager
Signature of Applicant/Resident      Date	Signature of Manager                      Date
Social Security Number	Manager's Phone Number
Date of Birth	

**TO BE COMPLETED BY SOCIAL SECURITY ADMINISTRATION:**

Gross Monthly Social Security Benefit	\$ _____
Gross Monthly Supplemental Security Income	\$ _____
Amount of Monthly Deductions for Medicare	\$ _____

Printed Name of Social Security Representative	
Signature	Title
Date	Telephone

**WARNING:** Section 1001 of Title 18 of the U.S. Code makes it a criminal offense for any person to make false or fraudulent statements to any department or agency of the United States Government or public housing authority as to any matter within its jurisdiction or to make unauthorized disclosures or improper use of the information collected hereunder.

## SAMPLE MILITARY PAYMENT VERIFICATION

To: \_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ has applied for residency (or is a resident) at \_\_\_\_\_.  
 As part of our processing, it is necessary that we obtain verification of his/her employment and anticipated Gross Annual Income. The applicant/resident hereby authorizes the release of information regarding his/her employment and income with the military.

Please complete the section below and return it in the enclosed self-addressed envelope. (Please mail rather than have the above individual hand deliver.) Thank you in advance for your prompt attention.

Printed Name of Applicant/Resident	Printed Name of Manager
Signature of Applicant/Resident	Signature of Manager
Date	Date
Manager's Phone Number	

**THE FOLLOWING IS TO BE COMPLETED BY THE OFFICE OF THE MILITARY:**

Years \_\_\_\_\_ and months \_\_\_\_\_ of Service for Pay Purposes.

<u>Income:</u>	
Base Pay and Longevity Pay	\$ _____
Proficiency Pay	\$ _____
Sea and Foreign Duty Pay	\$ _____
Hazardous Duty Pay	\$ _____
Subsistence Allowance	\$ _____
Quarters Allowance (include only amount contributed by the Government)	\$ _____
Number of Dependents Claimed	\$ _____
Imminent Danger Pay	\$ _____

Other (explain): \_\_\_\_\_  
 \_\_\_\_\_

Printed Name of Authorized Representative	Title
Signature	
Date	Telephone

**WARNING:** Section 1001 of Title 18 of the U.S. Code makes it a criminal offense for any person to make false or fraudulent statements to any department or agency of the United States Government or public housing authority as to any matter within its jurisdiction or to make unauthorized disclosures or improper use of the information collected hereunder.

## SAMPLE ASSET VERIFICATION

Name of Bank: \_\_\_\_\_

Address of Bank: \_\_\_\_\_

Re: \_\_\_\_\_ SS#: \_\_\_\_\_

Applicant/Resident Name

Applicant/Resident Address	City, State	Zip Code
----------------------------	-------------	----------

The above person(s) has applied for tenancy (or is a resident) at \_\_\_\_\_  
 \_\_\_\_\_ . As part of our processing, we require verification of household's income, expenses, and other information related to eligibility. The applicant/resident herein authorizes the release of information regarding his/her income and assets. The information you provide will be used only for the purpose of determining household's eligibility for tenancy. We are required to complete our verification process in a short time period and would appreciate your prompt response. If you have any questions, please contact our office.

Permission by: \_\_\_\_\_

Applicant/Resident Signature

Date

Please complete the section below and return it in the enclosed self-addressed envelope. (Please mail rather than have the above individual hand deliver.) Thank you in advance for your prompt attention.

\_\_\_\_\_  
 Printed Name of Manager

\_\_\_\_\_  
 Signature of Manager

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Manager's Phone Number

**TO BE COMPLETED BY INSTITUTION**

**Checking Account**

<u>Date Opened</u>	<u>Account Number(s)</u>	<u>Average 6-Month Balance(s)</u>	<u>Interest Rate, If Any</u>
_____	_____	_____	_____ %
_____	_____	_____	_____ %
_____	_____	_____	_____ %

**Savings Account**

<u>Date Opened</u>	<u>Account Number(s)</u>	<u>Present Account Balance(s)</u>	<u>Annual Interest Rate</u>	<u>Early Withdrawal Penalty</u>
_____	_____	_____	_____ %	_____
_____	_____	_____	_____ %	_____
_____	_____	_____	_____ %	_____

**Certificate of Deposit**

<u>Date Opened</u>	<u>Account Number(s)</u>	<u>Present Account Balance(s)</u>	<u>Annual Interest Rate</u>	<u>Early Withdrawal Penalty</u>
_____	_____	_____	_____ %	_____
_____	_____	_____	_____ %	_____
_____	_____	_____	_____ %	_____

I certify that the above information is true and correct.

_____	_____
Printed Name of Official	Title of Official
_____	_____
Name of Institution	Signature
_____	_____
Address	Date
_____	_____
City, State, Zip Code	Phone Number

WARNING: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense for any person to make false or fraudulent statements to any department or agency of the United States Government or public housing authority as to any matter within its jurisdiction or to make unauthorized disclosures or improper use of the information collected hereunder.

May 2009

**SAMPLE VERIFICATION OF INCOME ELIGIBILITY FROM  
SECTION 8 AUTHORITY**

(Retype onto owner/managing agent/project letterhead.)

Date

(Public Housing Authority)

(Address)

(City, State Zip)

RE: (Head of Household Name)

(Project Name, Address, Unit #)

Dear Sir/Madam:

As the owner/managing agent of the above referenced low -income housing tax credit property, I/we are required to verify the income of all applicants or existing tenants in those housing units.

The above referenced tenant receives housing assistance payments under the Section 8 program from the (Tenant's Name) Public Housing Authority. Because this tenant is residing in a Low Income Housing Tax Credit building, Section 42 of the Internal Revenue Code requires that the building owner have the tenant complete an income certification and collect documentation to support the income certification. This requirement could be met if the public housing authority provides the tenant's income and a statement declaring that the tenant's income does not exceed the applicable income limit.

Please complete the form below for the above referenced tenant and return to me at the above address. The tenant has consented below to the release of their income and this statement. Your prompt return of this form will be appreciated. If you have any questions, please do not hesitate to contact me at (Phone Number).

Sincerely,

Owner/Managing Agent

I hereby consent to the release of the information requested.

\_\_\_\_\_  
Signature of Applicant/Tenant

\_\_\_\_\_  
Date

-----  
PHA STATEMENT

DATE: \_\_\_\_\_

As per the requirements of the Internal Revenue Code, the above household's gross income was calculated and certified on ( Date ) and found not to exceed ( Percentage\* ) percent of the median income limit for that year. Back-up documentation was collected from the tenant to verify the gross income.

\_\_\_\_\_  
Name of Public Housing Authority

\_\_\_\_\_  
Signature of Public Housing Authority Rep.

\* This will be 50% or 60%, depending on which minimum set-aside was selected by the owner. The owner/agent should fill this in for the PHA



**SAMPLE  
CERTIFICATION OF ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

I/We have \_\_\_\_\_/have not \_\_\_\_\_ disposed of any asset(s) for less than fair market value within the past two (2) years.

If asset(s) were disposed of for less than fair market value describe below:

The asset(s) I/We disposed of was:

\_\_\_\_\_  
\_\_\_\_\_

Date of Disposition: \_\_\_\_\_

The fair market value of the asset(s) I/We disposed of was:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The amount(s) received for the asset(s) I/We disposed of was:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Co-Applicant

\_\_\_\_\_  
Date

**PENALTIES FOR MISUSING THIS VERIFICATION**

Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government, HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty Provisions for misusing the social security number are contained in the Social Security Act at \*\* 208 (a) (6), (7) and (8).\*\* Violation of these provisions are cited as violations of 42 U.S.C. Section \*\* 408 (a) (6), (7) and (8).\*\*



## Child Support Certification

**Owners/Agent must count alimony or child support amounts awarded by the court unless the applicant/tenant certifies that payments are not being made and that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.**

**Please use separate form for each child support case**

I hereby certify that the following is true regarding my current child support for: (list names of children)

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

**Please check all that apply:**

1.  I am **currently receiving child support** in the amount of \$\_\_\_\_\_ per month/week from **as a non-court ordered payment from:** (A signed notarized statement from this provider of payment as verification of the amount of payment is attached)
 

Name of Provider	Relationship of Provider
------------------	--------------------------
2.  I am **currently receiving** child support in the amount of \$\_\_\_\_\_ per month/week. A print-out covering the past twelve (12) months from the appropriate agency (County, Courthouse or SRS Child Support Enforcement Unit) to verify payment is attached.
3.  I am presently receiving child support arrears in the amount of \$\_\_\_\_\_ per month/week.
4.  Effective \_\_\_\_\_ I **will begin** receiving child support in the amount of \$\_\_\_\_\_ per month/week. Supporting documentation of payment to be received is attached.
5.  I **may begin** receiving child support in the future. A copy of my divorce decree and/or separation agreement is attached. **If there isn't an agreement, please explain:**  
\_\_\_\_\_  
\_\_\_\_\_
6.  It is **Court ordered** that I receive \$\_\_\_\_\_ per month/week for child support, **but I do not receive it on a regular basis** – Case #\_\_\_\_\_. Documentation from County, Courthouse or SRS Child Support Enforcement Unit is attached.
7.  It is **Court ordered** that I receive \$\_\_\_\_\_ per month/week for child support, **but I do not receive it** – Case #\_\_\_\_\_. A print-out covering the past twelve (12) months from the appropriate agency (County, Courthouse or SRS Child Support Enforcement Unit) to verify non-payment is attached.
8.  I am **not** presently receiving child support and do not anticipate obtaining a court order for child support in the upcoming year.

**Under penalty of perjury, I certify that the information presented on this certification is true and accurate to the best of my knowledge. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of a lease agreement.**

\_\_\_\_\_  
Print Name of Applicant/Tenant

\_\_\_\_\_  
Signature of Applicant/Tenant

\_\_\_\_\_  
Date

# Checklist of Attachments for Child Support Certification

Owners/Agent must count alimony or child support amounts awarded by the court unless the applicant/tenant certifies that payments are not being made and that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.

- SRS Child Support Enforcement Unit  
Department of Social and Rehabilitation Services (**SRS**) will officially change to Department **for** Children and Families (DCF).
- NJ Child Support <http://www.njchildsupport.org>
- Child Support Enforcement Unit from *another state/county*
- Support Order (including any arrears)
- Court order generated through Public Assistance (if pass through) amount due to recipient
  - Printout of amounts receive by tenant/applicant
- Divorce Decree
- Separation Agreement
- Trust Account-distribution of payments
- Signed notarized statement of payment from provider on behalf of children.
- Summons to appear

### STUDENT VERIFICATION

This Annual Student Verification is in connection with the undersigned's application/occupancy in the following apartment:

Head of Household Name: \_\_\_\_\_ Unit No. if assigned: \_\_\_\_\_

Development Name and Address: \_\_\_\_\_

Move-in Date (MM/DD/YYYY) if applicable: \_\_\_\_\_

Check A, B, or C as applicable (note that students include those attending public or private elementary schools, middle or junior high schools, senior high schools, colleges, universities, technical, trade, or mechanical schools, but does not include those attending on-the-job training courses):

- A. \_\_\_\_\_ Household contains at least one occupant who is not a student and has not been/will not be a student for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). If this item is checked, no further information is needed. Sign and date below.
- B. \_\_\_\_\_ Household contains all students, but is qualified because the following occupant(s) \_\_\_\_\_ is/are a PART-TIME student(s). Verification of part-time student status is required for at least one occupant. If this item is checked, no further information is needed. Sign and date below.
- C. \_\_\_\_\_ Household contains all FULL-TIME students for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). If this item is checked, questions 1-5 below must be completed:

- 1. Are the students married and entitled to file a joint tax return? (attach marriage certificate or tax return) YES NO
- 2. Is at least one student a single parent with child(ren) *and* this parent is not a dependent of someone else, YES NO *and* the child(ren) is/are not dependent(s) of someone other than a parent? (attach student's most recent tax return and, if applicable, divorce/custody decree or other parent's most recent tax return)
- 3. Is at least one student receiving Temporary Assistance to Needy Families (TANF)? (provide release of information for verification purposes) YES NO
- 4. Does at least one student participate in a program receiving assistance under the Job Training Partnership Act, Workforce Investment Act, or under other similar federal, state, or local laws? (attach verification of participation) YES NO
- 5. Does the household consist of at least one student who was, within 5 years of the effective date of the initial income certification, under the care and placement responsibility of the state agency responsible for administering foster care? (provide verification of participation) YES NO

*Full-time student households that are income eligible and satisfy one of the above conditions are considered eligible. If C is checked and questions 1-5 are marked NO or verification does not support the exception indicated, the household is considered ineligible.*

Under penalties of perjury, I/we certify that the information presented in this Annual Student Certification is true and accurate to the best of my/our knowledge and belief. I/we agree to notify management immediately of any changes in this household's student status. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading, or incomplete information may result in the termination of the lease agreement.

All household members age 18 or older must sign and date.

Printed Name	Signature	Date

# STUDENT VERIFICATION

## THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY STUDENT

This Student Verification is being delivered in connection with the undersigned's eligibility for residency in the following apartment:

Project Name: \_\_\_\_\_

Building Address: \_\_\_\_\_

Unit Number if assigned: \_\_\_\_\_

I hereby grant disclosure of the information requested below from \_\_\_\_\_  
Name of Educational Institution

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Student ID#

**Return Form to:**

## THIS SECTION TO BE COMPLETED BY EDUCATIONAL INSTITUTION

The above-named individual has applied for residency or is currently residing in housing that requires verification of student status. Please provide the information requested below:

Is the above-named individual a student at this educational institution?    YES    NO

If so, part-time or full-time?    PART-TIME    FULL-TIME

If full-time, the date the student enrolled as such: \_\_\_\_\_

Expected date of graduation: \_\_\_\_\_

I hereby certify that the information supplied in this section is true and complete to the best of my knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print your name: \_\_\_\_\_

Tel. #: \_\_\_\_\_

Title: \_\_\_\_\_

Educational Institution: \_\_\_\_\_

**NOTE:** Section 1001 of Title 18 of the U. S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

**NJHMFA LOW INCOME TAX CREDIT  
TENANT INCOME SELF CERTIFICATION**

*(FOR 100% LITC PROPERTIES RECERTIFICATIONS ONLY)*

Effective Date: \_\_\_\_\_  
Move-in Date: \_\_\_\_\_  
(MM/DD/YYYY)

**PART I. DEVELOPMENT DATA**

Property Name: \_\_\_\_\_ County: \_\_\_\_\_ BIN #: NJ \_\_\_\_\_  
Address: \_\_\_\_\_ Unit Number: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_

**PART II. HOUSEHOLD COMPOSITION**

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						
8						

TOTAL ANNUAL HOUSEHOLD INCOME: \$ \_\_\_\_\_  
(INCLUDE INCOME FROM ASSETS)

Tenant Paid Rent \$ \_\_\_\_\_

Rental Assistance Type \_\_\_\_\_

Utility Allowance \$ \_\_\_\_\_

Rental Assistance \_\_\_\_\_

GROSS RENT FOR UNIT:  
(Tenant paid rent plus Utility Allowance & other non-optional charges) \$ \_\_\_\_\_

Other non-optional charges \_\_\_\_\_

Unit Meets Rent Restriction at:

- 60%  50%  40%  30%  20%

Maximum Rent Limit for this unit: \$ \_\_\_\_\_

ARE ALL OCCUPANTS FULL TIME STUDENTS?  yes  no  
If yes, circle exception and attach documentation

Student Exception:

- 1 TANF assistance
- 2 Job Training Program
- 3 Single parent/dependent child
- 4 Married/joint return
- 5 Previously in Foster Care

**HOUSEHOLD CERTIFICATION & SIGNATURES**

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

\_\_\_\_\_  
SIGNATURE OF OWNER/REPRESENTATIVE      \_\_\_\_\_  
DATE

**INSTRUCTIONS FOR COMPLETING 100% PROPERTY TENANT INCOME SELF CERTIFICATION**

*(This form is to be completed by the owner or an authorized representative)*

Effective Date: Enter the effective date of the certification. The effective date should be no later than one year from the effective date of the previous (re)certification.

Move-In Date: Enter month, day and year of initial tax credit move-in date.

**Part I – DEVELOPMENT DATA**

Property Name: Enter the name of the development

County: Enter the county in which the development is located.

BIN#: Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609)

Address: Enter the address of the building.

Unit Number: Enter the unit number.

#Bedrooms: Enter the number of bedrooms in the unit.

**Part II – HOUSEHOLD COMPOSITION**

List all occupants of the unit. State each household member’s relationship to the head of household by using one of the following coded definitions:

- |                          |                                 |
|--------------------------|---------------------------------|
| H – Head of Household    | S – Spouse                      |
| A - Adult co-head/tenant | O – Other family member         |
| C - Child                | F – Foster child(ren)/adults(s) |
| L - Live –in Aide        | N – None of the above           |

Enter the date of birth and social security number or alien registration number for each occupant. If there are more than eight (8) occupants, use an additional recertification form to list the remaining household members and attach it to page one (1) of the recertification.

**TOTAL ANNUAL HOUSEHOLD INCOME**

Although third party verification forms are not required to determine income and assets for the 100% LITC Tenant Self Certification, it is suggested that such information be obtained through 1<sup>st</sup> party (tenant/household member) to support gross annual income anticipated to be received during the twelve months from the effective date of the certification. Household members should provide the owner/management company with sufficient income/asset documentation/details to indicate total annual household income (ie. paystubs, pension check stub, Social Security Award Letter or year-end statement, bank statement(s), etc). Income is to be reported for each household member.

If the household composition/individuals differ from the prior certification, file clarification should be included.

Please refer to the HUD Handbook 4350.3 for complete instructions on income inclusions/exclusions, basic income and asset verification, calculation of income and assets.

### **RENT**

- Tenant Paid Rent: Enter the amount the tenant pays for rent (not including rental assistance payments)
- Rental Assistance: Enter the amount of rental assistance, if any.
- Rental Assistance Type: Enter the source of the rental assistance.
- Utility Allowance: Enter the utility allowance. If the owner pays all utilities, enter zero.
- Non-optional charges: Enter the amount of non-optional charges, such as mandatory garage rent, storage, etc.
- Gross Rent for Unit: Enter the total of Tenant Paid Rent + Utility allowance + other non-optional charges.
- Maximum Rent Limit: Enter the maximum allowable gross rent for the unit.
- Meets Rent Restriction at: Check the appropriate rent restriction that the unit meets according to the required set-aside(s) for the project.

### **STUDENT STATUS**

All household members are to identify student status via Student Status Verification form. If a student, the household member exemption and/or explanation is to be provided.

*\*Fulltime status is determined by the school the student attends*

### **HOUSEHOLD CERTIFICATION AND SIGNATURES**

After providing income, asset, and student status information, each adult household member (age 18 or older) must sign and date the Low Income Tax Credit Income Self Certification.

### **SIGNATURE OF OWNER/REPRESENTATIVE**

It is the responsibility of the owner or the owner's representative to sign and date the Low Income Tax Credit Income Self Certification immediately following execution by the resident(s).

The responsibility of documenting and determining continued eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone who is well trained and certified in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The owner of the project is responsible for compliance with the federal and state regulations as outlined in Section 42 of the code, IRS 8823 Guide, NJHMFA Qualified Allocation Plan (QAP) and NJHMFA Tax Credit Compliance Manual.*

## Federal Regulations

### **Reg § 1.42-5. Monitoring compliance with low-income housing credit requirements.**

**Caution:** Reg §1.42-5, following, is effective after 12/31/2000. For Reg §1.42-5, effective before 1/1/2001, see above.

#### **(a) Compliance monitoring requirement.**

*(1) In general.* Under section 42(m)(1)(B)(iii), an allocation plan is not qualified unless it contains a procedure that the State or local housing credit agency (“Agency”) (or an agent of, or other private contractor hired by, the Agency) will follow in monitoring for noncompliance with the provisions of section 42 and in notifying the Internal Revenue Service of any noncompliance of which the Agency becomes aware. These regulations only address compliance monitoring procedures required of Agencies. The regulations do not address forms and other records that may be required by the Service on examination or audit. For example, if a building is sold or otherwise transferred by the owner, the transferee should obtain from the transferor information related to the first year of the credit period so that the transferee can substantiate credits claimed.

*(2) Requirements for a monitoring procedure.*

(i) In general. A procedure for monitoring for noncompliance under section 42(m)(1)(B)(iii) must include—

(A) The recordkeeping and record retention provisions of paragraph (b) of this section;

(B) The certification and review provisions of paragraph (c) of this section;

(C) The inspection provision of paragraph (d) of this section; and

(D) The notification-of-noncompliance provisions of paragraph (e) of this section.

(ii) Order and form. A monitoring procedure will meet the requirements of section 42(m)(1)(B)(iii) if it contains the substance of these provisions. The particular order and form of the provisions in the allocation plan is not material. A monitoring procedure may contain additional provisions or requirements.

**(b) Recordkeeping and record retention provisions.**

*(1) Recordkeeping provision.* Under the recordkeeping provision, the owner of a low-income housing project must be required to keep records for each qualified low-income building in the project that show for each year in the compliance period—

- (i) The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- (ii) The percentage of residential rental units in the building that are low-income units;
- (iii) The rent charged on each residential rental unit in the building (including any utility allowances);
- (iv) The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under section 42(g)(2) (as in effect before the amendments made by the Omnibus Budget Reconciliation Act of 1989);
- (v) The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
- (vi) The annual income certification of each low-income tenant per unit. For an exception to this requirement, see section 42(g)(8)(B) (which provides a special rule for a 100 percent low-income building);
- (vii) Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). For an exception to this requirement, see section 42(g)(8)(B) (which provides a special rule for a 100 percent low-income building). Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937 (“Section 8”), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this paragraph (b)(1)(vii) is satisfied if the public housing authority provides a statement to the building owner

declaring that the tenant's income does not exceed the applicable income limit under section 42(g);

(viii) The eligible basis and qualified basis of the building at the end of the first year of the credit period; and

(ix) The character and use of the nonresidential portion of the building included in the building's eligible basis under section 42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

(2) *Record retention provision.* Under the record retention provision, the owner of a low-income housing project must be required to retain the records described in paragraph (b)(1) of this section for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

(3) *Inspection record retention provision.* Under the inspection record retention provision, the owner of a low-income housing project must be required to retain the original local health, safety, or building code violation reports or notices that were issued by the State or local government unit (as described in paragraph (c)(1)(vi) of this section) for the Agency's inspection under paragraph (d) of this section. Retention of the original violation reports or notices is not required once the Agency reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

**(c) Certification and review provisions.**

(1) *Certification.* Under the certification provision, the owner of a low-income housing project must be required to certify at least annually to the Agency that, for the preceding 12-month period—

(i) The project met the requirements of:

(A) The 20-50 test under section 42(g)(1)(A), the 40-60 test under section 42(g)(1)(B), or the 25-60 test under sections 42(g)(4) and 142(d)(6) for New York City, whichever minimum set-aside test was applicable to the project; and

(B) If applicable to the project, the 15-40 test under sections 42(g)(4) and 142(d)(4)(B) for “deep rent skewed” projects;

(ii) There was no change in the applicable fraction (as defined in section 42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change;

(iii) The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving Section 8 housing assistance payments, the statement from a public housing authority described in paragraph (b)(1)(vii) of this section. For an exception to this requirement, see section 42(g)(8)(B) (which provides a special rule for a 100 percent low-income building);

(iv) Each low-income unit in the project was rent-restricted under section 42(g)(2);

(v) All units in the project were for use by the general public (as defined in Sec. 1.42-9), including the requirement that no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, occurred for the project. A finding of discrimination includes an adverse final decision by the Secretary of the Department of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;

(vi) The buildings and low-income units in the project were suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the State or local government unit responsible for making local health, safety, or building code inspections did not issue a violation report for any building or low-income unit in the project. If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification submitted to the Agency under paragraph (c)(1) of this section. In addition, the owner must state whether the violation has been corrected;

(vii) There was no change in the eligible basis (as defined in section 42(d)) of any building in the project, or if there was a change, the nature of the change (e.g., a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge);

(viii) All tenant facilities included in the eligible basis under section 42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;

(ix) If a low-income unit in the building became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;

(x) If the income of tenants of a low-income unit in the project increased above the limit allowed in section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and

(xi) An extended low-income housing commitment as described in section 42(h)(6) was in effect (for buildings subject to section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, 2308-2311), including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f (for buildings subject to section 13142(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438-439); and

(xii) All low-income units in the project were used on a nontransient basis (except for transitional housing for the homeless provided under section 42(i)(3)(B)(iii) or single-room-occupancy units rented on a month-by-month basis under section 42(i)(3)(B)(iv)).

(2) *Review.* The review provision must—

(i) Require that the Agency review the certifications submitted under paragraph (c)(1) of this section for compliance with the requirements of section 42;

(ii) Require that with respect to each low-income housing project—

(A) The Agency must conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is

placed in service and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and

(B) At least once every 3 years, the Agency must conduct on-site inspections of all buildings in the project and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and

(iii) Require that the Agency randomly select which low-income units and tenant records are to be inspected and reviewed by the Agency. The review of tenant records may be undertaken wherever the owner maintains or stores the records (either on-site or off-site). The units and tenant records to be inspected and reviewed must be chosen in a manner that will not give owners of low-income housing projects advance notice that a unit and tenant records for a particular year will or will not be inspected and reviewed. However, an Agency may give an owner reasonable notice that an inspection of the building and low-income units or tenant record review will occur so that the owner may notify tenants of the inspection or assemble tenant records for review (for example, 30 days notice of inspection or review).

*(3) Frequency and form of certification.* A monitoring procedure must require that the certifications and reviews of paragraph (c)(1) and (2) of this section be made at least annually covering each year of the 15-year compliance period under section 42(i)(1). The certifications must be made under penalty of perjury. A monitoring procedure may require certifications and reviews more frequently than on a 12-month basis, provided that all months within each 12-month period are subject to certification.

*(4) Exception for certain buildings.*

(i) In general. The review requirements under paragraph (c)(2)(ii) of this section may provide that owners are not required to submit, and the Agency is not required to review, the tenant income certifications, supporting documentation, and rent records for buildings financed by the Rural Housing Service (RHS), formerly known as Farmers Home Administration, under the section 515 program, or buildings of which 50 percent or more of the aggregate basis (taking into account the building and the land) is financed

with the proceeds of obligations the interest on which is exempt from tax under section 103 (tax-exempt bonds). In order for a monitoring procedure to except these buildings, the Agency must meet the requirements of paragraph (c)(4)(ii) of this section.

(ii) Agreement and review. The Agency must enter into an agreement with the RHS or tax-exempt bond issuer. Under the agreement, the RHS or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the Agency. The Agency may assume the accuracy of the information provided by RHS or the tax-exempt bond issuer without verification. The Agency must review the information and determine that the income limitation and rent restriction of section 42(g)(1) and (2) are met. However, if the information provided by the RHS or tax-exempt bond issuer is not sufficient for the Agency to make this determination, the Agency must request the necessary additional income or rent information from the owner of the buildings. For example, because RHS determines tenant eligibility based on its definition of “adjusted annual income,” rather than “annual income” as defined under Section 8, the Agency may have to calculate the tenant's income for section 42 purposes and may need to request additional income information from the owner.

(iii) Example. The exception permitted under paragraph (c)(4)(i) and (ii) of this section is illustrated by the following example.

*Example* An Agency selects for review buildings financed by the RHS. The Agency has entered into an agreement described in paragraph (c)(4)(ii) of this section with the RHS with respect to those buildings. In reviewing the RHS-financed buildings, the Agency obtains the tenant income and rent information from the RHS for 20 percent of the low-income units in each of those buildings. The Agency calculates the tenant income and rent to determine whether the tenants meet the income and rent limitation of section 42(g)(1) and (2). In order to make this determination, the Agency may need to request additional income or rent information from the owners of the RHS buildings if the information provided by the RHS is not sufficient.

(5) *Agency reports of compliance monitoring activities.* The Agency must report its compliance monitoring activities annually on Form 8610, “Annual Low-Income Housing Credit Agencies Report.”

**(d) Inspection provision.**

(1) *In general.* Under the inspection provision, the Agency must have the right to perform an on-site inspection of any low-income housing project at least through the end of the compliance period of the buildings in the project. The inspection provision of this paragraph (d) is a separate requirement from any tenant file review under paragraph (c)(2)(ii) of this section.

(2) *Inspection standard.* For the on-site inspections of buildings and low-income units required by paragraph (c)(2)(ii) of this section, the Agency must review any local health, safety, or building code violations reports or notices retained by the owner under paragraph (b)(3) of this section and must determine—

(i) Whether the buildings and units are suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards); or

(ii) Whether the buildings and units satisfy, as determined by the Agency, the uniform physical condition standards for public housing established by HUD (24 CFR 5.703). The HUD physical condition standards do not supersede or preempt local health, safety, and building codes. A low-income housing project under section 42 must continue to satisfy these codes and, if the Agency becomes aware of any violation of these codes, the Agency must report the violation to the Service. However, provided the Agency determines by inspection that the HUD standards are met, the Agency is not required under this paragraph (d)(2)(ii) to determine by inspection whether the project meets local health, safety, and building codes.

(3) *Exception from inspection provision.* An Agency is not required to inspect a building under this paragraph (d) if the building is financed by the RHS under the section 515 program, the RHS inspects the building (under 7 CFR part 1930), and the RHS and Agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the Agency of the inspection results.

(4) *Delegation.* An Agency may delegate inspection under this paragraph (d) to an Authorized Delegate retained under paragraph (f) of this section. Such Authorized Delegate, which may include HUD or a HUD-approved inspector, must notify the Agency of the inspection results.

**(e) Notification-of-noncompliance provision.**

(1) *In general.* Under the notification-of-noncompliance provisions, the Agency must be required to give the notice described in paragraph (e)(2)

of this section to the owner of a low-income housing project and the notice described in paragraph (e)(3) of this section to the Service.

(2) *Notice to owner.* The Agency must be required to provide prompt written notice to the owner of a low-income housing project if the Agency does not receive the certification described in paragraph (c)(1) of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in paragraph (c)(2)(ii) of this section, or discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of section 42.

(3) *Notice to Internal Revenue Service.*

(i) In general. The Agency must be required to file Form 8823, “Low-Income Housing Credit Agencies Report of Noncompliance,” with the Service no later than 45 days after the end of the correction period (as described in paragraph (e)(4) of this section, including extensions permitted under that paragraph) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The Agency must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under paragraph (c)(1)(ii) and (vii) of this section, respectively, that results in a decrease in the qualified basis of the project under section 42(c)(1)(A) is noncompliance that must be reported to the Service under this paragraph (e)(3). If an Agency reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Agency need not file Form 8823 in subsequent years to report that building's noncompliance. If the noncompliance or failure to certify is corrected within 3 years after the end of the correction period, the Agency is required to file Form 8823 with the Service reporting the correction of the noncompliance or failure to certify.

(ii) Agency retention of records. An Agency must retain records of noncompliance or failure to certify for 6 years beyond the Agency's filing of the respective Form 8823. In all other cases, the Agency must retain the certifications and records described in paragraph (c) of this section for 3 years from the end of the calendar year the Agency receives the certifications and records.

(4) *Correction period.* The correction period shall be that period specified in the monitoring procedure during which an owner must supply any

missing certifications and bring the project into compliance with the provisions of section 42. The correction period is not to exceed 90 days from the date of the notice to the owner described in paragraph (e)(2) of this section. An Agency may extend the correction period for up to 6 months, but only if the Agency determines there is good cause for granting the extension.

**(f) Delegation of Authority.**

*(1) Agencies permitted to delegate compliance monitoring functions.*

(i) In general. An Agency may retain an agent or other private contractor (“ Authorized Delegate”) to perform compliance monitoring. The Authorized Delegate must be unrelated to the owner of any building that the Authorized Delegate monitors. The Authorized Delegate may be delegated all of the functions of the Agency, except for the responsibility of notifying the Service under paragraphs (5) and (e)(3) of this section. For example, the Authorized Delegate may be delegated the responsibility of reviewing tenant certifications and documentation under paragraph (c)(1) and (2) of this section, the right to inspect buildings and records as described in paragraph (d) of this section, and the responsibility of notifying building owners of lack of certification or noncompliance under paragraph (e)(2) of this section. The Authorized Delegate must notify the Agency of any noncompliance or failure to certify.

(ii) Limitations. An Agency that delegates compliance monitoring to an Authorized Delegate under paragraph (f)(1)(i) of this section must use reasonable diligence to ensure that the Authorized Delegate properly performs the delegated monitoring functions. Delegation by an Agency of compliance monitoring functions to an Authorized Delegate does not relieve the Agency of its obligation to notify the Service of any noncompliance of which the Agency becomes aware.

*(2) Agencies permitted to delegate compliance monitoring functions to another Agency.* An Agency may delegate all or some of its compliance monitoring responsibilities for a building to another Agency within the State. This delegation may include the responsibility of notifying the Service under paragraph (e)(3) of this section.

**(g) Liability.** Compliance with the requirements of section 42 is the responsibility of the owner of the building for which the credit is allowable. The Agency's obligation to monitor for compliance with the requirements of section 42 does not make the Agency liable for an owner's noncompliance.

**(h) Effective date.** Allocation plans must comply with these regulations by June 30, 1993. The requirement of section 42(m)(1)(B)(iii) that allocation plans contain a procedure for monitoring for noncompliance becomes effective on January 1, 1992, and applies to buildings for which a low-income housing credit is, or has been, allowable at any time. Thus, allocation plans must comply with section 42(m)(1)(B)(iii) prior to June 30, 1993, the effective date of these regulations. An allocation plan that complies with these regulations, with the notice of proposed rulemaking published in the Federal Register on December 27, 1991, or with a reasonable interpretation of section 42(m)(1)(B)(iii) will satisfy the requirements of section 42(m)(1)(B)(iii) for periods before June 30, 1993. Section 42(m)(1)(B)(iii) and these regulations do not require monitoring for whether a building or project is in compliance with the requirements of section 42 prior to January 1, 1992. However, if an Agency becomes aware of noncompliance that occurred prior to January 1, 1992, the Agency is required to notify the Service of that noncompliance. In addition, the requirements in paragraphs (b)(3) and (c)(1)(v), (vi), and (xi) of this section (involving recordkeeping and annual owner certifications) and paragraphs (c)(2)(ii)(B), (c)(2)(iii), and (d) of this section (involving tenant file reviews and physical inspections of existing projects, and the physical inspection standard) are applicable January 1, 2001. The requirement in paragraph (c)(2)(ii)(A) of this section (involving tenant file reviews and physical inspections of new projects) is applicable for buildings placed in service on or after January 1, 2001. The requirements in paragraph (c)(5) of this section (involving Agency reporting of compliance monitoring activities to the Service) and paragraph (e)(3)(i) of this section (involving Agency reporting of corrected noncompliance or failure to certify within 3 years after the end of the correction period) are applicable January 14, 2000.

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T.D. 8430, 9/1/92, amend T.D. 8563, 9/30/94, T.D. 8859, 1/13/2000.

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## REVENUE RULE 92-61

1992-2 C.B. 7, 1992-32 I.R.B. 4.

Internal Revenue Service  
Revenue Ruling

## FULL-TIME RESIDENT MANAGER IN BUILDING ELIGIBLE FOR LOW-INCOME HOUSING CREDIT

Published: August 10, 1992

## Section 42. Low-Income Housing Credit

(See Also Sections 103, 142; 1.103-8.)

Full-time resident manager in building eligible for low-income housing credit. The adjusted basis of a unit occupied by a full-time resident manager is included in the eligible basis of a qualified low-income building under section 42(d)(1) of the Code, but the unit is excluded from the applicable fraction under section 42(c)(1)(B) for purposes of determining the building's qualified basis.

## ISSUE

If a unit in a qualified low-income building is occupied by a full-time resident manager, is the adjusted basis of that unit included in the building's eligible basis under section 42(d)(1) of the Internal Revenue Code and is that unit included in the applicable fraction under section 42(c)(1)(B) for determining the qualified basis of the building?

## FACTS

At the beginning of 1990, LP, a limited partnership with a calendar tax year, placed in service a newly constructed apartment building that qualified for the low-income housing credit under section 42(a) of the Code. LP elected to meet the 40-60 test of section 42(g)(1)(B), which requires that at least 40 percent of the units in the building be rent-restricted and occupied by tenants whose incomes are 60 percent or less of area median gross income. Throughout 1990, the first year of the building's credit period, 69 of the 70 units in the building were rent-restricted and occupied by tenants whose incomes were 60 percent or less of area median gross income. The remaining unit in the building was occupied by a resident manager who was hired by LP to manage the building and to be on call to attend to the maintenance needs of the other tenants. All of the units in the building meet the same standard of quality and have the same amount of floor space.

## LAW AND ANALYSIS

Section 42(a) of the Code provides that the amount of the low-income housing credit determined for any tax year in the credit period is an amount equal to the applicable percentage of the qualified basis of each low-income building.

Section 42(c)(1)(A) of the Code defines the qualified basis of any qualified low-income building for any tax year as an amount equal to the applicable fraction, determined as of the close of the tax year, of the eligible basis of the building, determined under section 42(d)(5).

Sections 42(c)(1)(B) of the Code defines the applicable fraction as the smaller of the unit fraction or the floor space fraction. Section 42(c)(1)(B) defines the unit fraction as the fraction the numerator of which is the number of low-income units in the building and the denominator of which is the number of residential rental units, whether or not occupied, in the building. Section 42(c)(1)(D) defines the floor space fraction as the fraction the numerator of which is the total floor space of the low-income units in the building and the denominator of which is the total floor space of the residential rental units, whether or not occupied, in the building. In general, under section 42(i)(3)(B), a low-income unit is any unit that is rent-restricted and occupied by individuals meeting the income limitation applicable to the building.

Section 42(d)(1) of the Code provides that the eligible basis of a new building is its adjusted basis as of the close of the first tax year of the credit period. Section 42(d)(4)(A) provides that, except as provided in section 42(d)(4)(B), the adjusted basis of any building is determined without regard to the adjusted basis of any property that is not residential rental property. Section 42(d)(4)(B) provides that the adjusted basis of any building includes the adjusted basis of property of a character subject to the allowance for depreciation used in common areas or provided as comparable amenities to all residential rental units in the building.

The legislative history of section 42 of the Code states that residential rental property, for purposes of the low-income housing credit, has the same meaning as residential rental property within section 103. The legislative history of section 42 further states that residential rental property thus includes residential rental units, facilities for use by the tenants, and other facilities reasonably required by the project. 2 H.R.Conf.Rep. No. 841, 99th Cong., 2d Sess. II-89 (1986), 1986-3 (Vol. 4) C.B. 89. Under section 1.103-8(b)(4) of the Income Tax Regulations, facilities that are functionally related and subordinate to residential rental units are considered residential rental property. Section 1.103-8(b)(4)(iii) provides that facilities that are functionally related and subordinate to residential rental units include facilities for use by the tenants, such as swimming pools and similar recreational facilities, parking areas, and other facilities reasonably required for the project. The examples given by section 1.103-8(b)(4)(iii) of facilities reasonably required for a project specifically include units for resident managers or maintenance personnel.

Accordingly, the unit occupied by LP's resident manager is residential rental property for purposes of section 42 of the Code. The adjusted basis of the unit is includible in the building's eligible basis under section 42(d)(1). The inclusion of the adjusted basis of the resident manager's unit in eligible basis will not be affected by a later conversion of that apartment to a residential rental unit.

The term "residential rental unit" has a narrower meaning under section 42 of the Code than residential rental property. As noted above, under the legislative history of section 42, residential rental property includes facilities for use by the tenants and other facilities reasonably required by the project, as well as residential rental units. Under section 1.103-8(b)(4) of the regulations, units for resident managers or maintenance personnel are not classified as residential rental units, but rather as facilities reasonably required by a project that are functionally related and subordinate to residential rental units.

LP's resident manager's unit is properly considered a facility reasonably required by the project, not a residential rental unit for purposes of section 42 of the Code. Consequently, the unit is not included in either the numerator or denominator of the applicable fraction under section 42(c)(1)(B) for purposes of determining the qualified basis of the building for the first year of the credit period.

Therefore, as of the end of the first year of the credit period, the adjusted basis of the unit occupied by LP's resident manager is included in the building's eligible basis under section 42(d)(1) of the Code, but the unit is excluded from the applicable fraction under section 42(c)(1)(B). Because all of the residential rental units in LP's building are low-income units, the applicable fraction for the building is "one" (69/69, using the unit fraction).

If in a later year of the credit period, the resident manager's unit is converted to a residential rental unit, the unit will be included in the denominator of the applicable fraction for that year. If the unit also becomes a low-income unit in that year, the unit will be included in the numerator of the applicable fraction for that year. In this case, the applicable fraction will also be "one" (70/70, using the unit fraction).

#### HOLDING

The adjusted basis of a unit occupied by a full-time resident manager is included in the eligible basis of a qualified low-income building under section 42(d)(1) of the Code, but the unit is excluded from the applicable fraction under section 42(c)(1)(B) for purposes of determining the building's qualified basis.

#### EFFECTIVE DATE

The Internal Revenue Service will not apply this revenue ruling to any building placed in service prior to September 9, 1992, or to any building receiving an allocation of credit prior to September 9, 1992, unless the owner files or has filed a return that is consistent with this ruling. Similarly, the Service will not apply this revenue ruling to any building described in section 42(h)(4)(B) of the Code with respect to which bonds were issued prior to September 9, 1992, unless the owner files or has filed a return that is consistent with this ruling.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Paul F. Handleman of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling contact Mr. Handleman on (202) 622-3040 (not a toll-free call).

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Rev. Rul. 92-61, 1992-2 C.B. 7, 1992-32 I.R.B. 4.

annuitized. The fair market value of such an annuity contract is permitted to be determined using the methodology provided in § 1.401(a)(9)–6, A–12, with the following modifications:

(i) All front-end loads and other non-recurring charges assessed in the twelve months immediately preceding the conversion must be added to the account value.

(ii) Future distributions are not to be assumed in the determination of the actuarial present value of additional benefits.

(iii) The exclusions provided under § 1.401(a)(9)–6, A–12(c)(1) and (c)(2), are not to be taken into account.

(c) *Effective/applicability date.* The provisions of this paragraph A–14 are applicable to any conversion in which an annuity contract is distributed or treated as distributed from a traditional IRA on or after August 19, 2005. However, for annuity contracts distributed or treated as distributed from a traditional IRA on or before December 31, 2008, taxpayers may instead apply the valuation methods in § 1.408A–4T (as it appeared in the April 1, 2008, edition of 26 CFR part 1) and Revenue Procedure 2006–13 (2006–1 CB 315) (See § 601.601(d)(2)(ii)(b)).

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 20, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E8–17271 Filed 7–28–08; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9406]

RIN 1545–BH03

#### Modifications to Subpart F Treatment of Aircraft and Vessel Leasing Income; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to final and temporary regulations (TD 9406) that was published in the **Federal Register** on Thursday, July 3, 2008 (73 FR 38113) addressing the treatment of certain income and assets related to the leasing of aircraft or vessels in foreign

commerce under sections 367, 954, and 956 of the Internal Revenue Code. The regulations reflect statutory changes made by section 415 of the American Jobs Creation Act of 2004. In general, the regulations will affect the United States shareholders of controlled foreign corporations that derive income from the leasing of aircraft or vessels in foreign commerce and U.S. persons that transfer property subject to these leases to a foreign corporation.

**DATES:** This correction is effective July 29, 2008, and is applicable on July 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Concerning the temporary regulations under section 367, John H. Seibert at (202) 622–3860; concerning the temporary regulations under section 954 or 956, Paul J. Carlino at (202) 622–3840 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final and temporary regulations that are the subjects of this document are under sections 367, 954, and 956 of the Internal Revenue Code.

##### Need for Correction

As published, final and temporary regulations (TD 9406) contain an error that may prove to be misleading and is in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.954–2(c)(2) is amended by adding paragraph (vii) to read as follows:

##### § 1.954–2 Foreign personal holding company income.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(vii) [Reserved]. For further guidance, see § 1.954–2T(c)(2)(vii).

\* \* \* \* \*

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E8–17269 Filed 7–28–08; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9420]

RIN 1545–BC22

#### Section 42 Utility Allowance Regulations Update

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that amend the utility allowances regulations concerning the low-income housing tax credit. The final regulations update the utility allowance regulations to provide new options for estimating tenant utility costs. The final regulations affect owners of low-income housing projects who claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit.

**DATES:** *Effective Date:* These regulations are effective July 29, 2008. *Applicability Date:* For dates of applicability see § 1.42–12(a)(4).

**FOR FURTHER INFORMATION CONTACT:** David Selig (202) 622–3040 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) relating to the low-income housing credit under section 42 of the Internal Revenue Code (Code). On June 19, 2007, the IRS and Treasury Department published in the **Federal Register** proposed regulations under section 42(g)(2)(B)(ii) (72 FR 33703). Written and electronic comments responding to the proposed regulations were received and a public hearing was held on the proposed regulations on October 9, 2007. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision.

### General Overview

Section 42(a) provides that, for purposes of section 38, the amount of the low-income housing credit determined under section 42 for any taxable year in the credit period is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building. A qualified low-income building is defined in section 42(c)(2) as any building that is part of a qualified low-income housing project.

A qualified low-income housing project is defined in section 42(g)(1) as any project for residential rental property if the project meets one of the following tests elected by the taxpayer: (1) At least 20 percent of the residential units in the project are rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income; or (2) at least 40 percent of the residential units in the project are rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income. If a taxpayer does not meet the elected test, the project is not eligible for the section 42 credit.

Under section 42(g)(4), section 142(d)(2)(B) applies when determining whether any project is a qualified low-income housing project under section 42(g)(1). Section 142(d)(2)(B) provides that the income of individuals and area median gross income is determined by the Secretary in a manner consistent with determinations of lower income families and area median gross income under section 8 of the United States Housing Act of 1937. Under Rev. Rul. 94-57 (1994-2 CB 5), taxpayers may rely on a list of income limits released by the Department of Housing and Urban Development (HUD) until 45 days after HUD releases a new list of income limits, or until HUD's effective date for the new list, whichever is later.

In order to qualify as a rent-restricted unit within the meaning of section 42(g)(2), the gross rent for the unit must not exceed 30 percent of the imputed income limitation applicable to the unit. Section 42(g)(2)(B)(ii) requires the inclusion in gross rent of a utility allowance determined by the Secretary after taking into account the determinations under section 8 of the United States Housing Act of 1937.

Section 1.42-10(a) provides that if utility costs (other than telephone) for a residential rental unit are paid directly by the tenant, then the gross rent for that unit includes the applicable utility allowance as determined under § 1.42-10. Section 1.42-10(b) provides rules for calculating the appropriate utility

allowance based upon whether (1) the building receives rental assistance from the Farmers Home Administration (FmHA), now known as the Rural Housing Service; (2) the building has any tenant that receives FmHA rental assistance; (3) the building is not described in (1) or (2) above and the building's rents and utility allowances are reviewed by HUD on an annual basis; or (4) the building is not described in (1), (2), or (3) above (other buildings).

Currently, under § 1.42-10(b)(4), other buildings generally use the applicable Public Housing Authority (PHA) utility allowance established for the Section 8 Existing Housing Program or use a local utility company estimate. The local utility company estimate may be obtained by any interested party (including a low-income tenant, a building owner, or a State or local housing credit agency (Agency)).

The proposed regulations proposed two additional options for calculating utility allowances. The first option would permit a building owner to obtain a utility estimate for each unit in a building from the Agency that has jurisdiction over the building (the Agency estimate). The Agency estimate must take into account the local utility rates data, property type, climate variables by region in the State, taxes and fees on utility charges, and property building materials and mechanical systems. An Agency may also use actual utility company usage data and rates for the building. The second option would permit a building owner to calculate utility allowances using the "HUD Utility Schedule Model" found on the Low-Income Housing Tax Credits page at <http://www.huduser.org/datasets/lihtc.html> (or successor URL). The HUD Utility Schedule Model is based on data from the Residential Energy Consumption Survey (RECS) conducted by the Department of Energy. RECS data provides energy consumption by structure for heating, air conditioning, cooking, water heating, and other electric (lighting and refrigeration). The HUD Utility Schedule Model incorporates building location and climate.

### Summary of Comments and Explanation of Changes

#### Exclusions From Utility Allowance

Prior to these final regulations, § 1.42-10(a) provided for the exclusion of telephone costs in determining the amount of the utility allowance to be included in gross rent. The proposed regulations excluded cable television costs as well as telephone costs. The

final regulations retain the exclusions for cable television and telephone costs and also exclude Internet costs. The IRS and Treasury Department believe it is appropriate to exclude cable television and Internet costs as comparable to telephone costs.

#### Additional Option for Determining Utility Allowances

Commentators stated that the Agency estimate in the proposed regulations may be administratively burdensome for some Agencies. As an alternative, commentators suggested adding an option that would allow utility estimates to be calculated by a state-certified engineer or other qualified professional. The commentators specified that, under this option, computer software could be developed that would estimate the energy or water and sanitary sewer service cost for each type of unit in a building. The estimates would be determined based on the applicable current local utility billing rate schedule and would be applied to all comparable units in the building using specific information about the design, materials, equipment, and location of the building.

A computer software model that incorporates specific information about the design and location of the building for which the utility allowances are being developed, and that can be updated with actual consumption data and with consumption estimates as new efficiency measures and improvements are undertaken, would provide more accurate estimates of utility consumption. Therefore, the final regulations also include a new option allowing building owners to retain the services of a qualified professional to calculate utility allowances based on an energy consumption model.

The use of this new option is subject to several special rules. First, the energy consumption model must, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. Second, the utility estimates must be calculated by either (1) a properly licensed engineer or (2) a qualified professional approved by the Agency that has jurisdiction over the building (together, qualified professional). The qualified professional and the building owner must not be related within the meaning of section 267(b) or 707(b). Third, the building owner must furnish a copy of the estimates derived from the energy consumption model to the Agency and make copies of the estimates available to

all tenants in the building. Finally, the building owner must pay for all costs incurred in obtaining the utility estimates from the qualified professional and providing the estimates to the Agency and tenants.

#### *Default Option/Option Ordering*

One commentator suggested that the final regulations should provide a default option because, in the absence of a definitive standard for determining utility allowances, building owners would use the option that yields the lowest utility estimates. Commentators further requested clarification as to which option should be used when multiple options are available, whether building owners may use different options for different utilities, and whether owners may change the options used for calculating utilities from time to time.

An energy consumption model developed by a qualified professional that takes into account specific information about the design and location of the building for which the utility allowances are being developed should produce the most accurate utility estimates. It is expected that this more accurate model will be the model most commonly used by most building owners, particularly those with buildings that are not very old. However, if a building owner selects an option that yields higher utility allowances, the building owner should be free to accept a lower amount of rent from tenants. Therefore, there is no need for a stated default option or option ordering rule. Further, the final regulations neither prohibit using different options for different utilities nor prohibit changing the options used for calculating utilities. If an Agency determines that a building owner has understated the utility allowances for the building under the particular option chosen by the owner for calculating the utility allowance, and the building's units are not rent-restricted units under section 42(g)(2) as a result, the Agency must report the noncompliance on Form 8823, *Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition*.

#### *Application of Newly Calculated Utility Allowances*

Under current § 1.42-10(c) of the regulations, if the applicable utility allowance for units changes, the new utility allowance must be used to compute gross rent of rent-restricted units due 90 days after the change (the 90-day period). The proposed regulations limited the effective date of any new utility allowances to the earlier

of the date the building has achieved 90 percent occupancy for a period of 90 consecutive days or the end of the first year of the credit period. The proposed regulations also modified § 1.42-10(c) by requiring that a building owner must review at least annually the basis on which utility allowances have been established and must update the applicable utility allowance. The review must take into account any changes to the building such as any energy conservation measures that affect energy consumption and changes in utility rates.

Commentators suggested that building owners should be obligated to adjust utility allowances when utility rates increase by a stated percentage, for example, 10 percent, which is the rule for revising utility allowance schedules for PHAs under 24 CFR 982.517(c). This HUD rule provides that a PHA must review its schedule of utility allowances each year and revise its allowance for a utility category if the utility rate has changed by 10 percent or more since the utility allowance schedule was last revised. The commentators did not address decreases in utility rates. A commentator also suggested that the final regulations should require an Agency to review or have owners review local utility rates quarterly to determine if rates have increased sufficiently to require an adjustment. A different commentator suggested limiting reviews to no more than once per year.

The IRS and Treasury Department do not believe that fluctuations in utility rates within a given year should trigger recalculations of utility allowances more than once a year. The IRS and Treasury Department do not believe that the additional burden of updating the utility allowances more than once a year is warranted at this time. Utility rates generally do not change more than once a year, and yearly updated utility allowances would reflect average rates applicable to all tenants in a building from year to year. Therefore, the final regulations require building owners to calculate new utility allowances once during the calendar year regardless of any percentage change in utility rates. Building owners may choose, however, to calculate new utility allowances more frequently than once during the calendar year provided the owner complies with the requirements of these regulations, including the notification requirements to the Agency and tenants.

Another commentator suggested that new utility allowances should be implemented within 90 days after HUD publishes its annual income limits (which are used in determining section 42 rents), but in no case later than June

30 of any year. Section 42 rents under section 42(g)(2) may or may not increase depending on HUD's calculation of area median gross income. Therefore, the IRS and Treasury Department do not believe that the rules should require that the effective date of any new utility allowance coincide with the section 42 effective date of HUD's income lists. Building owners, however, may choose to implement any new utility allowances on the section 42 effective date of HUD's income lists.

To bring financial stability to a project during the beginning of its operations, the final regulations clarify that the building owner is not required to review the utility allowances, or implement new utility allowances, until the earlier of the date the building has achieved 90 percent occupancy for a period of 90 consecutive days or the end of the first year of the credit period.

#### *Procedural Safeguards for Tenants*

One commentator made several recommendations regarding procedural safeguards for tenants including: Owners should be required to give tenants 30 days notice before the effective date of any utility allowance; tenants should be provided with all information used in calculating the utility allowances; tenants should be given the opportunity to comment on the proposed allowances; and owners should be required to review those comments prior to the utility allowances becoming effective. The commentator believed that the new options for determining utility allowances should be available only after one full year of occupancy and one full year after the building is placed in service. A commentator also recommended that a building owner should be allowed to use the new options only if the owner provides all data to the Agency no later than February 15 and the Agency informs the owner whether the proposed utility allowances are approved by March 31.

To provide tenants with the opportunity to comment on proposed utility allowances to the Agency and building owner, the final regulations apply the existing disclosure requirement under current § 1.42-10(b)(4)(ii)(B) (regarding the utility company estimate) to an owner using a utility company estimate, the HUD Utility Schedule Model, or an energy consumption model. Therefore, an owner must submit copies of the proposed utility allowances to the Agency and make the proposed utility allowances available to all tenants in the building at the beginning of the 90-day period before the utility allowances are

used in determining the gross rents of rent-restricted units. Similarly, the final regulations require that any utility estimates obtained under the Agency estimate option must be made available to all tenants in the building at the beginning of the 90-day period. An Agency may continue to require additional information from the owner during the 90-day period.

Commentators suggested that the final regulations should limit the use of the HUD Utility Schedule Model to data for a twelve-month period ending in the most recent calendar year and require the owner to certify the accuracy of the data and the calculations of the utility allowances. However, the HUD Utility Schedule Model already incorporates consumption data derived from RECS data. Thus, building owners using this option need not be required to use consumption data for any particular twelve-month period. These final regulations, however, provide that the use of the energy consumption model is limited to consumption data for a twelve-month period ending no earlier than 60 days prior to the beginning of the 90-day period. In the case of newly constructed or renovated buildings with less than twelve months of consumption data, the energy consumption model allows a qualified professional to use consumption data for the twelve-month period of units of similar size and construction in the geographic area in which the building containing the units is located. Further, the final regulations require that utility rates used for the HUD Utility Schedule Model, the Agency estimate option, and the energy consumption model must be no older than the rates in place 60 days prior to the beginning of the 90-day period.

In addition to these safeguards, if an Agency determines that a building owner has understated the utility allowances for the owner's building under the particular option chosen, and, therefore, some or all of the units in the building are not rent-restricted units under section 42(g)(2), then the Agency must report the noncompliance to the Service on Form 8823, *Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition*.

Commentators requested that building owners should be required to certify the estimate and the accuracy of the data used under the new options. Because Agencies may request additional information at any time during their mandatory review of proposed utility allowances, and must report any noncompliance to the Service, the final regulations do not require building owners to provide such certification.

#### *Utility Allowances for Tenants With Special Needs*

One commentator suggested that the calculation of utility allowances should take into account any special needs tenants such as people with disabilities who require high energy consumption equipment. Section 42 does not require that the owner's calculation of utility allowances be based on a tenant's particular use of utility services. If such a requirement were imposed, owners and Agencies would have to determine the utility allowance for the tenants in each unit, as opposed to allowances based on the size of the unit, which would greatly increase burden. Additionally, it is unclear whether it is appropriate to implement rules that might encourage tenants to be indifferent to their energy consumption. Such indifference could lead to cost overruns by owners, and the viability of low-income housing could be jeopardized. Therefore, the final regulations do not require the calculation of utility allowances based on consumption by particular tenants.

#### *Calculation of Utility Company Estimate Option for Deregulated Utilities*

Section 1.42-10(b)(4)(ii)(B) currently provides that any interested party (including an owner, low-income tenant, or Agency) may obtain a local utility company estimate for a unit. The estimate is obtained when the interested party receives, in writing, information from a local utility company providing the estimated cost of that utility for a unit of similar size and construction for the geographic area in which the building containing the units is located. In light of utility services deregulation, the proposed regulations proposed to amend this option by requiring the interested party to obtain cost estimates from the local utility company that include combined rate charges from multiple utility companies.

Commentators thought this proposed amendment would require the interested party to obtain utility consumption estimates from every utility company providing the same utility service and stated that this would present an unworkable administrative burden in deregulated jurisdictions with multiple utility providers. In some jurisdictions, many utility providers may be available for a given building. The proposed amendment was not intended to require the interested party to obtain utility consumption estimates from every utility company providing the same utility service. The amendment was proposed to address deregulation by requiring the interested

party to obtain estimates for all the components of the utility service if the service is divided between two or more types of service providers (for example, electric generation and electric transmission). The final regulations clarify that, in the case of deregulated utility services, the interested party is required to obtain an estimate from only one utility company even if multiple companies can provide the same utility service to a unit. However, the utility company furnishing the estimate must offer utility services to the building in order for that utility company's rates to be used in calculating utility allowances. The estimate should include all component charges for providing the utility service.

#### *Agency Costs/Administrative Burden*

One commentator requested that specific language be added to address when Agencies may charge a reasonable fee for making a determination pursuant to the Agency estimate option, and who bears the fee when a particular option is used. The proposed regulations provided that costs incurred in obtaining an Agency estimate are borne by the building owner. The final regulations adopt this provision, and further require building owners to pay for all costs incurred in obtaining the estimates under the HUD Utility Schedule Model and the energy consumption model and in providing estimates to Agencies and tenants.

#### *Effective/Applicability Date*

The proposed regulations were proposed to be effective for taxable years beginning on or after the date of publication of the final regulations in the **Federal Register**. A commentator suggested that the final regulations be effective earlier on the basis that if they are published after 2007, they would not be effective until 2009 for calendar year taxpayers. The IRS and Treasury Department believe that the burden associated with an earlier effective date is not warranted. Therefore, the final regulations do not adopt this suggestion. However, in order to allow a building owner to implement the utility allowances as of the first day of the owner's taxable year beginning on or after July 29, 2008, the final regulations provide that taxpayers may rely on the rules for determining utility allowances before the first day of the owner's taxable year beginning on or after July 29, 2008 provided that any utility allowances so calculated are effective no earlier than the first day of the owner's taxable year beginning on or after July 29, 2008.

## Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the information has previously been reviewed and approved under OMB control number 1545-1102, and that the information required by these final regulations adds no new burden to the existing requirements. Accordingly, a Regulatory Flexibility Analysis under the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

## Drafting Information

The principal author of these regulations is David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.42-10 is amended by:

- 1. Revising the first sentence of paragraph (a).
- 2. Revising paragraphs (b)(1), (b)(2), and (b)(3), and the introductory text of paragraph (b)(4).
- 3. Adding two sentences at the end of paragraph (b)(4)(ii)(A).
- 4. Adding three sentences after the second sentence in paragraph (b)(4)(ii)(B).
- 5. Adding paragraphs (b)(4)(ii)(C), (b)(4)(ii)(D), and (b)(4)(ii)(E).

■ 6. Revising paragraph (c).

■ 7. Adding paragraph (d).

The additions and revisions read as follows:

#### § 1.42-10 Utility allowances.

(a) \* \* \* If the cost of any utility (other than telephone, cable television, or Internet) for a residential rental unit is paid directly by the tenant(s), and not by or through the owner of the building, the gross rent for that unit includes the applicable utility allowance determined under this section. \* \* \*

(b) *Applicable utility allowances*—(1) *Buildings assisted by the Rural Housing Service.* If a building receives assistance from the Rural Housing Service (RHS-assisted building), the applicable utility allowance for all rent-restricted units in the building is the utility allowance determined under the method prescribed by the Rural Housing Service (RHS) for the building (whether or not the building or its tenants also receive other state or federal assistance).

(2) *Buildings with Rural Housing Service assisted tenants.* If any tenant in a building receives RHS rental assistance payments (RHS tenant assistance), the applicable utility allowance for all rent-restricted units in the building (including any units occupied by tenants receiving rental assistance payments from the Department of Housing and Urban Development (HUD)) is the applicable RHS utility allowance.

(3) *Buildings regulated by the Department of Housing and Urban Development.* If neither a building nor any tenant in the building receives RHS housing assistance, and the rents and utility allowances of the building are reviewed by HUD on an annual basis (HUD-regulated building), the applicable utility allowance for all rent-restricted units in the building is the applicable HUD utility allowance.

(4) *Other buildings.* If a building is neither an RHS-assisted nor a HUD-regulated building, and no tenant in the building receives RHS tenant assistance, the applicable utility allowance for rent-restricted units in the building is determined under the following methods.

\* \* \* \* \*

(ii) \* \* \* (A) \* \* \* However, if a local utility company estimate is obtained for any unit in the building under paragraph (b)(4)(ii)(B) of this section, a State or local housing credit agency (Agency) provides a building owner with an estimate for any unit in a building under paragraph (b)(4)(ii)(C) of this section, a cost estimate is calculated using the HUD Utility Schedule Model under paragraph

(b)(4)(ii)(D) of this section, or a cost estimate is calculated by an energy consumption model under paragraph (b)(4)(ii)(E) of this section, then the estimate under paragraph (b)(4)(ii)(B), (C), (D), or (E) becomes the applicable utility allowance for all rent-restricted units of similar size and construction in the building. Paragraphs (b)(4)(ii)(B), (C), (D), and (E) of this section do not apply to units to which the rules of paragraphs (b)(1), (2), (3), or (4)(i) of this section apply.

(B) \* \* \* In the case of deregulated utility services, the interested party is required to obtain an estimate only from one utility company even if multiple companies can provide the same utility service to a unit. However, the utility company must offer utility services to the building in order for that utility company's rates to be used in calculating utility allowances. The estimate should include all component deregulated charges for providing the utility service. \* \* \*

(C) *Agency estimate.* A building owner may obtain a utility estimate for each unit in the building from the Agency that has jurisdiction over the building provided the Agency agrees to provide the estimate. The estimate is obtained when the building owner receives, in writing, information from the Agency providing the estimated per-unit cost of the utilities for units of similar size and construction for the geographic area in which the building containing the units is located. The Agency estimate may be obtained by a building owner at any time during the building's extended use period (see section 42(h)(6)(D)). Costs incurred in obtaining the estimate are borne by the building owner. In establishing an accurate utility allowance estimate for a particular building, an Agency (or an agent or other private contractor of the Agency that is a qualified professional within the meaning of paragraph (b)(4)(ii)(E) of this section) must take into account, among other things, local utility rates, property type, climate and degree-day variables by region in the State, taxes and fees on utility charges, building materials, and mechanical systems. If the Agency uses an agent or other private contractor to calculate the utility estimates, the agent or contractor and the owner must not be related within the meaning of section 267(b) or 707(b). An Agency may also use actual utility company usage data and rates for the building. However, use of the Agency estimate is limited to the building's consumption data for the twelve-month period ending no earlier than 60 days prior to the beginning of the 90-day period under paragraph (c)(1)

of this section and utility rates used for the Agency estimate must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section. In the case of newly constructed or renovated buildings with less than 12 months of consumption data, the Agency (or an agent or other private contractor of the Agency that is a qualified professional within the meaning of paragraph (b)(4)(ii)(E) of this section) may use consumption data for the 12-month period of units of similar size and construction in the geographic area in which the building containing the units is located.

(D) *HUD Utility Schedule Model.* A building owner may calculate a utility estimate using the "HUD Utility Schedule Model" that can be found on the Low-Income Housing Tax Credits page at <http://www.huduser.org/datasets/lihtc.html> (or successor URL). Utility rates used for the HUD Utility Schedule Model must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section.

(E) *Energy consumption model.* A building owner may calculate utility estimates using an energy and water and sewage consumption and analysis model (energy consumption model). The energy consumption model must, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The utility consumption estimates must be calculated by either a properly licensed engineer or a qualified professional approved by the Agency that has jurisdiction over the building (together, qualified professional), and the qualified professional and the building owner must not be related within the meaning of section 267(b) or 707(b). Use of the energy consumption model is limited to the building's consumption data for the twelve-month period ending no earlier than 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section, and utility rates used for the energy consumption model must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section. In the case of newly constructed or renovated buildings with less than 12 months of consumption data, the qualified professional may use consumption data for the 12-month period of units of similar size and construction in the geographic area in

which the building containing the units is located.

(c) *Changes in applicable utility allowance—(1) In general.* If, at any time during the building's extended use period (as defined in section 42(h)(6)(D)), the applicable utility allowance for units changes, the new utility allowance must be used to compute gross rents of the units due 90 days after the change (the 90-day period). For example, if rent must be lowered because a local utility company estimate is obtained that shows a higher utility cost than the otherwise applicable PHA utility allowance, the lower rent must be in effect for rent due at the end of the 90-day period. A building owner using a utility company estimate under paragraph (b)(4)(ii)(B) of this section, the HUD Utility Schedule Model under paragraph (b)(4)(ii)(D) of this section, or an energy consumption model under paragraph (b)(4)(ii)(E) of this section must submit copies of the utility estimates to the Agency that has jurisdiction over the building and make the estimates available to all tenants in the building at the beginning of the 90-day period before the utility allowances can be used in determining the gross rent of rent-restricted units. An Agency may require additional information from the owner during the 90-day period. Any utility estimates obtained under the Agency estimate under paragraph (b)(4)(ii)(C) of this section must also be made available to all tenants in the building at the beginning of the 90-day period. The building owner must pay for all costs incurred in obtaining the estimates under paragraphs (b)(4)(ii)(B), (C), (D), and (E) of this section and providing the estimates to the Agency and the tenants. The building owner is not required to review the utility allowances, or implement new utility allowances, until the building has achieved 90 percent occupancy for a period of 90 consecutive days or the end of the first year of the credit period, whichever is earlier.

(2) *Annual review.* A building owner must review at least once during each calendar year the basis on which utility allowances have been established and must update the applicable utility allowance in accordance with paragraph (c)(1) of this section. The review must take into account any changes to the building such as any energy conservation measures that affect energy consumption and changes in utility rates.

(d) *Record retention.* The building owner must retain any utility consumption estimates and supporting data as part of the taxpayer's records for purposes of § 1.6001-1(a).

■ **Par. 3.** Section 1.42-12 is amended by adding paragraph (a)(4) to read as follows:

**§ 1.42-12 Effective dates and transitional rules.**

(a) \* \* \*

(4) *Utility allowances.* The first sentence in § 1.42-10(a), § 1.42-10(b)(1), (2), (3), and (4), the last two sentences in § 1.42-10(b)(4)(ii)(A), the third, fourth, and fifth sentences in § 1.42-10(b)(4)(ii)(B), § 1.42-10(b)(4)(ii)(C), (D), and (E), and § 1.42-10(c) and (d) are applicable to a building owner's taxable years beginning on or after July 29, 2008. Taxpayers may rely on these provisions before the beginning of the building owner's taxable year beginning on or after July 29, 2008 provided that any utility allowances calculated under these provisions are effective no earlier than the first day of the building owner's taxable year beginning on or after July 29, 2008. The utility allowances provisions that apply to taxable years beginning before July 29, 2008 are contained in § 1.42-10 (see 26 CFR part 1 revised as of April 1, 2008).

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 20, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E8-17268 Filed 7-28-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-0695]

RIN 1625-AA00

**Safety Zone; Maine; Sector Northern New England August Swim Events.**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zones during the month of August around the "Sprucewold Cabbage Island Swim," "Tri for a Cure Triathlon," "Greater Burlington YMCA Lake Swim," "Y-Tri Triathlon," and "Rockland Breakwater Swim" marine events while the events are in progress. These safety zones are needed to protect swimmers, event sponsors' safety vessels, and others in the maritime community from the safety hazards that may arise from events of



in accordance with paragraph (c) of this section, unless that person:

- (i) Is already authorized to hold interlocking positions of the type governed by this section;
  - (ii) Is exempt from filing an informational report pursuant to § 45.4; or
  - (iii) Will hold a temporary interlocking position pursuant to § 45.1(c).
- (2) The Commission will consider failures to timely file the informational report on a case-by-case basis.

**PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS**

■ 9. The authority citation for part 46 continues to read as follows:

**Authority:** 16 U.S.C. 792–828c; 16 U.S.C. 2601–2645; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142.

■ 10. Amend § 46.2 by revising paragraph (a), removing and reserving paragraph (b), and revising paragraphs (c) and (e) to read as follows:

**§ 46.2 Definitions.**

(a) *Public utility* has the same meaning as in section 201(e) of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Utilities Service of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

(c) *Purchaser* means any individual or corporation within the meaning of section 3 of the Federal Power Act who purchases electric energy from a public utility. Such term does not include the United States or any agency or instrumentality of the United States or any rural electric cooperative which is regulated by the Rural Utilities Service of the Department of Agriculture.

(e) *Entity* means any firm, company, or organization including any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. Such term does not include *municipality* as defined in section 3 of the Federal Power Act and does not include any Federal, State, or local government agencies or any rural electric cooperative which is regulated

by the Rural Utilities Service of the Department of Agriculture.

\* \* \* \* \*  
 [FR Doc. 2019–03419 Filed 3–1–19; 8:45 am]  
 BILLING CODE 6717–01–P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9850]

RIN 1545–BM28

**Utility Allowance Submetering**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations that amend the utility allowance regulations concerning the low-income housing credit under section 42 of the Internal Revenue Code (Code). These final regulations extend the principles of the current submetering rules. The current rules address situations in which a building owner purchases a utility from a utility company and then separately charges the tenants for the utility. In those situations, if the utility costs paid by a tenant are based on actual consumption in the tenant’s submetered, rent-restricted unit and if certain other requirements are satisfied, then the charges for the utility are treated as paid by the tenant directly to the utility company, even though the payment passes through the building owner. The final regulations extend these principles and apply to situations in which a building owner sells to tenants energy that is produced from a renewable source and that the owner did not purchase from or through a local utility company. The final regulations affect owners of low-income housing projects that claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit.

**DATES:**

*Effective date:* These final regulations are effective on March 4, 2019.

*Applicability date:* For dates of applicability, see § 1.42–12(a)(5).

**FOR FURTHER INFORMATION CONTACT:** Dillon Taylor, (202) 317–4137 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 3, 2016, the Department of the Treasury (Treasury Department) and

the IRS published in the **Federal Register** (81 FR 11104) final and temporary regulations (TD 9755) that amended § 1.42–10 of the Income Tax Regulations. The final regulations in TD 9755 clarified the circumstances in which utility costs paid by a tenant based on actual consumption in a submetered, rent-restricted unit are treated as paid by the tenant directly to the utility company and not to the building owner. In such a case, for purposes of section 42, the tenant’s payments to the owner for the utilities are not treated as payments of gross rent, and the rent that the owner might otherwise have collected for the unit is reduced by an amount that is called a “utility allowance.” The temporary regulations extended the principles of those final regulations to situations in which a building owner sold to tenants energy that was produced from a renewable source and that the owner had not purchased from or through a local utility company.

In the same issue of the **Federal Register** (81 FR 11160), the Treasury Department and the IRS published a notice of proposed rulemaking (REG–123867–14) (the proposed regulations). The text of the proposed regulations incorporated by cross-reference the text of the temporary regulations. The Treasury Department and the IRS received written and electronic comments responding to the proposed regulations. No requests for a public hearing were made, and no public hearing was held.

After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury Decision.

**Summary of Comments and Explanation of Provisions**

The temporary regulations in TD 9755 applied the submetering principles to energy that the building owner sold to tenants if the energy was “produced from a renewable source” and if the owner had acquired it from the renewable source without the intervention of a local utility company. Qualification for this submetering treatment, however, depended on the charges to the tenants for this energy being comparable to local utility rates. That is, under the temporary regulations, to the extent that tenants consumed this energy, the rate charged by the building owner could not exceed the rate at which the local utility company would have charged the tenants if they had instead acquired the energy from that company.

A commenter requested that the final regulations clarify how a building

owner may demonstrate that the rate that the owner charges tenants for renewable energy satisfies this requirement (the evidentiary issue). In addition, if there are multiple local utility rates that the tenants might have been charged (possibly from multiple utility companies), the commenter asked for clarification as to which rate or rates should be taken into account in determining whether the owner's charges to the tenants qualify (the reference-rate issue).

The final regulations resolve both of these issues. Addressing the reference-rate issue, the final regulations require that the rate that the owner charges must not exceed the highest rate at which the tenants might have obtained energy from a local utility company. This criterion has several advantages over alternatives. For example, it is easily administrable (as compared, for example, with a requirement that the owner's rate not exceed the "most typical rate" in the community). Also, the criterion protects an owner's qualifying rate from being disqualified by the introduction of new rates in the community (as might be the case, for example, if the reference for the criterion were the average or median of local rates).

Regarding the evidentiary issue, in determining the acceptability of the rate that a building owner charges tenants, the owner may rely on the rates published by local utility companies.

The temporary regulations in TD 9755 provide that, for purposes of qualifying for submetering treatment, energy is "produced from a renewable source" if it is energy that is produced from energy property described in section 48; energy that is produced from a facility described in section 45(d)(1), (2), (3), (4), (6), (9), or (11); or energy that is described in guidance published for this purpose in the Internal Revenue Bulletin. Sections 45 and 48 of the Code determine whether a taxpayer is entitled to certain energy-related credits. A commenter requested that the final regulations clarify the extent to which these cross-references to "energy property" and "facility" incorporate the various requirements for earning those credits.

The final regulations clarify that the building owner need not own the source from which the utility is produced and need not qualify for, or receive, any credit under section 45 or 48 associated with the source. Indeed, energy may qualify as "produced from a renewable resource" even if potential entitlement to credits under these Code sections has expired. Thus, the final regulations clarify that they refer to "energy

property" and "facility" as a means of describing certain types of production of renewable energy but that they do not also incorporate any other criteria from those Code sections.

Under section 42(g)(1) and (2), a residential unit may qualify as a low-income unit only if it is "rent-restricted." The amount that qualifies as restricted rent is determined based on the assumption that most utilities are generally covered by that rent. See H.R. Conf. Rep. 99-841, at II-94 (1986). For that reason, if the tenant pays for a utility directly, the rent that the owner may require from the tenant is reduced. The amount of this reduction is called a "utility allowance." See section 42(g)(2)(B)(ii) and § 1.42-10(a). Language in the preamble of TD 9755 states that utility costs paid by a tenant based on actual consumption in a submetered, rent-restricted unit are treated as paid by the tenant directly to the utility and thus do not count against the maximum rent that the building owner can charge. Referencing this language, one commenter requested that the final regulations clarify whether a building owner of a submetered building is required to reduce its maximum gross rents by the amount of a utility allowance. Because § 1.42-10(e) treats a tenant in a submetered, rent-restricted unit as having paid for a utility directly and not by or through the owner of the building, the proper treatment of the tenant's submetered utility payments is the same as if the tenant had made those payments directly to the utility company—(1) Although the payments pass through the building owner, they are not treated for purposes of the rent restriction as if they were payments of rent; and (2) The amount of rent that the owner might otherwise have demanded from the tenant is reduced by the amount of an applicable utility allowance.

#### Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. Therefore, a regulatory impact assessment is not required. It has also been determined that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply because the regulations do not impose a collection of information on small entities. Pursuant to section 7805(f) of the Internal Revenue Code, this proposed rule preceding these final regulations was submitted to the Chief Counsel for

Advocacy of the Small Business Administration for comment on its impact on small business and no comments were received.

#### Drafting Information

The principal author of this regulation is James W. Rider, formerly of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.42-10T to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Sections 1.42-6, 1.42-8, 1.42-9, 1.42-10, 1.42-11, and 1.42-12, also issued under 26 U.S.C. 42(n).

#### § 1.42-0T [Amended]

■ **Par. 2.** Section 1.42-0T is amended by removing the entries for § 1.42-10T.

■ **Par. 3.** Section 1.42-10 is amended by:

- 1. Revising paragraph (e)(1)(i) introductory text.
- 2. Revising paragraph (e)(1)(i)(B).
- 3. Adding paragraphs (e)(1)(i)(C) and (D).
- 4. Revising paragraph (e)(1)(iv)(B).

The revisions and additions read as follows:

#### § 1.42-10 Utility allowances.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(i) The utility consumed in the unit is described in paragraph (e)(1)(i)(A) or (e)(1)(i)(B) of this section;

\* \* \* \* \*

(B) The utility is not purchased from or through a local utility company and is produced from a renewable source (within the meaning of paragraph (e)(1)(i)(C) of this section).

(C) For purposes of paragraph (e)(1)(i)(B) of this section, a utility is produced from a renewable source if—

(1) It is energy that is produced from energy property described in section 48;

(2) It is energy that is produced from a facility described in section 45(d)(1), (2), (3), (4), (6), (9), or (11); or

(3) It is a utility that is described in guidance published for this purpose in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(D) Determinations under paragraphs (e)(1)(i)(C)(1) and (2) of this section take into account only the manner in which the energy is produced and not who owns the energy property or the facility or whether the applicability of relevant portions of sections 45 and 48 has expired.

\* \* \* \* \*

(iv) \* \* \*

(B) To the extent that the utility consumed is described in paragraph (e)(1)(i)(B) of this section, the utility rate charged to the tenants of the unit does not exceed the highest rate that the tenants would have paid if they had obtained the utility from a local utility company. In determining whether a rate satisfies the preceding sentence, a building owner may rely on the rates published by local utility companies.

\* \* \* \* \*

#### § 1.42–10T [Removed]

■ **Par. 5.** Section 1.42–10T is removed.

■ **Par. 6.** Section 1.42–12 is amended by:

- 1. Revising paragraph (a)(5)(i)(E).
- 2. Revising paragraph (a)(5)(ii).
- 3. Adding paragraph (a)(5)(iii).

The revisions and addition read as follows:

#### § 1.42–12 Effective dates and transitional rules.

(a) \* \* \*

(5) \* \* \*

(i) \* \* \*

(E) Section 1.42–10(e), except as provided in paragraph (a)(5)(iii) of this section.

(ii) Except as provided in paragraph (a)(5)(iii) of this section, a building owner may apply the provisions described in paragraphs (a)(5)(i)(A) through (E) of this section to the building owner's taxable years beginning before March 3, 2016. Otherwise, the utility allowance provisions that apply to those taxable years are contained in § 1.42–10, as contained in 26 CFR part 1, revised as of April 1, 2015.

(iii) The provisions in § 1.42–10(e)(1)(i) introductory text, (e)(1)(i)(B) through (D), and (e)(1)(iv)(B) apply to a building owner's taxable years beginning on or after March 4, 2019. A building owner, however, may apply these provisions to earlier taxable years. Otherwise, the submetering provisions that apply to taxable years beginning after March 3, 2016, and before March 4, 2019, are contained in § 1.42–10 and

§ 1.42–10T as contained in 26 CFR part 1 revised as of April 1, 2016. In addition, a building owner may apply those submetering provisions to taxable years beginning before March 3, 2016.

\* \* \* \* \*

**Kirsten Wielobob,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 26, 2019.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2019–03827 Filed 2–27–19; 4:15 pm]

BILLING CODE 4830–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 100 and 165

[Docket No. USCG–2018–0231]

RIN 1625–AA00, 1625–AA08, 1625–AA11, 1625–AA87

#### Removal of Regulated Navigation Areas, Safety Zones, Security Zones, and Special Local Regulations Within District 7

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is updating District 7 regulations to reflect the current status of identified regulated navigation areas, special local regulations, safety zones, and security zones within the District. This rule removes safety zones and special local regulations for rules where the enforcement period has expired or where the event is no longer held. This rule also removes special local regulations where the event no longer meets the criteria for a permitted event and is not suitable for coverage under a special local regulation in accordance with Coast Guard regulations.

**DATES:** This rule is effective April 3, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2018–0231 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** For information about this document, call or email Paul Lehmann, District Seven Prevention Division, U.S. Coast Guard; telephone 301–415–6796, email [Paul.D.Lehmann@uscg.mil](mailto:Paul.D.Lehmann@uscg.mil).

## SUPPLEMENTARY INFORMATION:

### I. Table of Abbreviations

CATEX Criteria for Categorical Exclusion  
CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
OMB Office of Management and Budget  
§ Section  
U.S.C. United States Code

### II. Background, Purpose, and Legal Basis

This rulemaking project was identified as part of the Coast Guard's Regulatory Reform Task Force initiative. These District 7 field regulation changes were identified as part of the deregulation identification process required by Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), Executive Order 13777 (Enforcing the Regulatory Reform Agenda Deregulatory Process), and associated guidance issued in 2017. This rule provides updates and clarifications to existing regulatory text in title 33 of the Code of Federal Regulations (CFR) parts 100 and 165.

This rule removes safety zones and special local regulations for regulations where the enforcement period has expired or where the event is no longer held. This rule also removes special local regulations where the event no longer meets the criteria for a permitted event and is not suitable for coverage under a special local regulation in accordance with 33 CFR 100.35. District 7 has determined that normal navigation rules cover the safety of participants and spectators at these events adequately. If a change in circumstance indicates that additional safety measures are necessary, the Coast Guard might choose to promulgate new regulations for safety zones at these events at that time.

The changes to 33 CFR part 100 are specifically authorized under 33 U.S.C. 1233, which vests the Commandant of the Coast Guard with authority to issue regulations to promote the safety of life on navigable waters during regattas or marine parades. The changes to 33 CFR part 165 are authorized under the general authority of 22 U.S.C. 1231, which grants the Secretary of the Department of Homeland Security broad authority to issue, amend, or repeal regulations necessary to implement 33 U.S.C. chapter 25, Ports and Waterways Safety Program. The Secretary has delegated rulemaking authority under 33 U.S.C. 1231 to the Commandant via Department of Homeland Security Delegation No. 0170.1.

The Coast Guard is issuing this rule without prior notice and opportunity to

**Rev. Proc. 94-65, 1994-2 CB 798--IRC Sec(s). 42****October 11, 1994****1. Purpose**

This revenue procedure informs housing credit agencies (Agency) and owners of qualified low-income housing projects (owners) when a signed, sworn statement by a low-income tenant will satisfy the documentation requirement of section 1.42-5(b)(1)(vii) of the Income Tax Regulations.

**2. Background**

Section 1.42-5 provides the minimum requirements that an Agency's compliance monitoring procedure must contain to satisfy its compliance monitoring duties under section 42(m)(1)(B)(iii). Section 1.42-5(b)(1)(vi) provides that an Agency must require an owner to keep records for each qualified low-income building in the project that show for each year in the compliance period the annual income certifications of each low-income tenant per unit. Section 1.42-5(b)(1)(vii) provides that an Agency must require an owner to keep documents for each qualified low-income building in its project for each year in the compliance period that support each low-income tenant's income certification. The term "low-income tenant" refers to the individuals occupying a rent-restricted unit in a qualified low-income housing project whose annual income satisfies the section 42(g)(1) income limitation elected by the owner of the project. Examples of the documentation required under section 1.42-5(b)(1)(vii) include a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation. A verification of income from a third party is referred to as a "third party verification."

The Internal Revenue Service has determined that an owner may satisfy the documentation requirement of section 1.42-5(b)(1)(vii) for a low-income tenant's income from assets by obtaining a signed, sworn statement from the tenant or prospective tenant if (1) the tenant's or prospective tenant's Net Family assets do not exceed \$5,000, and (2) the tenant or prospective tenant provides a signed, sworn statement to this effect to the building owner. See H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 544 (1993).

**3. Scope**

This revenue procedure applies to Agencies and owners of qualified low-income housing projects.

**4. Procedure**

.01 To determine a tenant's Net Family assets, owners and Agencies must use the definition of "Net Family assets" in 24 CFR 813.102, which provides definitions for the H.U.D. section 8 program.

.02 Except as provided in sections 4.03 and 4.04 of this revenue procedure, an Agency's monitoring procedure may provide that an owner may satisfy the

documentation requirement for income from assets in section 1.42-5(b)(1)(vii) for a low-income tenant whose Net Family assets do not exceed \$5,000 by annually obtaining a signed, sworn statement that includes the following:

(1) That the tenant's Net Family assets do not exceed \$5,000, and

(2) The tenant's annual income from Net Family assets.

.03 An Agency's monitoring procedure, however, may not permit an owner to rely on a low-income tenant's signed, sworn statement of annual income from assets if a reasonable person in the owner's position would conclude that the tenant's income is higher than the tenant's represented annual income. In this case, the owner must obtain other documentation of the low-income tenant's annual income from assets to satisfy the documentation requirement in section 1.42- 5(b)(1)(vii).

.04 An Agency's monitoring procedure may continue to require that an owner obtain documentation, other than the statement described in section 4.02 of this revenue procedure, to support a low-income tenant's annual certification of income from assets.

#### **5. Effective Date**

This revenue procedure is effective October 11, 1994.

#### **Drafting Information**

The principal author of this revenue procedure is Jeffrey A. Erickson of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, contact Mr. Erickson at (202) 622-3040 (not a toll-free call).

## **Rev. Proc. 94-9, 1994-2 CB 555--IRC Sec(s). 42**

**December 16, 1993**

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, Section 42.)

### **1. PURPOSE**

This revenue procedure informs owners of low-income buildings how to make the election provided by section 13142(c)(1) of the Revenue Reconciliation Act of 1993 (RRA 1993), Pub. L. No. 103-66, 107 Stat. 416, 439-40 (1993). The election is available to owners of low-income buildings not covered by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 (1989 Act), 1990-1 C.B. 210, 220, and allows these owners to determine the gross rent limitation for rent-restricted units under the number of bedrooms method of section 42(g)(2)(C) of the Internal Revenue Code.

### **2. BACKGROUND**

Section 7108(e)(1) of the 1989 Act changed the method for computing the maximum allowable gross rent in determining if a unit is rent-restricted under section 42(g)(2)(A). This 1989 Act amendment applies to allocations of housing credit dollar amounts (Allocations) made after 1989 (or, to bond-financed buildings placed in service after 1989, to the extent section 42(h)(4) applies to the building). Prior to the 1989 Act amendment of section 42(g)(2), the maximum allowable gross rent for a rent-restricted unit under section 42(g)(2)(A) was determined on the basis of, and varied in accordance with, the actual number of individuals occupying the unit. Under that method, the maximum allowable rent for a rent-restricted unit varies in accordance with the number of individuals occupying the unit.

For a building subject to section 7108(e)(1) of the 1989 Act, a unit in a building is rent-restricted if the gross rent for the unit does not exceed 30 percent of the imputed income limitation applicable to the unit under section 42(g)(2)(C). Section 42(g)(2)(C) provides that the imputed income limitation applicable to a unit is the income limitation that would apply under section 42(g)(1) to individuals occupying the unit if the number of individuals occupying the unit were as follows: (i) for a unit that does not have a separate bedroom, 1 individual, and (ii) for a unit that has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom. This method is known as the number of bedrooms method.

Section 13142(c)(1) of the RRA 1993 allows an owner of a low-income building not covered by section 7108(e)(1) of the 1989 Act to elect to determine the gross rent limitation under the number of bedrooms method of section 42(g)(2)(C). Thus, owners of low-income buildings that received Allocations before 1990 (or of bond-financed buildings placed in service before 1990, to the extent section 42(h)(4)

applies to the building) can make the election provided for in section 13142(c)(1) of the RRA 1993.

Section 13142(c) of the RRA 1993 places the following conditions on this election: (1) the building owner must have met the requirements of section 42(m)(1)(B)(iii) (relating to state housing credit agency procedures for monitoring compliance with section 42); (2) the owner must make the election during the 180 day period beginning on the date of enactment of the RRA 1993; (3) the owner can only apply the number of bedrooms method to tenants first occupying any rent-restricted unit in the building after the date of the election, and the building owner must apply the number of bedrooms method to all rent restricted units whose tenants first occupy any unit in the building after the date of the election; and (4) once made, neither the building owner nor any subsequent owner may revoke the election.

### **3. SCOPE**

This revenue procedure applies to owners of low-income buildings whose buildings were not subject to the amendments to section 42(g)(2) made by section 7108(e)(1) of the 1989 Act.

### **4. ELECTION PROCEDURE**

To make the election to determine the gross rent limitation based on the number of bedrooms method, a building owner must-

.01 By February 7, 1994, send a written statement signed under penalty of perjury to the Internal Revenue Service Center, P.O. Box 245, Philadelphia, PA 19255, that states:

(a) That the building owner elects to use the number of bedrooms method of section 42(g)(2)(C);

(b) That the building owner meets the requirements of the procedures of the compliance monitoring plan in effect on the date of the election that is implemented by the state housing credit agency responsible for monitoring the building;

(c) That the building owner will only apply the elected method to tenants first occupying any unit in the building after the date of the election; and

(d) The building identification number assigned to the building, the building or project name, the building or project address, and the owner's name and taxpayer identification number. .02 Simultaneously send a copy of the election document to the state housing credit agency responsible for monitoring the building.

.03 Attach a copy of the election document to the building's Form 8609 filed for the tax year in which the building owner made the election.

.04 Keep a copy of the election document with the building's records. This copy must stay with the building's records regardless of any ownership transfer.

### **5. EFFECTIVE DATE OF ELECTION**

An election under section 4 of this revenue procedure made after publication of the revenue procedure is effective when filed with the Internal Revenue Service Center in Philadelphia, PA. An election under section 13142(c)(1) to use the number of bedrooms method made before the publication of this revenue procedure is effective when made if: (1) the building owner complied with the requirements of section 13142(c) of the RRA 1993, and (2) the building owner perfects the election by following the requirements in section 4 of this revenue procedure.

## **6. EFFECTIVE DATE**

This revenue procedure is effective for elections made on or after August 10, 1993.

## **DRAFTING INFORMATION**

The principal author of this revenue procedure is Jeffrey A. Erickson of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure contact Jeffrey A. Erickson at (202) 622-3040 (not a toll free call).

### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES				Verification Tips
	Written <sup>b</sup>	Third Party <sup>a</sup> Oral <sup>c</sup>	Documents Provided by Applicant	Self-Declaration	
<ul style="list-style-type: none"> <li>Age.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>Birth Certificate</li> <li>Baptismal Certificate</li> <li>Military Discharge papers</li> <li>Valid passport</li> <li>Census document showing age</li> <li>Naturalization certificate</li> <li>Social Security Administration Benefits printout</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or affidavit signed by applicant indicating amount received.</li> <li>If applicable, notarized statement or affidavit from applicant indicating that payments are not being received and describing efforts to collect amounts due.</li> </ul>	<ul style="list-style-type: none"> <li>Amounts awarded but not received can be excluded from annual income only when applicants have made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.</li> </ul>
<ul style="list-style-type: none"> <li>Alimony or child support.</li> </ul>	<ul style="list-style-type: none"> <li>Copy of separation or divorce agreement provided by ex-spouse or court indicating type of support, amount, and payment schedule.</li> <li>Written statement provided by ex-spouse or income source indicating all of above.</li> <li>If applicable, written statement from court/attorney that payments are not being received and anticipated date of resumption of payments.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with ex-spouse or income source documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copy of most recent check, recording date, amount, and check number.</li> <li>Recent original letters from the court.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or affidavit signed by applicant indicating amount received.</li> <li>If applicable, notarized statement or affidavit from applicant indicating that payments are not being received and describing efforts to collect amounts due.</li> </ul>	<ul style="list-style-type: none"> <li>Amounts awarded but not received can be excluded from annual income only when applicants have made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.</li> </ul>

<sup>a</sup>**NOTE:** Requests for verification from third parties must be accompanied by a Consent to Release form.

<sup>b</sup>**NOTE:** If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.

<sup>c</sup>**NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.

### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES			Self-Declaration	Verification Tips
	Third Party <sup>a</sup>		Documents Provided by Applicant		
	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Assets disposed of for less than fair market value.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>Certification signed by applicant that no member of family has disposed of assets for less than fair market value during preceding two years.</li> <li>If applicable, certification signed by the owner of the asset disposed of that shows:                             <ul style="list-style-type: none"> <li>- Type of assets disposed of;</li> <li>- Date disposed of;</li> <li>- Amount received; and</li> <li>- Market value of asset at the time of disposition.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Only count assets disposed of within a two-year period prior to examination or re-examination.</li> </ul>

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### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES				Verification Tips	
	Written <sup>b</sup>	Third Party <sup>a</sup>	Oral <sup>c</sup>	Documents Provided by Applicant		Self-Declaration
	<ul style="list-style-type: none"> <li>Auxiliary apparatus.</li> </ul>	<ul style="list-style-type: none"> <li>Written verification from source of costs and purpose of apparatus.</li> <li>Written certification from doctor or rehabilitation agency that use of apparatus is necessary to employment of any family member.</li> <li>In case where the disabled person is employed, statement from employer that apparatus is necessary for employment.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with these sources documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of receipts or evidence of periodic payments for apparatus.</li> </ul>		<ul style="list-style-type: none"> <li>Notarized statement or signed affidavit attesting to amounts paid.</li> </ul>
<ul style="list-style-type: none"> <li>Care attendant for disabled family members.</li> </ul>	<ul style="list-style-type: none"> <li>Written verification from attendant stating amount received, frequency of payments, hours of care.</li> <li>Written certification from doctor or rehabilitation agency that care is necessary to employment of family member.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with source documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of receipts or cancelled checks indicating payment amount and frequency.</li> </ul>	<ul style="list-style-type: none"> <li>The owner must determine if this expense is to be considered medical or disability assistance.</li> </ul>		

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### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES				
	Third Party <sup>a</sup>		Documents Provided by Applicant	Self-Declaration	Verification Tips
	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Child care expenses (including verification that a family member who has been relieved of child care is working, attending school, or looking for employment).</li> </ul>	<ul style="list-style-type: none"> <li>Written verification from person who provides care indicating amount of payment, hours of care, names of children, frequency of payment, and whether or not care is necessary to employment or education.</li> <li>Verification of employment as required under Employment Income.</li> <li>Verification of student status (full or part-time) as required under Full-Time Student Status.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with these sources (child care provider, employer, school) documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of receipts or cancelled checks indicating payments.</li> <li>For school attendance, school records, such as paid fee statements that show that the time and duration of school attendance reasonably corresponds to the period of child care.</li> </ul>	<ul style="list-style-type: none"> <li>For verification of "looking for work," details of job search effort as required by owner's written policy.</li> </ul>	<ul style="list-style-type: none"> <li>Allowance provided only for care of children 12 and younger.</li> <li>When same care provider takes care of children and disabled person, the owner must prorate expenses accordingly.</li> <li>Owners should keep in mind that costs may be higher in summer months and during holiday periods.</li> <li>The owner must determine which family member has been enabled to work.</li> <li>Care for employment and education must be prorated to compare to earnings.</li> <li>Costs must be "reasonable."</li> </ul>
<ul style="list-style-type: none"> <li>Citizenship</li> </ul>				<ul style="list-style-type: none"> <li>Citizens must sign declaration certifying U.S. Citizenship.</li> </ul>	<ul style="list-style-type: none"> <li>Owners may require applicants/residents to provide verification of citizenship.</li> </ul>

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<sup>c</sup>**NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.

### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES			Verification Tips
	Written <sup>b</sup>	Third Party <sup>a</sup> Oral <sup>c</sup>	Documents Provided by Applicant	
<ul style="list-style-type: none"> <li>Current net family assets.</li> </ul>	<ul style="list-style-type: none"> <li>Verification forms, letters or documents received from financial institutions, stock brokers, real estate agents, employers indicating the current value of the assets and penalties or reasonable costs to be incurred in order to convert nonliquid assets into cash.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with appropriate source, documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Passbooks, checking, or savings account statements, certificates of deposit, property appraisals, stock or bond documents, or other financial statements completed by financial institution.</li> <li>Copies of real estate tax statements, if tax authority uses approximate market value.</li> <li>Quotes from attorneys, stockbrokers, bankers, and real estate agents that verify penalties and reasonable costs incurred to convert asset to cash.</li> <li>Copies of real estate closing documents that indicate distribution of sales proceeds and settlement costs.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or signed affidavit stating cash value of assets or verifying cash held at applicant's home or in safe deposit box.</li> <li>Use current balance in savings accounts and average monthly balance in checking accounts for last 6 months.</li> <li>Use cash value of all assets (the net amount the applicant would receive if the asset were converted to cash).</li> <li><b>NOTE:</b> This information can usually be obtained simultaneously when verifying income from assets and employment (e.g., value of pension).</li> </ul>

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### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES		Documents Provided by Applicant	Self-Declaration	Verification Tips
	Written <sup>b</sup>	Third Party <sup>a</sup> Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Disability status.</li> </ul>	<ul style="list-style-type: none"> <li>Verification from medical professional stating that individual qualifies under the definition of disability.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with medical professional verifying qualification under the federal disability definition and documentation in the file of the conversation.</li> </ul>		<ul style="list-style-type: none"> <li>Not appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>If a person receives Social Security Disability solely due to a drug or alcohol problem, the person is not considered disabled under housing law. A person that does not receive Social Security Disability may still qualify under the definition of a person with disabilities.</li> <li>Owners must not seek to verify information about a person's specific disability other than obtaining a professional's opinion of qualification under the definition of a person with disabilities.</li> </ul>

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### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Third Party <sup>a</sup>		ACCEPTABLE SOURCES		
	Written <sup>b</sup>	Oral <sup>c</sup>	Documents Provided by Applicant	Self-Declaration	Verification Tips
	<ul style="list-style-type: none"> <li>Dividend income and savings account interest income.</li> </ul>	<ul style="list-style-type: none"> <li>Verification form completed by bank.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with appropriate party, documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of current statements, bank passbooks, certificates of deposit, if they show required information (i.e., current rate of interest).</li> <li>Copies of Form 1099 from the financial institution, and verification of projected income for the next 12 months.</li> <li>Broker's quarterly statements showing value of stocks/bonds and earnings credited to the applicant.</li> </ul>	<ul style="list-style-type: none"> <li>Not appropriate.</li> </ul>

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### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES				
	Third Party <sup>a</sup>		Documents Provided by Applicant	Self-Declaration	
	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Employment Income including tips, gratuities, overtime.</li> </ul>	<ul style="list-style-type: none"> <li>Verification form completed by employer.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with employer, specifying amount to be paid per pay period and length of pay period. Document in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>W-2 Forms, if applicant has had same employer for at least two years and increases can be accurately projected.</li> <li>Paycheck stubs or earning statements.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statements or affidavits signed by applicant that describe amount and source of income.</li> </ul>	<ul style="list-style-type: none"> <li>Always verify: frequency of gross pay (i.e., hourly, biweekly, monthly, bimonthly); anticipated increases in pay and effective dates; overtime.</li> <li>Require most recent 6-8 consecutive pay stubs; do not use check without stub.</li> <li>For a fee, additional information can be obtained from The Work Number 800-996-7556; First American Registry 800-999-0350; and Verifax 800-969-5100. Fees are valid project expenses. Information does not replace third-party verification.</li> </ul>

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### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES				Verification Tips
	Third Party <sup>a</sup>		Documents Provided by Applicant	Self-Declaration	
	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Family composition.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>Birth certificates</li> <li>Divorce actions</li> <li>Drivers' licenses</li> <li>Employer records</li> <li>Income tax returns</li> <li>Marriage certificates</li> <li>School records</li> <li>Social Security Administration records</li> <li>Social service agency records</li> <li>Support payment records</li> <li>Utility bills</li> <li>Veterans Administration (VA) records</li> </ul>	<ul style="list-style-type: none"> <li>Elderly Status: Applicant's signature on application is generally sufficient.</li> </ul>	<ul style="list-style-type: none"> <li>An owner may seek verification only if the owner has clear written policy.</li> </ul>
<ul style="list-style-type: none"> <li>Family type. (Information verified only to determine eligibility for project, preferences, and allowances.)</li> </ul>	<ul style="list-style-type: none"> <li>Disability Status: statement from physician or other reliable source, if benefits documenting status are not received. See paragraph 3.25 B.1 for restrictions on this form of verification.</li> <li>Displacement Status: Written statement or certificate of displacement by the appropriate governmental authority.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with source documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Elderly Status (when there is reasonable doubt that applicant is at least 62): birth certificate, baptismal certificate, social security records, driver's license, census record, official record of birth or other authoritative document or receipt of SSI old age benefits or SS benefits.</li> <li>Disabled, blind: evidence of receipt of SSI or Disability benefits.</li> </ul>	<ul style="list-style-type: none"> <li>Elderly Status: Applicant's signature on application is generally sufficient.</li> </ul>	<ul style="list-style-type: none"> <li>Unless the applicant receives income or benefits for which elderly or disabled status is a requirement, such status must be verified.</li> <li>Status of disabled family members must be verified for entitlement to \$480 dependent deduction and disability assistance allowance.</li> <li>Owner may not ask the nature/extent of disability.</li> </ul>

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	Third Party <sup>a</sup>		Documents Provided by Applicant	Self-Declaration	
	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Full-time student status (of family member 18 or older, excluding head, spouse, or foster children).</li> </ul>	<ul style="list-style-type: none"> <li>Verification from the Admissions or Registrar's Office or dean, counselor, advisor, etc., or from VA Office.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with these sources documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>School records, such as paid fee statements that show a sufficient number of credits to be considered a full-time student by the educational institution attended.</li> </ul>	<ul style="list-style-type: none"> <li>Noncitizens must sign declaration certifying the following: Eligible Immigration status; or Decision not to claim eligible status.</li> </ul>	<ul style="list-style-type: none"> <li>Owners must require noncitizens requesting assistance to provide verification of eligible immigration status.</li> </ul>
<ul style="list-style-type: none"> <li>Immigration Status.</li> </ul>	<ul style="list-style-type: none"> <li>Verification of eligible immigration status must be received from DHS through the DHS SAVE system or through secondary verification using DHS Form G-845.</li> </ul>	<ul style="list-style-type: none"> <li>None.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant/resident must provide appropriate immigration documents to initiate verification.</li> </ul>		

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	Third Party <sup>a</sup>		Documents Provided by Applicant	Self-Declaration
	Written <sup>b</sup>	Oral <sup>c</sup>		
<ul style="list-style-type: none"> <li>Income maintenance payments, benefits, income other than wages (i.e., welfare, Social Security [SSI], Supplemental Security Income [SSI], Disability Income, Pensions).</li> </ul>	<ul style="list-style-type: none"> <li>Award or benefit notification letters prepared and signed by authorizing agency.</li> <li>TRACS or REAC may provide verification for social security.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with income source, documented in file by the owner.</li> <li><b>NOTE:</b> For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.</li> </ul>	<ul style="list-style-type: none"> <li>Current or recent check stubs with date, amount, and check number recorded by the owner.</li> <li>Award letters or computer printout from court or public agency.</li> <li>Copies of validated bank deposit slips, with identification by bank.</li> <li>Most recent quarterly pension account statement.</li> </ul>	<ul style="list-style-type: none"> <li>Checks or automatic bank deposit slips may not provide gross amounts of benefits if applicant has deductions made for Medicare Insurance.</li> <li>Pay stubs for the most recent four to six weeks should be obtained.</li> <li>Copying of U.S. Treasury checks is not permitted.</li> <li>Award letters/printouts from court or public agency may be out of date; telephone verification of letter/printout is recommended.</li> </ul>
<ul style="list-style-type: none"> <li>Interest from sale of real property (e.g., contract for deed, installment sales contract, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>Verification form completed by an accountant, attorney, real estate broker, the buyer, or a financial institution which has copies of the amortization schedule from which interest income for the next 12 months can be obtained.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with appropriate party, documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copy of the contract.</li> <li>Copy of the amortization schedule, with sufficient information for the owner to determine the amount of interest to be earned during the next 12 months.</li> <li><b>NOTE:</b> Copy of a check paid by the buyer to the applicant is not acceptable.</li> </ul>	<ul style="list-style-type: none"> <li>Only the interest income is counted; the balance of the payment applied to the principal is merely a liquidation of the asset.</li> <li>The owner must get enough information to compute the actual interest income for the next 12 months.</li> </ul>

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	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Medical expenses.</li> </ul>	<ul style="list-style-type: none"> <li>Verification by a doctor, hospital or clinic, dentist, pharmacist, etc., of estimated medical costs to be incurred or regular payments expected to be made on outstanding bills which are not covered by insurance.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with these sources, documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of cancelled checks that verify payments on outstanding medical bills that will continue for all or part of the next 12 months.</li> <li>Copies of income tax forms (Schedule A, IRS Form 1040) that itemize medical expenses, when the expenses are not expected to change over the next 12 months.</li> <li>Receipts, cancelled checks, pay stubs, which indicate health insurance premium costs, or payments to a resident attendant.</li> <li>Receipts or ticket stubs that verify transportation expenses directly related to medical expenses.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or signed affidavit of transportation expenses directly related to medical treatment, if there is no other source of verification.</li> </ul>	<ul style="list-style-type: none"> <li>Medical expenses are not allowable as deduction unless applicant is an elderly or disabled family. Status must be verified.</li> </ul>
<ul style="list-style-type: none"> <li>Need for an assistive animal.</li> </ul>	<ul style="list-style-type: none"> <li>Letter from medical provider.</li> </ul>				<ul style="list-style-type: none"> <li>If the owner's policy is to verify this need, owner must implement policy consistently.</li> </ul>

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	Third Party <sup>a</sup>		Documents Provided by Applicant	
	Written <sup>b</sup>	Oral <sup>c</sup>		
<ul style="list-style-type: none"> <li>Net Income for a business.</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>Form 1040 with Schedule C, E, or F.</li> <li>Financial Statement(s) of the business (audited or unaudited) including an accountant's calculation of straight-line depreciation expense if accelerated depreciation was used on the tax return or financial statement.</li> <li>Any loan application listing income derived from business during the preceding 12 months.</li> <li>For rental property, copies of recent rent checks, lease and receipts for expenses, or IRS Schedule E.</li> </ul>	<ul style="list-style-type: none"> <li>Sporadic contributions and gifts are not counted as income.</li> </ul>
<ul style="list-style-type: none"> <li>Recurring contributions and gifts.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or affidavit signed by the person providing the assistance giving the purpose, dates, and value of gifts.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with source documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or affidavit signed by applicant stating purpose, dates, and value of gifts.</li> </ul>

<sup>a</sup>**NOTE:** Requests for verification from third parties must be accompanied by a Consent to Release form.

<sup>b</sup>**NOTE:** If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.

<sup>c</sup>**NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.

### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES		Documents Provided by Applicant	Self-Declaration	Verification Tips
	Written <sup>b</sup>	Third Party <sup>a</sup> Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Self-employment, tips, gratuities, etc.</li> </ul>	None available.	None available.	<ul style="list-style-type: none"> <li>Form 1040/1040A showing amount earned and employment period.</li> </ul>	<ul style="list-style-type: none"> <li>Notarized statement or affidavit signed by applicant showing amount earned and pay period.</li> </ul>	
<ul style="list-style-type: none"> <li>Social security number.</li> </ul>	None required.	None required.	<ul style="list-style-type: none"> <li>Original Social Security card</li> <li>Driver's license with SSN</li> <li>Identification card issued by a federal, state, or local agency, a medical insurance provider, or an employer or trade union.</li> <li>Earnings statements on payroll stubs</li> <li>Bank statement</li> <li>Form 1099</li> <li>Benefit award letter</li> <li>Retirement benefit letter</li> <li>Life insurance policy</li> <li>Court records</li> </ul>	<ul style="list-style-type: none"> <li>Certification that document is complete/accurate unless original Social Security card is provided.</li> </ul>	<ul style="list-style-type: none"> <li>Individuals who have applied for legalization under the Immigration Reform and Control Act of 1986 will be able to disclose their social security numbers but unable to supply cards for documentation. Social security numbers are assigned to these persons when they apply for amnesty. The cards go to DHS until the persons are granted temporary lawful resident status. Until that time, their acceptable documentation is a letter from the DHS indicating that social security numbers have been assigned.</li> </ul>
<ul style="list-style-type: none"> <li>Unborn children.</li> </ul>	None required.	None required.	<ul style="list-style-type: none"> <li>None required.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant/tenant self-certifies to pregnancy.</li> </ul>	<ul style="list-style-type: none"> <li>Owner may not verify further than self-certification.</li> </ul>

<sup>a</sup>**NOTE:** Requests for verification from third parties must be accompanied by a Consent to Release form.

<sup>b</sup>**NOTE:** If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.

<sup>c</sup>**NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.

### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES				Verification Tips
	Third Party <sup>a</sup>		Documents Provided by Applicant	Self-Declaration	
	Written <sup>b</sup>	Oral <sup>c</sup>			
<ul style="list-style-type: none"> <li>Unemployment compensation.</li> </ul>	<ul style="list-style-type: none"> <li>Verification form completed by source.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with agency documented in a file by an owner.</li> </ul>	<ul style="list-style-type: none"> <li>Copies of checks or records from agency stating payment amounts and dates.</li> <li>Benefit notification letter signed by authorizing agency.</li> </ul>	<ul style="list-style-type: none"> <li>Not appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>Frequency of payments and expected length of benefit term must be verified.</li> <li>Income not expected to last full 12 months must be calculated based on 12 months and interim recertification completed when benefits stop.</li> </ul>
<ul style="list-style-type: none"> <li>Welfare payments (as-paid states only).</li> </ul>	<ul style="list-style-type: none"> <li>Verification form completed by welfare department indicating maximum amount family may receive.</li> <li>Maximum shelter schedule by household size with ratable reduction schedule.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone or in-person contact with income source, documented in file by the owner.</li> </ul>	<ul style="list-style-type: none"> <li>Maximum shelter allowance schedule with ratable reduction schedule provided by applicant.</li> </ul>	<ul style="list-style-type: none"> <li>Not appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>Actual welfare benefit amount not sufficient as proof of income in "as-paid" states or localities since income is defined as maximum shelter amount.</li> </ul>

<sup>a</sup>**NOTE:** Requests for verification from third parties must be accompanied by a Consent to Release form.

<sup>b</sup>**NOTE:** If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.

<sup>c</sup>**NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.

### Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES			Verification Tips
	Third Party <sup>a</sup>		Documents Provided by Applicant	
	Written <sup>b</sup>	Oral <sup>c</sup>		
<ul style="list-style-type: none"> <li>• Zero Income.</li> </ul>	<ul style="list-style-type: none"> <li>• Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>• Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>• Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicants/Tenant self-certifies to zero income.</li> <li>• Owners may require applicant/tenant to sign verification release of information forms for state, local, and federal benefits programs, as well as the HUD 9887 and HUD 9887-A.</li> <li>• Owners may require the tenant to reverify zero income status at least every 90 days.</li> </ul>

<sup>a</sup>**NOTE:** Requests for verification from third parties must be accompanied by a Consent to Release form.

<sup>b</sup>**NOTE:** If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.

<sup>c</sup>**NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.

**NJHMFA AUDIT CHECKLIST**

**The following documents should be available when the Agency audits your project:**

- A tenant file for every tenant that has resided in each unit
- Rental Application **\*(not required for existing tenants at acquisition)\***
- Initial Lease Agreement with a minimum six (6) month term
- Tenant Income Certification (TIC) with supporting documentation including 3<sup>rd</sup> party verifications of income and assets or Tenant Income Self Certification
- Child Support Certification **\*(not required for Self Certs)\***
- Assets Disposed of for Less than Fair Market Value **\*(not required for Self Certs)\***
- Student Status Verification **\*(not required for properties in the Extended Use Period)\***
- Window Guard, Smoke Detector and Carbon Monoxide Detector acknowledgment(s)
- Current Rent Roll

**Internal Revenue Code § 42 Low-income housing credit.****(a) In general.**

For purposes of section 38, the amount of the low-income housing credit determined under this section for any taxable year in the credit period shall be an amount equal to—

- (1) the applicable percentage of
- (2) the qualified basis of each qualified low-income building.

**(b) Applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings.**

For purposes of this section —

**(1) Building placed in service during 1987.**

In the case of any qualified low-income building placed in service by the taxpayer during 1987, the term “applicable percentage” means—

- (A) 9 percent for new buildings which are not federally subsidized for the taxable year, or
- (B) 4 percent for—
  - (i) new buildings which are federally subsidized for the taxable year, and
  - (ii) existing buildings.

**(2) Buildings placed in service after 1987.**

(A) In general. In the case of any qualified low-income building placed in service by the taxpayer after 1987, the term “applicable percentage” means the appropriate percentage prescribed by the Secretary for the earlier of—

- (i) the month in which such building is placed in service, or
- (ii) at the election of the taxpayer—
  - (I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

(B) Method of prescribing percentages. The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

(i) 70 percent of the qualified basis of a building described in paragraph (1)(A) , and

(ii) 30 percent of the qualified basis of a building described in paragraph (1)(B) .

(C) Method of discounting. The present value under subparagraph (B) shall be determined—

(i) as of the last day of the 1st year of the 10-year period referred to in subparagraph (B) ,

(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under clause (i) or (ii) of subparagraph (A) and compounded annually, and

(iii) by assuming that the credit allowable under this section for any year is received on the last day of such year.

### **(3) Cross references.**

(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e) .

(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3) .

(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account

under this section with respect to any building, see subsection (h)(7) .

**(c) Qualified basis; qualified low-income building.**

For purposes of this section —

**(1) Qualified basis.**

(A) Determination. The qualified basis of any qualified low-income building for any taxable year is an amount equal to—

(i) the applicable fraction (determined as of the close of such taxable year) of

(ii) the eligible basis of such building (determined under subsection (d)(5) ).

(B) Applicable fraction. For purposes of subparagraph (A) , the term “applicable fraction” means the smaller of the unit fraction or the floor space fraction.

(C) Unit fraction. For purposes of subparagraph (B) , the term “unit fraction” means the fraction—

(i) the numerator of which is the number of low-income units in the building, and

(ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

(D) Floor space fraction. For purposes of subparagraph (B) , the term “floor space fraction” means the fraction—

(i) the numerator of which is the total floor space of the low-income units in such building, and

(ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

(E) Qualified basis to include portion of building used to provide supportive services for homeless. In the case of a qualified low-income building described in subsection (i)(3)(B)(iii) , the qualified basis of such building for any taxable year shall be increased by the lesser of—

(i) so much of the eligible basis of such building as is used throughout the year to provide supportive services designed to assist tenants in locating and retaining permanent housing, or

(ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph ).

**(2) Qualified low-income building.**

The term “qualified low-income building” means any building—

(A) which is part of a qualified low-income housing project at all times during the period—

(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and

(ii) ending on the last day of the compliance period with respect to such building, and

(B) to which the amendments made by section 201(a) of the Tax Reform Act of 1986 apply.

Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act (as in effect on the date of the enactment of this sentence)).

**(d) Eligible basis.**

For purposes of this section —

**(1) New buildings.**

The eligible basis of a new building is its adjusted basis as of the close of the 1st taxable year of the credit period.

**(2) Existing buildings.**

(A) In general. The eligible basis of an existing building is—

(i) in the case of a building which meets the requirements of subparagraph (B) , its adjusted basis as of the close of the 1st taxable year of the credit period, and

(ii) zero in any other case.

(B) Requirements. A building meets the requirements of this subparagraph if—

(i) the building is acquired by purchase (as defined in section 179(d)(2) ),

(ii) there is a period of at least 10 years between the date of its acquisition by the taxpayer and the later of—

(I) the date the building was last placed in service, or

(II) the date of the most recent nonqualified substantial improvement of the building,

(iii) the building was not previously placed in service by the taxpayer or by any person who was a related person with respect to the taxpayer as of the time previously placed in service, and

(iv) except as provided in subsection (f)(5) , a credit is allowable under subsection (a) by reason of subsection (e) with respect to the building.

(C) Adjusted basis. For purposes of subparagraph (A) , the adjusted basis of any building shall not include so much of the basis of such building as is determined by reference to the basis of other property held at any time by the person acquiring the building.

(D) Special rules for subparagraph (B) .

(i) Nonqualified substantial improvement. For purposes of subparagraph (B)(ii) —

(I) In general. The term “nonqualified substantial improvement” means any substantial improvement if section 167(k) (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990 [11/5/90]) was elected with respect to such improvement or section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applied to such improvement.

(II) Date of substantial improvement. The date of a substantial improvement is the last day of the 24-month period referred to in subclause (III) .

(III) Substantial improvement. The term “substantial improvement” means the improvements added to capital account with respect to the building during any 24-month period, but only if the sum of the amounts added to such account during such period equals or exceeds 25 percent of the adjusted basis of the building (determined without regard to paragraphs (2) and (3) of section 1016(a) ) as of the 1st day of such period.

(ii) Special rules for certain transfers. For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5) ) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation,

(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is

placed in service by such person after such foreclosure, or

(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence.

(iii) Related person, etc.

(I) Application of section 179 . For purposes of subparagraph (B)(i) , section 179(d) shall be applied by substituting “10 percent” for “50 percent” in section 267(b) and 707(b) and in section 179(d)(7) .

(II) Related person. For purposes of subparagraph (B)(iii) , a person (hereinafter in this subclause referred to as the “related person”) is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1) , or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52 ). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1) , “10 percent” shall be substituted for “50 percent”.

**(3) Eligible basis reduced where disproportionate standards for units.**

(A) In general. Except as provided in subparagraph (B) , the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

(B) Exception where taxpayer elects to exclude excess costs.

(i) In general. Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II) , and

(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

(ii) Excess. The excess described in this clause with respect to any unit is the excess of—

(I) the cost of such unit, over

(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs.

**(4) Special rules relating to determination of adjusted basis.**

For purposes of this subsection —

(A) In general. Except as provided in subparagraphs (B) and (C) , the adjusted basis of any building shall be determined without regard to the adjusted basis of any property which is not residential rental property.

(B) Basis of property in common areas, etc., included. The adjusted basis of any building shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in common areas or provided as comparable amenities to all residential rental units in such building.

(C) Inclusion of basis of property used to provide services for certain nontenants.

(i) In general. The adjusted basis of any building located in a qualified census tract (as defined in paragraph (5)(C) ) shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation and not otherwise taken into account) used throughout the taxable year in providing any community service facility.

(ii) Limitation. The increase in the adjusted basis of any building which is taken into account by reason of clause (i)

shall not exceed 10 percent of the eligible basis of the qualified low-income housing project of which it is a part. For purposes of the preceding sentence, all community service facilities which are part of the same qualified low-income housing project shall be treated as one facility.

(iii) Community service facility. For purposes of this subparagraph, the term “community service facility” means any facility designed to serve primarily individuals whose income is 60 percent or less of area median income (within the meaning of subsection (g)(1)(B)).

(D) No reduction for depreciation. The adjusted basis of any building shall be determined without regard to paragraphs (2) and (3) of section 1016(a).

**(5) Special rules for determining eligible basis.**

(A) Eligible basis reduced by federal grants. If, during any taxable year of the compliance period, a grant is made with respect to any building or the operation thereof and any portion of such grant is funded with Federal funds (whether or not includible in gross income), the eligible basis of such building for such taxable year and all succeeding taxable years shall be reduced by the portion of such grant which is so funded.

(B) Eligible basis not to include expenditures where section 167(k) elected. The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k) (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990 [11/5/90]).

(C) Increase in credit for buildings in high cost areas.

(i) In general. In the case of any building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph —

(I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and

(II) in the case of an existing building, the rehabilitation expenditures taken into account under

subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph .

(ii) Qualified census tract.

(I) In general. The term “qualified census tract” means any census tract which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent. If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts.

(II) Limit on MSA's designated. The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.

(III) Determination of areas. For purposes of this clause , each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as 1 area.

(iii) Difficult development areas.

(I) In general. The term “difficult development areas” means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.

(II) Limit on areas designated. The portions of metropolitan statistical areas which may be designated for purposes of this subparagraph shall not exceed an aggregate area having 20 percent of the population of such metropolitan statistical areas.

A comparable rule shall apply to nonmetropolitan areas.

(iv) Special rules and definitions. For purposes of this subparagraph —

(I) population shall be determined on the basis of the most recent decennial census for which data are available,

(II) area median gross income shall be determined in accordance with subsection (g)(4) ,

(III) the term “metropolitan statistical area” has the same meaning as when used in section 143(k)(2)(B) , and

(IV) the term “nonmetropolitan area” means any county (or portion thereof) which is not within a metropolitan statistical area.

**(6) Credit allowable for certain federally-assisted buildings acquired during 10-year period described in paragraph (2)(B)(ii) .**

(A) In general. On application by the taxpayer, the Secretary (after consultation with the appropriate Federal official) may waive paragraph (2)(B)(ii) with respect to any federally-assisted building if the Secretary determines that such waiver is necessary—

(i) to avert an assignment of the mortgage secured by property in the project (of which such building is a part) to the Department of Housing and Urban Development or the Farmers Home Administration, or

(ii) to avert a claim against a Federal mortgage insurance fund (or such Department or Administration) with respect to a mortgage which is so secured.

The preceding sentence shall not apply to any building described in paragraph (7)(B) .

(B) Federally-assisted building. For purposes of subparagraph (A) , the term “federally-assisted building” means any building which is substantially assisted, financed, or operated under—

(i) section 8 of the United States Housing Act of 1937,

(ii) section 221(d)(3) or 236 of the National Housing Act,  
or

(iii) section 515 of the Housing Act of 1949,

as such Acts are in effect on the date of the enactment of the Tax Reform Act of 1986.

(C) Low-income buildings where mortgage may be prepaid. A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to a federally-assisted building described in clause (ii) or (iii) of subparagraph (B) if—

(i) the mortgage on such building is eligible for prepayment under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 or under section 502(c) of the Housing Act of 1949 at any time within 1 year after the date of the application for such a waiver,

(ii) the appropriate Federal official certifies to the Secretary that it is reasonable to expect that, if the waiver is not granted, such building will cease complying with its low-income occupancy requirements, and

(iii) the eligibility to prepay such mortgage without the approval of the appropriate Federal official is waived by all persons who are so eligible and such waiver is binding on all successors of such persons.

(D) Buildings acquired from insured depository institutions in default. A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution.

(E) Appropriate federal official. For purposes of subparagraph (A), the term “appropriate Federal official” means—

(i) the Secretary of Housing and Urban Development in the case of any building described in subparagraph (B) by reason of clause (i) or (ii) thereof, and

(ii) the Secretary of Agriculture in the case of any building described in subparagraph (B) by reason of clause (iii) thereof.

**(7) Acquisition of building before end of prior compliance period.**

(A) In general. Under regulations prescribed by the Secretary, in the case of a building described in subparagraph (B) (or interest therein) which is acquired by the taxpayer—

(i) paragraph (2)(B) shall not apply, but

(ii) the credit allowable by reason of subsection (a) to the taxpayer for any period after such acquisition shall be equal to the amount of credit which would have been allowable under subsection (a) for such period to the prior owner referred to in subparagraph (B) had such owner not disposed of the building.

(B) Description of building. A building is described in this subparagraph if—

(i) a credit was allowed by reason of subsection (a) to any prior owner of such building, and

(ii) the taxpayer acquired such building before the end of the compliance period for such building with respect to such prior owner (determined without regard to any disposition by such prior owner).

**(e) Rehabilitation expenditures treated as separate new building.**

**(1) In general.**

Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building.

**(2) Rehabilitation expenditures.**

For purposes of paragraph (1) —

(A) In general. The term “rehabilitation expenditures” means amounts chargeable to capital account and incurred for property (or additions or improvements to property) of a character subject to the allowance for depreciation in connection with the rehabilitation of a building.

(B) Cost of acquisition, etc, not included. Such term does not include the cost of acquiring any building (or interest therein) or any amount not permitted to be taken into account under paragraph (3) or (4) of subsection (d) .

**(3) Minimum expenditures to qualify.**

(A) In general. Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if—

(i) the expenditures are allocable to 1 or more low-income units or substantially benefit such units, and

(ii) the amount of such expenditures during any 24-month period meets the requirements of whichever of the following subclauses requires the greater amount of such expenditures:

(I) The requirement of this subclause is met if such amount is not less than 10 percent of the adjusted basis of the building (determined as of the 1st day of such period and without regard to paragraphs (2) and (3) of section 1016(a) ).

(II) The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units in the building, is \$3,000 or more.

(B) Exception from 10 percent rehabilitation. In the case of a building acquired by the taxpayer from a governmental unit, at the election of the taxpayer, subparagraph (A)(ii)(I) shall not apply and the credit under this section for such rehabilitation expenditures shall be determined using the percentage applicable under subsection (b)(2)(B)(ii) .

(C) Date of determination. The determination under subparagraph (A) shall be made as of the close of the 1st taxable year in the credit period with respect to such expenditures.

**(4) Special rules.**

For purposes of applying this section with respect to expenditures which are treated as a separate building by reason of this subsection —

(A) such expenditures shall be treated as placed in service at the close of the 24-month period referred to in paragraph (3)(A) , and

(B) the applicable fraction under subsection (c)(1) shall be the applicable fraction for the building (without regard to paragraph (1) ) with respect to which the expenditures were incurred.

Nothing in subsection (d)(2) shall prevent a credit from being allowed by reason of this subsection .

**(5) No double counting.**

Rehabilitation expenditures may, at the election of the taxpayer, be taken into account under this subsection or subsection (d)(2)(A)(i) but not under both such subsections.

**(6) Regulations to apply subsection with respect to group of units in building.**

The Secretary may prescribe regulations, consistent with the purposes of this subsection , treating a group of units with respect to which rehabilitation expenditures are incurred as a separate new building.

**(f) Definition and special rules relating to credit period.**

**(1) Credit period defined.**

For purposes of this section , the term “credit period” means, with respect to any building, the period of 10 taxable years beginning with—

(A) the taxable year in which the building is placed in service, or

(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B) , once made, shall be irrevocable.

**(2) Special rule for 1st year of credit period.**

(A) In general. The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction—

(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

(ii) the denominator of which is 12.

(B) Disallowed 1st year credit allowed in 11th year. Any reduction by reason of subparagraph (A) in the credit allowable (without

regard to subparagraph (A) ) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

**(3) Determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period.**

(A) In general. In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if—

(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to 2/3 of the applicable percentage which (after the application of subsection (h) ) would but for this paragraph apply to such basis.

(B) 1st year computation applies. A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase.

**(4) Dispositions of property.**

If a building (or an interest therein) is disposed of during any year for which credit is allowable under subsection (a) , such credit shall be allocated between the parties on the basis of the number of days during such year the building (or interest) was held by each. In any such case, proper adjustments shall be made in the application of subsection (j) .

**(5) Credit period for existing buildings not to begin before rehabilitation credit allowed.**

(A) In general. The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

(B) Acquisition credit allowed for certain buildings not allowed a rehabilitation credit.

(i) In general. In the case of a building described in clause

(ii) —

(I) subsection (d)(2)(B)(iv) shall not apply, and

(II) the credit period for such building shall not begin before the taxable year which would be the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II) .

(ii) Building described. A building is described in this clause if—

(I) a waiver is granted under subsection (d)(6)(C) with respect to the acquisition of the building, and

(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if subsection (e)(3)(A)(ii)(II) were applied by substituting “\$2,000” for “\$3,000”.

**(g) Qualified low-income housing project.**

For purposes of this section —

**(1) In general.**

The term “qualified low-income housing project” means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 test. The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 test. The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph , once made, shall be irrevocable. For purposes of this paragraph , any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

**(2) Rent-restricted units.**

(A) In general. For purposes of paragraph (1) , a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project.

(B) Gross rent. For purposes of subparagraph (A) , gross rent—

(i) does not include any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

(ii) includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937,

(iii) does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a) ) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services, and

(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

For purposes of clause (iii) , the term “supportive service” means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (i)(3)(B)(iii) , such term includes

any service provided to assist tenants in locating and retaining permanent housing.

(C) Imputed income limitation applicable to unit. For purposes of this paragraph , the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

(i) In the case of a unit which does not have a separate bedroom, 1 individual.

(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7) , the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii) .

(D) Treatment of units occupied by individuals whose incomes rise above limit.

(i) In general. Except as provided in clause (ii) , notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1) , such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation and such unit continues to be rent-restricted.

(ii) Next available unit must be rented to low-income tenant if income rises above 140 percent of income limit. If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1) , clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B) , the preceding sentence shall be applied by substituting “170 percent” for “140 percent” and by substituting “any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income” for “any residential unit in the building (of a size

comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation”.

(E) Units where federal rental assistance is reduced as tenant's income increases. If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1) , such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1) , and

(II) such units were rent-restricted within the meaning of subparagraph (A) .

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

### **(3) Date for meeting requirements.**

(A) In general. Except as otherwise provided in this paragraph , a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 1st year of the credit period for such building.

(B) Buildings which rely on later buildings for qualification.

(i) In general. In determining whether a building (hereinafter in this subparagraph referred to as the “prior building”) is a qualified low-income building, the taxpayer

may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

(ii) Treatment of elected buildings. In the case of a building which the taxpayer elects to take into account under clause (i) , the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

(iii) Date prior building is treated as placed in service. For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

(C) Special rule. A building—

(i) other than the 1st building placed in service as part of a project, and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service.

(D) Projects with more than 1 building must be identified. For purposes of this section , a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (h)(1)(F)(ii) ), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

**(4) Certain rules made applicable.**

Paragraphs (2) (other than subparagraph (A) thereof ), (3) , (4) , (5) , (6) , and (7) of section 142(d) , and section 6652(j) , shall apply for purposes of determining whether any project is a qualified low-income housing project

and whether any unit is a low-income unit; except that, in applying such provisions for such purposes, the term “gross rent” shall have the meaning given such term by paragraph (2)(B) of this subsection

**(5) Election to treat building after compliance period as not part of a project.**

For purposes of this section , the taxpayer may elect to treat any building as not part of a qualified low-income housing project for any period beginning after the compliance period for such building.

**(6) Special rule where de minimis equity contribution.**

Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted.

**(7) Scattered site projects.**

Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2) ) residential rental units.

**(8) Waiver of certain de minimis errors and recertifications.**

On application by the taxpayer, the Secretary may waive—

(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1) , or

(B) any annual recertification of tenant income for purposes of this subsection , if the entire building is occupied by low-income tenants.

**(h) Limitation on aggregate credit allowable with respect to projects located in a state.**

**(1) Credit may not exceed credit amount allocated to building.**

(A) In general. The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection .

(B) Time for making allocation. Except in the case of an allocation which meets the requirements of subparagraph (C) , (D) , (E) , or (F) an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

(C) Exception where binding commitment. An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

(D) Exception where increase in qualified basis.

(i) In general. An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii) .

(ii) Limitation. The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection ) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

(iii) Housing credit dollar amount reduced by full allocation. Notwithstanding clause (i) , the full amount of the allocation shall be taken into account under paragraph (2) .

(E) Exception where 10 percent of cost incurred.

(i) In general. An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made.

(ii) Qualified building. For purposes of clause (i) , the term “qualified building” means any building which is part of a project if the taxpayer's basis in such project (as of the later of the date which is 6 months after the date that the allocation was made or the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer's reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i) ). Such term does not include any existing building unless a credit is allowable under subsection (e) for rehabilitation expenditures paid or incurred by the taxpayer with respect to such building for a taxable year ending during the second calendar year referred to in clause (i) or the prior taxable year.

(F) Allocation of credit on a project basis.

(i) In general. In the case of a project which includes (or will include) more than 1 building, an allocation meets the requirements of this subparagraph if—

(I) the allocation is made to the project for a calendar year during the project period,

(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

(ii) Project period. For purposes of clause (i) , the term “project period” means the period—

(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

(II) ending with the calendar year the last building is placed in service as part of such project.

**(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year.**

Any housing credit dollar amount allocated to any building for any calendar year—

(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

**(3) Housing credit dollar amount for agencies.**

(A) In general. The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

(B) State ceiling initially allocated to state housing credit agencies. Except as provided in subparagraphs (D) and (E) , the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than 1 housing credit agency of a State, all such agencies shall be treated as a single agency.

(C) State housing credit ceiling. The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

(ii) the greater of—

(I) \$1.75 (\$1.50 for 2001) multiplied by the State population, or

(II) \$2,000,000,

(iii) the amount of State housing credit ceiling returned in the calendar year, plus

(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i) , the unused State housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii) , the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which fails to meet the 10 percent test under paragraph (1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

(D) Unused housing credit carryovers allocated among certain states.

(i) In general. The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

(ii) Unused housing credit carryover. For purposes of this subparagraph , the unused housing credit carryover of a State for any calendar year is the excess (if any) of—

(I) the unused State housing credit ceiling for the year preceding such year, over

(II) the aggregate housing credit dollar amount allocated for such year.

(iii) Formula for allocation of unused housing credit carryovers among qualified states. The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused

housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j) .

(iv) Qualified State. For purposes of this subparagraph , the term “qualified State” means, with respect to a calendar year, any State—

(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii) .

(E) Special rule for states with constitutional home rule cities. For purposes of this subsection —

(i) In general. The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as—

(I) the population of such city, bears to

(II) the population of the entire State.

(ii) Coordination with other allocations. In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

(iii) Constitutional home rule city. For purposes of this paragraph , the term “constitutional home rule city” has the meaning given such term by section 146(d)(3)(C) .

(F) State may provide for different allocation. Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof ) shall apply for purposes of this paragraph .

(G) Population. For purposes of this paragraph , population shall be determined in accordance with section 146(j) .

(H) Cost-of-living adjustment.

(i) In general. In the case of a calendar year after 2002, the \$2,000,000 and \$1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 2001” for “calendar year 1992” in subparagraph (B) thereof.

(ii) Rounding.

(I) In the case of the \$2,000,000 amount, any increase under clause (i) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

(II) In the case of the \$1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

**(4) Credit for buildings financed by tax-exempt bonds subject to volume cap not taken into account.**

(A) In general. Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if —

(i) such obligation is taken into account under section 146 , and

(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing.

(B) Special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap. For purposes of subparagraph (A) , if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A) , paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

**(5) Portion of state ceiling set-aside for certain projects involving qualified nonprofit organizations.**

(A) In general. Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B) .

(B) Projects involving qualified nonprofit organizations. For purposes of subparagraph (A) , a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h) ) in the development and operation of the project throughout the compliance period.

(C) Qualified nonprofit organization. For purposes of this paragraph , the term “qualified nonprofit organization” means any organization if—

(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a)

(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and

(iii) 1 of the exempt purposes of such organization includes the fostering of low-income housing.

(D) Treatment of certain subsidiaries.

(i) In general. For purposes of this paragraph , a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

(ii) Qualified corporation. For purposes of clause (i) , the term “qualified corporation” means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

(E) State may not override set-aside. Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph .

**(6) Buildings eligible for credit only if minimum long-term commitment to low-income housing.**

(A) In general. No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

(B) Extended low-income housing commitment. For purposes of this paragraph , the term “extended low-income housing commitment” means any agreement between the taxpayer and the housing credit agency—

(i) which requires that the applicable fraction (as defined in subsection (c)(1) ) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)(ii) ,

(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement and prohibitions of clause (i) ,

(iii) which prohibits the disposition to any person of any portion of the building to which such agreement applies unless all of the building to which such agreement applies is disposed of to such person,

(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder,

(v) which is binding on all successors of the taxpayer, and

(vi) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

(C) Allocation of credit may not exceed amount necessary to support commitment.

(i) In general. The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

(ii) Buildings financed by tax-exempt bonds. If paragraph (4) applies to any building the amount of credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building. Such commitment may be amended to increase such fraction.

(D) Extended use period. For purposes of this paragraph , the term “extended use period” means the period—

(i) beginning on the 1st day in the compliance period on which such building is part of a qualified low-income housing project, and

(ii) ending on the later of—

(I) the date specified by such agency in such agreement, or

(II) the date which is 15 years after the close of the compliance period.

(E) Exceptions if foreclosure or if no buyer willing to maintain low-income status.

(i) In general. The extended use period for any building shall terminate—

(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure)

unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period, or

(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

(ii) Eviction, etc. of existing low-income tenants not permitted. The termination of an extended use period under clause (i) shall not be construed to permit before the close of the 3-year period following such termination—

(I) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or

(II) any increase in the gross rent with respect to such unit not otherwise permitted under this section

(F) Qualified contract. For purposes of subparagraph (E) , the term “qualified contract” means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the non low-income portion of the building for fair market value and the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment) of—

(i) the sum of—

(I) the outstanding indebtedness secured by, or with respect to, the building,

(II) the adjusted investor equity in the building, plus

(III) other capital contributions not reflected in the amounts described in subclause (I) or (II) , reduced by

(ii) cash distributions from (or available for distribution from) the project.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph , including regulations to prevent the manipulation of the amount determined under the preceding sentence.

(G) Adjusted investor equity.

(i) In general. For purposes of subparagraph (E) , the term “adjusted investor equity” means, with respect to any calendar year, the aggregate amount of cash taxpayers invested with respect to the project increased by the amount equal to—

(I) such amount, multiplied by

(II) the cost-of-living adjustment for such calendar year, determined under section 1(f)(3) by substituting the base calendar year for “calendar year 1987”.

An amount shall be taken into account as an investment in the project only to the extent there was an obligation to invest such amount as of the beginning of the credit period and to the extent such amount is reflected in the adjusted basis of the project.

(ii) Cost-of-living increases in excess of 5 percent not taken into account. Under regulations prescribed by the Secretary, if the CPI for any calendar year (as defined in section 1(f)(4) ) exceeds the CPI for the preceding calendar year by more than 5 percent, the CPI for the base calendar year shall be increased such that such excess shall never be taken into account under clause (i) .

(iii) Base calendar year. For purposes of this subparagraph , the term “base calendar year” means the calendar year with or within which the 1st taxable year of the credit period ends.

(H) Low-income portion. For purposes of this paragraph , the low-income portion of a building is the portion of such building equal to the applicable fraction specified in the extended low-income housing commitment for the building.

(I) Period for finding buyer. The period referred to in this subparagraph is the 1-year period beginning on the date (after the 14th year of the compliance period) the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building.

(J) Effect of noncompliance. If, during a taxable year, there is a determination that an extended low-income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

(K) Projects which consist of more than 1 building. The application of this paragraph to projects which consist of more than 1 building shall be made under regulations prescribed by the Secretary.

**(7) Special rules.**

(A) Building must be located within jurisdiction of credit agency. A housing credit agency may allocate its aggregate housing credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

(B) Agency allocations in excess of limit. If the aggregate housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

(C) Credit reduced if allocated credit dollar amount is less than credit which would be allowable without regard to placed in service convention, etc.

(i) In general. The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which

would (but for this subparagraph ) be determined under this section with respect to such building.

(ii) Determination of percentage. For purposes of clause (i) , the clause (ii) percentage with respect to any building is the percentage which—

(I) the housing credit dollar amount allocated to such building bears to

(II) the credit amount determined in accordance with clause (iii) .

(iii) Determination of credit amount. The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph ) be determined under this section with respect to the building if—

(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f) , and

(II) subsection (f)(3)(A) were applied without regard to “the percentage equal to  $\frac{2}{3}$  of”.

(D) Housing credit agency to specify applicable percentage and maximum qualified basis. In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection .

**(8) Other definitions.**

For purposes of this subsection —

(A) Housing credit agency. The term “housing credit agency” means any agency authorized to carry out this subsection .

(B) Possessions treated as states. The term “State” includes a possession of the United States.

**(i) Definitions and special rules.**

For purposes of this section —

**(1) Compliance period.**

The term “compliance period” means, with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

**(2) Determination of whether building is federally subsidized.**

(A) In general. Except as otherwise provided in this paragraph , for purposes of subsection (b)(1) , a new building shall be treated as federally subsidized for any taxable year if, at any time during such taxable year or any prior taxable year, there is or was outstanding any obligation the interest on which is exempt from tax under section 103 , or any below market Federal loan, the proceeds of which are or were used (directly or indirectly) with respect to such building or the operation thereof.

(B) Election to reduce eligible basis by balance of loan or proceeds of obligations. A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d) —

(i) in the case of a loan, the principal amount of such loan, and

(ii) in the case of a tax-exempt obligation, the proceeds of such obligation.

(C) Special rule for subsidized construction financing.

Subparagraph (A) shall not apply to any tax-exempt obligation or below market Federal loan used to provide construction financing for any building if—

(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service.

(D) Below market federal loan. For purposes of this paragraph , the term “below market Federal loan” means any loan funded in whole or in part with Federal funds if the interest rate payable on such loan is less than the applicable Federal rate in effect under section 1274(d)(1) (as of the date on which the loan was made). Such term shall not include any loan which would be a below market Federal

loan solely by reason of assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 (as in effect on the date of the enactment of this sentence).

(E) Buildings receiving home assistance or Native American Housing assistance.

(i) In general. Assistance provided under the HOME Investment Partnerships Act (as in effect on the date of the enactment of this subparagraph or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on October 1, 1997) with respect to any building shall not be taken into account under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of area median gross income. Subsection (d)(5)(C) shall not apply to any building to which the preceding sentence applies.

(ii) Special rule for certain high-cost housing areas. In the case of a building located in a city described in section 142(d)(6) , clause (i) shall be applied by substituting “25 percent” for “40 percent”.

**(3) Low-income unit.**

(A) In general. The term “low-income unit” means any unit in a building if—

(i) such unit is rent-restricted (as defined in subsection (g)(2) ), and

(ii) the individuals occupying such unit meet the income limitation applicable under subsection (g)(1) to the project of which such building is a part.

(B) Exceptions.

(i) In general. A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

(ii) Suitability for occupancy. For purposes of clause (i) , the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

(iii) Transitional housing for homeless. For purposes of clause (i) , a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act ( 42 U.S.C. 11302 ), as in effect on the date of the enactment of this clause ) to independent living within 24 months, and

(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (h)(5) ) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

(iv) Single-room occupancy units. For purposes of clause (i) , a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.

(C) Special rule for buildings having 4 or fewer units. In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a low-income unit if the units in such building are owned by—

(i) any individual who occupies a residential unit in such building, or

(ii) any person who is related (as defined in subsection (d)(2)(D)(iii) ) to such individual.

(D) Certain students not to disqualify unit. A unit shall not fail to be treated as a low-income unit merely because it is occupied—

(i) by an individual who is—

(I) a student and receiving assistance under title IV of the Social Security Act, or

(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

(ii) entirely by full-time students if such students are—

**Caution:** Subclause (i)(3)(D)(ii)(I), following, is effective for tax. yrs. begin. before 1/1/2005. For subclause (i)(3)(D)(ii)(I), effective for tax. yrs. begin. after 12/31/2004, see below.

(I) single parents and their children and such parents and children are not dependents (as defined in section 152 ) of another individual, or

**Caution:** Subclause (i)(3)(D)(ii)(I), following, is effective for tax. yrs. begin. after 12/31/2004. For subclause (i)(3)(D)(ii)(I), effective for tax. yrs. begin. before 1/1/2005, see above.

(I) single parents and their children and such parents and children are not dependents (as defined in section 152 , determined without regard to subsections (b)(1) , (b)(2) , and (d)(1)(B) thereof) of another individual, or

(II) married and file a joint return.

(E) Owner-occupied buildings having 4 or fewer units eligible for credit where development plan.

(i) In general. Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C) ).

(ii) Limitation on credit. In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

(iii) Certain unrented units treated as owner-occupied. In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented.

**(4) New building.**

The term “new building” means a building the original use of which begins with the taxpayer.

**(5) Existing building.**

The term “existing building” means any building which is not a new building.

**(6) Application to estates and trusts.**

In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

**(7) Impact of tenant's right of 1st refusal to acquire property.**

(A) In general. No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified low-income building merely by reason of a right of 1st refusal held by the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C) ) or government agency to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B) .

(B) Minimum purchase price. For purposes of subparagraph (A) , the minimum purchase price under this subparagraph is an amount equal to the sum of—

(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the tenants), and

(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii) .

**(j) Recapture of credit.**

**(1) In general.**

If—

(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than

(B) the amount of such basis as of the close of the preceding taxable year, then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount.

**(2) Credit recapture amount.**

For purposes of paragraph (1) , the credit recapture amount is an amount equal to the sum of—

(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if the accelerated portion of the credit allowable by reason of this section were not allowed for all prior taxable years with respect to the excess of the amount described in paragraph (1)(B) over the amount described in paragraph (1)(A) , plus

(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B) .

**(3) Accelerated portion of credit.**

For purposes of paragraph (2) , the accelerated portion of the credit for the prior taxable years with respect to any amount of basis is the excess of—

(A) the aggregate credit allowed by reason of this section (without regard to this subsection ) for such years with respect to such basis, over

(B) the aggregate credit which would be allowable by reason of this section for such years with respect to such basis if the aggregate credit which would (but for this subsection ) have been allowable for the entire compliance period were allowable ratably over 15 years.

**(4) Special rules.**

(A) Tax benefit rule. The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason

of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) Only basis for which credit allowed taken into account. Qualified basis shall be taken into account under paragraph (1)(B) only to the extent such basis was taken into account in determining the credit under subsection (a) for the preceding taxable year referred to in such paragraph.

(C) No recapture of additional credit allowable by reason of subsection (f)(3) . Paragraph (1) shall apply to a decrease in qualified basis only to the extent such decrease exceeds the amount of qualified basis with respect to which a credit was allowable for the taxable year referred to in paragraph (1)(B) by reason of subsection (f)(3) .

(D) No credits against tax. Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

(E) No recapture by reason of casualty loss. The increase in tax under this subsection shall not apply to a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

(F) No recapture where de minimis changes in floor space. The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1) , and

(ii) the building is a qualified low-income building after such change.

**(5) Certain partnerships treated as the taxpayer.**

(A) In general. For purposes of applying this subsection to a partnership to which this paragraph applies—

(i) such partnership shall be treated as the taxpayer to which the credit allowable under subsection (a) was allowed,

(ii) the amount of such credit allowed shall be treated as the amount which would have been allowed to the partnership were such credit allowable to such partnership,

(iii) paragraph (4)(A) shall not apply, and

(iv) the amount of the increase in tax under this subsection for any taxable year shall be allocated among the partners of such partnership in the same manner as such partnership's taxable income for such year is allocated among such partners.

(B) Partnerships to which paragraph applies. This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply.

(C) Special rules.

(i) Husband and wife treated as 1 partner. For purposes of subparagraph (B)(i), a husband and wife (and their estates) shall be treated as 1 partner.

(ii) Election irrevocable. Any election under subparagraph (B), once made, shall be irrevocable.

**(6) No recapture on disposition of building (or interest therein) where bond posted.**

In the case of a disposition of a building or an interest therein the taxpayer shall be discharged from liability for any additional tax under this subsection by reason of such disposition if—

(A) the taxpayer furnishes to the Secretary a bond in an amount satisfactory to the Secretary and for the period required by the Secretary, and

(B) it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

**(k) Application of at-risk rules.**

For purposes of this section —

**(1) In general.**

Except as otherwise provided in this subsection, rules similar to the rules of section 49(a)(1) (other than subparagraphs (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2), and section 49(b)(1) shall apply in determining

the qualified basis of any building in the same manner as such sections apply in determining the credit base of property.

**(2) Special rules for determining qualified person.**

For purposes of paragraph (1) —

(A) In general. If the requirements of subparagraphs (B) , (C) , and (D) are met with respect to any financing borrowed from a qualified nonprofit organization (as defined in subsection (h)(5) ), the determination of whether such financing is qualified commercial financing with respect to any qualified low-income building shall be made without regard to whether such organization—

(i) is actively and regularly engaged in the business of lending money, or

(ii) is a person described in section 49(a)(1)(D)(iv)(II) .

(B) Financing secured by property. The requirements of this subparagraph are met with respect to any financing if such financing is secured by the qualified low-income building, except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

(ii) the proceeds from the financing (if any) are applied to acquire or improve such building.

(C) Portion of building attributable to financing. The requirements of this subparagraph are met with respect to any financing for any taxable year in the compliance period if, as of the close of such taxable year, not more than 60 percent of the eligible basis of the qualified low-income building is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

(D) Repayment of principal and interest. The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid on or before the earliest of—

(i) the date on which such financing matures,

(ii) the 90th day after the close of the compliance period with respect to the qualified low-income building, or

(iii) the date of its refinancing or the sale of the building to which such financing relates.

In the case of a qualified nonprofit organization which is not described in section 49(a)(1)(D)(iv)(II) with respect to a building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto.

**(3) Present value of financing.**

If the rate of interest on any financing described in paragraph (2)(A) is less than the rate which is 1 percentage point below the applicable Federal rate as of the time such financing is incurred, then the qualified basis (to which such financing relates) of the qualified low-income building shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate. For purposes of the preceding sentence, the rate of interest on any financing shall be determined by treating interest to the extent of government subsidies as not payable.

**(4) Failure to fully repay.**

(A) In general. To the extent that the requirements of paragraph (2)(D) are not met, then the taxpayer's tax under this chapter for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such building, increased by an amount of interest for the period—

(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the 1st taxable year for which such credit was allowable, and

(ii) ending with the due date for the taxable year in which such failure occurs,

determined by using the underpayment rate and method under section 6621 .

(B) Applicable portion. For purposes of subparagraph (A) , the term “applicable portion” means the aggregate decrease in the credits allowed to a taxpayer under section 38 for all prior taxable

years which would have resulted if the eligible basis of the building were reduced by the amount of financing which does not meet requirements of paragraph (2)(D) .

(C) Certain rules to apply. Rules similar to the rules of subparagraphs (A) and (D) of subsection (j)(4) shall apply for purposes of this subsection .

**(l) Certifications and other reports to secretary.**

**(1) Certification with respect to 1st year of credit period.**

Following the close of the 1st taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

(A) the taxable year, and calendar year, in which such building was placed in service,

(B) the adjusted basis and eligible basis of such building as of the close of the 1st year of the credit period,

(C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (h) ,

(D) the election made under subsection (g) with respect to the qualified low-income housing project of which such building is a part, and

(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

**(2) Annual reports to the Secretary.**

The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

(B) the information described in paragraph (1)(C) for the taxable year, and

(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

**(3) Annual reports from housing credit agencies.**

Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

(A) the amount of housing credit amount allocated to each building for such year,

(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

**(m) Responsibilities of housing credit agencies.**

**(1) Plans for allocation of credit among projects.**

(A) In general. Notwithstanding any other provision of this section , the housing credit dollar amount with respect to any building shall be zero unless—

(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof )) of which such agency is a part,

(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such

individual a reasonable opportunity to comment on the project,

(iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

(B) Qualified allocation plan. For purposes of this paragraph , the term “qualified allocation plan” means any plan—

(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to—

(I) projects serving the lowest income tenants,

(II) projects obligated to serve qualified tenants for the longest periods, and

(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C) ) and the development of which contributes to a concerted community revitalization plan, and

(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(C) Certain selection criteria must be used. The selection criteria set forth in a qualified allocation plan must include—

- (i) project location,
- (ii) housing needs characteristics,
- (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan,
- (iv) sponsor characteristics,
- (v) tenant populations with special housing needs,
- (vi) public housing waiting lists,
- (vii) tenant populations of individuals with children, and
- (viii) projects intended for eventual tenant ownership.

(D) Application to bond financed projects. Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

**(2) Credit allocated to building not to exceed amount necessary to assure project feasibility.**

(A) In general. The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

(B) Agency evaluation. In making the determination under subparagraph (A) , the housing credit agency shall consider—

- (i) the sources and uses of funds and the total financing planned for the project,
- (ii) any proceeds or receipts expected to be generated by reason of tax benefits,
- (iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries, and

(iv) the reasonableness of the developmental and operational costs of the project.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas. Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

(C) Determination made-when credit amount applied for and when building placed in service.

(i) In general. A determination under subparagraph (A) shall be made as of each of the following times:

(I) The application for the housing credit dollar amount.

(II) The allocation of the housing credit dollar amount.

(III) The date the building is placed in service.

(ii) Certification as to amount of other subsidies. Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

(D) Application to bond financed projects. Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B).

**(n) Regulations.**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

(1) dealing with—

(A) projects which include more than 1 building or only a portion of a building,

(B) buildings which are placed in service in portions,

(2) providing for the application of this section to short taxable years,

(3) preventing the avoidance of the rules of this section , and

(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.

**Notice 88-80**  
**1988-30 I.R.B. 28**

NOTICE 88-80

LOW-INCOME HOUSING TAX CREDIT -- DETERMINATION OF INCOME FOR  
PURPOSES  
OF SECTION 42(g)(1)

July 25, 1988

The purpose of this Notice is to inform taxpayers that regulations to be issued under section 42(g)(1) of the Internal Revenue Code of 1986 (the 'Code ') (relating to the determination of a qualified low-income housing project) will provide that the income of individuals and area median gross income (adjusted for family size) are to be made in a manner consistent with the determination of annual income and the estimates for median family income under section 8 of the United States Housing Act of 1937 (H.U.D. section 8).

For purposes of H.U.D. section 8, annual income is defined under 24 CFR 813.106 (1987). HUD section 8 median family income estimates (i.e., area median gross income estimates) are based on decennial Census data updated with bureau of the Census P-60 income data and Department of Commerce County Business Patterns employment and earnings data. The determination of annual income and median family income estimates are based on definitions of income that include some items of income that are not included in a taxpayer's gross income for purposes of computing Federal Income Tax liability. Thus, the income of individuals and area median gross income (adjusted for family size) for purposes of section 42(g)(1) of the Code will NOT be made by reference to items of income used in determining gross income for purposes of computing Federal Income Tax liability.

This document serves as an 'administrative pronouncement' as that term is described in section 1.661-3(b)(2) of the Income Tax Regulations and may be relied upon to the same extent as a revenue ruling or revenue procedure.

The principal author of this Notice is Christopher J. Wilson of the Legislation and Regulations Division. For further information regarding this Notice contact Mr. Wilson on (202) 566-4336 (not a toll-free call).

Internal Revenue Service  
Notice 88-80

## Federal Regulations

### Reg § 1.42-15. Available unit rule.

**(a) Definitions.** The following definitions apply to this section: *Applicable income limitation* means the limitation applicable under section 42(g)(1) or, for deep rent skewed projects described in section 142(d)(4)(B), 40 percent of area median gross income. *Available unit rule* means the rule in section 42(g)(2)(D)(ii). *Comparable unit* means a residential unit in a low-income building that is comparably sized or smaller than an over-income unit or, for deep rent skewed projects described in section 142(d)(4)(B), any low-income unit. For purposes of determining whether a residential unit is comparably sized, a comparable unit must be measured by the same method used to determine qualified basis for the credit year in which the comparable unit became available. *Current resident* means a person who is living in the low-income building. *Low-income unit* is defined by section 42(i)(3)(A). *Nonqualified resident* means a new occupant or occupants whose aggregate income exceeds the applicable income limitation. *Over-income unit* means a low-income unit in which the aggregate income of the occupants of the unit increases above 140 percent of the applicable income limitation under section 42(g)(1), or above 170 percent of the applicable income limitation for deep rent skewed projects described in section 142(d)(4)(B). *Qualified resident* means an occupant either whose aggregate income (combined with the income of all other occupants of the unit) does not exceed the applicable income limitation and who is otherwise a low-income resident under section 42, or who is a current resident.

**(b) General section 42(g)(2)(D)(i) rule.** Except as provided in paragraph (c) of this section, notwithstanding an increase in the income of the occupants of a low-income unit above the applicable income limitation, if the income of the occupants initially met the applicable income limitation, and the unit continues to be rent-restricted—

- (1) The unit continues to be treated as a low-income unit; and
- (2) The unit continues to be included in the numerator and the denominator of the ratio used to determine whether a project satisfies the applicable minimum set-aside requirement of section 42(g)(1).

**(c) Exception.** A unit ceases to be treated as a low-income unit if it becomes an over-income unit and a nonqualified resident occupies any comparable unit that is available or that subsequently becomes available in the same low-income building. In other words, the owner of a low-income building must rent to qualified residents all comparable units that are available or that subsequently become available in the same building to continue treating the over-income unit as a low-income unit. Once the percentage of low-income units in a building (excluding the over-income units) equals the percentage of low-income units on

which the credit is based, failure to maintain the over-income units as low-income units has no immediate significance. The failure to maintain the over-income units as low-income units, however, may affect the decision of whether or not to rent a particular available unit at market rate at a later time. A unit is not available for purposes of the available unit rule when the unit is no longer available for rent due to contractual arrangements that are binding under local law (for example, a unit is not available if it is subject to a preliminary reservation that is binding on the owner under local law prior to the date a lease is signed or the unit is occupied).

**(d) Effect of current resident moving within building.** When a current resident moves to a different unit within the building, the newly occupied unit adopts the status of the vacated unit. Thus, if a current resident, whose income exceeds the applicable income limitation, moves from an over-income unit to a vacant unit in the same building, the newly occupied unit is treated as an over-income unit. The vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident.

**(e) Available unit rule applies separately to each building in a project.** In a project containing more than one low-income building, the available unit rule applies separately to each building.

**(f) Result of noncompliance with available unit rule.** If any comparable unit that is available or that subsequently becomes available is rented to a nonqualified resident, all over-income units for which the available unit was a comparable unit within the same building lose their status as low-income units; thus, comparably sized or larger over-income units would lose their status as low-income units.

**(g) Relationship to tax-exempt bond provisions.** Financing arrangements that purport to be exempt-facility bonds under section 142 must meet the requirements of sections 103 and 141 through 150 for interest on the obligations to be excluded from gross income under section 103(a). This section is not intended as an interpretation under section 142.

**(h) Examples.** The following examples illustrate this section:

*Example (1).* This example illustrates noncompliance with the available unit rule in a low-income building containing three over-income units. On January 1, 1998, a qualified low-income housing project, consisting of one building containing ten identically sized residential units, received a housing credit dollar amount allocation from a state housing credit agency for five low-income units. By the close of 1998, the first year of the credit period, the project satisfied the minimum set-aside requirement of section 42(g)(1)(B). Units 1, 2, 3, 4, and 5 were occupied by individuals whose incomes did not exceed the income limitation applicable under section 42(g)(1) and were otherwise low-income residents under section 42. Units 6, 7, 8, and 9 were occupied by market-rate tenants. Unit 10 was vacant. To

avoid recapture of credit, the project owner must maintain five of the units as low-income units. On November 1, 1999, the certificates of annual income state that annual incomes of the individuals in Units 1, 2, and 3 increased above 140 percent of the income limitation applicable under section 42(g)(1), causing those units to become over-income units. On November 30, 1999, Units 8 and 9 became vacant. On December 1, 1999, the project owner rented Units 8 and 9 to qualified residents who were not current residents at rates meeting the rent restriction requirements of section 42(g)(2). On December 31, 1999, the project owner rented Unit 10 to a market-rate tenant. Because Unit 10, an available comparable unit, was leased to a market-rate tenant, Units 1, 2, and 3 ceased to be treated as low-income units. On that date, Units 4, 5, 8, and 9 were the only remaining low-income units. Because the project owner did not maintain five of the residential units as low-income units, the qualified basis in the building is reduced, and credit must be recaptured. If the project owner had rented Unit 10 to a qualified resident who was not a current resident, eight of the units would be low-income units. At that time, Units 1, 2, and 3, the over-income units, could be rented to market-rate tenants because the building would still contain five low-income units.

*Example (2).* This example illustrates the provisions of paragraph (d) of this section. A low-income project consists of one six-floor building. The residential units in the building are identically sized. The building contains two over-income units on the sixth floor and two vacant units on the first floor. The project owner, desiring to maintain the over-income units as low-income units, wants to rent the available units to qualified residents. J, a resident of one of the over-income units, wishes to occupy a unit on the first floor. J's income has recently increased above the applicable income limitation. The project owner permits J to move into one of the units on the first floor. Despite J's income exceeding the applicable income limitation, J is a qualified resident under the available unit rule because J is a current resident of the building. The unit newly occupied by J becomes an over-income unit under the available unit rule. The unit vacated by J assumes the status the newly occupied unit had immediately before J occupied the unit. The over-income units in the building continue to be treated as low-income units.

**(i) Effective date.** This section applies to leases entered into or renewed on and after September 26, 1997.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

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**Special Attention of:**

Multifamily Hub Directors  
Multifamily Program Center Directors  
Rural Housing Services (RHS) Directors  
Supervisory Housing Project Managers  
Housing Project Managers  
Contract Administrators  
Multifamily Owners and Management Agents

NOTICE: H 2014-15

Issued: October 31, 2014

Expires: This notice remains in effect  
until amended, revoked, or  
superseded.

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**Subject: Passbook Savings Rate Effective February 1, 2015 and Establishing Future Passbook Savings Rates**

- I. Purpose:** This notice provides guidance to owners of HUD Multifamily Housing subsidized properties related to the passbook savings rate used to determine annual income from net family assets. Beginning February 1, 2015, Multifamily will annually publish the passbook savings rate to be used for all certifications to replace the previously set rate of 2% with a rate reflective of the national average.
- II. Background:** Under 24 CFR §5.609(b)(3), when determining annual income for families who receive assistance in a Multifamily Housing subsidized unit, the owner includes in annual income the greater of either: (1) actual income resulting from all net family assets; or (2) a percentage of the value of such assets based upon the current passbook savings rate as determined by the U.S. Department of Housing and Urban Development (HUD) when a family has net assets in excess of \$5,000. The Office of Multifamily Housing Programs had previously set the passbook savings rate at 2% because, historically, interest rates had fluctuated around that number. As interest rates have now dropped and maintained a level significantly below 2%, Multifamily Housing acknowledges the need to adjust the passbook savings rate at least annually to represent current national averages.
- III. Applicability:** This notice applies to the following programs:
- A. Project-based Section 8
    - 1. New Construction
    - 2. State Agency Financed

- 3. Substantial Rehabilitation
- 4. Section 202/8
- 5. Rural Housing Services (RHS) Section 515/8
- 6. Loan Management Set-Aside (LMSA)
- 7. Property Disposition Set-Aside (PDSA)
- B. Section 101 Rent Supplement
- C. Section 202/162 Project Assistance Contract (PAC)
- D. Section 202 Project Rental Assistance Contract (PRAC)
- E. Section 202 Senior Preservation Rental Assistance Contracts (SPRAC)
- F. Section 811 PRAC
- G. Section 811 Project Rental Assistance Demonstration units under a Rental Assistance Contract (PRA)
- H. Section 236
- I. Section 236 Rental Assistance Payments (RAP)
- J. Section 221(d)(3) Below Market Interest Rate (BMIR)

IV. **Passbook Savings Rate:** This notice provides guidance regarding the passbook savings rate that will supersede information in the HUD Handbook 4350.3 Section 5-7.F. When calculating tenant income, owners should refer to the information in this notice to determine the appropriate interest rate at which to impute income from assets.

- A. **Setting the Rate:** The passbook savings rate will be based on the national average provided by the Federal Deposit Insurance Corporation.
- B. **Publication of the Rate:** The Office of Policy Development and Research publishes income limits on an annual basis to which owners must refer. Likewise, Multifamily Housing will publish the passbook savings rate, and its effective date, on a similar timeframe through a Housing program notice. Owners must begin using the new rate for all move-in, initial, annual, and interim certifications concurrent with the effective date provided. The provided effective date will allow for sufficient time to update software to include the new passbook savings rate.
- C. **Updates to the Rate:** Multifamily Housing will retain the authority to update the passbook savings rate within the calendar year. If during the year the national average differs by at least 2% from the published rate, Multifamily Housing may publish a new rate, along with its effective date, to be used in the interim.

V. **Interim Recertifications:** According to Handbook 4350.3 and the model lease, tenants have the right to request an adjustment through the interim recertification process if their income changes before the next annual recertification. Because a

change in the passbook savings rate may change the reported income for individuals with more than \$5000 in assets, these tenants are permitted to request an interim recertification. Owners should refer to HUD Handbook 4350.3, Section 7-10 when processing interim recertifications.

**VI. Passbook Savings Rate Effective February 1, 2015**

Effective February 1, 2015, the passbook savings rate to be used for all move-in, initial, annual, and interim recertifications when a family has net assets over \$5,000 is .06%. This .06% rate must be used until Multifamily Housing publishes and makes effective a new passbook savings rate.

**VII. Environmental Impact**

In accordance with § 50.19(c)(6) of the HUD regulations, this Notice sets forth rate determinations which do not constitute a development decision that affects the physical condition of specific project areas or building sites, and therefore is categorically excluded from the requirements of the National Environmental Policy Act and related Federal laws and authorities.

**VIII. Paperwork Reduction Act**

There are no information collection requirements in this Notice and therefore the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) does not apply. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

**IX. Inquiries**

Questions about this notice should be directed to Catherine Brennan in the Office of Asset Management and Portfolio Oversight at 202-402-6732 or [Catherine.M.Brennan@hud.gov](mailto:Catherine.M.Brennan@hud.gov).

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Biniam Gebre, Acting Assistant Secretary for Housing-  
Federal Housing Commissioner

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## CHAPTER 5. DETERMINING INCOME AND CALCULATING RENT

### 5-1 Introduction

- A. Owners must determine the amount of a family's income before the family is allowed to move into assisted housing and at least annually thereafter. The amount of assistance paid on behalf of the family is calculated using the family's annual income less allowable deductions. HUD program regulations specify the types and amounts of income and deductions to be included in the calculation of annual and adjusted income.
- B. Although the definitions of annual and adjusted income used for the programs covered in this handbook have some similarities with rules used by the U.S. Internal Revenue Service (IRS), the tax rules are different from the HUD program rules.
- C. The most frequent errors encountered in reviews of annual and adjusted income determinations in tenant files fall in three categories:
1. Applicants and tenants failing to fully disclose income information;
  2. Errors in identifying required income exclusions; and
  3. Incorrect calculations of deductions often resulting from failure to obtain third-party verification.

Careful interviewing and thorough verification can minimize the occurrence of these errors.

- D. Chapter 5 is organized as follows:
- **Section 1: Determining Annual Income** discusses the requirements regarding annual income and the procedure for calculating a family's annual income when determining eligibility. This section also includes guidance on determining income from assets.
  - **Section 2: Determining Adjusted Income** describes the procedures and requirements for determining adjusted income based on allowable deductions.
  - **Section 3: Verification** presents the requirements for verifying information provided by applicants and tenants related to their eligibility.
  - **Section 4: Calculating Tenant Rent** discusses the methods for calculating the tenant's portion of rent under the different programs covered by this handbook.

## 5-2 Key Terms

- A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations, or by HUD. These terms are listed in Figure 5-1 and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.
- B. The terms "disability" and "persons with disabilities" are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.
  2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

**NOTE:** See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

**Figure 5-1: Key Terms**

<ul style="list-style-type: none"> <li>• Adjusted income</li> <li>• Annual income</li> <li>• Assets</li> <li>• Assistance payment</li> <li>• Assisted rent</li> <li>• Assisted tenant</li> <li>• Basic rent</li> <li>• Co-head of household</li> <li>• Contract rent</li> <li>• Dependent</li> <li>• Extremely low-income family</li> <li>• Foster adult</li> <li>• Foster children</li> <li>• Full-time student</li> <li>• Gross rent</li> <li>• Hardship exemption</li> <li>• Head of household</li> <li>• Housing assistance payment (HAP)</li> <li>• Income limit</li> </ul>	<ul style="list-style-type: none"> <li>• Live-in aide</li> <li>• Low-income family</li> <li>• Market rent</li> <li>• Minimum rent</li> <li>• Operating rent</li> <li>• Project Assistance Contract (PAC)</li> <li>• PRAC Operating Rent</li> <li>• Project Rental Assistance Contract (PRAC)</li> <li>• Project assistance payment</li> <li>• Project rental assistance payment</li> <li>• Tenant rent</li> <li>• Total tenant payment</li> <li>• Unearned income</li> <li>• Utility allowance</li> <li>• Utility reimbursement</li> <li>• Very low-income family</li> <li>• Welfare assistance</li> <li>• Welfare rent</li> </ul>
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## Section 1: Determining Annual Income

### 5-3 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 1: Determining Annual Income. The citation and its title are listed below.

- 24 CFR 5.609 Annual Income

### 5-4 Key Requirements

- A. Annual income is the amount of income that is used to determine a family's eligibility for assistance. Annual income is defined as follows:
1. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member; or
  2. All amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification effective date.
- B. Annual income includes all amounts that are not specifically excluded by regulation. Exhibit 5-1, Income Inclusions and Exclusions, provides the complete list of income inclusions and exclusions published in the regulations and *Federal Register* notices.
- C. Annual income includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

### 5-5 Methods for Projecting and Calculating Annual Income

- A. The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require the owner to project or estimate the annual income that the family expects to receive. There are several ways to make this projection. The following are two acceptable methods for calculating the annual income anticipated for the coming year:
1. Generally the owner must use current circumstances to anticipate income. The owner calculates projected annual income by annualizing *current* income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months. If changes occur later in the year, an interim recertification can be conducted to change the family's rent.
  2. If information is available on changes expected to occur during the year, use that information to determine the total *anticipated* income from all known sources during the year\*\*. For example, if a verification source reports that a union contract calls for a 2% pay increase midway through

the year, the owner may add the total income for the months before, and the total for the months after the increase\*\*.

### Example – Calculating Anticipated Annual Income

A teacher's assistant works nine months annually and receives \$1,300 per month. During the summer recess, the teacher's assistant works for the Parks and Recreation Department for \$600 per month. The owner may calculate the family's income using either of the following two methods:

1. Calculate annual income based on current income: \$15,600 (\$1,300 x 12 months).

The owner would then conduct an interim recertification at the end of the school year to recalculate the family's income during the summer months at reduced annualized amount of \$7,200 (\$600 x 12 months). The owner would conduct another interim recertification when the tenant returns to the nine-month job.

2. Calculate annual income based on anticipated changes through the year:

\$11,700            (\$1,300 x 9 months)

+ 1,800            (\$ 600 x 3 months)

\$13,500

Using the second method, the owner would not conduct an interim re-examination at the end of the school year. In order to use this method effectively, history of income from all sources in prior years should be available.

- B. Once all sources of income are known and verified, owners must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:

1. Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);
2. Weekly wages by 52;
3. Bi-weekly wages (paid every other week) by 26;
4. Semi-monthly wages (paid twice each month) by 24; and
5. Monthly wages by 12.

To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.

**Example – Anticipated Increase in Hourly Rate**

February 1 Certification effective date  
\$7.50/hour Current hourly rate  
\$8.00/hour New rate to be effective March 15

(40 hours per week x 52 weeks = 2,080 hours per year)

February 1 through March 15 = 6 weeks  
6 weeks x 40 hours = 240 hours  
2,080 hours minus 240 hours = 1,840 hours

(check: 240 hours + 1,840 hours = 2,080 hours)

Annual Income is calculated as follows:  
240 hours x \$7.50 = \$1,800  
\$1,840 hours x \$8.00 = \$14,720  
Annual Income \$16,520

(See **Appendix 8** for an explanation of the correct approach to rounding numbers.)

- C. Some circumstances present more than the usual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic work or seasonal income or a tenant who is self-employed. In all instances, owners are expected to make a reasonable judgment as to the most reliable approach to estimating what the tenant will receive during the year. In many of these challenging situations, midyear or interim recertifications may be required to reflect changing circumstances. Some examples of approaches to more complex situations are provided below.

**Examples – Irregular Employment Income**

Seasonal work. Clyde Kunkel is a roofer. He works from April through September. He does not work in rain or windstorms. His employer is able to provide information showing the total number of regular and overtime hours Clyde worked during the past three years. To calculate Clyde's anticipated income, use the average number of regular hours over the past three years times his current regular pay rate, and the average overtime hours times his current overtime rate.

Sporadic work. Justine Cowan is not always well enough to work full-time. When she is well, she works as a typist with a temporary agency. Last year was a good year and she worked a total of nearly six months. This year, however, she has more medical problems and does not know when or how much she will be able to work. Because she is not working at the time of her recertification, it will be best to exclude her employment income and remind her that she must return for an interim recertification when she resumes work.

### Examples – Irregular Employment Income

Sporadic work. Sam Daniels receives social security disability. He reports that he works as a handyman periodically. He cannot remember when or how often he worked last year: he says it was a couple of times. Sam's earnings appear to fit into the category of nonrecurring, sporadic income that is not included in annual income. Tell Sam that his earnings are not being included in annual income this year, but he must report to the owner any regular work or steady jobs he takes.

Self-employment income. Mary James sells beauty products door-to-door on consignment. She makes most of her money in the months prior to Christmas but has some income throughout the year. She has no formal records of her income other than a copy of the IRS Form 1040 she files each year. With no other information available, the owner will use the income reflected on Mary's copy of her form 1040 as her annual income.

## 5-6 Calculating Income—Elements of Annual Income

### A. Income of Adults and Dependents

1. Figure 5-2 summarizes whose income is counted.
2. Adults. Count the annual income of the head, spouse or co-head, and other adult members of the family. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

**NOTE:** If an emancipated minor is residing with a family as a member other than the head, spouse, or co-head, the individual would be considered a dependent and his or her income handled in accordance with subparagraph 3 below.

3. Dependents. A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student

The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not.

- a. *Earned* income of minors (family members under 18) is not counted.
- b. Benefits or other *unearned* income of minors is counted.

**Figure 5-2: Whose Income is Counted?**

<b>Members</b>	<b>Employment Income</b>	<b>Other Income (including income from assets)</b>
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult *(including foster adult)*	Yes	Yes
<b>Dependents</b>		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
*Foster child under 18	No	Yes*
<b>Nonmembers</b>		
Live-in aide	No	No

**NOTE:** The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds \$480.

- c. When more than one family shares custody of a child and both families live in assisted housing, only one family at a time can claim the dependent deduction. The family that counts the dependent deduction also counts the unearned income of the child. The other family claims neither the dependent deduction nor the unearned income of the child.
- d. When full-time students who are 18 years of age or older are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family or spouse or co-head. If the income is less than \$480 annually, count all the income. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480.
- e. The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
- f. All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- g. Payments received by the family for the care of foster children or foster adults are *not* counted. This rule applies only to payments

made through the official foster care relationships with local welfare agencies.

- h. Adoption assistance payments in excess of \$480 are not counted.

**B. Income of Temporarily Absent Family Members**

1. Owners must count all income of family members approved to reside in the unit, even if some members are temporarily absent.
2. If the owner determines that an absent person is no longer a family member, the individual must be removed from the lease and the HUD-50059.
3. A temporarily absent individual on active military duty must be removed from the family, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.
  - a. However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or spouse of the head of the family.
  - b. The income of the head, spouse, or co-head will be counted even if that person is temporarily absent for active military duty.

**Examples – Income of Temporarily Absent Family Members**

- John Chouse works as an accountant. However, he suffers from a disability that periodically requires lengthy stays at a rehabilitation center. When he is confined to the rehabilitation center, he receives disability payments equaling 80% of his usual income.  
During the time he is not in the unit, he will continue to be considered a family member. The owner will conduct an interim recertification. Even though he is not currently in the unit, his total disability income will be counted as part of the family's annual income.
- Mirna Martinez accepts temporary employment in another location and needs a portion of her income to cover living expenses in the new location. The full amount of the income must be included in annual income.
- Charlotte Paul is on active military duty. Her permanent residence is her parents' assisted unit where her husband and children live. Charlotte is not currently exposed to hostile fire. Therefore, because her spouse and children are in the assisted unit, her military pay must be included in annual income. (If her dependents or spouse were not in the unit, she would not be considered a family member and her income would not be included in annual income.)

**C. \*Deployment of Military Personnel to Active Duty**

Owners are encouraged to be as lenient as responsibly possible to support affected households in situation where persons are called to active duty in the Armed Forces. Specific actions that owners should undertake to support military households include, but are not limited to:\*

1. \*Allow a guardian to move into the assisted unit on a temporary basis to provide care for any dependents the military person leaves in the unit. Income of the guardian temporarily living in the unit for this purpose is not counted as income.
2. Allow a tenant living in an assisted unit to provide care for any dependents of persons called to active duty in the Armed Forces on a temporary basis, as long as the head and/or co-head of household continues to serve in active duty. Income of the child (e.g., SSI benefits, military benefits) is not counted as income of the person providing the care.
3. Exclude from annual income special pay received by a household member serving in the Armed Services who is exposed to hostile fire (see Exhibit 5-1).
4. Give consideration for any case involving delayed payment of tenant rent. Determine whether it is appropriate to accept a late payment.
5. Allow the assistance payment and the lease to remain in effect for a reasonable period of time (depending on the length of deployment) beyond that required by the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. §§ 501-591, even though the adult members of the military family are temporarily absent from the assisted unit.\*

**D. Income of Permanently Confined Family Members**

1. An individual permanently confined to a nursing home or hospital may not be named as family head, spouse, or co-head but may continue as a family member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.
  - a. *Include* the individual as a family member and the income and allowable deductions related to the medical care of the permanently confined individual are counted; or
  - b. *Exclude* the individual as a family member and the income and allowances based on the medical care of the permanently confined individual are not counted.
2. If the family elects to include the permanently confined member, the individual is listed on the HUD-50059 as an adult who is not the head, spouse, or co-head, even when the permanently confined family member is married to the person who is or will become the head of the family. The owner should consider extenuating circumstances that may prevent the confined member from being able to sign the HUD-50059. If the owner determines the confined member is unable to sign the HUD-50059,

the owner must document the file why the signature was not obtained. If the family elects not to include the permanently confined member, the individual would not be listed on the HUD-50059.\*\*

#### E. Educational Scholarships or Grants

All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income **\*\*except for students receiving Section 8 assistance.\*\*** This is true whether the assistance is paid to the student or directly to the educational institution

**\*\*For students receiving Section 8 assistance, all financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income except if the student is over the age of 23 with dependent children or the student is living with his or her parents who are receiving Section 8 assistance. See Paragraph 3-13 for further information on eligibility of students to receive Section 8 assistance and the Glossary for the definition of Student Financial Assistance.\*\***

#### F. Alimony or Child Support

Owners must count alimony or child support amounts awarded by the court unless the applicant certifies that payments are not being made *and* that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.

1. The owner may accept printouts from the court or agency responsible for enforcing support payments, or other evidence indicating the frequency and amount of support payments actually received.
2. Child support paid to the custodial parent through a state child support enforcement or welfare agency may be included in the family's monthly welfare check and may be designated in different ways. In some states these payments are not identified as separate from the welfare grant. In these states, it is important to determine which portion is child support and not to count it twice. In other states, the payment may be listed as child support or as "pass-through" payments. These amounts must be counted as annual income.
3. When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the owner may require the family to sign a certification stating the amount of child support received.

#### G. Regular Cash Contributions and Gifts

1. Owners must count as income any regular contributions and gifts from persons not living in the unit. These sources may include rent and utility

payments paid on behalf of the family, and other cash or noncash contributions provided on a regular basis.

**Examples – Regular Cash Contributions**

- The father of a young single parent pays her monthly utility bills. On average he provides \$100 each month. The \$100 per month must be included in the family's annual income.
- The daughter of an elderly tenant pays her mother's \$175 share of rent each month. The \$175 value must be included in the tenant's annual income.

2. Groceries and/or contributions paid directly to the childcare provider by persons not living in the unit are excluded from annual income.
3. Temporary, nonrecurring, or sporadic income (including gifts) is not counted.

**H. Income from a Business**

When calculating annual income, owners must include the net income from operation of a business or profession including self-employment income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis.

1. In addition to net income, owners must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.
2. When calculating net income, owners must not deduct principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion, or outlays for capital improvements.
3. If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

**I. \*\*Periodic Social Security Payments**

Count the gross amount, before deductions for Medicare, etc., of periodic Social Security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support.\*\*

**J. Adjustments for Prior Overpayment of Benefits**

If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., social security, SSI, TANF, or unemployment benefits), count the amount that is actually provided after the adjustment.

**Example – Adjustment for Prior Overpayment of Benefits**

Lee Park's social security payment of \$250 per month is being reduced by \$25 per month for a period of six months to make up for a prior overpayment. Count his social security income as \$225 per month for the next six months and as \$250 per month for the remaining six months.

**K. Public Assistance Income in As-Paid Localities**

1. Special calculations of public assistance income are required for "as-paid" state, county, or local public assistance programs. An "as-paid" system is one:
  - a. In which the family receives an amount from a public agency specifically for shelter and utilities; and
  - b. In which the amount is adjusted based upon the actual amount the family pays for shelter and utilities.
2. The public assistance amount specifically designated for rent and utilities is called the "welfare rent."
3. To determine annual income for public assistance recipients in "as-paid" localities, include the following:
  - a. The amount of the family's grant for other than shelter and utilities; and
  - b. The maximum amount the welfare department can pay for shelter and utilities for a family of that size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.
4. Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Owners should discuss how the rules are applied with the HUD Field Office.

**Example – Welfare Income in “As Paid” Localities**

At application, a family’s welfare grant is \$300, which includes \$125 for basic needs and \$175 for shelter and utilities (based upon where the family is now living). However, the maximum the welfare agency could allow for shelter and utilities for this size family is \$190.

Count the following as income:

\$125 Amount family receives for basic needs

\$190 Maximum for shelter and utilities

\$315 Monthly public assistance income

**L. Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits**

1. The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. (See subparagraph O below for information on the withdrawal of cash or assets from an investment.) Payments such as Black Lung Sick Benefits, Veterans Disability, and Dependent Indemnity Compensation for the Widow of a Killed in Action Serviceman are examples of such periodic payments.
2. Withdrawals from retirement savings accounts such as Individual Retirement Accounts and 401K accounts that are not periodic payments do not fall in this category and are not counted in annual income (see paragraph 5.7 G.4).

**Example – Withdrawals from IRAs or 401K Accounts**

Isaac Freeman retired recently. He has an IRA account but is not receiving periodic payments from it because his pension is adequate for his routine expenses. However, he has withdrawn \$2,000 for a trip with his children. The withdrawal is not a periodic payment and is not counted as income.

3. If the tenant is receiving long-term care insurance payments, any payments in excess of \$180 per day must be counted toward the gross annual income. (**NOTE:** Payment of long-term care insurance premiums are an eligible medical expense – see paragraph 5-10 D.8.k.)
4. \*Federal Government/Uniformed Services pension funds paid to a former spouse.\*

\*Federal Government/Uniformed Services pension funds paid directly to\* an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the ownership of the pension. That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM)), to be paid to the applicant's/tenant's former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a Federal government employee is counted as income for a tenant/applicant receiving such funds.

**Example:** Joan Carson is a retired Federal government employee receiving a retirement pension. She is also the recipient of Section 8 housing assistance and involved in a divorce proceeding. In settling the assets of the marriage between Mrs. Carson and her former husband, the court ordered that one half of her pension be paid directly to her former husband in the amount of \$20,000. The court provided OPM with clear, specific and express instructions acceptable for OPM to process the payment to Mrs. Carson's former husband. OPM authorized the payment of pension benefits to Mrs. Carson's former husband in the amount of \$20,000. The \$20,000 represents an asset disposed of as a result of a court decree. At the interim reexamination of her income, Mrs. Carson indicated a change in her income due to the court ordered payment of pension benefits to her former husband. The PHA requested that Mrs. Carson provide a copy of her statement from OPM evidencing the payment of pension benefits to her (her statement reflected the line item payment to her former husband due to the court order). That portion of the pension paid to her former husband no longer belongs to Mrs. Carson and is not counted as income.

The OPM is responsible for handling court orders (any judgments or property settlements issued by or approved by any court of any state, the

District of Columbia, the Commonwealth of Puerto Rico, Guam, The Northern Mariana Islands, or the Virgin Islands in connection with the divorce, annulment of marriage, or legal separation of a Federal government employee or retiree) affecting current and retired Federal government employees. See 5 C.F.R. § 838.103. OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees that award a portion of the former Federal government employee's retirement benefits. *Id.* at § 838.101(a)(1). State courts ordering a judgment or property settlement in connection with divorce, annulment of marriage, or legal separation have the responsibility of issuing clear, specific, and express instructions to OPM with regards to providing benefits to former spouses. *Id.* at § 838.122. In response to instructions from state courts, OPM will authorize payments to the former spouses. *Id.* at § 838.121. Once the payments have been

authorized by OPM, the reduced pension amount paid to the retired Federal employee (the tenant/applicant) will be reflected in the tenant's/applicant's statement from OPM. Former spouses of Federal government employees receiving court ordered pension benefits are provided a Form-1099 reflecting pension benefits received from the retired Federal government employee. In verifying the income of tenants/applicants, owners should require that tenants/applicants provide any copies of statements from OPM verifying pension benefits (including any reductions pursuant to a court order, decree or court-approved property settlement agreement), and any evidence of survivor benefits, pensions or annuities received from retired Federal government employees including, but not limited to, a Form-1099. (See Paragraph 5-7.G.5 for more information on the treatment of income from Federal government pensions.)

5. \*Other State, local government, social security or private pensions paid to a former spouse.

Other state, local government, social security or private pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are also not counted as annual income and should be handled in the same manner as 4, above. The decree and copies of statements should be obtained in order to verify the net amount of the pension that should be applied in order to determine eligibility and calculate rent.\*

#### **M. Income from Training Programs**

1. Amounts received under HUD-funded training programs are excluded from annual income.
2. Incremental earnings and benefits received by any family member due to participation in qualifying state or local employment training programs are excluded. Income from training programs not affiliated with a local government, and income from the training of a family member resident to serve on the management staff, is also excluded.
  - a. Excluded income must be received under employment training programs with clearly defined goals and objectives and for a specific, limited time period. The initial enrollment must not exceed one year, although income earned during extensions for additional specific time periods may also be eligible for exclusion
  - b. Training income may be excluded only for the period during which the family member participates in the employment training program.
  - c. Exclusions include stipends, wages, transportation or child care payments, or reimbursements.

- d. Income received as compensation for employment is excluded only if the employment is a component of a job training program. Once training is completed, the employment income becomes income that is counted.
  - e. Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment, are not excluded.
2. Owners may ask to use project funds or funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available.
- a. The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may be either on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local business, may have in-house job training programs designed for project residents.
  - b. Funds that an owner may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, or housing authority funds. These funds may be used to cover the costs of various components of a job training program, including course materials, computer software, computer hardware, or personnel costs. Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. If the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

**N. Resident Services Stipends**

Resident services stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management.

1. If the resident stipend exceeds \$200 per month, owners must include the entire amount in annual income.
2. If the resident stipend is \$200 or less per month, owners must exclude the resident services stipend from annual income.

**O. Income Received by a Resident of an Intermediate Care Facility for the Mentally Retarded or for the Developmentally Disabled (ICF/MR or ICF/DD) and Assisted Living Units in Elderly Projects**

1. An intermediate care facility is a group home for mentally retarded or developmentally disabled individuals (ICF/MR or ICF/DD). The term "intermediate care facility" is one used by state mental health departments for group homes serving these residents.
2. Assisted living units are units in projects developed for elderly residents with project-based assistance that have been converted to assisted living units.
3. The local agency responsible for Medicaid provides funds directly to group home operators and assisted living providers for services.
4. Annual income at an ICF/MR, ICF/DD, or assisted living unit must include:
  - a. The SSI payment a tenant receives or the facility receives on behalf of the tenant; plus
  - b. All other income the tenant receives from sources other than SSI that are not excluded from income by HUD regulations (see Exhibit 5-1). Examples of other sources of income include wages, pensions, income from sheltered workshops, income from a trust, or other interest income.
  - c. The personal allowance of an individual residing in an ICF/MR or ICF/DD is not included in annual income. If the owner is unable to determine the actual amount of the personal allowance, use \$30.
5. Annual income does not include the enhanced benefit portion of the SSI that is provided to pay for services. In some instances, a resident's SSI income may be reduced between annual recertifications if the resident's earnings exceed a specified amount. If this happens, the resident may request an interim recertification.

**P. Withdrawal of Cash or Assets from an Investment**

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. \*\*Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset. See Paragraph 5-7 G.2 for guidance on calculating income from an asset.\*\*

**Q. Lump Sum Payments Counted as Income**

1. Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from sale of property are considered assets, not income.

2. When social security or SSI benefit income is paid in a lump sum as a result of deferred periodic payments, that amount is *excluded* from annual income.
3. Settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets, but lump sum payments caused by *delays in processing* periodic payments for unemployment or welfare assistance are included as income.

How lump sum payments for delayed start of benefits are counted depends upon the following:

- a. When the family reports the change;
- b. When an interim re-examination is conducted; and
- c. Whether the family's income increases or decreases as a result.

A lump sum payment resulting from delayed benefit income may be treated in either of the two ways illustrated in the example shown in Figure 5-3.

4. Lottery winnings paid in one payment are treated as assets. Lottery winnings *paid in periodic payments* must be counted as income.

**Figure 5-3: Treatment of Delayed Benefit Payments Received in a Lump Sum**

Family member loses his/her job on October 19 and applies for unemployment benefits. The family receives a lump sum payment of \$700 in December to cover the period from 10/20 to 12/5 and begins to receive \$100 a week effective 12/6.

**Option A:** The owner processes one interim re-examination immediately effective 11/1 and a second interim after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	*0	*0	492**	492**
Monthly allowances (three minors x 480 / 12 months)	120	-	-	120	120
Monthly adjusted income	680	0	0	372	372
Total tenant payment (TTP)	204	25	25	25***	112***

\*. The family's income is calculated at \$0/month beginning November 1, continuing until benefits actually begin and new income is calculated. TTP is set at the minimum rent.

\*\* Family's actual income for 1/1 is \$100/week x 52 weeks = \$5,200 / 12 = \$433.

However, because the family's TTP was calculated at zero income for the months of November and December (the period eventually covered by the \$700 lump sum payment), the annual income to be used in calculating monthly gross income should be as follows:  
 \$100/week benefit x 52 weeks = \$5,200 + \$700 lump sum payment = \$5,900 annual gross income / 12 = \$492.

\*\*\* Increased rent does not start until 2/1 in order to give the family notice of rent increase.

**Option B:** The owner processes one interim re-examination after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	0/800*	0/800*	433*	433*
Monthly allowances (three minors x 480 / 12 Months)	120	120	120	120	120
Monthly adjusted income	680	0/680	0/680	313	313
Total tenant payment	204	204*	204*	94	94
Recalculated TTP	-	94***	94*	94	94
Rent credit (204 - 94=)	-	110	110	-	-

\* Family's actual income for 11/1 and 12/1 is zero, but because the owner does not process an interim re-examination, the family's TTP continues to be calculated using \$800 as monthly gross income. Beginning 1/1, monthly gross income is known to be \$100/week, or \$433/month.

\*\* The lump sum payment is taken into account by making the recertification retroactive to 11/1. Annual income is calculated as \$5,200 / 12 = \$433 monthly gross income.

\*\*\* TTP for November and December recalculated as \$433 monthly gross income and \$313 monthly adjusted income x .30 = 94 with credit or refund to family of \$110/month for each of these two months for difference between TTP paid of \$204 and recalculated TTP of \$94.

**R. Exclusions from Income**

1. Regulations for the multifamily subsidized housing programs covered by this handbook specifically exclude certain types of income from annual income. However, many of the items listed as exclusions from annual income under HUD requirements are items that the IRS includes as taxable income. Therefore, it is important for owners to focus specifically on the HUD program requirements regarding annual income.
2. Among the items that are excluded from annual income are the value of food provided through:
  - a. The Meals on Wheels program, food stamps, or other programs that provide food for the needy;
  - b. Groceries provided by persons not living in the household; and
  - c. Amounts received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).

**Examples – Income Exclusions**

- The Value of Food Provided through the Meals on Wheels Program or Other Programs Providing Food for the Needy. Jack Love receives a hot lunch each day during the week in the community room and an evening meal in his apartment. One meal is provided through the Meals on Wheels program. A local church provides the other. The value of the meals he receives is not counted as income.
- Groceries provided by persons not living in the household. Carrie Sue Colby's mother purchases and delivers groceries each week for Carrie Sue and her two year old. The value of these groceries is not counted as income despite the fact that these are a regular contribution or gift.
- Amounts Received Under WIC or the School Lunch Act. Lydia Jeffries' two children receive a free breakfast and reduced priced lunches at school every day through the Special Supplemental Food Program for Women, Infants and Children (WIC). The value of this food is not counted as income.

\*\*

3. Some additional examples of income that is excluded from the calculation of annual income follow.

### Examples – Income Exclusions

- Resident service stipends. Rich Fuller receives \$50 a month for distributing flyers for management. This amount is excluded from annual income.
- Deferred periodic payments of social security benefits. Germain Johnson received \$32,000 in deferred social security benefits following a lengthy eligibility dispute. This delayed payment of social security benefits is treated as an asset, not as income.
- Income from training programs. Jennifer Jones is participating in a qualified state-supported employment training program every afternoon to learn improved computer skills. Each morning, she continues her regular job as a typist. The \$250 a week she receives as a part-time typist is included in annual income. The \$150 a week she receives for participation in the training program is excluded in annual income.
- Earned Income Tax Credit refund payments. Mary Frances Jackson is eligible for an earned income tax credit. She receives payments from her employer each quarter because of the tax credit. These payments are excluded in annual income.

\*\*

## 5-7 Calculating Income from Assets

Annual income includes amounts derived from assets to which family members have access.

### A. What is Considered to Be an Asset?

1. Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the *income* from that asset.
2. Some tenants have assets that are not earning interest. A quantity of money under a mattress is an asset: it is a thing of value that could be used to the benefit of the tenant, but under the mattress it is not producing income.
3. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset. Exhibit 5-2 summarizes the items that are considered assets and those that are not.

### B. Determining Income from Assets

**Note:** For families receiving only BMIR assistance, it is not necessary to determine whether family assets exceed \$5,000. The rule for imputing income from assets does not apply to the BMIR program.

1. The calculation to determine the amount of income from assets to include in annual income considers both of the following:
  - a. The total cash value of the family's assets; and
  - b. The amount of income those assets are earning or could earn.
2. The rule for calculating income from assets differs depending on whether the total cash value of family assets is \$5,000 or less, or is more than \$5,000.

**C. Determining the Total Cash Value of Family Assets**

1. To comply with the rule for determining the amount of income from assets, it is necessary to first determine whether the total "cash value" of family assets exceeds \$5,000.
  - a. The "cash value" of an asset is the market value less reasonable expenses that would be incurred in selling or converting the asset to cash, such as the following:
    - (1) Penalties for premature withdrawal;
    - (2) Broker and legal fees; and
    - (3) Settlement costs for real estate transactions.

The cash value is the amount the family could actually receive in cash, if the family converted an asset to cash.

**Example – Calculating the Cash Value of an Asset**

A family has a certificate of deposit (CD) in the amount of \$5,000 paying interest at 4%. The penalty for early withdrawal is three months of interest.

$$\$5,000 \times 0.04 = \$200 \text{ in annual income}$$

$$\$200/12 \text{ months} = \$16.67 \text{ interest per month}$$

$$\$16.67 \times 3 \text{ months} = \$50.01$$

$$\$5,000 - \$50 = \$4,950 \text{ cash value of CD}$$

- b. It is essential to note that a family is not required to convert an asset to cash. Determining the cash value of the asset is done simply as a calculation by the owner because it is a required step when determining income from assets under program requirements.

**D. Assets Owned Jointly**

1. If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.
2. If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.
3. Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information.

**Example – Determining the Cash Value of an Asset**

The "cash value" of an asset is the amount a family would receive if the family turned a noncash asset into cash.

The cash value is the market value—or the amount another person would pay to acquire the asset—less the cost to turn the asset into cash.

If a family owns real estate, it may be necessary to consider the family's equity in the property as well as the expense to sell the property.

To determine the family's equity, subtract amounts owed on the property from its market value:

$$\begin{array}{r} \text{Market value} \\ - \text{Mortgage amount owed} \\ \hline \text{Equity in the property} \end{array}$$

Calculate the cash value by subtracting the expense of selling the property:

$$\begin{array}{r} \text{Equity} \\ - \text{Expense of selling} \\ \hline \text{Cash Value} \end{array}$$

Juanita Player owns a rental house. The market value is \$100,000. She owes \$60,000. The cost to dispose of this house would be \$8,000. The owner would determine the cash value as follows:

Market Value	\$100,000
Mortgage amount	- <u>\$60,000</u>
	40,000
Cost of disposing of the asset (real estate commission, and other costs of sale)	- <u>\$8,000</u>
<b>Cash Value</b>	<b><u>\$32,000</u></b>

- a. In some instances, but not all, knowing whose social security number is connected with the asset may help in identifying ownership. Owners should be aware that there are many situations in which a social security number connected with an asset does not indicate ownership and other situations where there is ownership without connection to a social security number.
- b. Determining who has contributed to an asset or who is paying taxes on the asset may assist in identifying ownership.

**Examples – Jointly Owned Assets**

- Helen Wright is an assisted-housing tenant. She and her daughter, Elsie Duncan, have a joint savings account. Mother and daughter both contribute to the account. They have used the account for trips together and to cover emergency needs for either of them. Assume in this example that state law does not specify ownership. Even though either Helen Wright or Elsie Duncan could withdraw the entire asset for her own use, count Helen's ownership as 50% of the account.
- Jean Boucher's name is on her mother's savings account to ensure that she can access the funds for her mother's care. The account is not effectively owned by Jean and should not be counted as her asset.

**E. Calculating Income from Assets When Assets Total \$5,000 or Less**

If the total cash value of all the family's assets is \$5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.

**F. Calculating Income from Assets When Assets Exceed \$5,000**

1. When net family assets are more than \$5,000, annual income includes the greater of the following:
  - a. Actual income from assets; or
  - b. A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called *imputed* income from assets. The passbook rate is currently set at 2%.
2. To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .02. The product is the "imputed income" from assets. Then, add the actual income from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income.

**Example – Use Actual Income from Assets When  
Total Net Family Assets are \$5,000 or Less**

Type of Asset	Cash Value	Actual Yearly Income
<i>Certificate of Deposit</i> \$1,000 withdrawal fee \$50 interest @ 4%	\$950	\$40
<i>Savings Account</i> \$500 interest @ 2.5%	\$500	\$13
<i>Stock</i> \$300 Not paying dividends	\$300	\$0
<b>Total</b>	<u>\$1,750</u>	<u>\$53</u>

The total cash value of the family's assets is \$1,750. Therefore, the amount that is added to annual income as income from assets is the actual income earned or \$53.

**Example – Imputed Income from Assets**

"Imputed" means "attributed" or "assigned." Imputing income from assets is "assigning" an amount of income solely for the sake of the annual income calculation. The imputed income is not real income.

For example, money under a mattress is not earning income. If the money were put in a savings account it would earn interest. Imputed income from such an asset is the interest the money would earn if it were put in a savings account.

A family with cash under a mattress is not required to put the cash in a savings account; but when the owner is calculating income for a family with more than \$5,000 in assets, the owner must assign an amount that cash would earn if it were in a savings account.

**Example – Determining Income from Assets  
When Net Family Assets Exceed \$5,000**

Type of Asset	Cash Value	Actual Yearly Income
Checking Account (non-interest bearing)	\$455	\$0
Savings Account (interest at 2.5%)	\$6,000	\$150
Stocks (not paying dividends this year)	\$3,000	\$0
Total	\$9,455	\$150

Total cash value of assets is greater than \$5,000. Therefore, it is necessary to compare the actual income from assets to the imputed income from assets.

The total cash value of assets (\$9,455) is multiplied by 2% to determine the imputed income from assets.

$$.02 \times \$9,455 = \$189$$

\$189 is greater than the actual income from assets (\$150).

In this case, therefore, the owner will add \$189 to the annual income calculation as income from assets.

**G. Calculating Income from Assets - Specific Types of Assets**

1. Trusts.

a. Explanation of trusts.

- (1) A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries.
- (2) Trusts may be revocable or nonrevocable. A revocable trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account. When the creator sets up a nonrevocable trust, the creator has no access to the funds in the account.
- (3) The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (e.g., the

beneficiary's 21<sup>st</sup> birthday or the grantor's death). In some instances, the beneficiary may receive the regular investment income from the trust but not be able to withdraw any of the principal.

- (4) The beneficiary and the grantor may be members of the same family. A parent or grandparent may have placed funds in trust to a child. If the trust is revocable, the funds may be accessible to the parent or grandparent but not to the child.

b. How to treat trusts.

- (1) The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account.
- (2) Revocable trusts. If any member of the tenant family has the right to withdraw the funds in the account, the trust is considered to be an asset and is treated as any other asset. The cash value of the trust (the amount the family member would receive if he or she withdrew all that could be withdrawn) is added to total net assets. The actual income received is added to actual income from assets.

**Example – A Trust Accessible to Family Members**

Assez Charaf lives alone. He has placed \$20,000 in trust to his grandson to be available to the grandson upon the death of Assez. The trust is revocable, that is, Assez has control of the principal and interest in the account and can amend the trust or remove the funds at any time. In calculating Assez's income, the owner will add the \$20,000 to Assez's net family assets and the actual income received on the trust to actual income from assets.

- (3) Nonrevocable trusts. If no family member has access to either the principal or income of the trust at the current time, the trust is not included in the calculation of income from assets or in annual income.

If only the income (and none of the principal) from the trust is currently available to a family member, the income is counted in annual income, but the trust is not included in the calculation of income from assets.

- (4) Nonrevocable trust as an asset disposed of for less than fair market value. If a tenant sets up a nonrevocable trust for the benefit of another person while residing in assisted

housing, the trust is considered an asset disposed of for less than fair market value (see subparagraph G.6 below).

- If the trust has been set up so income from the trust is regularly reinvested in the trust and is not paid back to the creator, the trust is calculated as any other asset disposed of for less than fair market value for two years and not taken into consideration thereafter.

**Example – Nonrevocable Trust As an Asset Disposed of for Less Than Fair Market Value**

Sarah Gordy placed \$100,000 in a nonrevocable trust for her grandson. Last year, the trust produced \$8,000, which was reinvested into the trust.

The trust is treated as an asset disposed of for less than fair market value for two years. (See paragraph 5.7 G.6.) No actual income from the trust is included in Sarah's annual income, but the value of the asset when it was given away, \$100,000, is included in net family assets for two years from the date the trust was established.

- Nonrevocable trust distributing income. When a tenant places an asset in a nonrevocable trust but continues to receive income from the trust, the income is added to annual income *and* the trust is counted as an asset disposed of for less than market value for two years. Following the two-year period, the owner will count only the actual income distributed from the trust to the tenant.

**Example – Nonrevocable Trust Distributing Income to the Creator/Tenant**

Reggie Bouchard has established a nonrevocable trust in the amount of \$35,000 that no one in the tenant family controls. Income from the trust is paid to Reggie. Last year, he received \$3,500.

The owner will count Reggie's actual anticipated income from the trust in next year's annual income.

Because the asset was disposed of for less than fair market value (see paragraph 5.7 G.6), the value of the asset given away, \$35,000, is counted as an asset disposed of for less than fair market value for two years.

- (5) Payment of principal from a trust. The beneficiary of a trust may receive funds from the trust in different ways. A beneficiary may receive the full value of a trust at one time. In that instance the funds would be considered a lump sum receipt and would be treated as an asset. A trust set up to provide support for a person with disabilities may pay only income from the trust on a periodic basis. Occasionally, however, a beneficiary may be given a portion of the trust principal on a periodic basis. When the principal is paid out on a periodic basis, those payments are considered regular income or gifts and are counted in annual income.

**Example – Payment of Principal Amounts from a Trust**

Jared Leland receives funds from a nonrevocable trust established by his parents for his support. Last year he received \$18,000 from the trust. The attorney managing the trust reported that \$3,500 of the funds distributed was interest income and \$14,500 was from principal. Jared receives a payment of \$1,500 each month (an amount that includes both principal and interest from the trust).

The owner will count the entire \$18,000 Jared received as annual income.

c. Special needs trusts.

A special needs trust is a trust that may be created under some state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the assets within the trust are not accessible to the beneficiary.

- (1) If the beneficiary does not have access to income from the trust, then it is not counted as part of income.
- (2) If income from the trust is paid to the beneficiary regularly, those payments are counted as income.

**Example – Special Needs Trust**

Daryl Rockland is a 55-year-old person with disabilities, living with his elderly parents. The parents have established a special-needs trust to provide income for their son after they are gone. The trust is not revocable; neither the parents nor the son currently have access to the principal or interest. In calculating the income of the Rocklands, the owner will disregard the trust.

2. Annuities.

a. Annuity facts and terms.

- (1) An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Fixed annuities guarantee a certain payment amount, while variable annuities do not, but have the potential for greater returns.
  - A hybrid annuity (also called a combination annuity) combines the features of a fixed annuity and a variable annuity.
  - A deferred annuity is an annuity that delays income payments until the holder chooses to receive them. An immediate annuity is one that begins payments immediately upon purchase.
  - A life annuity continues to pay out as long as the owner is alive. A single-life annuity provides income benefits for only one person. A joint life annuity is issued on two individuals, and payments continue in whole or in part as long as either individual is alive.
- (2) Generally, a person who holds an annuity from which he or she is not yet receiving payments will also be earning income. In most instances, a fixed annuity will be earning interest at a specified fixed rate similar to interest earned by a CD. A variable annuity will earn (or lose) based on market fluctuations, as in a mutual fund.
- (3) Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties.
- (4) Depending on the type of annuity and the current status of the annuity, the owner will need to ask different questions of the verification source, which will normally be the applicant or tenant's insurance broker.

b. Income after the holder begins receiving payments.

- (1) When verifying an annuity, owners should ask the verification source whether the holder of the annuity has the right to withdraw the balance of the annuity. For annuities without this right, the annuity is not treated as an asset.

- (2) Generally, when the holder has begun receiving annuity payments, the holder can no longer convert it to a lump sum of cash. In this situation, the holder will receive regular payments from the annuity that will be treated as regular income, and no calculations of income from assets will be made. \*\*

c. Calculations when an annuity is considered an asset.

- (1) When an applicant or tenant has the option of withdrawing the balance in an annuity, the annuity will be treated like any other asset. \*\*It will be necessary to determine the cash value of the annuity in addition to determining the actual income earned.
- (2) In most instances, an annuity from which payments have not yet been made is earning income on the balance in the annuity. A fixed annuity will earn income at a fixed rate in the same manner that a CD earns income. A variable annuity will earn (or lose) based on current market conditions, as with a mutual fund.
- (3) The owner will need to verify with the insurance agent or other appropriate source:
  - The right of the holder to withdraw the balance (even if penalties are involved).
  - The basis on which the annuity may be expected to grow during the coming year.
  - The surrender or early withdrawal penalty fee.
  - The tax rate and the tax penalty that would apply if the family withdrew the annuity.
- (4) The cash value will be the full value of the annuity, less the surrender (or withdrawal) penalty, and less any taxes and tax penalties that would be due.
- (5) The actual income is the balance in the annuity times the percentage (either fixed or variable) at which the annuity is expected to grow over the coming year. (This money will be reinvested into the annuity, but it is still considered actual income.)
- (6) The imputed income from the asset is calculated only after the cash value of all family assets has been determined.

imputed income from assets is calculated on the total cash value of all family assets.

3. Lump sum receipts counted as assets.
  - a. Commonly, when a family receives a large amount of money, a lump sum payment, the family will put the money in a checking or savings account, or will purchase stocks or bonds or a CD. Owners must count lump sum payments received by a tenant as assets. Examples of lump sum payments include the following:
    - (1) Inheritances;
    - (2) Capital gains;
    - (3) Lottery winnings paid in one payment;
    - (4) Cash from the sale of assets;
    - (5) Insurance settlements (including health and accident insurance, workers compensation, and personal and property losses); and
    - (6) Any other amounts that are received in one-time lump sum payments.

**Example – Calculating the Cash Value of an Annuity**

Rodrigo Ramirez, site manager at Fernwood Forrest, has interviewed Barbara Barstow, an applicant who reports holding an annuity from which she will not receive payments for another 15 years when she turns 65. The applicant could not provide any more detail on the annuity but did report the name, address, and phone number of her insurance agent.

Rodrigo called the insurance agent and faxed a copy of the applicant's approval for release of information. As a result, Rodrigo learned that the annuity is a fixed annuity, with a current value of \$20,400 earning interest at an annual rate of 4.5%. The applicant could withdraw the current balance in the account but would pay a surrender penalty of \$3,000. If the annuity is withdrawn, then the applicant will owe \$1,200 in tax penalties.

In this example, the important information for calculating cash value is the current value, \$20,400; the surrender fee, \$3,000; and the tax penalties, \$1,200. If the applicant withdrew the cash from the annuity, after paying the surrender fee and tax penalty, then the amount of cash received would be \$16,200.

The cash value, \$16,200, is recorded as an asset.

Rodrigo will also calculate the actual anticipated income on this asset:  $\$20,400 \times .045 = \$918$ .

- b. A lump sum payment is counted as an asset only as long as the family continues to possess it. If the family uses the money for something that is not an asset—a car or a vacation or education—the lump sum must not be counted.
- c. It is possible that a lump sum or an asset purchased with a lump sum payment may result in enough income to require the family to report the increased income before the next regularly scheduled annual recertification. But this requirement to report an increase in income before the next annual recertification would not apply if the income from the asset was not measurable by the tenant (e.g., gems, stamp collection).

**Examples – Lump Sum Additions to  
Family Assets (One-Time Payment)**

- JoAnne Wettig won \$500 in the lottery and received it in one payment. Do not count the \$500 as income. At JoAnne's next annual recertification, she will report all of her assets.
- Mia LaRue, a tenant in a Section 8 property, won \$75,000 in one payment in the lottery. She buys a car with some of the money, and puts the remaining amount of \$24,000 in the bank. Mia receives her first bank statement and notices that the income on this asset is \$205 per month. She must report this increase in income because the family has experienced a cumulative increase in income of more than \$200 per month. (See paragraph 7-10 A.4 on rules for reporting interim increases in income.) The owner must perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than \$5,000).

4. Balances held in retirement accounts.

- a. Balances held in retirement accounts are counted as assets if the money is accessible to the family member. For individuals still employed, accessible amounts are counted even if withdrawal would result in a penalty. However, amounts that would be accessible only if the person retired are not counted.
- b. IRA, Keogh, and similar retirement savings accounts are counted as assets, even though withdrawal would result in a penalty.
- c. Include contributions to company retirement/pension funds:
  - (1) While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.

- (2) After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump sum.
- d. Include in *annual income* any retirement benefits received through periodic payments.

**Examples – Balances Held in an IRA or 401K Retirement Account**

- Jed Dozier's 401K account balance is \$35,000. He is able to terminate his participation in the retirement plan without quitting his job, but if he did so he would lose a part of his employer's contribution and would pay a penalty fee. The total cash he could withdraw, \$18,000, is the amount that is counted as an asset.

5. \*Federal Government/Uniformed Services Pensions

In instances where the applicant/tenant is a retired Federal Government/Uniformed Services employee receiving a pension that is\* determined by a state court in a divorce, annulment of marriage, or legal separation proceeding to be a marital asset and the court provides OPM with the appropriate instructions to authorize OPM to provide payment of a portion of the retiree's pension to a former spouse, that portion to be paid directly to the former spouse is not counted as income for the applicant/tenant. However, where the tenant/applicant is the former spouse of a retired Federal Government/Uniformed Services employee, any amounts received pursuant to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation are reflected on a Form-1099 and is counted as income for the applicant/tenant. (See Paragraph 5-6.K.4 for more information on Federal Government/Uniformed Services pension funds paid to a former spouse.)

6. \*Other state, local government, social security or private pensions.

Other state, local government, social security or private pensions where pensions are reduced due to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation and paid directly to the former spouse are not counted as income for the applicant/tenant and should be handled in the same manner as 5, above.\*

7. Mortgage or deed of trust.

- a. Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage or deed of trust. This may be referred to as a "contract sale."

- b. A mortgage or deed of trust held by a family member is included as an asset. Payments on this type of asset are often received as one combined payment that includes interest and principal. The value of the asset is the unpaid principal as of the effective date of the certification. Each year this balance will decline as more principal is paid off. The interest portion of the payment is counted as actual income from an asset.
8. Assets disposed of for less than fair market value. Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at each certification and recertification. Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount actually received. (This provision does not apply to families receiving only BMIR assistance.)
- a. Any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. To determine the amount that has been given away, owners must compare the cash value of the asset to any amount received in compensation.
- b. However, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than \$1,000.

**Examples – Assets of More or Less Than \$1,000 Disposed of for Less Than Fair Market Value**

- During the past two years, Alexis Turner donated \$300 to the local food bank, \$150 to a camp program, and \$200 to her church. The total amount she disposed of for less than fair market value is \$650. Since the total is less than \$1,000, the donations are not treated as assets disposed of for less than fair market value.
- Jackson Jones gave each of his three children \$500. Because the total exceeds \$1,000, the gifts are treated as assets disposed of for less than fair market value.

- c. When the two-year period expires, the income assigned to the disposed asset also expires. If the two-year period ends in the middle of a recertification year, the tenant may request an interim recertification to remove the disposed asset(s). \* However, if the owner elects to only include the income for a partial remaining year as shown in the example below, an interim recertification should not be conducted.\*

**Example – Asset Disposed of  
for Less Than Fair Market Value**

Margot Lundberg's recertification will be effective January 1. On that date, it will be 18 months since she sold her house to her daughter for \$60,000 less than its value. The owner will count income on the \$60,000 for only six months. (After six months, the two-year limit on assets disposed of for less than fair market value will have expired.)

- d. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce, or separation are *not* counted.
- e. Assets placed in nonrevocable trusts are considered as assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgements.
- f. Applicants and tenants must sign a self-verification form at their initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or certifying that no assets have been disposed of for less than fair market value.
- g. Owners need to verify the tenant self certification only if the information does not appear to agree with other information reported by the tenant/applicant.

**Examples – Asset Disposed of for Less Than Market Value**

- (1) An applicant "sold" her home to her daughter for \$10,000. The home was valued at \$89,000 and had no loans secured against it. Broker fees and settlement costs are estimated at \$1,800.

\$89,000	Market value
<u>- 1,800</u>	Fees
\$87,200	Cash value
<u>- 10,000</u>	Sales price to daughter
\$77,200	Asset disposed of for less than fair market value

In this example, the asset disposed of for less than fair market value is \$77,200. That amount is counted as the resident's asset for two years from the date the sale took place.

(The \$10,000 received from the daughter may currently be in a savings account or other asset or may have been spent. The \$10,000 will be counted as an asset if the applicant has not spent the money.)

- (2) A resident contributed \$10,000 to her grandson's college tuition and gave her two granddaughters \$4,000 each to save for college.

\$10,000	College tuition gift
<u>+ 8,000</u>	Gift to granddaughters
\$18,000	Asset disposed of for less than fair market value

The \$18,000 disposed of for less than fair market value is counted as the tenant's asset for two years from the date each asset was given away.

**Section 2: Determining Adjusted Income**

Section 2 does not apply to families applying for or occupying 221(d)(3) BMIR units without additional subsidy.

**5-8 Key Regulations**

This paragraph identifies the key regulatory citation pertaining to Section 2: Determining Adjusted Income. The citation and its topic are listed below.

- 24 CFR 5.611 Adjusted Income

**5-9 Key Requirements for Determining Adjusted Income**

- A. There are five possible deductions that may be subtracted from annual income based on allowable family expenses and family characteristics. The remainder, after these deductions are subtracted, is called adjusted income. Adjusted income is generally the amount upon which rent is based. See Section 4 of this chapter for information about specific rent calculation methods. This section focuses on the calculation of annual adjusted income. Before rent is calculated, annual adjusted income is converted to monthly adjusted income.
- B. Of the five possible deductions, three are available to any assisted family, and two are permitted only for elderly or disabled families.
  1. The three types of deductions available to any assisted family are:
    - a. A deduction for dependents;
    - b. A child care deduction; and
    - c. A disability assistance deduction.
  2. The two types of deductions permitted only for families in which the head, spouse, or co-head is elderly or disabled are:
    - a. An elderly/disabled family deduction; and
    - b. A deduction for unreimbursed medical expenses.

**NOTE:** A family may not designate a family member as head or co-head solely to become eligible for these additional benefits. The remaining member of a family listed in paragraph 5-9 B.2 who is not 62 or older or a person with disabilities is not eligible for these allowances.

## 5-10 Calculating Adjusted Income

### A. Dependent Deduction

1. A family receives a deduction of \$480 for each family member who is:
  - a. Under 18 years of age;
  - b. A person with disabilities; or
  - c. A full-time student of any age.
2. Some family members may never qualify as dependents regardless of age, disability, or student status.
  - a. The head of the family, the spouse, and the co-head may never qualify as dependents.
  - b. A foster child, an unborn child, a child who has not yet joined the family, or a live-in aide may never be counted as a dependent.

3. A full-time student is one who is carrying a full-time subject load at an institution with a degree or certificate program. A full-time load is defined by the institution where the student is enrolled.
4. When more than one family shares custody of a child and both live in assisted housing, only one family at a time can claim the dependent deduction for that child. The family with primary custody or with custody at the time of the initial certification or annual recertification receives the deduction. If there is a dispute about which family should claim the dependent deduction, the **\*\*owner\*\*** should refer to available documents such as copies of court orders or an IRS return showing which family has claimed the child for income tax purposes.

**B. Child Care Deduction**

1. Anticipated expenses for the care of children under age 13 (including foster children) may be deducted from annual income if all of the following are true:
  - a. The care is necessary to enable a family member to work, seek employment, or further his/her education (academic or vocational).
  - b. The family has determined there is no adult family member capable of providing care during the hours care is needed.
  - c. The expenses are not paid to a family member living in the unit.
  - d. The amount deducted reflects reasonable charges for child care.
  - e. The expense is not reimbursed by an agency or individual outside the family.
  - f. Child care expenses incurred to permit a family member to work must not exceed the amount earned by the family member made available to work during the hours for which child care is paid.
2. When child care enables a family member to work or go to school, the rule limiting the deduction to the amount earned by the family member made available to work applies only to child care expenses incurred while the individual is at work. The expense for child care while that family member is at school or looking for work is not limited.

**Example – Child Care Deduction**  
**Separate Expenses for Time at Work and Time at School**

Bernice and Ernest have two children. Both parents work, but Bernice works only part-time and goes to school half time. She pays \$4.00 an hour for eight hours of child care a day. For four of those hours, she is at work; for four of them she attends school. She receives no reimbursement for her child care expense.

Her annual expense for child care during the hours she works is \$4,000. Her annual expense for the hours she is at school is also \$4,000. She earns \$6,000 a year. Ernest earns \$18,000.

The rule requires that Bernice's child care expense while she is working not exceed the amount she is earning while at work. In this case, that is not a problem. Bernice earns \$6,000 during the time she is paying \$4,000. Therefore, her deduction for the hours while she is working is \$4,000.

Bernice's expense while she is at school is not compared to her earnings. Her expense during those hours is \$4,000, and her deduction for those hours will also be \$4,000.

Bernice's total child care deduction is \$8,000 (\$4,000 + \$4,000). The total deduction exceeds the amount of Bernice's total earnings, but the amount she pays during the hours she works does not exceed her earnings.

If Bernice's child care costs for the hours while she works were greater than her earnings, she would not be able to deduct all of her child care costs.

Bernice is paying a total of \$8,000 in child care expenses. Of that expense, payments of \$4,000 cover the hours while she is in school; payments of \$4,000 cover the hours she works. If Bernice were earning \$3,500, her total child care deduction for the hours she works would be capped at the amount of money she earns. In this case, the total deduction would be \$7,500 (\$4,000 for expenses while she is in school plus \$3,500 of the amount she pays while she is working.)

3. Child care attributable to the work of a full-time student (except for head, spouse, co-head) is limited to not more than \$480, since the employment income of full-time students in excess of \$480 is not counted in the annual income calculation. Child care payments on behalf of a minor who is not living in the applicant's household cannot be deducted.
4. Child care expenses incurred by two assisted households with split custody can be split between the two households when the custody and expense is documented for each household and the documentation demonstrates that the total expense claimed by the two households does not exceed the cost for the actual time the child spends in care.

**C. Deduction for Disability Assistance Expense**

1. Families are entitled to a deduction for unreimbursed, anticipated costs for attendant care and "auxiliary apparatus" for each family member who is a person with disabilities, to the extent these expenses are reasonable and necessary to enable any family member 18 years of age or older who may or may not be the member who is a person with disabilities to be employed.

**Examples – Eligible Disability Assistance Expenses**

The payments made on a motorized wheelchair for the 42-year-old son of the head of the family enable the son to leave the house and go to work each day on his own. Prior to the purchase of the motorized wheelchair, the son was unable to make the commute to work. These payments are an eligible disability assistance expense.

Payments to a care attendant to stay with a disabled 16-year-old child allow the child's mother to go to work every day. These payments are an eligible disability assistance expense.

2. This deduction is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the family's annual income. However, the deduction may not exceed the earned income received by the family member or members who are enabled to work by the attendant care or auxiliary apparatus.
3. If the disability assistance enables more than one person to be employed, the owner must consider the combined incomes of those persons. For example, if an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

**Example – Calculating a Deduction for Disability Assistance Expenses**

Head's earned income	\$14,500
Spouse's earned income	+\$12,700
Total income	\$27,200
Care expenses for disabled 15-year-old	\$3,850
Calculation:	\$3,850
(3% of annual income)	- \$816
Allowable disability assistance expenses	\$3,034

(NOTE: \$3,034 is not greater than amount earned by spouse, who is enabled to work.)

4. Auxiliary apparatus includes items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a sight-impaired person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work.
  - a. Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.
  - b. The cost of maintenance and upkeep of an auxiliary apparatus is considered a disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car, but not the cost of maintaining the car).
  - c. If the apparatus is not used exclusively by the person with a disability, the owner must prorate the total cost and allow a specific amount for disability assistance.
5. In addition to anticipated, ongoing expenses, one-time nonrecurring expenses of a current resident for auxiliary apparatus may be included in the calculation of the disability assistance expense deduction after the expense is incurred. These expenses may be added to the family's total disability assistance expense either at the time the expense occurs through an interim recertification or in the rent calculation during the following annual recertification.
6. Attendant care includes but is not limited to reasonable expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities.

**Example – Calculating a Deduction When Disability Assistance Expenses Exceed Related Earnings**

Kenisha Prior, an individual with disabilities, lives with her mother Grace Prior. Her mother works full time. Kenisha works part time at the library. She requires a motorized wheelchair and special transportation to get to her job.

Grace Prior's Income	\$24,000
Kenisha Prior's Income	+ <u>5,000</u>
Total income	\$29,000

Disability Assistance Expense	\$8,000
(3% of annual income)	- <u>\$870</u>
	\$7,130

The \$7,130 exceeds the amount Kenisha earns. The disability assistance deduction, therefore, is limited to the amount earned by the person made available to work or, in this case, \$5,000.

7. When the same provider takes care of children and a disabled person over age 12, the owner must prorate the total cost and allocate a specific cost to attendant care. The sum of both child care and disability assistance expenses cannot exceed the employment income of the family member enabled to work.

**Example – Calculating Child Care and Disability Assistance Deductions**

Head's earned income	\$8,300
Spouse's earned income	+ <u>\$6,700</u>
Total income	\$15,000

The family has two children: a 10-year-old son and a 15-year-old son who is disabled. One care provider, who charges \$120 per week, cares for both sons. The care provider reports that the cost for caring for the 10-year-old is \$50 a week and the cost of care for the child with disabilities is \$70 a week.

Child care expense  $\$50 \times 52 = \$2,600$

Total disability assistance expense  $\$70 \times 52 = \$3,640$

Total disability assistance expense (\$3,640) less 3% of annual income (\$450) = \$3,190

Child care deduction	\$2,600
Disability assistance deduction	+ <u>\$3,190</u>
Total deductions	\$5,790

Total deductions when compared to earnings must not exceed employment earnings of \$6,700.

**D. Medical Expense Deduction**

1. The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 years old or is a person with disabilities (elderly or disabled families).
2. If the family is eligible for a medical expense deduction, owners must include the unreimbursed medical expenses of all family members, including the expenses of nonelderly adults or children living in the family.
3. Medical expenses include all expenses the family anticipates to incur during the 12 months following certification/recertification that are not reimbursed by an outside source, such as insurance.
4. The owner may use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.
5. The medical expense deduction is that portion of total medical expenses that exceeds 3% of annual income.

<b>Example – Calculating the Medical Expense Deduction</b>			
Age of head	64	Annual income	\$12,000
Age of spouse	58	Total medical expenses	\$1,500
<u>Sample Calculation</u>			
		Annual income	\$12,000
			x .03
		3% of annual income	\$ 360
		Total medical expenses	\$1,500
			- \$360
		<i>Allowable</i> medical expenses	\$ 1,140

6. In addition to anticipated expenses, past one-time nonrecurring medical expenses that have been paid in full may be included in the calculation of the medical expense deduction **\*\*for current tenants at an initial, interim or annual recertification. Past one-time nonrecurring medical expenses that have been paid in full are not applicable when calculating anticipated medical expenses at move-in.\*\*** If the tenant is under a payment plan, the expense would be counted as anticipated
  - a. There are two options for addressing one-time medical expenses. These expenses may be added to the family’s total medical expenses either: (1) at the time the expense occurs, through an interim recertification, or (2) at the upcoming annual recertification

**NOTE:** If the one-time expense is added at an interim recertification, it cannot be added to expenses at the annual recertification.

- b. The following example illustrates the two options. Tenants may use either option.

**The following example illustrates the two options. Tenants may use either option. Example – One-Time, Nonrecurring Medical Expenses**

Maria and Gustav Crumpler had a total of \$2,932 in medical expenses last year (Year 1). Of this amount, \$932 covered Gustav's gall bladder surgery; \$2,000 was for routine costs that are expected to re-occur in the coming year. The entire amount may be included in the Crumpler's medical costs for the coming year (Year 2) despite the fact that the gall bladder surgery is a past event that is not likely to re-occur.

If, during the coming year (Year 2), the Crumplers experience additional one-time medical costs not anticipated at the annual recertification, they may request an interim recertification or wait for their next annual recertification (during Year 3) and ask for the unanticipated expenses to be included in the medical expense calculation for the following year.

The owner may wish to explain to residents that including past one-time medical expenses in an annual recertification rather than in an interim recertification will result in a rent reduction for a larger number of months.

For example, let us assume Maria has unanticipated dental surgery during Year 2 at a cost of \$3,550 six months after the annual recertification. The Crumpler's current TTP is \$560; their annual income is \$25,000.

Annual income	\$25,000
Less elderly household deduction	- \$400
Less allowable medical deduction (\$2,932 less 3% of \$25,000)	- <u>\$2,182</u>
Adjusted annual income	\$22,418
Adjusted monthly income	\$1,868
TTP	\$560

If the Crumplers request an interim recertification, the \$3,550 additional cost will lower their rent for 6 months; if they wait for their annual recertification, the cost of the dental surgery will affect their rent for 12 months.

Annual income	\$25,000
Less elderly household deduction	- \$400
Less allowable medical deduction* (\$6,482 less 3% of \$25,000)	- <u>\$5,732</u>
Adjusted annual income	\$18,868
Adjusted monthly income	\$1,572
TTP	\$472

At the Crumplers' current annual income, the large dental bill reduces rent by \$88.

**OPTION #1:** If the Year 2 rent is adjusted through an interim recertification, the Crumplers will save 6 months times \$88 or \$528.

**OPTION #2:** If the Crumplers wait until their annual recertification, the large bill will affect their rent for the 12 months of Year 3, and they will save twice as much, or \$1,056.

7. When a family is making regular payments over time on a bill for a past one-time medical expense, those payments are included in anticipated medical expenses. However, if a family has received a deduction for the full amount of a medical bill it is paying over time, the family cannot continue to count that bill even if the bill has not yet been paid.

**Example – Medical Expense Paid over a Period of Time**

Ursula and Sebastian Grant did not have insurance to cover Sebastian's operation four years ago. They have been paying \$105 a month toward the \$5,040 debt. Each year that amount (\$105 x 12 months or \$1,260) has been included in their total medical expenses. A review of their file indicates that a total of \$5,040 has been added to total medical expenses over the four-year period. However, the Grants bring a current invoice to their annual recertification interview. Over the four-year period they have missed five payments and still owe \$525. Although they still owe this amount, the bill cannot be included in their current medical expenses because the expense has already been deducted.

8. Not all elderly or disabled applicants or participants are aware that their unreimbursed expenses for medical care are included in the calculation of adjusted income for elderly or disabled families. For that reason, it is important for owners to ask enough questions to obtain complete information about allowable medical expenses. The following list highlights some of the most common expenses that may be deducted. A list of examples of eligible medical expenses may be found in Exhibit 5-3.
- a. Services of doctors and health care professionals;
  - b. Services of health care facilities;
  - c. Medical insurance premiums or costs of an HMO;
  - d. Prescription/nonprescription medicines that have been prescribed by a physician;
  - e. Transportation to treatment;
  - f. Dental expenses;
  - g. Eyeglasses, hearing aids, batteries;
  - h. Live-in or periodic medical assistance such as nursing services, or costs for an assistance animal and its upkeep;
  - i. Monthly payments on accumulated medical bills;
  - j. Medical care of a permanently institutionalized family member *if* his or her income is included in annual income; and

- k. Long-term care insurance premiums. The family member paying a long-term care insurance premium must sign a certification (\*\*see Sample Certification for Qualified Long-Term Care Insurance Expenses in Exhibit 5-4\*\*) that states the insurance is guaranteed renewable, does not provide a cash surrender value, will not cover expenses covered under Medicare, and restricts the use of refunds. The certification must be maintained in the family's occupancy file. (Paragraph 5-6 J.3 describes situations in which long-term care insurance payments must be included in annual income.)
9. Special calculation for families eligible for disability assistance and medical expense deductions. If an elderly family has both unreimbursed medical expenses and disability assistance expenses, a special calculation is required to ensure that the family's 3% of income expenditure is applied only one time. Because the deduction for disability assistance expenses is limited by the amount earned by the person enabled to work, the disability deduction must be calculated before the medical deduction is calculated.
- a. When a family has unreimbursed disability assistance expenses that are less than 3% of annual income, the family will receive no deduction for disability assistance expense. However, the deduction for medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds 3% of annual income.
  - b. If the disability assistance expense exceeds the amount earned by the person who was enabled to work, the deduction for disability assistance will be capped at the amount earned by that individual. When the family is also eligible for a medical expense deduction, however, the 3% may have been exhausted in the first calculation, and it then will not be applied to medical expenses.
  - c. When a family has both disability assistance expenses and medical expenses, it is important to review the collected expenses to be sure no expense has been inadvertently included in both categories.

#### E. Elderly Family Deduction

An elderly or disabled family is any family in which the head, spouse, or co-head (or the sole member) is at least 62 years of age or a person with disabilities. Each elderly or disabled family receives a \$400 family deduction. Because this is a "family deduction" each family receives only one deduction, even if both the head and spouse are elderly or disabled.

**Example – Special Calculation for Families Who Are Eligible  
for Disability Assistance and Medical Expense Deductions**

The following is basic information on the family:

Head (retired/disabled)—SS/pension income	\$16,000
Spouse (employed)—employment income	+ <u>\$4,000</u>
Total Annual Income	\$20,000
Total disability assistance expenses	\$500
Total medical expenses	\$1,000

Step 1: Determine if the disability assistance expenses exceed 3% of the family's total annual income.

Total disability assistance expenses	\$500
Minus 3% of total annual income	<u>-\$600</u>
	(\$100)

No portion of the disability expenses exceeds 3% of the annual income; therefore, the disability assistance deduction is \$0.

Step 2: Calculate if the medical expenses exceed the balance of 3% of the family's total annual income.

Total medical expenses	\$1,000
Minus the balance of 3% of total annual income	<u>-\$100</u>
<b>Allowable medical expenses deduction</b>	<b>\$900</b>

**F. No Deduction for Alimony or Child Support Paid to a Person outside the Assisted Family**

There is no deduction for an amount paid to a person outside the assisted family for alimony or child support. Even if the amount is garnished from the wages of a family member, it must be included in annual income.

**Example – Child Support Garnished from Wages**

George Graevette pays \$150 per month in child support. It is garnished from his monthly wages of \$950. After the child support is deducted from his salary, he receives \$800. The owner must count \$950 as George's monthly income.

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## Section 3: Verification

### 5-11 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 3: Verification. The citations and their titles (or topics) are listed below.

- A. 24 CFR part 5, subpart B – Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information
- B. 24 CFR 5.659 Family Information and Verification
- C. 24 CFR 8.24, 8.32, 100.204 (Reasonable accommodation)

### 5-12 Verification Requirements

#### A. Key Requirements

- 1. Owners must verify all income, assets, expenses, deductions, family characteristics, and circumstances that affect family eligibility or level of assistance.
- 2. Applicants and adult family members must sign consent forms to authorize the owner to collect information to verify eligibility, income, assets, expenses, and deductions. Applicants and tenants who do not sign required consent forms will not receive assistance.
- 3. Family members 6 years of age and older must provide the owner with a complete and accurate social security number. For any members of the family who do not have a social security number, the applicant or family member must certify that the individual has never received a social security number. This requirement is described in paragraphs 3-9 and 3-**31** of this handbook.
- 4. The owner must handle any information obtained to verify eligibility or income in accordance with the Privacy Act.

**Figure 5-4: Privacy Act Notice**

The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the social security number of each household member who is 6 years old or older.

**Purpose:** Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities.

**Other Uses:** HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the Government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate federal, state, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

**Penalty:** You must provide all of the information requested by the owner, including all social security numbers you, and all other household members age 6 years and older, have and use. Giving the social security numbers of all household members 6 years of age and older is mandatory, and not providing the social security numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

#### **B. Timeframe for Conducting Verifications**

Owners conduct verifications at the following three times.

1. Owners must verify income, assets, expenses, and deductions and all eligibility requirements prior to move-in.
2. Owners must verify each family's income, assets, expenses, and deductions as part of the annual recertification process. Refer to Chapter 7, Section 1 for information on annual recertifications.
3. Owners must verify changes in income, allowances, or family characteristics reported between annual recertifications. Refer to Chapter 7, Section 2 for information on interim recertifications.

## 5-13 Acceptable Verification Methods

### A. Methods of Verification

Owners must use verification methods that are acceptable to HUD. The owner is responsible for determining if the verification documentation is adequate and credible. HUD accepts three methods of verification. These are, in order of acceptability, third-party verification, review of documents, and family certification. If third-party verification is not available, owners must document the tenant file to explain why third-party verification was not available. **Appendix 3** provides a detailed list of acceptable forms of verification by type of information.

### B. Third-Party Verification

The following describes ways in which third-party verification may be obtained.

1. Written. Written documentation sent directly by a third-party source is the preferred method of verification. It is assumed that third-party sources will send written verification to the owner through the mail. (For information about electronic documentation, see subparagraph B3 below.)

The applicant or tenant should not hand-carry the verification to or from the third-party source. If the verification does not contain an original signature or is delivered by the applicant or tenant, the owner should examine the document for evidence of tampering. In these situations, the owner may, but does not have to, accept the document as acceptable verification.

2. Oral. Oral verification, by telephone, from a reliable third-party source is an acceptable verification method. Owners frequently use this method when the third party does not respond to the written verification request. When verifying information over the telephone, it is important to be certain that the person on the telephone is the party he or she claims to be. Generally, it is best to telephone the verification source rather than to accept verification from a source calling the property management office. Oral verification must be documented in the file, as described in paragraph 5-19 C.

**NOTE: Appendix 3** includes selected phone numbers of verification sources for employment and income records. However, they do not take the place of third party verification. The phone numbers contained in **Appendix 3** are not toll free but such calls are valid project expenses.

3. Electronic. The owner may obtain accurate third-party written verification by facsimile, e-mail, or Internet, if adequate effort is made to ensure that the sender is a valid third-party source.

- a. Facsimile. Information sent by fax is most reliable if the owner and the verification source agree to use this method in advance during a telephone conversation. The fax should include the company name and fax number of the verification source.
- b. E-mail. Similar to faxed information, information verified by e-mail is more reliable when preceded by a telephone conversation and/or when the e-mail address includes the name of an appropriate individual and firm.
- c. Internet. Information verified on the Internet is considered third party verification if the owner is able to view web-based information from a reputable source on the computer screen. Use of a printout from the Internet may also be adequate verification in many instances. Refer to subparagraph C. Review of Documents below.

#### Example – Verification by Internet Printout

Jose Perez maintains a portfolio of stocks and bonds through an Internet-based stockbroker. The broker only provides electronic account statements and will not respond to a written verification request. The owner may accept a printout of Jose's most recent statement if it includes the relevant information required for a third-party verification and an Internet address and header or footer that identifies the company issuing the statement. If the owner has reason to question the authenticity of a document, the owner may require Jose to access the electronic file via the Internet in the owner's office, without providing the owner with username or password information.

#### C. Review of Documents

1. An owner may review documents submitted by the applicant or tenant in one of the following situations:
  - a. Third-party verification is not possible or is not required. For example, verifying that a family member is over 62 years old is more appropriately accomplished by examining a birth certificate than through third-party verification. \*\*When third party verification is not possible, refer to paragraph 5-19 E for documenting the file.\*\*
  - b. Third-party verification is delayed. If information from a third party is not received within two weeks of its request, owners may consider original documents submitted by the tenant.\*\*

**Examples – Appropriate Occasions to Verify Information through a Review of Documents**

- The owner sent a verification request to the tenant's employer but did not receive a response. The owner then made several calls to the employer but has not received a return call. The owner may use a review of documents (pay stubs) for verification. The owner should insist on a series of consecutive, recent pay stubs and should have a standard policy indicating the number of consecutive pay stubs required.
- The tenant's bank charges the bank account a fee for completing verification requests. The owner allows the resident to provide a current savings account statement or checking account statements for the past six months.
- The tenant's employer uses a 900 phone number, which results in a charge to the owner's phone to provide income verification. (In this case, the owner will accept the most recent consecutive eight pay stubs to verify earned income.)
- In cases where there is no third party available, a review of documents will always be appropriate. To verify a person's age, a birth certificate may be used. A social security card is the best verification of a social security number.

2. An owner must place copies of the reviewed documents in the applicant's or tenant's file. If copies cannot be made, the person reviewing the original documents must list the reviewed documents and the information provided on the documents, and must initial and date the notation.
3. Obtaining accurate verification through a review of documents requires the owner to consider the following:
  - a. Is the document current? Documentation of public assistance may be inaccurate if it is not recent and does not show any changes in the family's benefits or work and training activities.
  - b. Is the documentation complete? Owners may not accept pay stubs to document employment income unless the applicant or tenant provides the most recent **\*\*four to six\*\*** pay stubs to illustrate variations in hours worked. Actual paychecks or copies of paychecks should never be used to document income because deductions are not shown on the paycheck.

- c. Is the document an unaltered original? The greatest shortcoming of documents as a verification source is their susceptibility to undetectable change through the use of high-quality copying equipment. Documents with original signatures are the most reliable. Photocopied documents generally cannot be assumed to be reliable.

#### D. Family Certification

An owner may accept a tenant's notarized statement or signed affidavit regarding the veracity of information submitted if the information cannot be verified by another acceptable verification method.

### 5-14 Identifying Appropriate Verification Sources

An owner must only collect information that is necessary to determine the applicant's or tenant's eligibility for assistance or level of assistance. **Appendix 3** provides a list of acceptable forms of third-party verification.

### 5-15 Required Verification and Consent Forms

#### A. Consent and Verification Forms

Adult members of assisted families must authorize owners to request independent verification of data required for program participation. To provide owners with this authorization, adult family members must sign two HUD-required consent forms plus the owner's specialized verification forms. Owners must create their own verification forms to request information from employers, child care providers, medical professionals, and others. Families sign these and the two HUD consent forms at the time of move-in certification and annual recertification. All adults in each assisted family must sign the required consent forms or the family must be denied assistance. Owners must give the family a copy of each form the family signed, a HUD Fact Sheet, and the Resident Rights and Responsibilities brochure.

#### B. HUD-Required Consent and Release Forms

Applicants and tenants must sign two HUD-required consent forms.

1. Form HUD-9887, Notice and Consent to the Release of Information to HUD and to a PHA. Each adult member must sign the form regardless of whether he or she has income. \*Each family member who is at least 18 years of age and the head, spouse or co-head, regardless of age, must sign this form at move-in, initial and at each annual recertification. The form must also be signed when a new adult member joins the household.\* The form is valid for 15 months from the date of signature. The consent allows HUD or a public housing agency to verify information with the Internal Revenue Service, the Social Security Administration, and with state agencies that maintain wage and unemployment claim information. Owners must keep the original signed form in the tenant's

file and provide a copy to the family. Exhibit 5-5 contains a copy of form HUD-9887.

2. Form HUD 9887-A, Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance. Owners and the head of household, spouse, co-head and each family member who is at least 18 years of age must sign \*\*a HUD-9887-A\*\* form \*\*at move-in and at each annual recertification\*\*. Each adult member must sign a form regardless of whether he or she has income. The consent allows owners to request and receive information from third-party sources about the applicant or tenant. Owners keep the original form in the tenant's file and provide a copy to the family. Exhibit 5-6 contains a copy of form HUD 9887-A.

### C. Information to Tenants

Owners must provide applicants and tenants with the HUD Fact Sheet and a copy of the Resident Rights and Responsibilities brochure.

1. HUD-9887 Fact Sheet. When applicants and tenants sign form HUD-9887 and form HUD 9887-A, owners must provide each family with a copy of the HUD Fact Sheet. This Fact Sheet describes the verification requirements for applicants and tenants and the tenant protections that are part of the verification process. Exhibit 5-7 contains a copy of the HUD Fact Sheet.
2. Resident Rights and Responsibilities Brochure. In addition, owners must provide applicants and tenants with a copy of the Resident Rights and Responsibilities brochure at move-in and annually at recertification. Copies of the brochure may be obtained by calling the HUD National Multifamily Clearinghouse at 800-685-8470.

### D. Owner-Created Verification Forms

1. Owners must create verification forms for specific verification needs and must include the language required by HUD as shown in Figure 5-5. **Appendix \*\*6\*\*** contains instructions, a sample verification consent, and guidance about the types of information to request when verifying income and eligibility.
2. It is important that the applicant or tenant know whom owners will ask to provide information and to whom the completed form will be returned. Therefore, verification forms must clearly state in a prominent location that the applicant or tenant may not sign the consent if the form does not clearly indicate who will provide the requested information and who will receive the information. When sending a request for verification to a third party, owners send the verification form with the applicant's or tenant's original signature to the third-party source. Owners must retain a copy of the verification form and provide a copy to the applicant or tenant upon request.

**Figure 5-5: Language Required in all Consent Forms**

The following statement must appear on all consent forms developed by owners:

"Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper use of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person who knowingly or willingly requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the \*\*Social Security Act at 208 (a) (6), (7) and (8). Violation of these provisions are cited as violations of 42 U.S.C. 408 (a) (6), (7) and (8).\*\*"

#### 5-16 Social Security and Supplemental Security Income Data Match

- A. Owners verify social security income and supplemental security income electronically through TRACS. If there is a discrepancy between income reported by the tenant or applicant and income provided by the Social Security Administration (SSA), TRACS will automatically generate a message that is sent to the owner. The owner must attempt to contact the applicant or tenant to disclose the discrepancy. \*\*
- B. Additional information is available on HUD's website page describing the tenant assessment system (for tenant income verification) (TASS):

[www.hud.gov/offices/reac/products/prodtass.cfm](http://www.hud.gov/offices/reac/products/prodtass.cfm)

TASS is a computer-based tool to assist owners in verifying tenant incomes by comparing tenant-reported information to information in other HUD systems from the Social Security Administration and the Internal Revenue Service.

#### 5-17 Effective Term of Verifications

Signed verification and consent forms must be used within a reasonable time after the applicant or tenant has signed if the tenant's signature is to represent a valid and current authorization by the family. Therefore, HUD has set specific limits on the duration of verification consents. In addition, verified information must be used in a timely manner since family circumstances are subject to change. HUD places several other limits on the information that may be requested and when and how it may be used.

**A. Duration of Verification Authorization**

Owner-created verification forms and the forms HUD 9887 and 9887-A expire 15 months after they are signed. Owners must ensure that the forms HUD 9887 and 9887-A have not expired when processing verifications. However, there are differences between the duration of form HUD-9887 and that of the individual verification forms.

1. The form HUD 9887-A and individual verification forms can be used during the 120 days before the certification period. During the certification period, however, these forms may be used only in cases where the owner receives information indicating that the information the tenant has provided may be incorrect. Other uses are prohibited.
2. Owners may verify anticipated income using individual verification forms to gather prospective information when necessary (e.g., verifying seasonal employment). Historical information that owners may request using individual verification forms is restricted as follows:
  - a. Information requested by individual verification forms is restricted to data that is no more than 12 months old.
  - b. However, if the owner receives inconsistent information and has reason to believe that the information the applicant or tenant has supplied is incorrect, the owner may obtain information from any time in the last five years when the individual was receiving assistance, as provided by the form HUD 9887-A.
3. The form HUD-9887 may be used at any time during the entire 15 month period. The information covered by the form HUD-9887 is restricted as follows:
  - a. State Wage Information Collection Agency (SWICA). Information received from SWICA is limited to wages and unemployment compensation the applicant or tenant received during the last five years she/he received housing assistance.
  - b. Internal Revenue Service and Social Security Administration. form HUD-9887 authorizes release by IRS and SSA of data from only the current income tax return and IRS W-2 form.

If the IRS or SSA matches reveal that the tenant may have supplied inconsistent information, HUD may request that the tenant consent to the owner acquiring information on the last five years during the periods in which the tenant was receiving assistance.

**B. Effective Term of Verifications**

1. Verifications are valid for **\*\*120\*\*** days from the date of receipt by the owner.

\*\*

2. If verifications are more than 120 days old, the owner must obtain new verifications.
3. Time limits do not apply to information that does not need to be reverified, such as:
  - a. Age;
  - b. Disability status;
  - c. Family membership; or
  - d. Citizenship status.
4. Time limits also do not apply to the verification of social security numbers; however, at each recertification any family member who has previously reported having never received a social security number, must be asked:
  - a. To supply verification of a social security number if one has been received; or
  - b. To certify, again, that he/she has never received a social security number.

#### **5-18 Inconsistent Information Obtained Through Verifications**

An owner may not take any action to reduce, suspend, deny, or terminate assistance based on inconsistent information received during the verification process until the owner has independently investigated the information. The owner should follow procedures for addressing errors and fraud and for terminating assistance in accordance with Chapter 8.

#### **5-19 Documenting Verifications**

##### **A. Key Requirement**

Owners must include verification documentation in the tenant file.

##### **B. Documenting Third-Party Verification**

Third-party verification received through the mail or by facsimile transmission must be put in the tenant file.

##### **C. Documenting Telephone Verification**

When verifying information by phone, the owner must record and include in the tenant's file the following information:

1. Third-party's name, position, and contact information;

2. Information reported by the third party;
3. Name of the person who conducted the telephone interview; and
4. Date and time of the telephone call.

**D. Recording Inspection of Original Documents**

Original documents should be photocopied, and the photocopy should be placed in the tenant file. If the original document cannot be copied, a clear note to the file must describe the type of document, the information contained in the document, the name of the person who reviewed the document, and the date of that review.

**NOTE:** It is not mandatory that social security cards be copied. See **Appendix 3** for alternate methods.

**E. Documenting Why Third-Party Verification Is Not Available**

When third-party verification is not available, owners must document in the file efforts made to obtain the required verification and the reason the verification was not obtained. The owner must include the following documents in the applicant's or tenant's file:

1. A written note to the file explaining why third-party verification is not possible; or
2. A copy of the date-stamped original request that was sent to the third party;
3. Written notes or documentation indicating follow-up efforts to reach the third party to obtain verification; and
4. A written note to the file indicating that the request has been outstanding without a response from the third party.

**F. Reasonable Accommodation**

If an applicant or tenant cannot read or sign a consent form because of a disability, the owner must provide a reasonable accommodation. See Chapter 2, Section 3, Subsection 4 for a description of the requirements regarding reasonable accommodations.

**Examples – Reasonable Accommodation**

- Provide forms in large print.
- Provide readers for persons with visual disabilities.
- Allow the use of a designated signatory.

- Visit the person's home if the applicant or tenant cannot travel to the office to complete the forms.

## 5-20 Confidentiality of Applicant and Tenant Information

- A. Federal law limits the information owners can collect about an applicant or tenant to only information that is necessary to determine eligibility and level of assistance.
- B. Federal privacy requirements also establish the responsibility of owners and their employees to use information provided by applicants and tenants only for specified program purposes and to prevent the use or disclosure of this information for other purposes.
  1. To help ensure the privacy of applicant and tenant information, owners and their employees are subject to penalties for unauthorized disclosure of applicant/tenant information. In addition, applicants and tenants may initiate civil action against an owner for unauthorized disclosure or improper use of the information they provided. Language on the HUD-required consent forms, the verification forms developed by owners, and the **\*\*HUD-50059\*\*** clearly describes owners' responsibility regarding the privacy of this information and the possible penalties.
  2. HUD encourages owners to develop their own procedures and internal controls to prevent the improper use or unauthorized disclosure of information about applicants and tenants. Adequate procedures and controls protect not only applicants and tenants, but also owners.
- C. Owners must also comply with state privacy laws concerning the information they receive from third-party sources about applicants and tenants. These laws generally require confidentiality and restrict the uses of this information.

## 5-21 Refusal to Sign Consent Forms

- A. If an applicant refuses to sign forms HUD 9887 or 9887-A or the owner's verification forms, the owner must deny assistance.
- B. If a tenant refuses to sign the required verification and consent forms, the owner must terminate assistance. If the owner intends to terminate assistance for this reason, the owner must follow procedures established in the lease that require the tenant to pay the HUD-approved market rent for the unit. In a Section 202 PRAC or Section 811 PRAC project, the tenant may be evicted if the tenant refuses to sign the required verification and consent forms.
- C. If a tenant is unable to sign the forms on time due to extenuating circumstances, the owner must document the reasons for the delay in the tenant file and indicate how and when the tenant will provide the proper signature.

**Examples – Tenant Failure to Sign Consent Forms  
Due to Extenuating Circumstances**

- Jonas and Joycelyn Hardwick were to have forms HUD 9887 and 9887-A signed by their adult son. However, he was in an automobile accident and has been in a coma.
- Lydia Bailey's husband has been temporarily assigned to overseas duty as part of a missionary hunger-relief program. She has signed consent forms, and the forms have been mailed to him but have not been returned. She reports that mail has recently been taking five or six weeks.

**5-22 Interim Recertifications**

When processing an interim recertification, the owner must ask the tenant to identify all changes in income, expenses, or family composition since the last recertification. Owners only need verify those items that have changed. For example, if the head of household was laid off from his or her job and asks the owner to prepare an interim recertification, the owner does not need to reverify the spouse's employment income unless that has also changed. When the tenant signs the certification she or he certifies that the information on the report is accurate and current. Additional information about the procedures for conducting interim recertifications is discussed in Chapter 7, Section 2.

**5-23 Record-Keeping Procedures**

- A. Owners must keep the following documents in the tenant's file at the project site:
1. All original, signed forms HUD 9887 and HUD 9887-A;
  2. A copy of signed individual consent forms; and
  3. Third-party verifications.
- B. Owners must maintain documentation of all verification efforts throughout the term of each tenancy and for at least three years after the tenant moves out
- C. \*\*The tenant's file should be available for review by the tenant upon request or by a third party who provides signed authorization for access from the tenant.\*\*
- D. Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring civil action for damages and seek other relief, as appropriate, against the employee. Forms HUD 9887 and 9887-A describe the penalties for the improper use of consent forms.

- E. \*\*Owners must dispose of tenant files and records in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc.\*\*

## Section 4: Calculating Tenant Rent

### 5-24 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 4: Calculating Tenant Rent. The citations and their titles or (topics) are listed below.

- A. 24 CFR 5.628 Total Tenant Payment
- B. 24 CFR 5.630 Minimum Rent
- C. 24 CFR 236.735 Rental Assistance Payments and Rental Charges
- D. 24 CFR 891.105, 891.410, 891.520, 891.640, 891.655, 891.705 (Project rental assistance payment, project assistance payment, tenant rent, total tenant payment, and rent for unassisted units)
- E. \*\*24 CFR 5.661 Section 8 project-based assistance programs: Approval for police or other security personnel to live in project\*\*

### 5-25 Calculating the Tenant Contribution for Section 8, PAC, PRAC, RAP, and Rent Supplement Properties

#### A. Total Tenant Payment (TTP)

The Total Tenant Payment (TTP) is the amount a tenant is expected to contribute for rent and utilities. TTP for Section 8, PAC, PRAC, RAP, and Rent Supplement properties is based on the family's income. The formulas for calculating TTP are shown in Figure 5-6. \*\* Exhibit 5-8\*\* also shows the formulas for calculating tenant contributions for all assisted-housing programs.

#### B. Unit Rent

1. The contract rent (basic rent in the Section 236 program) represents the amount of rent an owner is entitled to collect to operate and maintain the property. It is HUD-approved. For Section 202 and 811 PRACS, the contract rent is the operating rent minus the utility allowance.
2. Projects in which the tenant pays all or some utilities have HUD-approved utility allowances that reflect an estimated average amount tenants will pay for utilities assuming normal consumption.

### C. Timeframe for Calculating Rent

Owners calculate rent at three points in time.

1. Owners must calculate rent prior to occupancy by an applicant.
2. Owners must calculate rent as part of an annual recertification. Refer to Chapter 7, Section 1 for information on annual recertification of income.
3. When assistance is provided through Section 8, PAC, PRAC, RAP, or Rent Supplement, owners must recalculate rent if a tenant reports a change in income, allowances, or family composition. Refer to Chapter 7, Section 2 for information on interim recertifications of income.

**Figure 5-6: Total Tenant Payment Formulas**

**Section 8, PAC, PRAC, and RAP**

- TTP is the greater of the following:
  - ◆ 30% of monthly adjusted income;
  - ◆ 10% of monthly gross income;
  - ◆ Welfare rent (welfare recipients in as-paid localities only); or
  - ◆ The \$25 minimum rent (Section 8 only).
- Section 8, RAP, and PAC programs may admit an applicant only if the TTP is less than the gross rent.
- In PRAC properties, the TTP may exceed the PRAC operating rent.

**Rent Supplement**

- TTP is the greater of the following:
  - ◆ 30% of monthly adjusted income; or
  - ◆ 30% of gross rent.
- At move-in or initial certification, the amount of Rent Supplement assistance may be no less than 10% of the gross rent or the tenant is not eligible.

## 5-26 Procedures for Determining Tenant Contribution for Section 8, PAC, PRAC, RAP, and Rent Supplement Properties

### A. Tenant Rent

Tenant rent is the portion of the TTP the tenant pays each month to the owner for rent. Tenant rent is calculated by subtracting the utility allowance from the TTP.

It is possible for tenant rent to be \$0 if the utility allowance is greater than the TTP. (See paragraph 9-13 for more information on utility reimbursements when the utility allowance is greater than the TTP.)

<b>Example – Calculating Tenant Rent</b>	
TTP:	\$225
Utility allowance:	<u>-\$ 75</u>
Tenant rent:	\$150

**B. Assistance Payments**

The assistance payment is the amount the owner bills HUD every month on behalf of the tenant. The assistance payment covers the difference between the TTP and the gross rent. It is the subsidy that HUD pays to the owner.

1. Housing Assistance Payment (HAP) is the assistance payment made by HUD to owners with units receiving assistance from the Section 8 program.

<b>Example – Calculating HAP</b>	
Gross rent	\$564
TTP	<u>-\$175</u>
HAP	\$389

2. Rental Assistance Payment (RAP) is the assistance payment made by HUD to owners for units receiving assistance through the RAP program.
3. Rent Supplement payment is the assistance payment made by HUD to owners for units receiving assistance through the Rent Supplement program.
4. Project Assistance Payment (PAC) is the assistance payment made by HUD for assisted units in a Section 202 project for nonelderly disabled families and individuals (also referred to as Project Assistance Contract [PAC] projects).
5. Project Rental Assistance Payment (PRAC) is the assistance payment made by HUD for assisted units in Section 202 or Section 811 properties with a Project Rental Assistance Contract (PRAC).

**C. Utility Reimbursement**

When the TTP is less than the utility allowance, the tenant receives a utility reimbursement to assist in meeting utility costs. The tenant will pay no tenant rent. The utility reimbursement is calculated by subtracting the TTP from the utility allowance. Refer to paragraph 9-13 for more information on utility reimbursements.

**D. Section 8 Minimum Rent**

Tenants in properties subsidized through the Section 8 program must pay a minimum TTP of \$25.

**\*NOTE:** Minimum rent does not apply to Section 202 PAC, Section 202 PRAC, Section 811 PRAC, RAP, Rent Supplement, Section 221(d)(3) BMIR or Section 236 programs.\*

1. The minimum rent is used when 30% of adjusted monthly income and 10% of gross monthly income, and the welfare rent where applicable, are all below \$25.
2. The minimum rent includes the tenant's contribution for rent and utilities. In any property in which the utility allowance is greater than \$25, the full TTP is applied toward the utility allowance. The tenant will receive a utility reimbursement in the amount by which the utility allowance exceeds \$25.

**Example – Utility Reimbursement for a Tenant Paying Minimum Rent**

The Nguyen family qualifies for the minimum total tenant payment of \$25. The family pays its own utility bills. The utility allowance for the unit is \$75 a month. The owner sends the Nguyen family a check each month for \$50 (\$75-\$25) as a utility reimbursement. The Nguyen family does not pay any tenant rent to the owner.

3. Financial hardship exemptions.
  - a. Owners must waive the minimum rent for any family unable to pay due to a long-term financial hardship, including the following:
    - The family has lost federal, state, or local government assistance or is waiting for an eligibility determination.
    - The family would be evicted if the minimum rent requirement was imposed.

- The family income has decreased due to a change in circumstances, including but not limited to loss of employment.
  - A death in the family has occurred.
  - Other applicable situations, as determined by HUD, have occurred.
- b. Implementing an exemption request. When a tenant requests a financial hardship exemption, the owner must waive the minimum \$25 rent charge beginning the month immediately following the tenant's request and implement the TTP calculated at the higher of 30% of adjusted monthly income or 10% of gross monthly income (or the welfare rent). The TTP will not drop to zero unless those calculations all result in zero.
- (1) The owner may request reasonable documentation of the hardship in order to determine whether there is a hardship and whether it is temporary or long term in nature. The owner should make a determination within one week of receiving the documentation.
  - (2) If the owner determines there is no hardship as covered by the statute, the owner must immediately reinstate the minimum rent requirements. The tenant is responsible for paying any minimum rent that was not paid from the date rent was suspended. The owner may not evict the tenant for nonpayment of rent during the time in which the owner was making the determination. The owner and tenant should reach a reasonable repayment agreement for any back payment of rent.
  - (3) If the owner determines that the hardship is temporary, the owner may not impose the minimum rent requirement until 90 days after the date of the suspension. At the end of the 90-day period, the tenant is responsible for paying the minimum rent, retroactive to the initial date of the suspension. The owner may not evict the tenant for nonpayment of rent during the time in which the owner was making the determination or during the 90-day suspension period. The owner and tenant should reach a reasonable repayment agreement for any back payment of rent.

**Example – Temporary Hardship Schedule**

Due to the death of his wife, Yung Kim took a six-week leave of absence from his part-time job. He requests a financial hardship exception. The owner, Oak Knoll Management, reviews his request and determines that the hardship is not long term. Yung Kim and Oak Knoll Management implement the following schedule:

- Current TTP \$25
- Hardship request received July 15
- Owner grants temporary hardship July 20
- August TTP \$0
- September TTP \$0
- October TTP \$0
- 90-day period ends October 15
- Total balance due 3 x \$25 \$75
- Tenant agrees to pay \$10 extra per month for seven months and \$5 extra on the eighth month.
- Monthly payment for seven months  
November – May TTP \$25 + \$10 \$35
- June TTP \$25 + \$5 \$30
- July TTP \$25

(4) If the hardship is determined to be long term, the owner must exempt the tenant from the minimum rent requirement from the date the owner granted the suspension. The suspension may be effective until such time that the hardship no longer exists. However, the owner must recertify the tenant every 90 days while the suspension lasts to verify that circumstances have not changed. The length of the hardship exemption may vary from one family to another depending on the circumstances of each family. The owner must process an interim recertification to implement a long-term exemption. Owners must maintain documentation on all requests and determinations regarding hardship exemptions.

**E. Welfare Rent**

1. The term “welfare rent” applies only in states that have “as-paid” public benefit programs. A welfare program is considered “as-paid” if the welfare agency does the following:
  - a. Designates a specific amount for shelter and utilities; and

- b. Adjusts that amount based upon the actual amount the family pays for shelter and utilities.
2. The maximum amount that may be specifically designated for rent and utilities is called the "welfare rent." See below for an example.

<b>Example – Calculating Welfare Rent</b>	
Published maximum for shelter and utilities:	\$200
Amount of welfare assistance for other needs:	\$220
Other income:	\$100
 Monthly income =	 \$520
"Welfare rent"=	\$200

### 5-27 Calculating Assistance Payments for Authorized Police/Security Personnel

- A. The amount of the monthly assistance payment to the owner is equal to the contract rent minus the monthly amount paid by the police officer or security personnel. HUD will not increase the assistance payment due to nonpayment of rent by the police officer or security personnel.

**NOTE:** The owner is not entitled to vacancy payments for the period following occupancy by a police officer or security personnel.

- B. For police/security personnel whose income exceeds the income limit for the property, the rent is set by the owner.
  1. The determination of the rent amount in such circumstances should take into consideration the income of the officer, the location of the property, and rents for comparable unassisted units in the area.
  2. Owners should establish a rent that is attractive to the officer, but not less than what the officer would pay as an eligible Section 8 tenant.
  3. Owners are expected to use a consistent methodology for each property when establishing the rents for officers in these circumstances.

### 5-28 Calculating Tenant Contribution for "Double Occupancy" in Group Homes

#### A. Double Occupancy

Some group homes for disabled residents provide units that may be shared by unrelated single tenants. The calculations for tenant contribution and for the assistance payment vary depending on whether the project is a Section 202/8 or a Section 811.

**B. Total Tenant Payment**

In both Section 202/8 and Section 811 group homes, each tenant in a double occupancy room is treated as a separate family in the calculation of TTP. Each resident is entitled to any deductions he or she would receive if occupying a single room, including the \$400 elderly/disabled family deduction.

<b>Example – TTP Calculation for Double Occupancy</b>	
<u>Resident A:</u>	
Annual income	\$5,200
Elderly family deduction	- \$400
Medical expense deduction	- \$900
Annual adjusted income	\$3,900
Monthly adjusted income	\$325
	(\$3,900/12 months)
30% of monthly adjusted income	\$98
10% of monthly gross income	\$43
Minimum rent	\$25
<i>TTP for Resident A =</i>	<b>\$98</b>
<u>Resident B:</u>	
Annual income	\$3,600
Elderly family deduction	- \$400
Medical expense deduction	- \$2,480
Annual adjusted income	\$720
Monthly adjusted income	\$60
	(\$720/12 months)
30% of monthly adjusted income	\$18
10% of monthly gross income	\$30
Minimum rent	\$25
<i>TTP for Resident B =</i>	<b>\$30</b>

**C. Contract Rent and Assistance Payment in Section 202/8 Group Homes**

1. In Section 202/8 group homes, the contract rent for a room shared by two occupants is split between the two tenants.
2. The assistance payment for the Section 202/8 double occupancy room is calculated separately for each tenant based on half of the contract rent for the unit.

**Example – Assistance Payment, Section 202/8 Double Occupancy**

Contract rent for the unit	\$800
Half of the contract rent for the unit	\$400
TTP for Tenant A =	**\$98**
Assistance payment for Tenant A is \$400 less **\$98 =	\$302**
TTP for Tenant B =	\$30
Assistance payment for Tenant B is \$400 less \$30 =	\$370

3. If the tenant rent for either tenant exceeds half of the contract rent, that tenant's rent will be capped at half of the contract rent. In the Section 202/8 double occupancy room, half of the contract rent is the maximum rent one occupant can pay.

**Example – Section 202/8 Double Occupancy**

\*\*Tenant A has an increase in income changing the monthly adjusted income to \$1,500. 30% of \$1,500 equals \$450. Tenant A is no longer eligible for assistance. Tenant A's rent is capped at \$400, which represents the maximum Tenant A will pay.\*\*

Gross rent for unit	\$800
Half the contract rent for the unit	\$400
**TTP for Tenant A	\$450
Assistance Payment for Tenant A	-0-
Rent Tenant A will pay	\$400**

4. Owner's rent-calculation software must reflect the split-unit rent and contain unit numbers that provide a distinction between tenants (e.g., unit 101A, 101B).
- D. **\*\*Operating Cost\*\* and Assistance Payment in Section 811 Group Homes**
1. \*\*In a Section 811 group home, the operating cost for a room shared by two occupants is split between the two tenants.

2. The assistance payment for the Section 811 double occupancy room is calculated separately for each tenant based on half of the operating cost for the unit.\*\*
3. In a Section 811 property, each tenant is certified separately and pays the greater of 30% of monthly adjusted income, 10% of monthly annual income, or the welfare rent.
4. In the Section 811 double occupancy unit, both occupants will pay the calculated TTP amount \*\*even if it exceeds their portion of\*\* the operating \*\*cost\*\* for the unit.

**Example – Calculating the Assistance Payment for a Double Occupancy Unit in a Section 811 Group Home**

Operating **cost** for unit	\$310
**Half of the operating cost for the unit	\$155**
TTP Tenant A =	\$160
**Assistance Payment for Tenant A	\$(5)**
TTP Tenant B =	\$75
**Assistance Payment for Tenant B	\$80

Although the Assistance Payment for Tenant A is zero, the voucher must indicate that \$5 over the operating cost was collected for rent. This is indicated by bracketing the (\$5.)\*\*

5. \*\*Owner's rent-calculation software must reflect the split-unit operating cost and contain unit numbers that provide a distinction between tenants (e.g., unit 101A, 101B).\*\*

**Example – Section 811 Total Tenant Payments**

Operating <b>**cost**</b> for the unit	\$310
<b>**One half of operating cost**</b>	\$155 <b>**</b>
TTP Tenant A =	\$330
<b>**Assistance Payment for Tenant A</b>	(\$175) <b>**</b>
TTP Tenant B =	\$240
Assistance payment <b>**for Tenant B</b>	(\$85)

**E. Calculating Rent at Change in Occupancy**

1. If there is a change in the number of individuals occupying the double occupancy unit, the assistance payment for the whole unit may change.
2. In a Section 202/8 **\*\*or a Section 811 PRAC\*\*** double-occupancy room, the rent and assistance payments are calculated as if each tenant occupied a separate unit each with a rent equaling half of the contract rent **\*\*or operating cost\*\*** for the unit. If one resident moves out, the TTP and assistance payment calculations for the remaining resident remain the same. The other half of the unit is treated like a vacant unit: there is no **\*\*assistance\*\*** payment but the owner may be eligible for vacancy loss claims for the vacated half of the unit.

**Example – Section 202/8 Calculation at a Change in Occupancy**

Contract Rent	\$800
Half of the contract rent	\$400
Tenant A Tenant Rent	**\$98**
Tenant B Tenant Rent	\$30

Tenant A moves out.

Assistance Payment for Tenant B is calculated using half of the contract rent = \$400 less the Tenant Rent for Tenant B \$30 = \$370 housing assistance payment.

There is no HAP payment for the half of the unit vacated by Tenant A. It is vacant. But, the owner may request a vacancy loss payment if appropriate.

**Example – Section 811 Calculation at a Change in Occupancy**

Operating Cost	\$310
Half of the operating cost	\$155
Tenant A Tenant Rent	\$160
Tenant B Tenant Rent	\$75

Tenant A moves out.

Assistance Payment for Tenant B is calculated using half of the operating cost = \$155 less the Tenant Rent for Tenant B \$75 = \$80 housing assistance payment.

There is no Assistance Payment for the half of the unit vacated by Tenant A. It is vacant. Even though Tenant A was paying more than half of the operating cost for the unit at move-out, the owner may request a vacancy loss payment if all other vacancy claim requirements have been met.

**5-29 Calculating Tenant Contribution for Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR)**

**A. Tenant's Rent Contribution**

The tenant's contribution to rent in the Section 236 and Section 221(d)(3) BMIR programs is based on the cost to operate the property and the income of the family. Figure 5-7 presents the rules for determining the tenant rent in these two programs.

1. Section 236 property. Every Section 236 property has a HUD-approved basic rent and market rent. Basic rent is the minimum rent all Section 236 tenants must pay. It represents the cost to operate the property after HUD has provided mortgage assistance to reduce the mortgage interest expense. The market rent represents the amount of rent the owner would have to charge, if the mortgage were not subsidized. Tenants pay a

percentage of their income towards rent, but never pay less than the basic rent or more than the market rent for the property.

When a tenant pays more than basic rent, the difference between the tenant's rent and basic rent is called "excess income." Excess income is an amount that exceeds what the owner needs to operate the property and is subject to specific requirements. Refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, and other current HUD notices for guidance on handling excess income. Although a tenant may pay more than basic rent, no tenant in a Section 236 property will pay more than the market rent for the property.

**Example – Calculating Excess Income**

Rent for Tenant A (30% of Tenant A's income):	\$350
Basic rent	<u>-\$300</u>
Excess Income	\$50

2. Section 221(d)(3) BMIR property. There is no rent calculation for tenants in a Section 221(d)(3) BMIR property. HUD approves a BMIR rent that all of the tenants must pay. The federal assistance in the BMIR property is provided through a below market interest rate for the mortgage loan. Applicants must meet income eligibility standards to be admitted to a BMIR property. After move-in, if a tenant's annual income goes above 110% of the BMIR income limit, the tenant must pay 110% the BMIR rent.
3. BMIR cooperative. If a BMIR cooperative member's annual income exceeds 110% of the BMIR income limit at the time of recertification, the cooperative must levy a surcharge to the member. See the definition of market rent in the Glossary for an explanation of the market carrying charge for over-income cooperative members.

**B. Timeframe for Calculating Rent**

Owners calculate rent at three points in time.

1. Owners must calculate rent prior to occupancy by an applicant.
2. Owners must calculate rent as part of an annual recertification. Refer to Chapter 7, Section 1 for information on annual recertification of income.
3. Owners of Section 236 properties must calculate rent if a tenant reports a change in income, allowances, or family composition. Refer to Chapter 7, Section 2 for information on interim recertifications of income.

**Figure 5-7: Tenant Contributions for the Section 236 and Section 221(d)(3) BMIR**

<b>Section 236</b>	
<b>Section 236 without Utility Allowance</b>	<b>Section 236 with Utility Allowance</b>
<ul style="list-style-type: none"><li>• Tenant rent is the greater of:<ul style="list-style-type: none"><li>◆ 30% of monthly adjusted income; or</li><li>◆ Section 236 basic rent.</li></ul></li><li>• Tenant rent may not be more than the Section 236 market rent.</li></ul>	<ul style="list-style-type: none"><li>• Tenant rent is the greater of:<ul style="list-style-type: none"><li>◆ 30% of monthly adjusted income less the utility allowance; or</li><li>◆ 25% of monthly adjusted income; or</li><li>◆ Basic rent.</li></ul></li><li>• Tenant rent may not be more than the Section 236 market rent.</li></ul>
<b>Section 221(d)(3) BMIR</b>	
<ul style="list-style-type: none"><li>• At initial certification, the tenant pays the BMIR rent.</li><li>• At recertification, the tenant's annual income is compared to the BMIR income limits. If the tenant's annual income is:<ul style="list-style-type: none"><li>◆ Less than or equal to 110% of the BMIR income limit, the tenant pays the BMIR rent;</li><li>◆ Greater than 110% of the BMIR income limit, the tenant pays 110% of the BMIR rent.</li></ul></li></ul>	

**5-30 Determining Tenant Contribution at Properties with Multiple Forms of Subsidy**

- A. At many multifamily properties different kinds of subsidies have been combined. For many years, tenant-based Section 8 subsidies have been added to properties built with Section 202 loans or financed with Section 236 and Section 221(d)(3) mortgage subsidies. Recently, the Low Income Housing Tax Credit program has been combined with a wide range of programs, from Section 202 projects with Section 8 already in place (Section 202/8) to housing choice voucher assistance.

- B. Although each of the programs combined within one property may have a different formula for determining tenant payments, it is generally possible to determine the correct rent for a family by identifying the available program for which that family is eligible that will provide the best option—or the lowest rent—for the tenant. The one exception to this can be at the recertification of a Section 8 or Rent Supplement family in a property with Low Income Housing Tax Credits. If the family's income has increased since move-in to a point that the assisted rent exceeds the Low Income Housing Tax Credit rent, that family will have to make a choice between the lower tax credit rent and the security of continuing on the rental assistance program.
- C. The tenant rent at properties assisted under more than one program is generally the lowest rent available for which the tenant is eligible.
1. Section 202/Section 8. In a Section 202 property with Section 8 tenant-based assistance, a tenant eligible for Section 8 will pay the tenant rent based on the Section 8 rent formula. If that tenant's income increases to the point that its TTP equals or exceeds the Section 8 contract rent, the family would no longer be eligible for the tenant based assistance.
  2. Section 236/Section 8. A family with a Section 8 subsidy in a Section 236 property will pay the Section 8 tenant rent unless, at recertification, the family's TTP equals or exceeds the Section 8 contract rent. Thereafter, the family will pay the tenant rent based on the Section 236 rent formula. A family living in a Section 236 property receiving Rent Supplement assistance would also stop receiving Rent Supplement assistance at the point the family's TTP increased to the level of the rent supplement contract rent. Thereafter the family will pay the tenant rent based on the Section 236 rent formula.
  3. Section 221(d)(3) BMIR with Section 8. A family receiving Section 8 assistance at a BMIR project would continue to pay the tenant rent based on the Section 8 rent formula until the TTP equaled or exceeded the BMIR rent. Thereafter, the family would pay rent based on the BMIR rent formula.
- D. In some instances, a tenant will not be eligible for the program offering the lowest rent, or a subsidy under that program will not be available for every unit or every tenant.

Sometimes, Section 8 subsidies are not available for the unit size the family needs, and the family must wait for a subsidy for the appropriate unit size. The owner's contract with HUD for the Section 8 assistance allocates Section 8 funding by unit size, and the owner is required to subsidize families based on the unit sizes allocated. If the owner was allocated 10 two-bedroom subsidies and has assigned those subsidies to 10 two-bedroom families, the owner cannot use an available three-bedroom subsidy to assist an 11th two-bedroom family. If the owner has determined that the bedroom distribution in its contract does not match the need in the project, the owner can ask HUD for a contract amendment to revise the unit size designations of the subsidy awarded.

- E. In some instances, a family will not be eligible for a lower rent program available at the property.

For example, a family in a BMIR project with Section 8 may be financially stretched when paying the BMIR rent but may not be income-eligible for the lower-rent Section 8 program.

### 5-31 Procedures for Calculating Rent

- A. Owners must calculate tenant rent payments electronically using on-site software or a service provider. Data used to determine the rent are based on information certified as accurate by the family and independently verified.
- B. The owner's computer software calculates rent based on the appropriate formulas for the tenant's unit and produces a printed copy of the **HUD-50059** to be signed by the tenant and the owner. The owner must produce a printed report in an easily read and understood format that contains all of the information used to calculate the tenant's rent.
- C. The tenant and the owner sign a copy of the report containing a statement certifying the accuracy of the information. The certification statements are provided on the **form HUD-50059** in Appendix 7-B. Additional information on the **HUD-50059** and the certifications can be found in Chapter 9.
- D. The owner must give a copy of the printed **HUD-50059** with the required signatures to the tenant and place another copy in the tenant file.
- E. The **HUD-50059** is then transmitted electronically to TRACS either directly or through the Contract Administrator. Refer to Chapter 9 for information on the **HUD-50059** requirements.
- F. **In all cases, the computer generated HUD-50059 must include the required tenant signatures and owner signatures prior to submitting the data to the Contract Administrator or HUD. The owner may consider extenuating circumstances when an adult family member is not available to sign the HUD-50059, for example, an adult serving in the military, students away at college, adults who are hospitalized for an extended period of time, or a family member who is permanently confined to a nursing home or hospital. The owner must document the file why the signature(s) was not obtained and, if applicable, when the signature(s) will be obtained.**

## Chapter 5 Exhibits

- 5-1. Income Inclusions and Exclusions  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e5-1HSGH.pdf>
- 5-2. Assets  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e5-2HSGH.pdf>
- 5-3. **\*\*Examples\*\*** of Medical Expenses That Are Deductible and Nondeductible  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e5-3HSGH.pdf>
- 5-4. **\*\*Sample\*\*** Certification for Qualified Long-Term Care Insurance Expenses  
<http://www.hud.gov/offices/adm/hudclips/forms/files/90101.pdf>
- 5-5. Form HUD-9887, *Notice and Consent for the Release of Information to HUD and to a PHA*  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e5HSGH.pdf>
- 5-6. Form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*  
  
See 5-5 above.
- 5-7. HUD Fact Sheet – Verification of Information Provided by Applicants and Tenants of Assisted Housing  
  
See 5-5 above.
- 5-8. Tenant Rent Formulas  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e5-8HSGH.pdf>

# Low-Income Housing Credit Allocation and Certification

OMB No. 1545-0988

▶ See separate instructions.

## Part I Allocation of Credit

Check if:  Addition to Qualified Basis  Amended Form

<b>A</b> Address of <b>building</b> (do not use P.O. box) (see instructions)	<b>B</b> Name and address of <b>housing credit agency</b>
<b>C</b> Name, address, and TIN of <b>building owner</b> receiving allocation	<b>D</b> Employer identification number of agency
TIN ▶ .....	<b>E</b> Building identification number (BIN)

<b>1a</b> Date of allocation ▶ .....	<b>b</b> Maximum housing credit dollar amount allowable	<b>1b</b>	
<b>2</b> Maximum applicable credit percentage allowable (see instructions) . . . . .		<b>2</b>	%
<b>3a</b> Maximum qualified basis . . . . .		<b>3a</b>	
<b>b</b> If the eligible basis used in the computation of line 3a was increased, check the applicable box and enter the percentage to which the eligible basis was increased (see instructions) . . . . .		<b>3b</b>	1 _ _ %
<input type="checkbox"/> Building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone			
<input type="checkbox"/> Section 42(d)(5)(B) high cost area provisions			
<b>4</b> Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.) . . . . .		<b>4</b>	%
<b>5</b> Date building placed in service . . . . . ▶ .....			
<b>6</b> Check the boxes that describe the allocation for the building (check those that apply):			
<b>a</b> <input type="checkbox"/> Newly constructed and federally subsidized	<b>b</b> <input type="checkbox"/> Newly constructed and <b>not</b> federally subsidized	<b>c</b> <input type="checkbox"/> Existing building	
<b>d</b> <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized	<b>e</b> <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures <b>not</b> federally subsidized		
<b>f</b> <input type="checkbox"/> Not federally subsidized by reason of 40-50 rule under sec. 42(i)(2)(E)	<b>g</b> <input type="checkbox"/> Allocation subject to nonprofit set-aside under sec. 42(h)(5)		

## Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

▶ .....	▶ .....	▶ .....
Signature of authorized official	Name (please type or print)	Date

## Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

<b>7</b> Eligible basis of building (see instructions) . . . . .	<b>7</b>	
<b>8a</b> Original qualified basis of the building at close of first year of credit period . . . . .	<b>8a</b>	
<b>b</b> Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? . . . . .	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>9a</b> If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>b</b> For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low income units under section 42(d)(3)(B)? ▶	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>10</b> Check the appropriate box for each election:		
<b>Caution:</b> <i>Once made, the following elections are irrevocable.</i>		
<b>a</b> Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>b</b> Elect <b>not</b> to treat large partnership as taxpayer (section 42(j)(5)) . . . . . ▶	<input type="checkbox"/> Yes	
<b>c</b> Elect minimum set-aside requirement (section 42(g)) (see instructions) <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60	<input type="checkbox"/> 25-60 (N.Y.C. only)	
<b>d</b> Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) . . . . .	<input type="checkbox"/> 15-40	

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

▶ .....	▶ .....	▶ .....
Signature	Taxpayer identification number	Date
▶ .....	▶ .....	
Name (please type or print)	Tax year	

# Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

OMB No. 1545-1204

**Note:** File a separate Form 8823 for each building that is disposed of or goes out of compliance.

Check here if this is an amended return

**1** Building name (if any). Check if item 1 differs from Form 8609  **IRS Use Only**

Street address

City or town, state, and ZIP code

**2** Building identification number (BIN)

**3** Owner's name. Check if item 3 differs from Form 8609

Street address

City or town, state, and ZIP code

**4** Owner's taxpayer identification number  EIN  SSN

**5** Total credit allocated to this BIN . . . . . ▶ \$

**6** If this building is part of a multiple building project, enter the number of buildings in the project . . . . . ▶

**7 a** Total number of residential units in this building . . . . . ▶

**b** Total number of low-income units in this building . . . . . ▶

**c** Total number of residential units in this building determined to have noncompliance issues . . . . . ▶

**d** Total number of units reviewed by agency (see instructions) . . . . . ▶

**8** Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY) . . . . .

**9** Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY) . . . . .

**10** Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . . .

	Out of compliance	Noncompliance corrected
<b>11</b> Check the box(es) that apply:		
<b>a</b> Household income above income limit upon initial occupancy . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>b</b> Owner failed to correctly complete or document tenant's annual income recertification . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>c</b> Violation(s) of the UPCS or local inspection standards (see instructions) (attach explanation) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>d</b> Owner failed to provide annual certifications or provided incomplete or inaccurate certifications . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>e</b> Changes in Eligible Basis or the Applicable Percentage (see instructions) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>f</b> Project failed to meet minimum set-aside requirement (20/50, 40/60 test) (see instructions) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>g</b> Gross rent(s) exceed tax credit limits . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>h</b> Project not available to the general public (see instructions) (attach explanation) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>i</b> Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>j</b> Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>k</b> Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>l</b> Low-income units occupied by nonqualified full-time students . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>m</b> Owner did not properly calculate utility allowance . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>n</b> Owner has failed to respond to agency requests for monitoring reviews . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>o</b> Low-income units used on a transient basis (attach explanation) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>p</b> Building is no longer in compliance nor participating in the section 42 program (attach explanation) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>q</b> Other noncompliance issues (attach explanation) . . . . .	<input type="checkbox"/>	<input type="checkbox"/>
<b>12</b> Additional information for any item above. Attach explanation and check box . . . . . ▶ <input type="checkbox"/>		
<b>13 a</b> Building disposition by <input type="checkbox"/> Sale <input type="checkbox"/> Foreclosure <input type="checkbox"/> Destruction <input type="checkbox"/> Other (attach explanation)		
<b>b</b> Date of disposition (MMDDYYYY)		
<b>c</b> New owner's name	<b>d</b> New owner's taxpayer identification number <input type="checkbox"/> EIN <input type="checkbox"/> SSN	
Street address	<b>14</b> Name of contact person	
City or town, state, and ZIP code	<b>15</b> Telephone number of contact person ( ) Ext.	

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of authorizing official Print name and title Date (MMDDYYYY)



## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Housing credit agencies use Form 8823 to fulfill their responsibility under section 42(m)(1)(B)(iii) to notify the IRS of noncompliance with the low-income housing tax credit provisions **or** any building disposition.

The housing credit agency should also give a copy of Form 8823 to the owner(s).

### Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building was disposed of or is not in compliance with the provisions of section 42 must file Form 8823.

### When To File

File Form 8823 no later than 45 days after **(a)** the building was disposed of or **(b)** the end of the time allowed the building owner to correct the condition(s) that caused noncompliance. For details, see Regulations section 1.42-5(e).

### Where To File

File Form 8823 with the:  
Internal Revenue Service  
P.O. Box 331  
Attn: LIHC Unit, DP 607 South  
Philadelphia Campus  
Bensalem, PA 19020

## Specific Instructions

**Amended return.** If you are filing an amended return to correct previously reported information, check the box at the top of page 1.

**Item 2.** Enter the building identification number (BIN) assigned to the building by the housing credit agency as shown on Form 8609.

**Items 3, 4, 13b, and 13d.** If there is more than one owner (other than as a member of a pass-through entity), attach a schedule listing the owners, their addresses, and their taxpayer identification numbers. Indicate whether each owner's taxpayer identification number is an employer identification number (EIN) or a social security number (SSN).

Both the EIN and the SSN have nine digits. An EIN has two digits, a hyphen, and seven digits. An SSN has three digits, a hyphen, two digits, a hyphen, and four digits, and is issued only to individuals.

**Item 7d.** "Reviewed by agency" includes physical inspection of the property, tenant file inspection, or review of documentation submitted by the owner.

**Item 8.** Enter the date that the building ceased to comply with the low-income housing credit provisions. If there are multiple noncompliance issues, enter the

date for the earliest discovered issue. **Do not** complete item 8 for a building disposition. Instead, skip items 9 through 12, and complete item 13.

**Item 9.** Enter the date that the noncompliance issue was corrected. If there are multiple issues, enter the date the last correction was made.

**Item 10.** Do not check this box unless the sole reason for filing the form is to indicate that previously reported noncompliance problems have been corrected.

**Item 11c.** Housing credit agencies must use either **(a)** the local health, safety, and building codes (or other habitability standards) or **(b)** the Uniform Physical Conditions Standards (UPCS) (24 C.F.R. section 5.703) to inspect the project, but not in combination. The UPCS does not supersede or preempt local codes. Thus, if a housing credit agency using the UPCS becomes aware of any violation of local codes, the agency must report the violation. Attach a statement describing either **(a)** the deficiency and its severity under the UPCS, i.e., minor (level 1), major (level 2), and severe (level 3) or **(b)** the health, safety, or building violation under the local codes. The Department of Housing and Urban Development's Real Estate Assessment Center has developed a comprehensive description of the types and severities of deficiencies entitled "Dictionary of Deficiency Definitions" found at [www.hud.gov/reac](http://www.hud.gov/reac) under Library, Physical Inspection, Training Materials. Under Regulations section 1.42-5(e)(3), report all deficiencies to the IRS whether or not the noncompliance or failure to certify is corrected at the time of inspection. In using the UPCS inspection standards, report all deficiencies in the five major inspectable areas (defined below) of the project: (1) Site; (2) Building exterior; (3) Building systems; (4) Dwelling units; and (5) Common areas.

**1. Site.** The site components, such as fencing and retaining walls, grounds, lighting, mailboxes, signs (such as those identifying the project or areas of the project), parking lots/driveways, play areas and equipment, refuse disposal equipment, roads, storm drainage, and walkways, must be free of health and safety hazards and be in good repair. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walkways or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulation of garbage and debris, vermin or rodent infestation, or fire hazards.

**2. Building exterior.** Each building on the site must be structurally sound, secure, habitable, and in good repair. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.

**3. Building systems.** Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system must be free of health and safety hazards, functionally adequate, operable, and in good repair.

**4. Dwelling units.** Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit (for example, the unit's bathroom, call-for-aid (if applicable), ceilings, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair. Where applicable, the dwelling unit must have hot and cold running water, including an adequate source of potable water (single room occupancy units need not contain water facilities). If the dwelling unit includes its own bathroom, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste. The dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.

**5. Common areas.** The common areas must be structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage/carport, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, must be free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair.

**Health and Safety Hazards.** All areas and components of the housing must be free of health and safety hazards. These include, but are not limited to: air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint. For example, the buildings must have fire exits that are not blocked and have hand rails that are not damaged, loose, missing portions, or otherwise unusable. The housing must have no evidence of infestation by rats, mice, or other vermin. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold as well as odor (e.g., propane, natural, sewer, or methane gas). The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such (see 24 C.F.R. part 35).

Project owners must promptly correct exigent and fire safety hazards. Before leaving the project, the inspector should provide the project owner with a list of all observed exigent and fire safety hazards. Exigent health and safety hazards include: air quality problems such as propane, natural gas, or methane gas detected; electrical hazards such as exposed wires or

open panels and water leaks on or near electrical equipment; emergency equipment, fire exits, and fire escapes that are blocked or not usable; and carbon monoxide hazards such as gas or hot water heaters with missing or misaligned chimneys. Fire safety hazards include missing or inoperative smoke detectors (including missing batteries), expired fire extinguishers, and window security bars preventing egress from a unit.

**Item 11d.** Report the failure to provide annual certifications or the provision of certifications that are known to be incomplete or inaccurate as required by Regulations section 1.42-5(c). As examples, report a failure by the owner to include a statement summarizing violations (or copies of the violation reports) of local health, safety, or building codes; report an owner who provided inaccurate or incomplete statements concerning corrections of these violations.

**Item 11e.** For buildings placed in service before July 31, 2008, report any federal grant made with respect to any building or the operation thereof during any tax year in the compliance period. For buildings placed in service after July 30, 2008, report any federal grant used to finance any eligible basis costs of any building. Report changes in common areas which become commercial, when fees are charged for facilities, etc. In addition, for buildings placed in service before July 31, 2008, report any below market federal loan or any obligation the interest on which is exempt from tax under section 103 that is or was used (directly or indirectly) with respect to the building or its operation during the compliance period and that was not taken into account when determining eligible basis at the close of the first year of the credit period. For buildings placed in service after July 30, 2008, report any obligation the interest on which is exempt from tax under section 103 that is or was used (directly or indirectly) with respect to the building or its operation during the compliance period and that was not taken into account when determining eligible basis at the close of the first year of the credit period.

**Item 11f.** Failure to satisfy the minimum set-aside requirement for the first year of the credit period results in the permanent loss of the entire credit.

Failure to maintain the minimum set-aside requirement for any year after the first year of the credit period results in recapture of previously claimed credit and no allowable credit for that tax year. No low-income housing credit is allowable until the minimum set-aside is restored for a subsequent tax year.

**Item 11h.** All units in the building must be for use by the general public (as defined in Regulations section 1.42-9 and further clarified in section 42(g)(9)), including the requirement that no finding of discrimination under the Fair Housing Act occurred for the building. Low-income housing credit properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. The Act prohibits

discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C. sections 3601 through 3619.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of low-income housing credit properties to comply with the requirements of the Fair Housing Act will result in the denial of the low-income housing tax credit on a per-unit basis.

Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual from HUD by calling 1-800-245-2691 and requesting item number HUD 11112, or they can order the manual through [www.huduser.org](http://www.huduser.org) under Publications.

**Item 11i.** The owner must rent to low-income tenants all comparable units that are available or that subsequently become available in the same building in order to continue treating the over-income unit(s) as a low-income unit. All units affected by a violation of the available unit rule may not be included in qualified basis. When the percentage of low-income units in a building again equals the percentage of low-income units on which the credit is based, the full availability of the credit is restored. Thus, only check the "Noncompliance corrected" box when the percentage of low-income units in the building equals the percentage on which the credit is based.

**Item 11q.** Check this box for noncompliance events other than those listed in 11a through 11p. Attach an explanation. For projects with allocations from the nonprofit set-aside under section 42(h)(5), report the lack of material participation by a non-profit organization (i.e., regular, continuous, and substantial involvement) that the housing credit agency learns of during the compliance period.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

<b>Recordkeeping</b> . . . . .	11 hr., 43 min.
<b>Learning about the law or the form</b> . . . . .	3 hr., 16 min.
<b>Preparing and sending the form to the IRS</b> . . . . .	3 hr., 36 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send Form 8823 to this address. Instead, see *Where To File* on page 2.

## Recapture of Low-Income Housing Credit

▶ **Attach to your return.**

**Note: Complete a separate Form 8611 for each building to which recapture applies.**

OMB No. 1545-1035

Attachment  
 Sequence No. **90**

<b>A</b> Name(s) shown on return		<b>B</b> Identifying number
<b>C</b> Address of building (as shown on Form 8609)	<b>D</b> Building identification number (BIN)	<b>E</b> Date placed in service (from Form 8609)
<b>F</b> If building is financed in whole or part with tax-exempt bonds, see instructions and furnish: <b>(1)</b> Issuer's name		<b>(2)</b> Date of issue
<b>(3)</b> Name of issue		<b>(4)</b> CUSIP number

**Note:** Skip lines 1–7 and go to line 8 if recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust).

<b>1</b> Enter total credits reported on Form 8586 in prior years for this building . . . . .	<b>1</b>		
<b>2</b> Credits included on line 1 attributable to additions to qualified basis (see instructions). . . . .	<b>2</b>		
<b>3</b> Credits subject to recapture. Subtract line 2 from line 1 . . . . .	<b>3</b>		
<b>4</b> Credit recapture percentage (see instructions) . . . . .	<b>4</b>	.	
<b>5</b> Accelerated portion of credit. Multiply line 3 by line 4 . . . . .	<b>5</b>		
<b>6</b> Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions) . . . . .	<b>6</b>	.	
<b>7</b> Amount of accelerated portion recaptured (see instructions if prior recapture on building). Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 16. All other flow-through entities (except electing large partnerships), enter the result here and enter each recipient's share in the appropriate box of Schedule K-1. Generally, flow-through entities other than electing large partnerships will stop here. <b>(Note: An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.)</b> . . . . .	<b>7</b>		
<b>8</b> Enter recapture amount from flow-through entity (see <b>Note</b> above) . . . . .	<b>8</b>		
<b>9</b> Enter the unused portion of the accelerated amount from line 7 (see instructions) . . . . .	<b>9</b>		
<b>10</b> Net recapture. Subtract line 9 from line 7 or line 8. If less than zero, enter -0- . . . . .	<b>10</b>		
<b>11</b> Enter interest on the line 10 recapture amount (see instructions) . . . . .	<b>11</b>		
<b>12</b> Total amount subject to recapture. Add lines 10 and 11 . . . . .	<b>12</b>		
<b>13</b> Unused credits attributable to this building reduced by the accelerated portion included on line 9 (see instructions) . . . . .	<b>13</b>		
<b>14</b> <b>Recapture tax.</b> Subtract line 13 from line 12. If zero or less, enter -0-. Enter the result here and on the appropriate line of your tax return (see instructions). If more than one Form 8611 is filed, add the line 14 amounts from all forms and enter the total on the appropriate line of your return. Electing large partnerships, see instructions . . . . .	<b>14</b>		
<b>15</b> <b>Carryforward of the low-income housing credit attributable to this building.</b> Subtract line 12 from line 13. If zero or less, enter -0- (see instructions) . . . . .	<b>15</b>		

**Only Section 42(j)(5) partnerships need to complete lines 16 and 17.**

<b>16</b> Enter interest on the line 7 recapture amount (see instructions) . . . . .	<b>16</b>		
<b>17</b> Total recapture. Add lines 7 and 16 (see instructions) . . . . .	<b>17</b>		

## General Instructions

Section references are to the Internal Revenue Code.

### Purpose of Form

Use this form if you must recapture part of the low-income housing credit you claimed in previous years because the qualified basis decreased from one year to the next or you disposed of a building, or your interest therein, and you did not follow the procedures that would have prevented recapture of the credit.

**Decrease in qualified basis.** The decrease may result from a change in the eligible basis, or the building no longer meets the minimum set aside requirements of section 42(g)(1), the gross rent requirements of section 42(g)(2), or the other requirements for the units which are set aside.

**Building dispositions.** The disposition of a building, or an interest therein, will generate the recapture of the credit. You can prevent the recapture if you follow the procedures below, relative to the date of the disposition of the building or the interest therein.

**Building dispositions before July 31, 2008.** Disposing of a building or an interest therein during the tax year will generate a credit recapture, unless you timely post a satisfactory bond or pledge eligible U.S. Treasury securities as collateral. For details on the rules for posting or pledging, see Rev. Rul. 90-60, 1990-2 C.B. 3, and Rev. Proc. 99-11, 1999-1 C.B. 275.

**Note.** You may discontinue maintaining a bond or pledging eligible U.S. Treasury securities by making the election described in Rev. Proc. 2008-60, 2008-43 I.R.B. 1006, and if it is reasonably expected that the building will continue to be operated as a qualified low-income building for the remainder of the building's compliance period. See Rev. Proc. 2008-60 for the details on making the election.

**Building dispositions after July 30, 2008.** Disposing of a building or an interest therein will generate a credit recapture, unless it is reasonably expected that the building will continue to be operated as a qualified low-income building for the remainder of the building's compliance period.

See section 42(j) for more information.

**Note.** If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years under section 42(k) before you calculate the recapture amount on this form.

To complete this form you will need copies of the following forms that you have filed:

- Form 8586, Low-Income Housing Credit (and Form 3800, General Business Credit, if applicable);
- Form 8609, Low-Income Housing Credit Allocation and Certification (or predecessor, Form 8609, Low-Income Housing Credit Allocation Certification);
- Form 8609-A, Annual Statement for Low-Income Housing Credit (or predecessor, Schedule A (Form 8609), Annual Statement); and
- Form 8611.

**Note.** Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in items C, D, E, and F of Form 8611.

Recapture does not apply if:

- You disposed of the building or an ownership interest in it and you satisfy the requirements for avoiding recapture as outlined earlier under *Building dispositions*;
- You disposed of not more than 33 $\frac{1}{3}$ % in the aggregate of your ownership interest in a building that you held through a partnership, or you disposed of an ownership interest in a building that you held through a partnership to which section 42(j)(5) applies or through an electing large partnership;

- The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service;

- You correct a noncompliance event within a reasonable period after it is discovered or should have been discovered;

- The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

### Recordkeeping

In order to verify changes in qualified basis from year to year, keep a copy of all Forms 8586, 8609, 8609-A (or predecessor, Schedule A (Form 8609)), 8611, and 8693 for 3 years after the 15-year compliance period ends.

### Specific Instructions

**Note.** If recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust), skip lines 1-7 and go to line 8.

**Item F.** If the building is financed with tax-exempt bonds, furnish the following information: (1) name of the entity that issued the bond (not the name of the entity receiving the benefit of the financing); (2) date of issue, generally the first date there is a physical exchange of the bonds for the purchase price; (3) name of the issue, or if not named, other identification of the issue; and (4) CUSIP number of the bond with the latest maturity date. If the issue does not have a CUSIP number, enter "None."

**Line 1.** Enter the total credits claimed on the building for all prior years from all Forms 8586 (before reduction due to the tax liability limit) you have filed. Prior to the December 2006 revision of Form 8586, the credits (before reduction due to the tax liability limit) were reported in Part I. Do not include credits taken by a previous owner.

## Line 2 Worksheet (\*Line reference is to Form 8609-A (or predecessor, Schedule A (Form 8609)).

<b>a</b> Enter the amount from line 10* . . . . .	<b>a</b>
<b>b</b> Multiply <b>a</b> by 2 . . . . .	<b>b</b>
<b>c</b> Enter the amount from line 11* . . . . .	<b>c</b>
<b>d</b> Subtract <b>c</b> from <b>b</b> . . . . .	<b>d</b>
<b>e</b> Enter decimal amount figured in step 1 of the instructions for line 14*. If line 14* does not apply to you, enter -0- . . . . .	<b>e</b>
<b>f</b> Multiply <b>d</b> by <b>e</b> . . . . .	<b>f</b>
<b>g</b> Subtract <b>f</b> from <b>d</b> . . . . .	<b>g</b>
<b>h</b> Divide line 16* by line 15*. Enter the result here . . . . .	<b>h</b>
<b>i</b> Multiply <b>g</b> by <b>h</b> . Enter this amount on line 2. (If more than one worksheet is completed, add the amounts on <b>i</b> from all worksheets and enter the total on line 2.) . . . . .	<b>i</b>

**Line 2.** Determine the amount to enter on this line by completing a separate Line 2 Worksheet (on page 2) for each prior year for which line 7 of Form 8609-A (or predecessor, Schedule A (Form 8609)) was completed.

**Line 4.** Enter the credit recapture percentage, expressed as a decimal carried to at least 3 places, from the table below:

IF the recapture event occurs in . . .	THEN enter on line 4 . . .
Years 2 through 11 . . . . .	.333
Year 12 . . . . .	.267
Year 13 . . . . .	.200
Year 14 . . . . .	.133
Year 15 . . . . .	.067

**Line 6.** Enter the percentage decrease in qualified basis during the current year.

For this purpose, figure qualified basis without regard to any additions to qualified basis after the first year of the credit period. Compare any decrease in qualified basis first to additions to qualified basis. Recapture applies only if the decrease in qualified basis exceeds additions to qualified basis after the first year of the credit period.

If you disposed of the building or an ownership interest in it and did not satisfy the requirements for avoiding recapture as outlined earlier under *Building dispositions*, you must recapture all of the accelerated portion shown on line 5. Enter 1.000 on line 6.

**Note.** If the decrease causes the qualified basis to fall below the minimum set-aside requirements of section 42(g)(1) (the 20-50 test or the 40-60 test), then 100% of the amount shown on line 5 must be recaptured. Enter 1.000 on line 6. If you elected the 40-60 test for this building and the decrease causes you to fall below 40%, you cannot switch to the 20-50 test to meet the set-aside requirements. You must recapture the entire amount shown on line 5.

**Line 7.** If there was a prior recapture of accelerated credits on the building, do not recapture that amount again as the result of the current reduction in qualified basis. The example below demonstrates how to incorporate into the current (Year 4) recapture the first year (Year 1) accelerated portion as a result of a prior year (Year 2) recapture event.

**Line 9.** Compute the unused portion of the accelerated amount on line 7 by:

- Step 1. Totalling the credits attributable to the building that you could not use in prior years.\*
- Step 2. Reducing the result of step 1 by any unused credits attributable to additions to qualified basis.
- Step 3. Multiplying the result of step 2 by the decimal amount on line 4.
- Step 4. Multiplying the result of step 3 by the decimal amount on line 6.
- Step 5. Enter the result of step 4 on line 9.

\*Generally, this is the amount of credit reported on line 1 of this Form 8611 reduced by the total low-income housing credits allowed on Form 8586 or Form 3800 for each year.

**Special rule for electing large partnerships.** Enter zero on line 9. An electing large partnership is treated as having fully used all prior year credits.

**Line 11.** Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest must be computed at the overpayment rate determined under section 6621(a)(1) and compounded on a daily basis from the due date (not including extensions) of the return for the prior year until the earlier of (a) the due date (not including extensions) of the return for the recapture year, or (b) the date the return for the recapture year is filed and any income tax due for that year has been fully paid.

Tables of interest factors to compute daily compound interest were published in Rev. Proc. 95-17, 1995-1 C.B. 556. The interest rate in effect through March 31, 2009, is shown in Rev. Rul. 2008-54, 2008-52 I.R.B. 1352. For periods after

March 31, 2009, use the overpayment rate under section 6621(a)(1) in the revenue rulings published quarterly in the Internal Revenue Bulletin.

**Note.** If the line 8 recapture amount is from a section 42(j)(5) partnership, the partnership will figure the interest and include it in the recapture amount reported to you. Enter “-0-” on line 11 and write “Section 42(j)(5)” to the left of the entry space for line 11.

**Line 13.** Subtract the amount on line 9 from the total of all prior year unused credits attributable to the building (Step 1 of the line 9 instruction above). Enter the result on line 13.

**Line 14.**

For information on how to report the recapture tax on...	See the instructions for the...
Form 1040	“Total tax” line in the Instructions for Form 1040
Form 1120	“Other taxes” line in the Instructions for Form 1120

**Special rule for electing large partnerships.** Subtract the credit shown on Form 8586 from the total of the line 14 amounts from all Forms 8611. Enter the result (but not less than zero) on Form 1065-B, Part I, line 26.

**Note.** You must also reduce the current year low-income housing credit, before entering it on Schedules K and K-1, by the amount of the reduction to the total of the recapture amounts.

**Line 15.** Carry forward the low-income housing credit attributable to this building to the next tax year. Report any carryforward attributable to buildings placed in service before 2008 on the carryforward line of Form 3800 for the next tax year. Report any carryforward attributable to buildings placed in service after 2007 on the carryforward line of Form 8586 for the next tax year. See the

<b>Line 7—Example.</b> \$2,700 of accelerated portion of low-income housing credit spread over a 10-year period and not falling below the minimum set-asides for the building. Also, there was a 20% reduction in qualified basis in Year 2 and 30% in Year 4.				
	Year 1	Year 2	Year 3	Year 4*
Low-income housing credit	\$270	\$216 (\$270 × .8 (20% reduction in qualified basis))	\$270	\$189 (\$270 × .7 (30% reduction in qualified basis))
Recapture of Year 1 low-income housing credit		\$18 (\$270 × .333 × .2 (20% reduction in qualified basis))		\$9 (\$27 (\$270 × .333 × .3 (30% reduction in qualified basis) minus \$18 Year 2 recapture))

\* You will have to complete the rest of the form to figure the recapture as the result of the current year reduction in basis as it affects the Year 2 and Year 3 credit.

instructions for Forms 8586 and 3800 for details on how to report the carryforward of unused credits.

**Lines 16 and 17.** Only section 42(j)(5) partnerships complete these lines. This is a partnership (other than an electing large partnership) that has at least 35 partners, unless the partnership elects (or has previously elected) not to be treated as a section 42(j)(5) partnership. For purposes of this definition, a husband and wife are treated as one partner.

For purposes of determining the credit recapture amount, a section 42(j)(5) partnership is treated as the taxpayer to which the low-income housing credit was allowed and as if the amount of credit allowed was the entire amount allowable under section 42(a).

See the instructions for line 11 to figure the interest on line 16. The partnership must attach Form 8611 to its Form 1065 and allocate this amount to

each partner on Schedule K-1 (Form 1065) in the same manner as the partnership's taxable income is allocated to each partner.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

**Recordkeeping** . . . 8 hr., 21 min.

**Learning about the law or the form** . . . . . 1 hr.

**Preparing and sending the form to the IRS** . . . 1 hr., 10 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the IRS at the address listed in the instructions for the tax return with which this form is filed.

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## Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>

### To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that \_\_\_\_\_ is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

### Protections for Applicants

If you otherwise qualify for assistance under \_\_\_\_\_, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

### Protections for Tenants

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

If you are receiving assistance under \_\_\_\_\_, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under \_\_\_\_\_ solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

HP may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HP chooses to remove the abuser or perpetrator, HP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HP's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

HP can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HP must be in writing, and HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HP as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HP does not have to provide you with the protections contained in this notice.

If HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HP does not have to provide you with the protections contained in this notice.

### **Confidentiality**

HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HP must not allow any individual administering assistance or other services on behalf of HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HP must not enter your information into any shared database or disclose your information to any other entity or individual. HP, however, may disclose the information provided if:

- You give written permission to HP to release the information on a time limited basis.
- HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HP or your landlord to release the information.

VAWA does not limit HP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HP can demonstrate the above, HP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to

additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

**Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with \_\_\_\_\_  
or \_\_\_\_\_.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at \_\_\_\_\_.

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact \_\_\_\_\_.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact \_\_\_\_\_.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact \_\_\_\_\_

Victims of stalking seeking help may contact \_\_\_\_\_

**Attachment:** Certification form HUD-5382 [form approved for this program to be included]

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**New Jersey Housing and Mortgage Finance Agency**  
**Low Income Housing Tax Credit**  
**Project Status Form**

---

<b>Project Name:</b>	<b>LITC#</b>
<b>Project Address:</b>	<b>County:</b>
	<b>Phone:</b>
<b>Property Manager:</b>	<b>Email:</b>
<b>Owner's Name &amp; Address</b>	<b>Phone:</b>
	<b>Email:</b>

**Please check and complete all that may apply to your property so we can update our files.**

- Property is under construction. We expect a completion date of \_\_\_\_\_.
- Property is under Rehab. We expect a completion date of \_\_\_\_\_.
- The acquisition date is \_\_\_\_\_.
- The placed in service date is \_\_\_\_\_.
- First unit occupied on \_\_\_\_\_.
- Property is \_\_\_\_\_ % occupied as of the date this form is completed. 100% occupancy is expected by \_\_\_\_\_.
- Property is 100% occupied as of \_\_\_\_\_.

**The above information is true and accurate to the best of my knowledge and belief.**

\_\_\_\_\_  
SIGNATURE OF OWNER/REPRESENTATIVE

\_\_\_\_\_  
DATE

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**\*\*\* PLEASE FORWARD TO JOHANNA PEÑA WITHIN 30 DAYS OF CLOSING DATE \*\*\***

## Acquisition/Rehab Acknowledgement

**Property Name:** \_\_\_\_\_ **LITC#:** \_\_\_\_\_

Acquisition/Rehab properties that did not have a **previous tax credit allocation** are considered **new properties**. Therefore, existing tenants are considered new move-ins and the move in effective date on the Tenant Income Certification (TIC) should be the same as the acquisition date or after.

New move-ins (not existing at the time of acquisition) will be treated as a move in on the **actual** move in date.

In both scenarios, these tenants are new move-ins to the Tax Credit Program and must have the following in the tenant's file:

- Move in TIC with the supporting 3<sup>rd</sup> party documentation
- Initial Lease Agreement with the term beginning on the move in date/date of acquisition
- Under \$5,000 Asset Certification Form (if applicable) or Disposed of Asset Form
- Student Status Verification (annually)
- Child Support Certification (annually)
- Smoke Detector, Carbon Monoxide and Window Guard Acknowledgements (annually)
- Rental Application for new move-ins **only** (not existing at the time of acquisition)

Although existing tenants can be initially certified within 120 days before or after the acquisition date, the Initial Certification is actually a Move In with the effective date of the acquisition or after and must be entered in Mitas as a Move In transaction **not** an Initial Certification. If an Initial Certification is entered as the first transaction in the unit, the move in date must be the same as the effective date of the Initial Certification which should be the acquisition date or after. The original move in date (prior to acquisition) is not applicable for the tax credit allocation.

Also, since one tenant cannot qualify 2 units in the 1<sup>st</sup> year of credits/during initial lease up, Unit Transfers into empty units (never occupied with a Tax Credit move-in transaction) are not permitted in the 1<sup>st</sup> year/during initial lease-up unless there is a medical necessity documented by a physician. If you need to move an existing tenant(s) to another unit during the rehab, please do not enter a Unit Transfer transaction in Mitas. This tenant should be initially certified as a Move-In into the unit they will occupy after the rehab. For example, Ms. Smith occupies Unit 101 at the time of acquisition. She is initially certified in Unit 101 then moved to Unit 102 during the rehab but will go back to Unit 101. So, the Move In transaction should be for Unit 101 and no unit transfer should be entered in Mitas for Unit 102.

However, if Ms. Smith decides to remain in Unit 102, after the rehab, she should be initially certified with a Move In transaction in Unit 102 instead of Unit 101 or moved out of Unit 101 and moved into Unit 102 with a move-in transaction.

**I have carefully read and fully understand the above and will distribute this document to each Mitas user upon the creation of their Mitas user account. If I have any questions, I will contact the Tax Credit Analyst, for this property, prior to entering tenant data in the Mitas system.**

\_\_\_\_\_  
Signature of Owner or General Partner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Owner or General Partner

2/7/2019

## Year 15 Status Report

LITC#: \_\_\_\_\_

Project Name: \_\_\_\_\_

1<sup>st</sup> year of credit period: \_\_\_\_\_

Please be advised that the 15 year compliance period for the above-referenced project ends on \_\_\_\_\_ . At the end of the compliance period, I plan to do the following:

\_\_\_\_\_ I intend to keep the property affordable

\_\_\_\_\_ I intend to sell the property to a buyer who will keep it affordable.  
Buyer's name (if known) \_\_\_\_\_.

\_\_\_\_\_ I intend to convert the property to market rate housing.

\_\_\_\_\_ I intend to the sell the property to a buyer who will convert the property to market rate housing. Buyer's name (if known) \_\_\_\_\_.

\_\_\_\_\_ I would like to keep the property affordable and learn more about programs available for the preservation of affordable housing. Please visit our website at <https://njhousing.gov/dca/hmfa/developers/credits/>

\_\_\_\_\_ I have not yet decided.

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Ownership Entity)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Title)

**SAMPLE**  
**WINDOW GUARD NOTICE TO TENANT**

Dear Tenant,

Per the New Jersey Department of Community Affairs regulations for the Maintenance of Hotels and Multiple Dwelling, subchapter 27-Child protection window guards, we are required to notify you that we are required by law to provide, install and maintain window guards in the apartment of any tenant who has a child 10 years of age or younger living in the apartment or regularly present there for a substantial period of time as well as any hallway window above the first floor the child may have access to. We are required to offer this option to you at move in and once every year.

If you meet the above criteria, you may request, in writing, the installation of window guards on all windows in your unit. Please note that first floor apartments are exempt from this statute.

Please elect one of the following:

- I do not have children 10 years or younger as a household member or whom regularly visit my apartment
- I do have a child(ren) 10 years of age or younger residing or visiting my apartment, but choose to decline the offer of window guards.
- I have a child(ren) 10 years or younger who either resides with me or regularly visits my unit and hereby request that the window guards be placed in my apartment windows. (First floor units exempt)

\_\_\_\_\_  
Resident/Applicant Name:  
(Please print)

\_\_\_\_\_  
Resident /Applicant Signature:

\_\_\_\_\_  
Date

# SAMPLE

## SMOKE DETECTOR

The **Smoke Detector** unit in apartment No. \_\_\_\_\_

Was tested on \_\_\_\_\_ By \_\_\_\_\_

Resident will notify the management in writing of any defect in the **Smoke Detector** unit. After the initial move in, RESIDENT is responsible for battery replacement (where necessary) and periodic testing of the unit.

Resident is aware that it is unlawful for residents of or visitors to the apartment number listed above to destroy or remove the **Smoke Detector** unit or to remove the batteries from the unit.

Resident signature \_\_\_\_\_ Date \_\_\_\_\_

Resident signature \_\_\_\_\_ Date \_\_\_\_\_

Manager signature \_\_\_\_\_ Date \_\_\_\_\_

## CARBON MONOXIDE

The **Carbon Monoxide** unit in apartment No. \_\_\_\_\_

Was tested on \_\_\_\_\_ By \_\_\_\_\_

Resident will notify the management in writing of any defect in the **Carbon Monoxide** unit. After the initial move in, RESIDENT is responsible for battery replacement (where necessary) and periodic testing of the unit.

Resident is aware that it is unlawful for residents of or visitors to the apartment number listed above to destroy or remove the **Carbon Monoxide** unit or to remove the batteries from the unit.

Resident signature \_\_\_\_\_ Date \_\_\_\_\_

Resident signature \_\_\_\_\_ Date \_\_\_\_\_

Manager signature \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
(Name of Property)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip)

### SAMPLE

### CARBON MONOXIDE DETECTOR VERIFICATION

The carbon monoxide detector unit in Apartment # \_\_\_\_\_ was tested on \_\_\_\_\_  
By \_\_\_\_\_ and is in good working condition.

RESIDENT will notify the management in writing of any defect in the carbon monoxide detector unit. After the initial move-in, RESIDENT is responsible for the battery replacement (where necessary) and/or periodic testing of the unit.

RESIDENT is aware that it is unlawful for residents of, or visitors to the apartment number listed above to destroy or remove the carbon monoxide detector unit or to remove the batteries from the unit.

Resident Signature \_\_\_\_\_ Date \_\_\_\_\_

Resident Signature \_\_\_\_\_ Date \_\_\_\_\_

Manager Signature \_\_\_\_\_ Date \_\_\_\_\_

**ADDENDUM TO TENANT INCOME CERTIFICATION**  
(FOR STATISTICAL USE ONLY)

The following information is requested in accordance with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Name	Race	Ethnicity	Disabled (Y or N)
1						
2						
3						
4						
5						
6						
7						
8						

**The Following Race Codes should be used:**

- 1 – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
- 2 – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” apply to this category.
- 3 – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- 4 – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- 5 – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

*Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.*

**The Following Ethnicity Codes should be used:**

- 1 – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as “Latino” or “Spanish Origin” apply to this category.
- 2 – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

**Disability Status:**

Check “Y” if any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities: a record of such an impairment; or being regarded as having such an impairment. For a definition of “physical or mental impairment and other terms used, please see 24 CFR 100.201, available at: <http://www.fairhousing.com/index.cfm>
- “Handicap” does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transvestite.

\_\_\_\_\_ I have provided the above information.

\_\_\_\_\_ I decline to provide this information at this time.

\_\_\_\_\_  
Applicant/Resident Signature

\_\_\_\_\_  
Date

## USER AGREEMENT (For Tax Credit Property Owners)

This User Agreement (the "*Agreement*") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between New Jersey Housing and Mortgage Finance Agency, located at 637 South Clinton Avenue, Trenton, NJ 08650 ("HMFA"), and \_\_\_\_\_ with its principal place of business at \_\_\_\_\_ ("User/Owner") for project known as \_\_\_\_\_, Property # \_\_\_\_\_, LITC# \_\_\_\_\_

### 1. Scope of Agreement

(a) This Agreement sets forth User's rights and obligations in connection with its use of and access to HMFA's electronic MITAS Internet Low Income Housing Tax Credit system (hereinafter the "System"). User acknowledges that it has reviewed, before executing this Agreement, HMFA's Procedures Manual which describes and governs System operating procedures. HMFA reserves the right, on reasonable notice to User and without User's consent, to modify such Procedures Manual. Such notice and modifications will be provided pursuant to the procedures set forth in this Agreement, on the System or by other electronic means, in HMFA's sole discretion.

(b) User's use of the System is subject to, and must be consistent with, the terms and conditions of the Deed of Easement and Restrictive Covenant for Extended Low Income Occupancy by and between Owner and HMFA, together with any amendments thereto (the "Covenant") or other applicable agreements in effect with HMFA, which govern the existing relationship between HMFA and User for monitoring tax credit compliance. All transactions performed on the System will be conducted in a manner consistent with such existing Covenant(s). In the event of a conflict between this agreement and the Covenant with HMFA, the latter shall control.

### 2. Access

(a) HMFA hereby grants User the right to access the System solely for the following purposes: 1) processing tenant transaction data (i.e. Building Status Report); 2) tax credit compliance reporting; and 3) form printing (collectively, "Permitted Uses") and otherwise in accordance with the processes set forth in the Procedures Manual. For the purposes of this Agreement, the term "Information" shall mean any data entered by User, its officers, employees and/or agents, into the System (including user names and passwords), and all information viewable on the System by User, its officers, employees and/or agents.

(b) User acknowledges and agrees that the System and the Information are the valuable intellectual property of HMFA and others, and that other than the access granted hereunder, User obtains no rights in or to the System or the Information. HMFA owns all right, title and interest in the data posted to the System by User. User acknowledges and agrees that HMFA owns all right, title and interest, including all intellectual property rights, in the aggregate data posted to the System.

(c) User shall not use any of the trademarks, trade names or service marks used by or in connection with the System in any manner without the prior written consent of HMFA.

### 3. Confidentiality

(a) Access to the System, and the Information contained therein, is being provided to User solely and exclusively for its own internal use subject to the terms hereof. User agrees that it will not, and will not permit, any person under its control to recirculate, republish or otherwise provide Information or access to the System to any third party, including but not limited to, through written, oral or electronic

means, without the prior written consent of HMFA. User further agrees to protect and safeguard the proprietary and intellectual property rights of HMFA and others having rights in the System and the Information by using the same degree of care that User uses to protect its own confidential and intellectual property, but in any event no less than a reasonable degree of care. User shall not alter, enhance or make derivative works of the System, and shall not reverse engineer or decompile the System except to the extent explicitly permitted by law. Notwithstanding the foregoing, User may share Information with any individual tenant whose information is being processed through the System to the extent that such information directly pertains to said tenant's housing eligibility.

(b) Each party acknowledges that it or its employees may in the course of performing its responsibilities hereunder acquire information which is proprietary to or confidential to the other party to whom such other party has a duty of confidentiality. Any and all non-public information of any form obtained by such party in the performance of this Agreement shall hold such information in strict confidence and not disclose such information to third parties or use such information for any purpose whatsoever other than as contemplated by this Agreement. However, User acknowledges that any and/or all information provided by it to HMFA in connection with this Agreement may be made available to the general public to the extent permitted or required by state or federal law.

#### **4. Security**

(a) User will be permitted access to the System in accordance with protocol set forth in the Procedures Manual. User will allow access to the System only by persons duly and validly authorized by User to use the System as permitted hereunder. User assumes full responsibility for any transactions or other use of the System by User's personnel and agents, whether or not such parties are authorized by User to use the System, and to ensure that its personnel and agents abide by and comply with all applicable provisions of the federal and state housing laws. User acknowledges and agrees that a breach by any of User's personnel or agents of any provision of this Agreement shall constitute a breach by User. Accordingly, User must familiarize all of its authorized personnel with User's obligations hereunder.

(b) User shall implement security procedures to prevent unauthorized use or misuse of the System that are consistent with User's standard security procedures. This shall include, at a minimum, taking all reasonable steps, and establishing and maintaining all reasonable procedures, to ensure that the System is accessible only by authorized persons, and that System transactions are not altered, lost or destroyed.

(c) User shall immediately cease use of the System if it is notified to do so by HMFA, or otherwise becomes aware of, or suspects, a technical failure or security breach of the System. User shall immediately provide written notification to HMFA of such failure or breach of security in accordance with any notice provisions set forth in the Procedures Manual.

(d) At the request of HMFA, or upon termination of an officer, employee or agent of the User, User shall promptly terminate such individual's access to the System.

#### **5. User Obligations; Representations**

(a) User will complete and keep current User activation forms or similar materials provided by HMFA to User to permit User to access the System.

(b) User shall, at its own cost and expense, provide all equipment, operating platforms, and software (other than any software provided by HMFA) to use the System. Any minimum standards and requirements for such equipment, operating platforms, and software are set forth in the Procedures

Manual, as may be amended from time to time. User shall also provide, at its own cost and expense, all connections from its own computer systems to the System.

(c) User acknowledges the information entered into the System was legally obtained and is accurate to the best of their knowledge.

(d) User shall be responsible for maintaining any records required by law of transactions sent and received by it on the System. User will not use, or allow the use of, the System in contravention of any federal, state or other applicable laws, or rules or regulations of housing laws or other relevant regulatory organizations, including, without limitation, any laws or regulations governing the HMFA and the Internal Revenue Service.

(e) User will be required to provide certain Information to HMFA via the System in connection with the reporting requirements under the Low Income Housing Tax Credit Program. While HMFA intends the System be available for the purposes of the Permitted Uses, HMFA makes no representation as to the availability of the System to any User at any particular time. HMFA reserves the right at any time, in its sole discretion and without prior notice to User: (i) to discontinue transmitting all or any part of the Information; (ii) to refuse to process any or all actions on the System; and (iii) to temporarily or permanently suspend User's use of the System, provided that, in each case, HMFA will give advance notice to User when reasonably practicable.

(f) User shall supply HMFA with all information requested by it concerning User's use of and access to the System which is reasonably deemed by HMFA to be necessary in connection with HMFA's regulatory and/or statutory obligations. User understands that HMFA may report such information or any other information in its possession to such regulatory authorities as it determines in its sole discretion to be necessary.

(g) Failure of the User to comply with any of the aforementioned obligations and representations shall result in automatic termination of this Agreement by HMFA. HMFA reserves the right to pursue any and all remedies available based on the User's failure to comply with the terms of this Agreement.

## **6. Term and Termination; Survival**

(a) HMFA may terminate this Agreement at its sole discretion, upon not less than thirty days' notice to User.

(b) Notwithstanding the termination of this Agreement for any reason, the confidentiality provisions set forth in Section 3 hereof shall remain in full force and effect.

## **7. Warranties; Limitation on Liability**

(a) Each party hereto represents and warrants to the other that (i) it has the power and authority to execute, deliver and perform this Agreement, and (ii) upon due execution and delivery, this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, and (iii) its execution, delivery and performance of this Agreement, and its entering into transactions through the System, will not violate any law, ordinance, charter, bylaw or rule applicable to it, or any agreement by which it is bound or by which any of its assets are affected.

(b) THE SYSTEM IS PROVIDED "AS IS," AND HMFA MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION OR AS TO RESULTS TO BE ATTAINED BY USER FROM THE USE OF THE SYSTEM. EXCEPT

AS EXPRESSLY STATED IN THIS AGREEMENT, HMFA DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING. NEITHER HMFA NOR ANY THIRD PARTY PROVIDERS WILL HAVE ANY RESPONSIBILITY TO MAINTAIN THE SYSTEM OR TO SUPPLY ANY CORRECTIONS, UPDATES OR RELEASES IN CONNECTION THEREWITH. USER IS SOLELY RESPONSIBLE FOR CONFIRMING THE ACCURACY AND ADEQUACY OF INFORMATION SUPPLIED BY IT AND THE RESULTS THEREOF. NEITHER HMFA NOR ANY THIRD PARTY PROVIDER UNDER CONTRACT WITH HMFA SHALL BE RESPONSIBLE TO USER FOR ANY INJURIES HOWSOEVER CAUSED BY THE USE OF THE SYSTEM OR BY ANY ERRORS, DELAYS OR INTERRUPTIONS IN THE TRANSMISSION OR CONFIRMATION OF TRANSACTIONS OR INFORMATION, OR FROM THE FAILURE OF HMFA OR ANY THIRD PARTY PROVIDER TO PROCESS OR CONFIRM ANY TRANSACTION INITIATED BY USER. COMPLIANCE WITH THE REQUIREMENTS OF THE INTERNAL REVENUE CODE IS THE SOLE RESPONSIBILITY OF THE OWNER OF ANY BUILDING FOR WHICH THE CREDIT HAS BEEN ALLOCATED. USE OF THIS SYSTEM DOES NOT ENSURE COMPLIANCE WITH THE INTERNAL REVENUE CODE, TREASURY REGULATIONS OR ANY OTHER LAWS OR REGULATIONS GOVERNING THE LOW-INCOME HOUSING TAX CREDIT PROGRAM.

(c) User acknowledges and agrees that:

(i) HMFA supplies the System to User solely to enable User to engage in Permitted Uses;

(ii) HMFA will use reasonable efforts to inform User of any difficulties experienced by HMFA or third parties with respect to use of the System. HMFA shall not have any duty or obligation to verify, correct, complete or update any information displayed on the System;

(iii) User shall indemnify, protect and hold harmless HMFA, and its respective partners, officers, affiliates, employees and agents from and against any and all losses, liabilities, suits, actions, proceedings, claims, damages or costs (including attorneys' fees) resulting from or arising out of the User Owner's breach of this Agreement or any cancellation of, or changes to, transactions initiated by User.

(d) This Agreement shall be subject to all of the Provisions of the New Jersey Tort Claims Act, N.J. S.A. 59:1-1 et.seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et.seq.

## **8. General**

(a) This Agreement and its enforcement shall be governed by the laws of the State of New Jersey, without giving effect to the conflict of law principles thereof.

(b) This Agreement may not be assigned by User without the express written permission of HMFA, which permission will not be unreasonably withheld.

(c) Any notices required to be given pursuant to this Agreement shall be provided to the following:

To HMFA:

New Jersey Housing and Mortgage Finance Agency  
637 South Clinton Avenue  
Trenton, NJ 08650-2085  
Attention: Tax Credit Services

To Property Owner:

(d) This Agreement contains the entire and only agreement between the parties, and supersedes all preexisting oral or written agreements between them regarding the subject matter hereof. This Agreement may not be amended, modified or superseded, unless expressly agreed in writing by both parties.

(e) If any provision or term of this Agreement, not being of a fundamental nature, is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of the Agreement will not be affected, and such provision or term shall be construed to effectuate its purposes to the fullest extent enforceable under applicable law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first written above.

**New Jersey Housing and Mortgage Finance Agency**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Property Owner**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_